

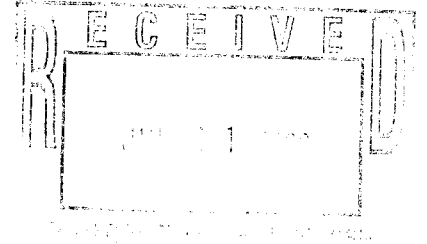
cc: Admin
Plan

TOWNSHIP OF BYRAM
NEW JERSEY

MAILING ADDRESS:
10 MANSFIELD DRIVE
STANHOPE, NJ 07874
Phone: 973-347-2500
Fax: 973-347-0502



WEBSITE ADDRESS:
www.byramtwp.org



July 8, 2008

TO: Green Township
Andover Township
Andover Borough
Sparta Township
Hopatcong Borough
Stanhope Borough
Mt. Olive Township
Allamuchy Township
Roxbury Township
Sussex County Planning

FROM: Doris J. Flynn, RMC, Township Clerk

RE: Development Ordinances

Pursuant to the provisions of the Municipal Land Use Law, Chapter 291, enclosed please find a copy of the following proposed ordinances:

- A. Ordinance of the Township of Byram Amending Chapter 215 of the Code Entitled "Subdivision and Site Plan Review" to Add a New Section 48 Entitled "Off-Tract Improvements"
- B. Ordinance of the Township of Byram Amending Chapter 215 of The Code and Adding Article XIV – Growth Share Affordable Housing Requirements

The above ordinances were introduced at the Byram Township Council meeting of July 7, 2008. Said ordinances will be considered for final reading and passage at a public hearing to be held **August 4, 2008** at the Byram Municipal Building, 10 Mansfield Drive, Byram Township, beginning at 7:30 p.m.

**TOWNSHIP OF BYRAM
ORDINANCE NO. - 2008**

**ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWNSHIP OF
BYRAM AMENDING CHAPTER 215 OF THE CODE ENTITLED
“SUBDIVISION AND SITE PLAN REVIEW” TO ADD A NEW SECTION 48
ENTITLED “OFF-TRACT IMPROVEMENTS”**

Statement of Purpose: The purpose of this ordinance is to amend the Land Use Code to establish requirement for off-tract improvements consistent with the Municipal Land Use Law, N.J.S.A. 40:55D-42 et seq.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Township Council of the Township of Byram that Chapter 215 in the Byram Township Code entitled “Subdivision and Site Plan Review” be hereby revised as follows:

SECTION 1. Chapter 215 Entitled “Subdivision and Site Plan Review” of the Code of the Township of Byram is hereby amended to add a new section 48, which shall state as follows:

§215-48 “Off-Tract Improvements”

As a condition of approval, in cases where the need for an off-tract improvement or improvements for street improvements, water, sewerage and drainage facilities and easements for the same is created by the proposed development, the board may recommend to the governing body that it require the applicant to construct its proportionate share of the off-tract improvements and dedicate the improvements to the Township or County as otherwise provided by law as if such improvements were on-tract improvements or, in lieu thereof, require the developer to deposit with the Township a sum of money equal to the developer’s proportionate share to allow the municipality to use said funds to construct such off-tract improvements. The Board may require that the developer enter into a developer’s agreement with the Township Council regarding the proportionate share of the off-tract improvement and /or funds in lieu of the proportionate share of the off-tract improvements.

SECTION 2. Severability. If any section, subsection, 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; which shall continue in full force and effect; and to this end the provision of this Ordinance are hereby declared severable.

SECTION 3. This ordinance shall take effect in the time and manner as prescribed by law.

SECTION 4. Notice Requirements.

The Municipal Clerk is hereby directed to give notice at least ten (10) days prior to the hearing on the adoption of this Chapter to the County Planning Board and to all others entitled thereto pursuant to the provisions of NJSA 40:55D-15. Upon adoption of this Chapter, after public hearing thereon, the Municipal Clerk is further directed to publish notice of the passage thereof and to file a copy of this Chapter, as finally adopted, with the Sussex County Planning board as required by NJSA 40:55D-16.

BYRAM TOWNSHIP COUNCIL

Introduced: July 7, 2008 Adopted:

COUNCIL MEMBER	Councilman Rafferty	Councilwoman Thomson	Councilman Oscovitch	Councilman Olson	Mayor Danielson
By:					
2nd					
Yes					
No					
Abstain					
Absent					

NOTICE

NOTICE is hereby given that the above entitled Ordinance was introduced and passed first reading at the meeting of the Township Council of the Township of Byram on the 7th day of July, 2008. The said ordinance will be further considered for final adoption at a meeting of the Township Council of The Township of Byram, held at the Byram Municipal Building, Mansfield Drive, Byram Township, New Jersey, on the 4th day of August 2008 at 7:30 p.m. at which time all persons will be given the opportunity to be heard concerning said ordinance. Copies of this ordinance are available in the Clerk's office, Monday through Friday, between the hours of 8:30 a.m. and 4:30 p.m.

BYRAM TOWNSHIP

Doris Flynn, Township Clerk

**TOWNSHIP OF BYRAM
SUSSEX COUNTY, NEW JERSEY**

**AN ORDINANCE AMENDING THE AFFORDABLE HOUSING
SECTION OF THE CODE**

ORDINANCE NO. - 2008

Purpose Statement: The purpose of this ordinance is to adopt a growth share affordable housing code for residential developments in Byram Township to comply with the Mount Laurel II decision and the regulations of the Council on Affordable Housing (COAH)

WHEREAS, the New Jersey Council on Affordable Housing ("COAH") proposed revised Third Round Regulations, published in the New Jersey Register on January 24, 2008, which regulations will significantly increase municipalities' requirements to provide affordable housing. To address COAH's proposed Third Round Regulations and the Mount Laurel II decision, the Byram Township Council intends to adopt this Ordinance, which imposes Growth Share requirements consistent with the Mount Laurel II decision and the proposed COAH regulations, on residential and certain non-residential developments within the Township.

BE IT ORDAINED by the Township Council of the Township of Byram that the Comprehensive Land Management Code of the Township of Byram is amended as follows:

Section 1. A new Article XIV entitled "Growth Share Affordable Housing Required", is hereby adopted as follows:

"Article XIV – Growth Share Affordable Housing Requirements for Residential Developments

215-69 - Growth Share Affordable Housing Requirements for Residential Developments

a. Applicability.

The requirements contained in this Ordinance shall be applied in Byram Township to all residential construction in all zones.

Responsibility for constructing affordable housing units shall be as provided for under this Ordinance. Developers that have received preliminary of final

approval prior to the effective date of this Ordinance shall be exempt from complying with the provisions of this Ordinance, unless the developer seeks a substantial change in approval, or the plan is abandoned, approval lapses, or the period of protection pursuant to N.J.S.A. 40:55D-52 expires without extension. The triggering mechanism for growth share responsibility shall be the issuance of a building permit for new construction issued after adoption of this Ordinance.

b. Affordable Units Required for Residential Developments.

Except for residential "inclusionary" developments which are otherwise required to have a set-aside of "low" and "moderate" income units, any applicant for a residential development in Byram Township that includes four (4) or more residential lots and/or dwelling units shall be required to provide the number of affordable housing units equivalent to twenty-five percent (25%) of the total number of market rate units which will result from the proposed development, with any decimal amount rounded to the next highest whole number.

As incentives to internally subsidize the required affordable housing units, a developer may utilize the following incentives:

1. For residential developments and the residential portion of mixed-use developments constructing the growth share affordable units on-site, the developer may build one (1) additional market-rate unit for each affordable unit constructed on-site. The affordable units may be built on a lot of one-half ($\frac{1}{2}$) or more acres in size, and may be single-family, duplex, triplex or quadraplex units. The density increases granted to allow the incentive one (1) market-rate unit per affordable unit(s), the affordable units, and the alternate structure and use type for affordable units shall not require a "c" or "d" variance. The alternate structures shall be subject to the bulk standards of the zone in which the property is located.

2. For residential developers and the residential portion of mixed use developments that make payments to the Township of Byram in lieu of constructing affordable units, the developer may build up to one-half ($\frac{1}{2}$) of a market-rate unit for each full contribution toward an affordable unit's costs. The affordable units may be built on a lot of one-half ($\frac{1}{2}$) or more acres in size, and may be single-family duplex, triplex or quadraplex units. The density increases granted to allow the incentive one-half ($\frac{1}{2}$) market-rate unit per affordable unit, the affordable unit(s), and the alternate structure and use type for affordable units shall not require a "c" or "d" variance.

c. "Low" & "Moderate" Income Split.

Fifty percent (50%) of the affordable housing units required to be produced in accordance with Subsections 1 and 2 hereinabove shall be available to "low" income households and fifty percent (50%) shall be available to "moderate" income households, provided that any single remaining unit shall be available to a "low" income household. If only one (1) affordable unit is required it shall be a low income unit unless the Township Council authorizes it to be a moderate income unit.

d. Compliance With COAH's Rules.

All affordable housing units shall fully comply with all applicable "Substantive Rules" and policies of COAH including, unless modified above, but not limited to, bedroom distribution, controls on affordability, household income qualification and eligibility, range of affordability, affirmative marketing and the construction phasing of the market-rate versus the affordable housing units.

e. Payments in Lieu.

For residential development which proposes more than four residential units, the developer shall be required to provide on-site production of affordable housing, and for any fractional or partial obligation remaining after the production of the mandated affordable housing units, shall pay the pro rata contribution for each new housing unit or 16 jobs. The percentage is based upon \$180,267, which is the COAH-determined subsidy required for payments in lieu of constructing affordable units on site.

f. Alternative Methods of Compliance.

Except for major subdivision or site plan approvals involving four or more units or 16 or more jobs which require on-site production of affordable housing units, and further provided the developer obtains advanced written permission from the Byram Township Council, the developer may choose to satisfy its affordable housing obligation calculated in accordance with Sections b and c, in compliance with one or more of the following alternatives as permitted by COAH's "Substantive Rules" as set forth below:

1. On-site production of affordable housing units;
2. The purchase of an existing market rate dwelling unit within the municipality and its conversion to an affordable unit;
3. The purchase of an existing market rate dwelling unit within the municipality and its conversion to a "supportive and special needs housing" facility (i.e., group home); and/or

4. Participation in gut rehabilitation and/or buy down/write down or buy-down/rent down programs; and/or
5. Payment in accordance with Section e.

Developers shall obtain written permission from the Township Council endorsing the developer's plan for satisfying the affordable housing obligation created by the proposed development which shall be submitted to the Township Land Use Board or Zoning Board at the time the application for development is submitted for review and approval and shall be considered a condition for the application being determined "complete".

g. Other Design Considerations.

1. More than one affordable unit may be on a building lot. Affordable single-family, duplex, triplex and quadraplex structures are hereby permitted in Byram Township.
2. The affordable housing structures shall be consistent in size and architectural features with the neighborhood or as approved by the Township Land Use Board.
3. Septic systems for the affordable housing units on the same lot (other than in the Byram Town Center, which shall be connected to the sewer system) may only share the leach field and shall be maintained with an annual maintenance fee from each unit. Each owner shall maintain other septic system components. Any septic system arrangement under this provision is subject to the Health Department approval.
4. Affordable housing must comply with the accessibility requirements of N.J.A.C. 5:94-3.14.

h. Construction of Affordable Units.

Residential units shall be constructed on a schedule in accordance with the COAH regulations:

Percentage of Market Rate Units Completed	Minimum Percentage of Low and Moderate Income Units Completed
25	0
25 plus 1 unit	10
50	50
75	75
90	100

i. Housing permitted.

Growth share housing is a permitted use in every residential and non-residential zoning district to the extent that production of affordable housing units is mandated by this Ordinance.

j. Appeals

Developers subject to this inclusionary growth share ordinance may appeal to the Land Use Board pursuant to N.J.S.A. 40:55D-70c(1) hardship standards to demonstrate to the satisfaction of the Board that the increased density or intensity and/or reduced costs do not provide an appropriate level of compensation commensurate with the amount of affordable housing required. The Land Use Board may grant relief including, but not limited to, additional incentives or reductions in the affordable units required or any combination thereof deemed appropriate by the Board to eliminate the "hardship" and provide sufficient incentives.

Section 2. Severability.

If any provision of this Ordinance or the application of this Ordinance to any person or circumstances is held invalid, the remainder of this Ordinance shall not be affected and shall remain in full force and effect.

Section 3. Repealer.

All ordinances or parts of ordinances or resolutions inconsistent or in opposition to the provisions of this Ordinance are hereby repealed in their entirety.

Section 4. Effective date.

This Ordinance shall take effect after its final passage and publication as required by law.

Section 5. Notice Requirements.

The Municipal Clerk is hereby directed to give notice at least ten (10) days prior to the hearing on the adoption of this Chapter to the County Planning Board and to all others entitled thereto pursuant to the provisions of NJSA 40:55D-15. Upon adoption of this Chapter, after public hearing thereon, the Municipal Clerk is further directed to publish notice of the passage thereof and to file a copy of this Chapter, as finally adopted, with the Sussex County Planning board as required by NJSA 40:55D-16.

Eskil Danielson, Mayor

ATTEST:

Doris Flynn, Clerk

NOTICE

TAKE NOTICE that the above entitled ordinance was introduced at a regular meeting of the Township Council of the Township of Byram on July 7 2008. The said ordinance will be further considered for final adoption at a meeting of the Township Council of The Township of Byram, held at the Byram Municipal Building, Mansfield Drive, Byram Township, New Jersey, on the 4th day of August 2008 at 7:30 p.m. at which time all persons will be given the opportunity to be heard concerning said ordinance. Copies of this ordinance are available in the Clerk's office, Monday through Friday, between the hours of 8:30 a.m. and 4:30 p.m.

BY ORDER OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF BYRAM

Doris Flynn, Clerk