

CA - Old Bridge

~~6/14/84~~

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Exhibit E: Proposed Mandatory Set Aside

Ordinance introduced to Twp Council  
on 6/4/84

P 15

CA 002342Z

OLD BRIDGE TOWNSHIP  
ORDINANCE NO.AN ORDINANCE AMENDING CHAPTER XX, LAND  
DEVELOPMENT ORDINANCE.

## SECTION 1. Low and Moderate Income Housing.

1. All developments within the Township of Old Bridge shall be subject to the following provisions dealing with the construction of and creating the opportunity for, low and moderate income housing. These provisions of this ordinance shall remain in full force and effect until sufficient development approvals have been granted so as to satisfy Old Bridge Township's fair share requirement, at which time the Township governing body may suspend the enforcement and application of all or part of these ordinance provisions until such time as Old Bridge Township's fair share allocation has been changed to a larger number.
2. (a) Township's fair share allocation, also referred to as fair share number, shall be established for the year 1984 and thereafter as soon as possible from the Housing Element of the Township's master plan when adopted, and shall be shown on a resolution of the governing body to be appended to and annexed with this ordinance. Such number is subject to change, along with the fair share allocation of other municipalities within the region over the course of time and as further studies indicate. The Township's fair share allocation shall be reviewed by the Township at least once every six (6) years at the time of the periodic reexamination of the master plan pursuant to N.J.S.A. 40:55D-89. The last reexamination of the master plan took place under the aforesaid statute on \_\_\_\_\_ and the next periodic reexamination of the master plan and regulations thereunder shall take place within at least six (6) years from that date.
- (b) Dwelling units built or approved after the adoption of this ordinance which are to be counted toward fulfillment of Old Bridge Township's fair share requirement shall be counted as part of the fair share allocation at the time of either preliminary plat approval, final plat approval, issuance of the building permit, or issuance of the certificate of occupancy, whichever comes first. The low and moderate income units shall be identified by the developer at the earliest possible state of development.

EXHIBIT E

3. Bonus. With respect to all existing development approvals for residential housing which have received either tentative, preliminary or final approval of any reviewing authority of the municipality and which are within the protection periods, including statutorily empowered extensions thereof, as set forth under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. during which the general terms and conditions of said approval cannot be changed by the municipality, and where construction of the section has not commenced, those developments shall be entitled to a five percent (5%) density bonus, calculated on a five percent (5%) of the units in that section, rounded to the nearest whole number, for low and moderate income housing to be built in any final section, where no construction has taken place, subject to the provisions and conditions set forth below. Such density bonus shall not require further public hearings or additional review by the approving authority providing no circulation, parking, drainage or utility pattern is changed as a result of the increased development; sufficient capability exists for fire protection for the increased density of the development; said increased development does not adversely affect any means of access for fire fighting equipment, ambulances or other emergency vehicles necessary for the protection of health and safety of the residents of the development and the Township; the increased development will not adversely affect any environmental considerations. The Township Engineer and Township Planner shall confirm that the inclusion of the units allowed by the density bonus, meets the aforesaid criteria. Plat section boundaries for any approved section may not be changed so as to extend the section boundary into adjoining open space. Those provisions of the Township ordinances dealing with lot size and percentage of lot coverage are hereby waived with respect to the development to the extent necessary to accommodate this increase in density. However, all other bulk and area requirements with respect to yard areas and building setbacks must be adhered to or a variance proceeding accompanied by review of the revised plan shall be necessary.
4. Mandatory Set Aside. All new development which consists of ten or more residential units which is brought before any approving agency of the Township of Old Bridge will be required to set aside mandatorily, twenty percent (20%) of the dwelling units for the construction of low and moderate income housing governed by the provisions as are set forth below. In order to insure that the practice of submitting small piecemeal development for the purpose of circumventing this ordinance provision is not used, developments by the same developer of residential units on contiguous parcels will be considered as one development whether or not they are on separate tax map lots or blocks as will subsequent developments by different developers of the same tax map lot.
5. Any low and moderate income housing built pursuant to this ordinance provision whether as a result of density bonus, or as a result of a builder's remedy, shall be subject to the following provisions:

- (a) Units which shall be offered for sale shall be sold at a maximum price of eighty percent (80%) of the median income of the region for moderate income families and fifty percent (50%) of the median income of the region for low income families, each figure to be multiplied by 2.5.
- (b) Rental units shall have a maximum annual rent of eighty percent (80%) of the median income of the region for moderate income families and fifty percent (50%) of the median income of the region for low income families, such figure to be multiplied by 30%.
- (c) Moderate income families are those whose incomes are no greater than 80% and not less than 50% of the median income of the area, with adjustments for smaller and larger families. Low income families are those whose incomes do not exceed 50% of the median income of the area, with adjustments for smaller and larger families. Area is defined as the Standard Metropolitan Statistical Area by the regional office of the Office of the U.S. Census Bureau. The income level, identity and family size of the occupants proposed as qualifying occupants must be submitted by the developer or owner, prior to occupancy, and be recertified every year by the owner of the unit.
- (d) A Certificate of Eligibility shall be required for all low and moderate income housing units, whether owner-occupied or rented. The Certificate of Eligibility shall not be issued by the Construction Official until he receives a sworn written statement which confirms that the occupants of the unit meet the income requirements of this ordinance. The developer is responsible for providing to the municipality, the identification of each modest priced unit and the purchaser of said unit. A new Certificate of Eligibility will be required upon each resale or reletting.
- (e) Units sold must be owner occupied by a qualifying owner as set forth above. If said qualifying owner seeks to let or rent the premises, the unit shall be subject to the provisions for rental units set forth above in this ordinance.
- (f) All such units whether for sale or rent shall be deed restricted to occupancy by qualifying low and moderate income persons and said deed restrictions shall survive passage of any deed whether by sale, gift, inheritance, equitable distribution in a divorce proceeding, foreclosure etcetera, and apply to the resale or reletting of the premises.
- (g) If a designated low and moderate income unit is offered for resale, the maximum price charged shall be computed as in paragraph 5(b) set forth above.
- (h) The facade and type of unit of the low and moderate income units shall, in no way, be distinguishable from the facades of the other units in the development.

- (i) The low and moderate income units shall be dispersed throughout the project to the greatest extent feasible. The low and moderate income units allocated in the first section shall be completed prior to the issuance of any certificate of occupancy in any successive section and this procedure shall follow on a section by section basis. With respect to those developments governed by mandatory set asides, 20% of each section submitted for final plat approval shall contain low and moderate income housing. No section submitted for final plat approval shall exceed 20 dwelling units. With respect to those units built pursuant to the density bonus, no such units shall be contiguous.
  - (j) In any development where low and moderate income housing is to be built as a result of either the density bonus or the mandatory set aside or the result of a builder's remedy, at least half of the low and moderate units built must be affordable by low income households with the remainder being affordable by moderate or low income households.
6. Dwelling units which are not built pursuant to one of the above affirmative programs, but whose sale or rental price qualifies them for low and moderate income occupancy, and which can be counted in the Fair Share Allocation shall not be subject to the above restrictions.
7. All residential development within the Township of Old Bridge pursuant to provisions of this section or any other developmental ordinances of the Township shall be subject to the following requirements for dwelling unit size based on the number of occupants residing therein and any other presently existing ordinances of the Township of Old Bridge are hereby and herewith repealed to the extent that they govern dwelling unit size unrelated to occupancy.
- (a) Each dwelling unit shall contain complete kitchen facilities, toilet, bathing and sleeping facilities as well as living space and shall have a minimum habitable floor area exclusive of bathrooms, closets, halls, pantrys, stairways, foyers, utility rooms, laundries, storage areas, garages, in accordance with the following:
  - (b) No more than two (2) persons shall occupy a dwelling unit which has a minimum of five hundred (500) square feet habitable floor area.
  - (c) For each additional person occupying a dwelling unit, the minimum square footage requirement set forth above shall be increased by one hundred (100) square feet.
  - (d) Notice of general occupancy limitations within the Township shall be given by means of a deed restriction on the property, recorded in the Office of the Clerk of the County of Middlesex and notice of specific occupancy limitations with respect to that particular unit shall be given by the seller at the time of any purchase agreement, whether initial purchase or resale, without which said purchase agreement may be declared null and void and of no effect.

- (e) Any dwelling unit built to minimum size for from two (2) to four (4) persons, shall be designed so as to permit feasible future expansion in order to house more occupants. A copy of said plan of feasible future expansion shall be filed with the Building Inspector or Planning Board Secretary at the time of application for the building permit for the dwelling unit or preliminary plat submission, whichever occurs first.
- (f) Violations of these provisions dealing with the size of dwelling units related to the number of occupants therein may be enforced and prosecuted by any municipal official of the Township of Old Bridge or by any resident or property owner of the Township. If it can be readily ascertainable from the tax duplicate that the property is owner occupied, then the remedy for removal of the owner occupant shall be ejectment. If the name of the occupant does not correspond to the name of the owner as shown on the tax duplicate, the proper remedy for removal of the occupants shall be eviction. Neither of these remedies will preclude any civil action for damages or criminal or quasi criminal actions brought in any court. Any property owner who has a property which is in violation of these provisions and who refuses to abate said violation within 60 days after written notice has been served upon him either by mail or personal service, shall for each and every violation be subject to a fine in accordance with the violations section of this ordinance. Each and every day that such violation continues after such notice, shall be considered a separate and specific violation of this section of the ordinance. It shall be no defense for a landlord to contend that the violation was caused by the tenant.

8. Phasing. No more than 50% of the building permits henceforth to be issued for construction of new residential units shall be for low and moderate income housing. This maximum number shall be determined by taking 50% of the residential building permits issued during the prior 12 month period.

SECTION 2. Those parts of ordinances which are contrary to the provisions of this ordinance are hereby repealed to the extent necessary to give this ordinance full force and effect.

SECTION 3. If any provision, section or part of any portion of this chapter dealing with low and moderate income housing, is declared to be illegal or unconstitutional, the entire section or chapter shall be invalidated. Where provisions, sections or portions of this section or chapter have replaced prior ordinances, those ordinances then shall be automatically reinstated.

SECTION 4. This ordinance shall take effect on the earliest date allowed by law following final passage, adoption and publication and may be cited as Ordinance No.