

AN ORDINANCE TO AMEND CHAPTER 111, LAND USE PROCEDURES, ARTICLE VII, DEVELOPMENT FEE AND AFFORDABLE HOUSING CONTRIBUTION, OF THE GENERAL ORDINANCES OF THE TOWNSHIP OF WASHINGTON, COUNTY OF MORRIS, STATE OF NEW JERSEY

BE IT ORDAINED, by the Township Committee of the Township of Washington, in the County of Morris, and State of New Jersey, as follows:

SECTION 1. Chapter 111, Land Use Procedures, Article VII, Development Fee and Affordable Housing Contribution, Section 111-49, Development Fee Schedule, of the Code of the Township of Washington, Morris County, New Jersey is hereby amended and supplemented in the following particulars only:

“111-49. Development fee schedule.

A *Residential development.*

(1) Residential development fees shall be one percent (1.0%) of the equalized assessed value for residential development, provided that no increased density is permitted.

(2) If a “d” variance is granted for an increase in residential density pursuant to N.J.S.A 40:55D-70d(5), then the additional residential units realized (above what is permitted by right under the existing zoning) will incur a bonus development fee of six (6%) percent rather than the development fee of one percent. However, if the zoning on a site has changed during the two year period preceding the filing of the “d” 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 years preceding the filing of the “d” variance application.

(3) The Township may allow developers of sites zoned for inclusionary development to pay a fee in lieu of building low and moderate-income units provided the Council determines the Township's housing element and fair share plan provides a realistic opportunity for addressing the Township's fair share obligation. The fee may equal the cost of subsidizing the low and moderate-income units that are replaced by the development fee. For example, an inclusionary development may include a twenty (20%) percent set-aside, no set-aside and a fee that is the equivalent of a twenty (20%) percent set-aside or a combination of a fee and set-aside that is the equivalent of a twenty (20%) percent set-aside.

(4) The Township may collect fees exceeding those permitted in this section provided the Township enters into agreements with developers that offer a financial incentive for paying higher fees. The financial incentive may be in the form of a tax abatement. No agreement may provide for a voluntary development fee without also providing for a comparable offsetting incentive. All agreements are subject to Council approval.

B. *Non-residential development.*

(1) Non-residential development fees shall be two percent (2.0%) of the equalized assessed value for non-residential development.

(2) If A “d” variance is granted for an increase in floor area pursuant to N.J.S.A 40:55D-70d(4), then the additional floor area realized (above what is permitted by right under the existing zoning) will incur a bonus development fee of six (6) percent rather than the development fee of two (2) percent. However, if the zoning on a site has changed during the two year period preceding the filing of the “d” variance application, the floor area for purposes of calculating the bonus development fee shall be the highest permitted by right during the two years preceding the filing of the “d” variance application.”

(3) The Township may collect fees exceeding those permitted in this section provided they enter into agreements with developers that offer a financial incentive for paying higher fees. Such agreements may include, but are not limited to, a tax abatement, increased commercial/industrial square footage, increased commercial/industrial lot coverage and/or increased commercial/industrial impervious coverage in return for an increased development fee. The development fee negotiated must bear a reasonable relationship to the additional commercial/industrial consideration to be received. All agreements are subject to approval by the Council.”

SECTION 2. All ordinances of the Township of Washington, which are inconsistent with the provisions of this Ordinance, are hereby repealed to the extent of such inconsistency.

SECTION 3. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

SECTION 4. This Ordinance may be renumbered for codification purposes.

SECTION 5. This Ordinance shall take effect immediately upon final passage, approval, and publication as required by law and shall be rendered null and void if the Township fails to petition the Council on Affordable Housing for third round substantive certification by December 20, 2005.

ATTEST:

TOWNSHIP OF WASHINGTON
COUNTY OF MORRIS
STATE OF NEW JERSEY

Dianne S. Gallets, Clerk

By: _____
Kenneth W. Short, Mayor