

BOROUGH OF EAST NEWARK, COUNTY OF HUDSON, STATE OF NEW JERSEY
MINUTES OF THE SPECIAL MEETING OF THE MAYOR AND BOROUGH COUNCIL
DATE: DECEMBER 29, 2025
TIME: 6:30 PM

ORDER OF BUSINESS

CALL MEETING TO ORDER

The Special Meeting of the Mayor and Council of the Borough of East Newark was called to order at approximately 6:33 P.M., by Borough Clerk Dr. Cosmo A. Cirillo.

PLEDGE OF ALLEGIANCE

MEETING NOTICE STATEMENT - As presiding officer of this Special Meeting of the Mayor and Council of the Borough of East Newark, held on December 29, 2025 at 6:30 P.M., I do hereby publicly announce, and I direct that this announcement shall be placed in the minutes of this meeting, and that the Notice requirements provided for in the "Open Public Meetings Act" have been satisfied. Notice of this meeting was properly given to the Borough Council. Said notice was transmitted by the Borough Clerk to the Observer and Star Ledger and publicly posted on the Borough Website, Municipal Bulletin Board and filed with the office of the Borough Clerk.

ROLL CALL

Present: Councilman De Oliveira
Councilwoman Diaz
Councilman Graham
Councilman Reis
Councilwoman Zincavage
Mayor Grilo

Absent: Councilwoman Evaristo

Also in attendance: Dr. Cosmo A. Cirillo, Borough Clerk
Mr. Fred Confessore, Borough Administrator
Mr. Michael Cifelli, Esq., Borough Attorney

ORDINANCES

A. Ordinance 16-2025 – **HEARING AND FINAL ADOPTION** – Ordinance of the Borough of East Newark, County of Hudson, State of New Jersey to Address the Borough’s Compliance with its Affordable Housing Obligations

ORDINANCE NUMBER 16-2025

FIRST READING/
INTRODUCTION: November 12, 2025

SECOND READING/
PUBLIC HEARING/
ADOPTION: December 29, 2025

ORDINANCE

**BOROUGH OF EAST NEWARK
COUNTY OF HUDSON, STATE OF NEW JERSEY**

**AN ORDINANCE OF THE BOROUGH OF EAST NEWARK, COUNTY OF HUDSON,
STATE OF NEW JERSEY TO ADDRESS THE BOROUGH'S COMPLIANCE
WITH ITS AFFORDABLE HOUSING OBLIGATIONS**

WHEREAS, the Borough Council of the Borough of East Newark, Hudson County, New Jersey, based upon the recommendations of the Borough's professionals, desires to amend Chapter 33 of the Code of the Borough of Keyport to create Section 33-2.1, entitled "Mandatory Affordable Set-Aside" to include provisions addressing the Borough's constitutional obligation to provide for its fair share of low- and moderate-income housing, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985, N.J.S.A.52:27D-301 et. seq.; and

WHEREAS, the East Newark Borough Planning Board has prepared a Round Four Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq., and

WHEREAS, this Ordinance implements and incorporates the prepared Round Four Housing Element and Fair Share Plan and addresses the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C.5:80-26.1, et seq. as amended and supplemented, and the New Jersey Fair Housing Act of 1985.

NOW THEREFORE, BE IT ORDAINED that Chapter 33 Section 33-2.1, entitled "Mandatory Affordable Set-Aside," of the Code of the Borough of East Newark is hereby created to read as follows:

§25-1-15.21 Mandatory Affordable Set-Aside.

All multi-family developments producing 5 or more units shall have a required affordable housing set-aside of 20% for all projects. The 20% set-aside shall be restricted to low and moderate income

households. Fractions of .49 or less may be rounded down; fractions of .50 or more shall be rounded up.

All affordable units created under this section shall be developed in accordance with the New Jersey Fair Housing Act of 1985, N.J.S.A.52:27D-301 et. seq. as amended (the “FHA”) and the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et. seq., as amended (the “UHAC”). This standard shall apply to all multi-family developments that apply for site plan approval after the date of adoption of this ordinance, including any future redevelopment or rehabilitation areas designated within the Borough pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12a-1 et. seq.

All affordable housing units shall comply with the Borough’s affordable housing regulations in its Affordable Housing Ordinance, as well as the FHA and the UHAC. This shall include but is not limited to:

- i. The requirement that at least thirteen percent (13%) of the affordable units within each bedroom distribution shall be required to be for very low income households earning thirty (30%) or less of median income,
- ii. Appropriate bedroom distribution of 1-, 2-, and 3-bedroom units,
- iii. Recording of appropriate affordability controls of not less than forty (40) years for rental units and not less than thirty (30) years for sale units, and
- iv. Minimum unit sizes by square footage for affordable housing units.

The affordable units shall be affirmatively marketed in accordance with UHAC and applicable law. The affirmative marketing shall include the community and regional organizations identified by the Borough, and it shall also include posting of all affordable units on the New Jersey Housing Resource Center website in accordance with applicable law.

The affordable units shall be integrated with the market-rate units, and the affordable units shall not be concentrated in separate building(s) or in separate area(s) or floor(s) from the market-rate units. In buildings with multiple dwelling units of similar tenure, this shall mean that the affordable units shall be generally distributed within each building with market units. The residents of the affordable units shall have full and equal access to all of the amenities, common areas, and recreation areas and facilities as the residents of the market-rate units. The affordable units shall be the same type of housing unit as the market rate units, meaning that a market rate building available to families shall not be developed to provide age-restricted housing units.

BE IT FURTHER ORDAINED that construction of the affordable units in inclusionary developments shall be phased in compliance with N.J.A.C. 5:93-5.6(d).

BE IT FURTHER ORDAINED copies of said full Ordinance are on file in the Office of the Municipal Clerk for public examination and acquisition. Copies are available for inspection or acquisition during regular weekday working hours and arrangements have been made for the publication of said proposed Ordinance in pamphlet or other similar form which will be available for purchase from the Borough Clerk.

BE IT FURTHER ORDAINED this ordinance shall take effect upon final passage and publication according to law.

BE IT FURTHER ORDAINED the Borough Clerk is hereby directed to give notice at least ten days prior to the hearing on the adoption of this Ordinance to the County Planning Board, and to all others entitled thereto pursuant to the provisions of N.J. S.A. 40:550-15. Upon adoption of this Ordinance, after public hearing thereon, the Borough Clerk is further directed to publish notice of passage thereof and file a copy of this Ordinance as finally adopted with the County Planning Board as required by N.J.S.A. 40:550-16 and with the Borough Tax Assessor.

BE IT FURTHER ORDAINED all ordinances or parts of ordinances inconsistent herewith are hereby repealed.

BE IT FURTHER ORDAINED if any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions.

A motion was made by Councilman De Oliveria, second by Councilman Graham, to open the public hearing. The motion was adopted by the following votes.

Ayes: De Oliveira; Diaz; Graham; Reis; Zincavage
Nays: None
Abstain: None
Absent: Evaristo;

Public Hearing on Ordinance 16-2025: No one wished to be heard.

A motion was made by Councilwoman Zincavage, second by Councilman Graham, to close the public hearing and adopt Ordinance 16-2025 on second reading. The motion was adopted by the following votes.

Ayes: De Oliveira; Diaz; Graham; Reis; Zincavage
Nays: None
Abstain: None
Absent: Evaristo;

- B. Ordinance 17-2025 – **INTRODUCTION** – Ordinance of the Borough of East Newark, County of Hudson, State of New Jersey, Amending Chapter 32 to Create a New Section Entitled “Affordable Housing Development Fees”

ORDINANCE NUMBER 17-2025

FIRST READING/
INTRODUCTION: November 12, 2025

SECOND READING/
PUBLIC HEARING/
ADOPTION: December 29, 2025

ORDINANCE

**BOROUGH OF EAST NEWARK
COUNTY OF HUDSON, STATE OF NEW JERSEY**

**AN ORDINANCE OF THE BOROUGH OF NEW EAST NEWARK, COUNTY OF HUDSON,
STATE OF NEW JERSEY, AMENDING CHAPTER 32 TO CREATE A NEW SECTION
ENTITLED "AFFORDABLE HOUSING DEVELOPMENT FEES"**

BE IT ORDAINED by the Mayor and the Borough Council of the Borough of East Newark, that Chapter 32 entitled "Affordable Housing Development Fees," is hereby established to read as follows:

§32-1 Purpose

A. In Holmdel Builder's Association v. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985, N.J.S.A. 52:27d-301 *et seq.*, and the State Constitution, subject to the adoption of Rules by the Council on Affordable Housing (COAH).

B. Pursuant to P.L. 2008, c. 46, Section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH was authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that were under the jurisdiction of COAH and that are now before a court of competent jurisdiction and have a Court-approved Spending Plan may retain fees collected from non-residential development.

C. This Ordinance establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with COAH's regulations developed in response to P.L. 2008, c. 46, Sections 8 and 32-38 (C. 52:27D-329.2) 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 low- and moderate-income housing in accordance with a Court-approved Spending Plan.

D. On March 20, 2024, Governor Murphy signed into law P.L. 2024, c.2 (hereinafter "A4" or "Amended FHA"), which, among other things, formally abolished COAH. However, because new regulations regarding the preparation and implementation of a development fee ordinance have

not been adopted, the following ordinance continues to apply the standards consistent with COAH's regulations.

§32-2 Basic Requirements

A. This Ordinance shall not be effective until approved by the Court or body of competent jurisdiction.

B. The Borough of East Newark shall not spend development fees until the Court or body of competent jurisdiction has approved a plan for spending such fees (Spending Plan).

§32-3 Definitions

The following terms, as used in this Ordinance, shall have the following meanings:

"Affordable housing development" means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable housing development.

"Development fee" means money paid by a developer for the improvement of property as permitted at N.J.A.C. 5:97-8.3.

"Developer" means 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.

"Equalized assessed value" means 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 of P.L. 1973, c.123 (C.54:1-35a through C.54:1-35c).

"Green building strategies" means those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

§32-4 Residential Development Fees

A. Imposition of Fees

1) Within the Borough of East Newark, all residential developers, except for developers of the types of developments specifically exempted below and developers of developments that include affordable housing, shall pay a fee of one and a half percent (1.5%) of the equalized assessed value for all new 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 six percent (6%) percent 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.

B. Eligible Exactions, Ineligible Exactions and Exemptions for Residential Developments

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 a payment in lieu of on-site construction of affordable units shall be exempt from development fees.

2) Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.

3) Owner-occupied residential structures demolished and replaced as a result of a fire, flood, or natural disaster shall be exempt from paying a development fee.

4) Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.

5) Where there is an improvement to, expansion of, reconstruction or replacement of an existing residential structure requiring a Construction Permit, no development fee shall be required to be paid. The construction or improvement of a permitted accessory structure on a lot containing an existing residential structure shall not require the payment of a development fee.

6) Developers of houses of worship and other uses that are entitled to exemption from New Jersey real property tax shall be exempt from the payment of a development fee, provided that such development does not result in the construction of any additional housing or residential units, including assisted living and continuing care retirement communities.

§32-5 Non-Residential Development Fees

A. Imposition of Fees

1) Within all zoning districts, non-residential developers, except for developers of the types of developments specifically exempted below, shall pay a fee equal to two and one-half (2.5) percent 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 developments specifically exempted below, shall also pay a fee equal to two and one-half (2.5) percent 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 two and a half percent (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 nonresidential 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 two and a half percent (2.5%) development fee, unless otherwise exempted below.

2) The two and a half percent (2.5%) development fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within the existing footprint, reconstruction, renovations and repairs.

3) Non-residential developments shall be exempt from the payment of nonresidential 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.

4) A developer of a non-residential development exempted from the nonresidential 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 for the non-residential development, whichever is later.

5) If a property which 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 Borough of East Newark as a lien against the real property of the owner.

6) Pursuant to P.L. 2009, c. 90 and P.L.2011, c. 122, the non-residential statewide development

fee of two and one-half (2.5%) percent for non-residential development is suspended for all non-residential projects that received preliminary or final site plan approval subsequent to July 17, 2008 until July 1, 2013, provided that a permit for the construction of the building has been issued prior to January 1, 2015.

§32-6 Collection Procedures

A. Upon the granting of a preliminary, final or other applicable approval for a development, the approving authority or entity shall notify or direct its staff to notify the Construction Official responsible for the issuance of a Construction 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 as per the instructions provided. The developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The Construction Official shall verify the information submitted by the non-residential developer as per the instructions provided in the 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 Construction Permit shall notify the Borough Tax Assessor of the issuance of the first Construction Permit for a development which is subject to a development fee.

D. Within 90 days of receipt of such notification, the Borough Tax Assessor shall prepare an estimate of the equalized assessed value of the development based on the plans filed.

E. The Construction Official responsible for the issuance of a final Certificate of Occupancy shall notify the Borough Tax Assessor of any and all requests for the scheduling of a final inspection on a property which is subject to a development fee.

F. Within 10 business days of a request for the scheduling of a final inspection, the Borough 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 Borough of East Newark 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 (C.40:55D-8.6).

H. Except as provided in Section 5.A.3) hereinabove, fifty percent (50%) of the initially calculated 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 the Certificate of Occupancy.

I. Appeal of Development Fees

1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by the Borough of East Newark. 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.

2) 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 Borough of East Newark. 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.

§32-7 Affordable Housing Trust Fund

A. There is hereby created a separate, interest-bearing Affordable Housing Trust Fund to be maintained by the Chief Financial Officer of the Borough of East Newark 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 Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:

1) Payments in lieu of on-site construction of a fraction of an affordable unit, where permitted by Ordinance or by Agreement with the Borough of East Newark;

2) Funds contributed by developers to make ten percent (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 East Newark's affordable housing program.

C. In the event of a failure by the Borough of East Newark to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgment of compliance or a revocation of the judgment of compliance; or a failure to implement the approved Spending Plan and to expend funds within the applicable required time period as set forth in In re Tp. of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (affd 442 N.J. Super. 563); or the expenditure of funds on activities not approved by the Court; or for other good cause demonstrating the unapproved use(s) of funds, the Court may

authorize the State of New Jersey, Department of Community Affairs, Division of Local Government Services (LGS), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided that all such funds shall, to the extent practicable, be utilized for affordable housing programs within the Borough of East Newark, or, if not practicable, then within the County or the Housing Region.

Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the Court may, after considering the evidence and providing the municipality a reasonable opportunity to respond and/or to remedy the non-compliant condition(s), and upon a finding of continuing and deliberate non-compliance, determine to authorize LGS to direct the expenditure of funds in the Trust Fund. The Court may also impose such other remedies as may be reasonable and appropriate to the circumstances.

D. Interest accrued in the Affordable Housing Trust Fund shall only be used to fund eligible affordable housing activities approved by the Court or body of competent jurisdiction.

§32-8 Use of Funds

A. The expenditure of all funds shall conform to a Spending Plan approved by the Court or body of competent jurisdiction. Funds deposited in the Affordable Housing Trust Fund may be used for any activity approved by the Court/body of competent jurisdiction to address the Borough of East Newark's 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; Regional Housing Partnership programs; conversion of existing nonresidential 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 the Court or body of competent jurisdiction and specified in the approved Spending Plan.

B. Funds shall not be expended to reimburse the Borough of East Newark for past housing activities.

C. At least 30 percent of all development fees collected and interest earned on such fees shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30 percent or less of the median income for Housing Region 2, in which East Newark is located.

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, 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 to households earning 30 percent or less of median income may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income. The specific programs to be used for very low income affordability assistance shall be identified and described within the Spending Plan.

3) Payments in lieu of constructing affordable housing units on site, if permitted by Ordinance or by Agreement with the Borough of East Newark, and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.

D. The Borough of East Newark may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including its programs for affordability assistance.

E. No more than 20 percent of all revenues collected from development fees may 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 a Housing Element and Fair Share Plan, and/or administer an affirmative marketing program or a rehabilitation program.

1) In the case of a rehabilitation program, the administrative costs of the rehabilitation program shall be included as part of the 20 percent of collected development fees that may be expended on administration.

2) Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or related to securing or appealing a judgment from the Court are not eligible uses of the Affordable Housing Trust Fund.

§32-9 Monitoring

The Borough of East Newark shall provide annual reporting of Affordable Housing Trust Fund activity through the DCA monitored online Affordable Housing Monitoring System. The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the sources and amounts of 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, payments in lieu of constructing affordable units on site (if permitted by Ordinance or by Agreement with the Borough), funds from the sale of units with extinguished controls, barrier free escrow funds, rental income from Borough owned affordable housing units, repayments from affordable housing program loans, and any other funds collected in connection with East Newark's affordable housing programs, as well as an accounting of the expenditures of revenues and implementation of the Spending Plan approved by a Court or body of competent jurisdiction.

§32-10 Ongoing Collection of Fees

A. The ability for the Borough of East Newark to impose, collect and expend development fees shall expire with the expiration of the Fourth Round when at such time, a new Housing Element and Fair Share Plan will be required to be prepared and adopted.

B. If the Borough of East Newark 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).

C. The Borough of East Newark shall not impose a residential development fee on a development that receives preliminary or final site plan approval should the Borough not receive approval of this development fee, nor shall the Borough of East Newark retroactively impose a development fee on such a development.

A motion was made by Councilwoman Diaz, second by Councilman De Oliveria, to open the public hearing. The motion was adopted by the following votes.

Ayes: De Oliveira; Diaz; Graham; Reis; Zincavage
Nays: None
Abstain: None
Absent: Evaristo;

Public Hearing on Ordinance 17-2025: No one wished to be heard.

A motion was made by Councilman Graham, second by Councilwoman Zincavage, to close the public hearing and adopt Ordinance 17-2025 on second reading. The motion was adopted by the following votes.

Ayes: De Oliveira; Diaz; Graham; Reis; Zincavage
Nays: None
Abstain: None
Absent: Evaristo;

C. Ordinance 18-2025 – **INTRODUCTION** – Ordinance Adopting the Silvi Concrete Plant Redevelopment Plan

ORDINANCE NUMBER 18-2025

FIRST READING/
INTRODUCTION:

November 12, 2025

SECOND READING/
PUBLIC HEARING/
ADOPTION:

December 29, 2025

ORDINANCE

BOROUGH OF EAST NEWARK COUNTY OF HUDSON, STATE OF NEW JERSEY

ORDINANCE ADOPTING THE SILVI CONCRETE PLANT REDEVELOPMENT PLAN

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 *et seq.*, as amended and supplemented (the "Redevelopment Law"), provides a process for municipalities to participate in the redevelopment and improvement of areas in need of rehabilitation or areas in need of redevelopment; and

WHEREAS, pursuant to the requirements of the Redevelopment Law and by Resolution No. #38-22, the Borough Council of the Borough of East Newark ("Borough Council") determined that the entire Borough qualifies as an "area in need of rehabilitation" under Section 14 of the Redevelopment Law (the "Rehabilitation Area"); and

WHEREAS, the Rehabilitation Area contains certain parcels known as 800 Passaic Avenue, designated as Block 18, Lots 1, 2, 3, 4, 5 and 6 (the "Silvi Concrete Plant"), and 246 Passaic Avenue, designated as Block 16, Lot 17 on the Borough's tax map (the "Property"); and

WHEREAS, the Borough Council, by Resolution #129-25 adopted on September 17, 2025, directed the Planning Board of the Borough of East Newark (the "Planning Board") to prepare a redevelopment plan for the Property; and

WHEREAS, by Resolution #R-08, the Planning Board retained the Borough Planners, the planning firm of Heyer, Gruel & Associates ("HGA"), to prepare a redevelopment plan to establish standards under which the historically existing Silvi Concrete Plant can be redeveloped to reflect modern practices while mitigating negative externalities in furtherance of the Borough's goals to prevent further deterioration and promote the overall development of the community; and

WHEREAS, at a duly noticed special public meeting held on November 6, 2025, the Planning Board reviewed the proposed Redevelopment Plan and found the Redevelopment Plan to be substantially consistent with the Master Plan, afforded members of the public present an opportunity to be heard, and made recommendations as the Board deemed appropriate; and

WHEREAS, the Council having reviewed the comments of the Planning Board set forth in the attachment to Planning Board Resolution #R-09-2024 recommending adoption of the Redevelopment Plan, and prior to final adoption of this Ordinance considered such comments and recommendations from the Planning Board; and

WHEREAS, the Mayor and Council wish to adopt the Silvi Concrete Plant Redevelopment Plan.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Borough of East Newark, in the County of Hudson, State of New Jersey, that:

1. The Borough Council hereby approves and adopts the Silvi Concrete Plant Redevelopment Plan.

2. The Silvi Concrete Plant Redevelopment Plan shall supersede existing zoning for the Redevelopment Area and the Borough Zoning Ordinance District Map is hereby, and shall be, amended to specifically designate the Silvi Concrete Plant Redevelopment Plan Zoning District.

A motion was made by Councilman Graham, second by Councilwoman Zincavage, to open the public hearing. The motion was adopted by the following votes.

Ayes: De Oliveira; Diaz; Graham; Reis; Zincavage
Nays: None
Abstain: None
Absent: Evaristo;

Public Hearing on Ordinance 18-2025: No one wished to be heard.

A motion was made by Councilwoman Zincavage, second by Councilman Graham, to close the public hearing and adopt Ordinance 18-2025 on second reading. The motion was adopted by the following votes.

Ayes: De Oliveira; Diaz; Graham; Reis; Zincavage
Nays: None
Abstain: None
Absent: Evaristo;

RESOLUTIONS

A. Resolution 171-25 – Setting Forth the Reasons and Support for Adopting the Silvi Concrete Plant Redevelopment Plan and Addressing the Comments Included in the Reis Memo

A motion was made by Councilman Reis, second by Councilwoman Zincavage, to adopt Resolution 171-25. The motion was adopted by the following votes.

Ayes: De Oliveira; Diaz; Graham; Reis; Zincavage
Nays: None
Abstain: None
Absent: Evaristo

BOROUGH OF EAST NEWARK
COUNTY OF HUDSON, STATE OF NEW JERSEY

RESOLUTION SETTING FORTH THE REASONS AND SUPPORT FOR ADOPTING THE
SILVI CONCRETE PLANT REDEVELOPMENT PLAN AND ADDRESSING THE
COMMENTS INCLUDED IN THE REIS MEMO

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., as amended and supplemented (the “Redevelopment Law”), provides a process for municipalities to participate in the redevelopment and improvement of areas in need of rehabilitation or redevelopment; and

WHEREAS, pursuant to the requirements of the Redevelopment Law and by Resolution No. #38-22, the Borough Council of the Borough of East Newark (the “Council”) determined that the entire Borough of East Newark (the “Borough”) qualifies as an “area in need of rehabilitation” under Section 14 of the Redevelopment Law (the “Rehabilitation Area”); and

WHEREAS, the Redevelopment Law, N.J.S.A. 40A:12A-7(f), authorizes the Borough to direct the Planning Board of the Borough of East Newark (the “Planning Board”) to prepare a redevelopment plan for an area designated as an area in need of rehabilitation or redevelopment; and

WHEREAS, the Borough, by Resolution No. #129-25 adopted on September 17, 2025, the Borough Council directed the Planning Board to prepare a redevelopment plan for the portion of the Rehabilitation Area known as 800 Passaic Avenue, designated as Block 18, Lots 1, 2, 3, 4, 5, and 6 on the Borough’s tax map (“Subarea A”), and 246 Passaic Avenue, designated as Block 16, Lot 17 on the Borough’s tax map (“Subarea B”) (collectively the “Rehabilitation Site”); and

WHEREAS, on November 6, 2025, the Planning Board adopted a Resolution, which incorporated the comments of Board Member Reis (the “Reis Memo”), recommending the adoption by the Borough Council of the Silvi Concrete Plant Redevelopment Plan for the Rehabilitation Site prepared by Hanah Davenport, PP, AICP of Heyer, Gruel & Associates (“Redevelopment Plan”) after consideration of the Reis Memo; and

WHEREAS, the Borough Council has reviewed the comments included in the Reis memo and finds that that Redevelopment Plan includes provision of the majority of the issues raised including the following: (1) as to Subarea A, the Redevelopment Plan addresses the relocation of the above-ground fuel tank, the mitigation of dust and noise created by operation of the cement plant, and the need for adherence to New Jersey Department of Environmental Protection of stormwater systems; and (2) as to Subarea B, the Redevelopment Plan allows for the erection of fencing to allow for screening between the parking lot and the adjacent properties in lieu of a five foot landscaped buffer in order to maximize the number of parking spaces available on the subarea, and the requirement of a license agreement to address specific terms, including the number and designation of spaces allotted to the Borough and maintenance of the parking lot; and

WHEREAS, after review and discussion of the items listed in the Reis Memo, the Borough Council recommends adoption of the Redevelopment Plan upon its finding that the majority of concerns are adequately addressed in the Redevelopment Plan, that those items that conflict with the Redevelopment Plan, i.e. the landscaped buffer in Subarea B, have been adequately addressed in the Redevelopment Plan, and that the remainder of the issues raised in the Reis memo, including grading, run off, circulation and queuing issues will be addressed by the Planning Board as part of the site plan application process.

NOW, THEREFORE, BE IT RESOLVED BY THE BOROUGH OF EAST NEWARK COUNCIL AS FOLLOWS:

1. Generally. The foregoing recitals are incorporated herein as if fully set forth at length.
2. Support for Adoption of the Redevelopment Plan. The Redevelopment Plan satisfactorily addresses the majority of issues contained in the Reis Memo, including the use of screening in Subarea B in lieu of a landscaped buffer, and the Borough should adopt the Redevelopment Plan.
3. Severability. If any part of this Resolution shall be deemed invalid, such parts shall be severed and the invalidity thereby shall not affect the remaining parts of this Resolution.
4. Availability of the Resolution. A copy of this Resolution shall be available for public inspection at the offices of the Borough Clerk.
5. Effective Date. This Resolution shall take effect immediately.

B. Resolution 172-25 – Authorizing the Execution of a Redevelopment Agreement with Penn Jersey Certified Concrete, Inc. (dba “Silvi Materials”) for the Rehabilitation of 800 & 246 Passaic Avenue

A motion was made by Councilman Graham, second by Councilman De Oliveria, to adopt Resolution 172-25. The motion was adopted by the following votes.

Ayes: De Oliveira; Diaz; Graham; Reis; Zincavage
Nays: None
Abstain: None
Absent: Evaristo

Resolution # 172-25
12-29-2025

BOROUGH OF EAST NEWARK
COUNTY OF HUDSON, STATE OF NEW JERSEY

RESOLUTION AUTHORIZING THE EXECUTION OF A REDEVELOPMENT AGREEMENT WITH PENN JERSEY CERTIFIED CONCRETE, INC. (dba "SILVI MATERIALS") FOR THE REHABILITATION OF 800 & 246 PASSAIC AVENUE

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 *et seq.*, as amended and supplemented (the "Redevelopment Law"), provides a process for municipalities to participate in the redevelopment and improvement of areas in need of rehabilitation or redevelopment; and

WHEREAS, pursuant to the requirements of the Redevelopment Law and by Resolution No. #38-22, the Borough Council of the Borough of East Newark (the "Council") determined that the entire Borough of East Newark (the "Borough") qualifies as an "area in need of rehabilitation" under Section 14 of the Redevelopment Law (the "Rehabilitation Area"); and

WHEREAS, the Redevelopment Law, N.J.S.A. 40A:12A-8(f), authorizes the Borough to arrange or contract with a redeveloper for the undertaking of any project or redevelopment work in an area designated as an area in need of rehabilitation or redevelopment; and

WHEREAS, the Borough, by Resolution No. #130-25 adopted on September 17, 2025, authorized execution of a Memorandum of Understanding and Escrow Agreement (the "Agreement") with Penn Jersey Certified Concrete, Inc. (dba "Silvi Materials") (hereinafter "Silvi Materials") who seeks Borough consideration as redeveloper of the portion of the Redevelopment Area known as 800 Passaic Avenue, designated as Block 18, Lots 1, 2, 3, 4, 5, and 6 on the Borough's tax map ("Subarea A"), and 246 Passaic Avenue, designated as Block 16, Lot 17 on the Borough's tax map ("Subarea B") (collectively the "Project Site"), subject to the negotiation of a redevelopment agreement; and

WHEREAS, Silvi Materials is the owner of the Project Site, which has been operating as a concrete plant for over 100 years; and

WHEREAS, on October 30, 2025, Silvi Materials executed the Agreement and entered into negotiations with the Borough to establish the terms of a redevelopment agreement; and

WHEREAS, on December 10, 2025, the Borough Council enacted Ordinance No. 18-2025, which Ordinance adopted the Silvi Concrete Plant Redevelopment Plan (the "Redevelopment Plan") setting forth the plan for the rehabilitation of the Property; and

WHEREAS, Silvi Materials has submitted to the Borough a rendering depicting the rehabilitation as follows: (a) the modernization of the current concrete manufacturing and distribution plant into a state-of-the-art facility with no more than four (4) buildings utilized for office, maintenance and operation purposes, including a 66' high enclosed concrete plant, under one primary use within Subarea A (the "Project"); and (b) the construction of a shared parking lot within Subarea B, in which the Borough will have a minimum of 35 parking spaces for use by the community (the "Project"); and

WHEREAS, in order to effectuate the Project and the rehabilitation of the Project Site pursuant to the Redevelopment Plan, the Borough has determined to enter into a Redevelopment Agreement ("Agreement") with Silvi Materials, substantially in the form attached hereto as

Exhibit A, which Agreement specifies the respective rights and responsibilities of the parties for the Project Site and to further refine the details for the proposed Project and the Project Site.

NOW, THEREFORE, BE IT RESOLVED BY THE BOROUGH OF EAST NEWARK COUNCIL AS FOLLOWS:

1. Generally. The foregoing recitals are incorporated herein as if fully set forth at length.
2. Execution of Redevelopment Agreement. The Mayor is hereby authorized to execute the Redevelopment Agreement in substantially the form attached hereto as Exhibit A.
3. Severability. If any part of this Resolution shall be deemed invalid, such parts shall be severed and the invalidity thereby shall not affect the remaining parts of this Resolution.
4. Availability of the Resolution. A copy of this Resolution shall be available for public inspection at the offices of the Borough Clerk.
5. Effective Date. This Resolution shall take effect immediately.

C. Resolution 173-25 – Authorizing an Amendment to the Borough of East Newark Employee Handbook Section Three: Paid and Unpaid Time Office Policies
A motion was made by Councilwoman Zincavage, second by Councilman De Oliveria, to adopt Resolution 173-25. The motion was adopted by the following votes.

Ayes: De Oliveira; Diaz; Graham; Reis; Zincavage
Nays: None
Abstain: None
Absent: Evaristo

Resolution # 173-25
12-29-2025

BOROUGH OF EAST NEWARK
COUNTY OF HUDSON, STATE OF NEW JERSEY

RESOLUTION AUTHORIZING AN AMENDMENT TO THE BOROUGH OF EAST
NEWARK EMPLOYEE HANDBOOK SECTION THREE: PAID AND UNPAID TIME OFF
POLICIES, SUB-SECTION A (“REGULAR EMPLOYEES”)

WHEREAS, the Borough has seen a need for increased overall compensation for the Borough’s regular employees;

WHEREAS, the Borough's budget restricts its ability to substantially increase monetary compensation for its regular employees; and

WHEREAS, the Borough desires to increase employee benefits to further their compensation by increasing regular employee Paid Time Off; and

NOW, THEREFORE BE IT RESOLVED that the Mayor and Council of the Borough of East Newark, in the County of Hudson, State of New Jersey, do hereby approve amending the Borough's employee handbook, Section Three: Paid and Unpaid Time Off Policies, sub-section A ("Regular Employees"), effective January 1, 2026, shall be amended as follows:

- Year One (1): After probation period completed, sixteen (16) days to the end of the first year.
- Years Two (2) through Five (5): No more than twenty (20) days per year
- Years Six (6) or more: No more than twenty-five (25) days per year

D. Resolution 174-25 – Approving the payment of bills and issuance of checks for the period through December 29, 2025, in the amount of \$81,754.08

A motion was made by Councilwoman Zincavage, second by Councilman Graham, to adopt Resolution 174-25. The motion was adopted by the following votes.

Ayes: De Oliveira; Diaz; Graham; Reis; Zincavage
Nays: None
Abstain: None
Absent: Evaristo

Resolution # 174-25
12-29-2025

BOROUGH OF EAST NEWARK
COUNTY OF HUDSON, STATE OF NEW JERSEY

**RESOLUTION AUTHORIZING PAYMENT OF BILLS AND THE
ISSUANCE OF CHECKS FOR THE PERIOD THROUGH DECEMBER 29, 2025,
IN THE TOTAL AMOUNT OF \$81,754.08**

WHEREAS, certain bills which are contained on the bills list which is annexed hereto and incorporated herein have been submitted to the Borough of East Newark for payment; and

WHEREAS, pursuant to N.J.S.A. 40A:5-16, it has been certified to the governing body that the goods and services for which said bills were submitted have been received by or rendered to the Borough of East Newark; and

WHEREAS, the Chief Financial Officer of the Borough of East Newark has certified to the governing body that there are funds legally appropriated and available in the budget for the

payment of said bills and that the said payment will not result in the disbursement of public monies or in the encumbering of same in excess of the 2024 and/or 2025 appropriation for said purpose.

NOW, THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of East Newark, in the County of Hudson, State of New Jersey, that it hereby authorizes the Chief Financial Officer and the designated signatories to sign checks in payment of the bills set forth in the annexed schedule.

E. Resolution 175-25 – 2025 CY Budget Transfers

A motion was made by Councilman Graham, second by Councilman De Oliveria, to adopt Resolution 175-25. The motion was adopted by the following votes.

Ayes: De Oliveira; Diaz; Graham; Reis; Zincavage
Nays: None
Abstain: None
Absent: Evaristo

Resolution # 175-25
12-29-2025

**BOROUGH OF EAST NEWARK
COUNTY OF HUDSON, STATE OF NEW JERSEY**

**APPROVING TRANSFERS BETWEEN
2025 CALENDAR YEAR BUDGET APPROPRIATIONS**

WHEREAS, for the fiscal calendar year 2025 there exists a need to appropriate the unexpended balance from certain budgetary appropriations to ensure fiscally responsible action; and

WHEREAS, in accordance with the provisions of N.J.S.A. 40A: 4-58, (with not less than 2/3 of the full membership concurring), the Chief Financial Officer is hereby authorized and directed to make the following transfers from accounts within the inside CAP portion of the budget to accounts inside and outside the CAP portion of the Budget in the amount of \$24,055.11 in the 2025 Budget.

NOW, THEREFORE, BE IT RESOLVED, by not less than two-thirds vote, the Mayor and Council of the Borough of East Newark, County of Hudson, State of New Jersey, do hereby authorize the following transfer appropriations as shown below:

Account Name	Number	Transfer In	Transfer Out
Admin & Exec. O/E	5-01-20-100-2150	\$ -	\$ (355.00)
Construction Officials S&W	5-01-22-195-1011	\$ 355.00	\$ -
Police S&W	5-01-25-240-1011	\$ -	\$ (1,609.13)
Crossing Guard S&W	5-01-25-242-1011	\$ 1,609.13	\$ -
DPW S&W	5-01-26-290-1011	\$ -	\$ (20,956.28)
Road Repair & Maint O/E	5-01-26-290-1014	\$ 20,956.28	\$ -
Garbage Collect O/E - Contractual	5-01-26-306-2150	\$ -	\$ (180.73)
Public Building & Grounds O/E	5-01-26-310-2150	\$ 22.73	\$ -
Board of Health O/E	5-01-27-330-2150	\$ 158.00	\$ -
Parks & Playgrounds O/E	5-01-28-370-2150	\$ -	\$ (55.93)
Celebration Public Events	5-01-30-420-2150	\$ 55.93	\$ -
Municipal Court S&W	5-01-43-490-1011	\$ 898.04	\$ -
Municipal Court O/E	5-01-43-490-2150	\$ -	\$ (898.04)
Total		\$ 24,055.11	\$ (24,055.11)

PUBLIC PORTION

No one wished to be heard.

ADJOURNMENT

A motion was made by Councilman Graham, second by Councilwoman Zincavage, that this meeting be adjourned. The motion was adopted by the following votes.

Ayes: De Oliveira; Diaz; Graham; Reis; Zincavage
Nays: None
Abstain: None
Absent: Evaristo;

The Regular Meeting was adjourned at 6:48 P.M.

Respectfully Submitted,

Dr. Cosmo A. Cirillo, RMC
Borough Clerk

Dated: January 7, 2026

Accepted and approved by Council: Resolution 177-25