

**ORDINANCE 2025-14**

*Borough of Metuchen  
County of Middlesex  
State of New Jersey*

**ORDINANCE OF THE BOROUGH OF METUCHEN, COUNTY OF MIDDLESEX AND  
STATE OF NEW JERSEY AMENDING THE CODE OF THE BOROUGH OF  
METUCHEN, CHAPTER 110 ENTITLED “LAND DEVELOPMENT”, ARTICLE 21  
ENTITLED “AFFORDABLE HOUSING”, SECTION 95.7 ENTITLED “NEW  
CONSTRUCTION”, ITEM E ENTITLED “MULTIFAMILY ZONES”**

**WHEREAS**, the State of New Jersey has a longstanding and well-established commitment to maximizing the opportunities for the development of housing affordable for very low-, low-, and moderate-income households; and

**WHEREAS**, the provision of “safe, decent and attractive housing that [lower-income households] can afford serves the community’s interest in achieving an integrated, just and free society and promotes the general welfare of all citizens.” De Simone v. Greater Englewood Hous. Corp., 56 N.J. 428, 441 (1970); and

**WHEREAS**, in the Mount Laurel decisions, the New Jersey Supreme Court held that the State’s Constitution makes it “plain beyond dispute that proper provision for adequate housing of all categories of people is certainly an absolute essential in promotion of the general welfare required in all local land use regulation.” S. Burlington Cty. NAACP v. Mount Laurel, 67 N.J. 151, 179 (1975) (Mount Laurel I); and

**WHEREAS**, the Court thus found that “each . . . municipality [must] affirmatively . . . plan and provide, by its land use regulations, the reasonable opportunity for an appropriate variety and choice of housing, including, of course, low and moderate cost housing, to meet the needs, desires and resources of all categories of people who may desire to live within its boundaries.” Ibid; and

**WHEREAS**, the New Jersey Legislature itself affirmed this commitment when it enacted the Fair Housing Act of 1985, which established that it is in the State’s interest “to maximize the number of low and moderate units by creating new affordable housing and by rehabilitating existing, but substandard, housing in the State.” N.J.S.A. 52:27D-302; and

**WHEREAS**, accordingly, the New Jersey Supreme Court has determined that “[a]ffordable housing is a goal that is no longer merely implicit in the notion of the general welfare. It has been expressly recognized as a governmental end and codified under the FHA.” Holmdel Builders Ass’n v. Holmdel, 121 N.J. 550, 567 (1990); and

**WHEREAS**, since then, New Jersey’s courts have consistently recognized that “[t]he public policy of this State has long been that persons with low and moderate incomes are entitled

to affordable housing,” and furthermore that those policies do not end when a municipality has satisfied its minimum obligation under the FHA because “[t]here cannot be the slightest doubt that shelter, along with food, are the most basic human needs.” Homes of Hope, Inc. v. Eastampton Tp. Land Use Planning Bd., 409 N.J. Super. 330, 337 (App. Div. 2009) (quoting Mount Laurel I, 67 N.J. at 178); and

**WHEREAS**, the Borough of Metuchen has a fair share obligation consisting of a prior round obligation of 99 units, a third round need of 349 units, and a fourth round obligation of 120; and

**WHEREAS**, the Borough of Metuchen has an established a Mandatory Set-Aside requirement for all sites that benefits from a rezoning, variance or redevelopment plan approved by the Borough in multi-family residential development of five (5) dwelling units or more produces affordable housing; and

**NOW, THEREFORE, BE IT ORDAINED**, by the Mayor and Council of the Borough of Metuchen, Middlesex County, New Jersey, that the Land Development Regulations set forth in Chapter 110 entitled “Land Development”, Article 21 entitled “Affordable Housing”, Section 95.7 entitled “New Construction”, Item E entitled “Mandatory Set-Asides”, is hereby amended, modified and supplemented as follows:

**Section 1.** Section 110-95.7.E shall be amended and replaced in its entirety, as follows:

E. Mandatory Set-Asides

All applications for development and all new development proposing and/or containing five or more dwelling units shall comply with the following:

- (1) A minimum of 20 percent of the total number of dwelling units in a development shall be set-aside as affordable units with half being affordable to low-income households and 13 percent shall be affordable to very low-income households. If the calculation of the total number of such affordable units yields a fractional unit of less than 0.5 percent then either a payment in lieu shall be provided prior to issuance of the first Certificate of Occupancy for the development, or one additional unit shall be constructed. If the calculation of the total number of such affordable units yields a fractional unit of 0.5 or greater, it shall count as one additional unit.
- (2) For any payment in lieu of a fraction of an affordable unit, the payment for the fraction of the affordable unit shall be calculated on a unit cost of \$220,702, which is based upon the subsidy required/payment in lieu amount originally set forth for COAH Region 3 in N.J.A.C. 5:97-6.4(c), adjusted by the Urban Consumer Price Index (CPI-U) as of June 2025, and which amount shall be automatically adjusted annually by the CPI-U, unless the developer can demonstrate to the reasonable satisfaction of the Borough of Metuchen that the payment amount should be a different amount based upon the following considerations:

- (a) The actual cost to the Borough of constructing and/or subsidizing an affordable unit within the Borough after considering estimated land values and development costs associated with compliance techniques included in the municipality's Fair Share Plan and Spending Plan;
  - (b) The costs of construction shall include development hard costs, related soft costs, developer's fees pursuant to the cost containment provisions of N.J.A.C. 5:43-2.4(a)1 through 6, and land costs based on the first quartile of land values for comparable housing types within the municipality.
- (3) All payments in lieu of constructing fractions of affordable units shall be placed in the Borough's affordable housing trust fund, subject to the regulations and restrictions pertaining to same.

## **Section II.**

**Severability.** If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect and shall be deemed valid and effective.

**Inconsistencies.** In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the municipality, the provisions hereof shall be determined to govern and those inconsistent provisions shall be repealed to the extent of such inconsistency.


**Referral to Planning Board.** A copy of this Ordinance shall be referred to the Planning Board following its introduction for review pursuant to N.J.S.A. 40A:55D-26A.

**Effective Date and Scope.** This Ordinance shall immediately take effect upon its passage and publication, and as otherwise provided for by law. The provisions of this Ordinance shall be applicable within the entire municipality upon final adoption and shall become a part of the Code once completed and adopted.

Introduction: July 28, 2025  
 Date of Publication: August 1, 2025

COUNCILMEMBER	YES	NO	NV	AB	COUNCILMEMBER	YES	NO	NV	AB
BRANCH	X				HYMAN	X			
DELIA	X				KANDEL	X			
GIAMBOI				X	JETHWANI	X			
MOTION	BRANCH				SECOND	HYMAN			
X - INDICATES VOTE		AB- ABSENT			NV- NOT VOTING				

I hereby certify the foregoing to be a true copy of an ordinance introduced by the Borough Council of the Borough of Metuchen, Middlesex County, New Jersey at a regular meeting held on July 28, 2025.


  
 Deborah Zupan, RMC  
 Borough Clerk

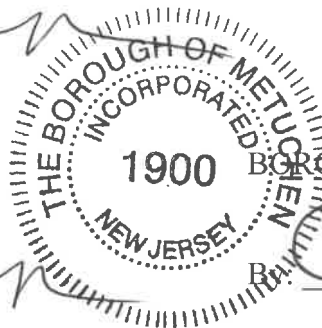


Adopted: August 25, 2025  
 Date of Publication: August 29, 2025

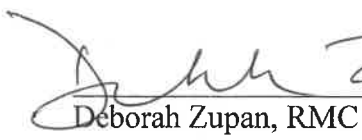
COUNCILMEMBER	YES	NO	NV	AB	COUNCILMEMBER	YES	NO	NV	AB
BRANCH	X				HYMAN	X			
DELIA	X				KANDEL	X			
GIAMBOI	X				JETHWANI	X			
MOTION	DELIA				SECOND	GIAMBOI			
X - INDICATES VOTE		AB- ABSENT			NV- NOT VOTING				

I hereby certify the foregoing to be a true copy of an ordinance adopted by the Borough Council of the Borough of Metuchen, Middlesex County, New Jersey at a regular meeting held on August 25, 2025.

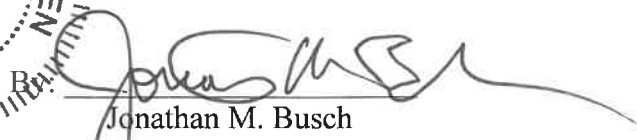
  
 Deborah Zupan, RMC  
 Borough Clerk



ATTEST:

  
 Deborah Zupan, RMC  
 Borough Clerk

BOROUGH OF METUCHEN

  
 Jonathan M. Busch  
 Mayor