

**ORDINANCE 2026-02
FRANKLIN TOWNSHIP
HUNTERDON COUNTY, NEW JERSEY**

**ORDINANCE OF THE TOWNSHIP OF FRANKLIN, COUNTY OF HUNTERDON, STATE OF NEW JERSEY
DELETING AND REPLACING ARTICLE V “AFFORDABLE HOUSING DEVELOPMENT FEES” OF CHAPTER 176
“AFFORDABLE HOUSING ORDINANCE” OF THE CODE OF THE TOWNSHIP OF FRANKLIN TO UPDATE THE
TOWNSHIP’S DEVELOPMENT FEE ORDINANCE IN ACCORDANCE WITH THE DECEMBER 2025 N.J.A.C.
5:99 REGULATIONS AND THE AMENDED FAIR HOUSING ACT**

WHEREAS, the Township of Franklin filed a Declaratory Judgment Action on January 29, 2025 seeking a certification of compliance with the Fair Housing Act, and

WHEREAS, Franklin Planning Board adopted the 2025 Housing Element & Fair Share Plan for the Fourth Round on June 12, 2025, which was duly endorsed by the Committee, and timely filed with the Affordable Housing Dispute Resolution Program; and

WHEREAS, the Township has entered into a Consent Order with Fair Share Housing Center that requires all of the implementing documents, including a Development Fee Ordinance to be adopted by March 15, 2026; and

WHEREAS, new N.J.A.C. 5:99 regulations were adopted in December of 2025; and

WHEREAS, the Township seeks to update its existing Development Fee Ordinance to reflect the new regulations.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Franklin in the County of Hunterdon and the State of New Jersey as follows:

SECTION 1.

Delete and replace Chapter 176 “Affordable Housing Ordinance”, Article V “Affordable Housing Development Fees” as follows:

Article V Affordable Housing Development Fees

§176-28 Purpose.

This section establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with the amended Fair Housing Act (P.L.2024, c.2), N.J.A.C. 5:99, and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7). Fees collected pursuant to this Ordinance shall be used for the sole purpose of providing very low-, low- and moderate-income housing in accordance with a Court-approved Spending Plan.

§176-29 Basic requirements.

- A. The municipality previously adopted a development fee ordinance, which established the Municipal Affordable Housing Trust Fund.
- B. The municipality shall not spend development fees until the court has approved a plan for spending such fees.

§176-30 Definitions.

AFFORDABLE HOUSING DEVELOPMENT

A development included in a municipality's housing element and fair share plan, and includes, but is not limited to, an inclusionary development, a municipally sponsored affordable housing project, or a 100 percent affordable development. This includes developments with affordable units on-site, off-site, or provided as a payment in-lieu of construction only if such a payment-in-lieu option has been previously approved by the Program or Superior Court as part of the HEFSP.

AFFORDABLE HOUSING MONITORING SYSTEM OR AHMS

The Department's cloud-based software application, which shall be the central repository for municipalities to use for reporting detailed information regarding affordable housing developments, affordable housing unit completions, and the collection and expenditures of funds deposited into the municipal affordable housing trust fund.

AFFORDABLE HOUSING TRUST FUND OR AHTF

The non-lapsing, revolving trust fund established in the Department pursuant to N.J.S.A. 52:27D-320 and N.J.A.C. 5:43 to be the repository of all State funds appropriated for affordable housing purposes.

COAH OR THE COUNCIL

The Council on Affordable Housing established in, but not of, DCA pursuant to the Act and that was abolished effective March 20, 2024, pursuant to section 3 at P.L. 2024, c. 2 (N.J.S.A. 52:27D-304.1).

DEPARTMENT

The New Jersey Department of Community Affairs.

DEVELOPER

The legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

DEVELOPMENT FEE

Money paid by a developer for the improvement of residential and non-residential property as permitted pursuant to N.J.S.A. 52:27D-329.2 and 40:55D-8.1 through 40:55D-8.7 and N.J.A.C. 5:99-3.

EQUALIZED ASSESSED VALUE OR EAV

The assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 at P.L. 1973, c. 123 (N.J.S.A. 54:1-35a, 54:1-35b, and 54:1-35c). Estimates at the time of building permit may be obtained by the tax assessor using construction cost estimates. Final EAV shall be determined at project completion by the municipal assessor.

§176-31 Residential development fees.

A. Imposed fees.

- (1) Residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1.5% of the equalized assessed value for residential development, provided no increased density is permitted. Development fees shall also be imposed and collected when an additional dwelling unit is added to an existing residential structure; in such cases, the fee shall be calculated based on the increase in the equalized assessed value of the property due to the additional dwelling unit.
- (2) When an increase in residential density is permitted pursuant to a “d” variance granted under N.J.S.A. 40:55D-70d(5), developers shall be required to pay a “bonus” development fee of 6.0% of the equalized assessed value for each additional unit that may be realized, except that this provision shall not be applicable to a development that will include affordable housing. If the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal 1.5% of the equalized assessed value on the first two units; and the specified higher percentage of 6% of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

B. Eligible exactions, ineligible exactions and exemptions for residential development.

- (1) Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments where the developer has made an eligible payment in lieu of on-site construction of affordable units, if permitted by ordinance, or by agreement with the municipality and if approved by a municipality prior to the statutory elimination of payments in-lieu on March 20, 2024 per P.L.2024, c.2, shall be exempt from development fees.
- (2) Developments that have received preliminary or final site plan approval prior to the adoption of this ordinance and any preceding ordinance permitting the collection of development fees shall be exempt from the payment of development fees, unless the developer seeks a substantial change in the original approval. Where a site plan approval does not apply, the issuance of a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for the purpose of determining the right to an exemption. In all cases, the applicable fee percentage shall be determined based upon the development fee ordinance in effect on the date that the construction permit is issued.
- (3) No development fee shall be collected for the demolition and replacement of a residential building resulting from a fire or natural disaster.

§176-32 Non-residential development fees.

A. Imposition of fees.

- (1) Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to 2.5% of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
- (2) Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to 2.5% of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
- (3) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2.5% shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvements and the equalized assessed value of the newly improved structure; i.e., land and improvements; and such calculation shall be made at the time a final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.

B. Eligible exactions, ineligible exactions and exemptions for non-residential development.

- (1) The non-residential portion of a mixed-use inclusionary or market-rate development shall be subject to a 2.5% development fee, unless otherwise exempted below.
 - (2) The 2.5% fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
- C. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), as specified in Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption." Any exemption claimed by a developer shall be substantiated by that developer.
- D. A developer of a non-residential development exempted from the non-residential development fee pursuant to the Statewide Non-Residential Development Fee Act shall be subject to the fee at such time as the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.
- E. If a property that was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the municipality as a lien against the real property of the owner.

§176-33 Collection procedures.

- A. Upon the granting of a preliminary, final or other applicable approval for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.
- B. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF, "State of New Jersey Non-Residential Development Certification/Exemption," to be completed by the developer as per the instructions provided in the Form N-RDF. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided on Form N-RDF. The tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- C. The construction official responsible for the issuance of a building permit shall notify the tax assessor of the issuance of the first construction permit for a development that is subject to a development fee.

- D. Within 90 days of receipt of that notice, the tax assessor shall provide an estimate, based on the plans filed, of the equalized assessed value of the development.
- E. The construction official responsible for the issuance of a final certificate of occupancy shall notify the tax assessor of any and all requests for the scheduling of a final inspection on property that is subject to a development fee.
- F. Within 10 business days of a request for the scheduling of a final inspection, the tax assessor shall confirm or modify the previously estimated equalized assessed value of the improvements associated with the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- G. Should the municipality fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b. of section 37 of P.L.2008, c.46 (N.J.S.A. 40:55D-8.6).
- H. Fifty percent (50%) of the development fee shall be collected at the time of issuance of the construction permit. The remaining portion shall be collected at the time of issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the construction permit and that determined at the time of issuance of certificate of occupancy.

§176-34 Appeal of development fees.

- A. A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by that board, collected fees shall be placed in an interest-bearing escrow account by the municipality. Appeals from a determination of the board may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
- B. A developer may challenge non-residential development fees imposed by filing a challenge with the director of the Division of Taxation. Pending a review and determination by the director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by the municipality. Appeals from a determination of the director may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

§176-35 Affordable Housing Trust Fund.

- A. A separate, interest-bearing Municipal Affordable Housing Trust Fund shall be maintained by the chief financial officer of the municipality for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
- B. The following additional funds shall be deposited in the Municipal Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - (1) Payments in lieu of on-site construction of an affordable unit, where previously permitted by ordinance or by agreement with the municipality and if approved by a municipality prior to the statutory elimination of payments in-lieu on March 20, 2024 per P.L.2024, c.2;
 - (2) Funds contributed by developers to make 10% of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;
 - (3) Rental income from municipally operated units;
 - (4) Repayments from affordable housing program loans;
 - (5) Recapture funds;
 - (6) Proceeds from the sale of affordable units; and
 - (7) Any other funds collected in connection with the municipal affordable housing program including but not limited to interest earned on fund deposits.
- C. The municipality shall provide the Department with written authorization, in the form of a tri-party escrow agreement(s) between the municipality, the Department and the financial institution in which the municipal affordable housing trust fund has been established to permit the Department to direct the disbursement of the funds as provided for in N.J.A.C. 5:99-2.1 et seq.
- D. Occurrence of any of the deficiencies outlined in N.J.A.C. 5:99 may result in the Department requiring the forfeiture of all or a portion of the funds in the municipal Affordable Housing Trust Fund.
- E. All interest accrued in the housing trust fund shall only be used on eligible affordable housing purposes approved by the Court.

§176-36 Use of Funds.

- A. The expenditure of all funds shall conform to a Spending Plan approved by Superior Court. Funds deposited in the municipal Affordable Housing Trust Fund may be used for any activity approved by the Court to address the fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls; housing rehabilitation; new construction of affordable housing units and related costs; accessory apartments; a market-to-affordable program; conversion of existing non-residential buildings to create new affordable units; green building strategies designed to be cost-saving and in accordance with accepted national or state standards; purchase of land for affordable housing; improvement of land to be used for affordable housing; extensions or improvements of roads and infrastructure to affordable housing sites; financial assistance designed to increase affordability; administration necessary for implementation of the Housing Element and Fair Share Plan; and/or any other activity permitted by Superior Court and specified in the approved Spending Plan.
- B. Funds shall not be expended to reimburse the municipality or activities that occurred prior to the authorization of a municipality to collect development fees.
- C. At least a portion of all development fees collected and interest earned shall be used to provide affordability assistance to very low-, low- and moderate-income households in affordable units included in the municipal Fair Share Plan. A portion of the development fees which provide affordability assistance shall be used to provide affordability assistance to very low-income households.
- (1) Affordability assistance programs may include down payment assistance, security deposit assistance, low-interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, infrastructure assistance, and assistance with emergency repairs. The specific programs to be used for affordability assistance shall be identified and described within the Spending Plan.
- (2) Affordability assistance for very low income households may include producing very low-income units or buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30% or less of median income.
- D. No more than 20% of all affordable housing trust funds, exclusive of those collected to fund an RCA prior to July 17, 2008, shall be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultants' fees necessary to develop or implement a new construction program, prepare and implement a Housing Element and Fair Share Plan, administer an Affirmative Marketing Program and for compliance with the Superior Court and the Program including the costs to the municipality of resolving a challenge.

§176-37 Monitoring.

- A. On or before February 15 of each year, the municipality shall provide annual electronic data reporting of trust fund activity for the previous year from January 1st to December 31st through the AHMS Reporting System. This reporting shall include an accounting of all Municipal Affordable Housing Trust Fund activity, including the sources and amounts of all funds collected and the amounts and purposes for which any funds have been expended. Such reporting shall include an accounting of development fees collected from residential and non-residential developers, previously eligible payments in lieu of constructing affordable units on site (if permitted by ordinance or by agreement with the municipality prior to the March 20, 2024 statutory elimination per P.L. 2024, c.4), funds from the sale of units with extinguished controls, barrier-free escrow funds, rental income from municipally-owned affordable housing units, repayments from affordable housing program loans, interest and any other funds collected in connection with municipal housing programs, as well as an accounting of the expenditures of revenues and implementation of the Spending Plan approved by the Court.

§176-38 Ongoing Collection of Fees.

- A. The ability to impose, collect and expend development fees shall continue so long as the municipality retains authorization from the Court in the form of Compliance Certification or the good faith effort to obtain it.
- B. If the municipality fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance, it may be subject to forfeiture of any or all funds remaining within its Affordable Housing Trust Fund. Any funds so forfeited shall be deposited into the New Jersey Affordable Housing Trust Fund established pursuant to section 20 of P.L.1985, c.222 (C. 52:27D-320).

§176-39 Emergent Affordable Housing Opportunities.

- A. Requests to expend affordable housing trust funds on emergent affordable housing opportunities not included in the municipal fair share plan shall be made to the Division and shall be in the form of a governing body resolution. Any request shall be consistent with N.J.A.C. 5:99-4.1.

SEVERABILITY. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

REPEALER. Any Ordinances or parts thereof in conflict with the provisions of these Ordinance are hereby repealed as to their inconsistencies only.

EFFECTIVE DATE. This Ordinance shall not take effect until approved by the Court.

NOTICE

NOTICE is hereby given that the foregoing Ordinance was introduced to pass on first reading at a regular meeting of the Committee of the Township of Franklin held on February 12, 2026, and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Township Committee to be held on March 12, 2026 at 7:30 p.m. or as soon thereafter as the Township Committee may hear this Ordinance at the New Municipal Building, 43 Lower Landsdown Road, Annandale, New Jersey, at which time all persons interested may appear for or against the passage of said Ordinance.

Christine Burke
Township Clerk

**FRANKLIN TOWNSHIP
HUNTERDON COUNTY**

PUBLIC NOTICE is hereby given that the following titled Ordinances were introduced to pass on first reading at a regular meeting of the Committee of the Township of Franklin held on February 12, 2026, and ordered published in accordance with the law. Said Ordinances will be considered for final reading and adoption at a regular meeting of the Township Committee to be held on March 12, 2026 at 7:30 p.m. or as soon thereafter as the Township Committee may hear these Ordinances at the Franklin Township Municipal Building, 43 Lower Landsdown Road, Annandale, New Jersey, at which time all persons interested may appear for or against the passage of said Ordinance.

A copy of these Ordinances may be acquired from the Franklin Township Clerk's Office during regular business hours and are posted on the Township website:

<https://franklin-twp.org/ordinances>

Christine Burke
Township Clerk

ORDINANCE 2026-01

ORDINANCE OF THE TOWNSHIP OF FRANKLIN, COUNTY OF HUNTERDON, STATE OF NEW JERSEY DELETING AND REPLACING ARTICLE I "AFFORDABLE HOUSING REGULATIONS" AND DELETING ARTICLES II "MUNICIPAL HOUSING LIAISON", III "ADMINISTRATIVE AGENT", AND IV "AFFIRMATIVE MARKETING REQUIREMENTS" OF CHAPTER 176 "AFFORDABLE HOUSING ORDINANCE" TO UPDATE THE TOWNSHIP'S AFFORDABLE HOUSING ORDINANCE IN ACCORDANCE WITH THE DECEMBER 2025 UNIFORM HOUSING AFFORDABILITY CONTROLS, DECEMBER 2025 N.J.A.C. 5:99 REGULATIONS, AND THE AMENDED FAIR HOUSING ACT

ORDINANCE 2026-02

ORDINANCE OF THE TOWNSHIP OF FRANKLIN, COUNTY OF HUNTERDON, STATE OF NEW JERSEY DELETING AND REPLACING ARTICLE V "AFFORDABLE HOUSING DEVELOPMENT FEES" OF CHAPTER 176 "AFFORDABLE HOUSING ORDINANCE" OF THE CODE OF THE TOWNSHIP OF FRANKLIN TO UPDATE THE TOWNSHIP'S DEVELOPMENT FEE ORDINANCE IN ACCORDANCE WITH THE DECEMBER 2025 N.J.A.C. 5:99 REGULATIONS AND THE AMENDED FAIR HOUSING ACT

ORDINANCE 2026-03

**ORDINANCE OF THE TOWNSHIP OF FRANKLIN, COUNTY OF HUNTERDON, STATE OF NEW JERSEY
AMENDING AND SUPPLEMENTING CHAPTER 220 OF THE CODE OF THE TOWNSHIP OF FRANKLIN TO
AMEND CERTAIN AFFORDABLE HOUSING-RELATED REGULATIONS OF THE MF MULTI-FAMILY ZONE
AND THE MXD MIXED-USE DEVELOPMENT OVERLAY ZONE**

SUMMARY AND EXPLANATION

On January 28, 2025, Franklin Township adopted Resolution 2025-17 (filed with the Court on January 29, 2025), which established the Township's Fourth Round present and prospective need obligations pursuant to the amended Fair Housing Act ("FHS") at N.J.S.A. 52:27D-301 et. Seq., per P.L. 2024, c.2. On March 27, 2025, the Court entered an Order fixing the Township's Fourth Round present need obligation as 0 and prospective need obligation as 52. On June 13, 2025, Franklin Township filed its Housing Element and Fair Share Plan ("HEFSP") and, upon review and addressing all challenges, is now proceeding to adjust the Township Code to reflect all necessary amendments to update the Township's Affordable Housing Regulations to meet the Township's Fourth Round fair share obligations.

Provided by Christine Burke, Township Clerk

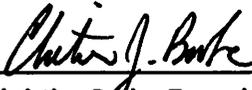
POSTED:

TOWNSHIP WEBSITE: FEBRUARY 13, 2026.

OFFICIAL NEWSPAPER: STAR LEDGER (NJ.COM): FEBRUARY 19, 2026.

I, Christine Burke, Clerk for the Township of Franklin, hereby certify that Ordinance #2026-02 was introduced on first reading by the governing body of the Township of Franklin, County of Hunterdon, on February 12, 2026.

Public hearing and consideration for adoption was held on March 12, 2026, at which time the Ordinance was finally adopted.


Christine Burke, Township Clerk

Introduction : February 12, 2026

Published : Township Website: February 13, 2026

: Official Newspaper: Star Ledger (NJ.com): February 19, 2026

Amended : N/A

Published : Township Website: N/A

: Official Newspaper: Star Ledger (NJ.com): N/A

Public Hearing: March 12, 2026

Adopted : March 12, 2026

Published : Township Website: March 13, 2026

: Official Newspaper: Star Ledger (NJ.com): March 19, 2026

**FRANKLIN TOWNSHIP
HUNTERDON COUNTY**

PUBLIC NOTICE is hereby given that the following titled Ordinances were duly considered for final passage and adopted by the Franklin Township Committee upon conclusion of the public hearing held on Thursday, March 12, 2026.

A copy of these Ordinances may be acquired from the Franklin Township Clerk's Office during regular business hours and are posted on the Township website:

<https://franklin-twp.org/ordinances>

Christine Burke
Township Clerk

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Provided by Christine Burke, Township Clerk

POSTED:

TOWNSHIP WEBSITE: MARCH 13, 2026.

OFFICIAL NEWSPAPER: STAR LEDGER (NJ.COM): MARCH 19, 2026.