



**CITY OF OCEAN CITY  
ORDINANCE NO. 26-02  
MASTER PLAN CONSISTENCY REPORT**

**AN ORDINANCE REPLACING THE ENTIRE CONTENTS OF THE EXISTING AFFORDABLE HOUSING ORDINANCE (ARTICLE 2000), AND REPEALING ALL ORDINANCES HERETOFORE ADOPTED, THE PROVISIONS OF WHICH ARE INCONSISTENT HEREWITH INCLUDING, BUT NOT LIMITED TO ARTICLE 1900, ARTICLE 1901 AND ARTICLE 2100**

**Introduction.**

Ordinance 26-02, which may be known and cited as the “Affordable Housing Ordinance” was introduced and adopted on first reading by City Council on January 19, 2026 and will be advertised according to law and scheduled for second reading and public hearing. Ordinance 26-02 was initially referred to the Planning Board Secretary by the City Clerk on February 20, 2026. A revised version of the Ordinance was emailed to the Planning Board Secretary on April 7, 2026.

The “Municipal Land Use Law” provides the Planning Board with thirty-five (35) days from the referral date to prepare, review, adopt and transmit their consistency report regarding Ordinance 23-12 to City Council. NJSA 40:55D-26 describes the Planning Board’s responsibility regarding the master plan consistency review as follows:

*“. . . the planning board shall make and transmit to the governing body, within 35 days after referral, a report including identification of any provisions in the proposed development regulation, revision or amendment which are inconsistent with the master plan and recommendations concerning those inconsistencies and any other matters as the board deems appropriate.”*

According to the “Municipal Land Use Law,” *development regulation means a zoning ordinance, subdivision ordinance, site plan ordinance, official map ordinance or other municipal regulation of the use and development of land, or amendment thereto adopted and filed pursuant to P.L. 1975, c.291 (C.40:55D-1 et seq.).*

While formerly only zoning ordinances and amendments thereto were required to be submitted to the planning board, it is now clear from the wording in NJSA 40:55D-26 that all “development regulations” must be referred to the planning board for comment and report.

NJSA 40:55D-62(a) requires that every zoning ordinance must “either be substantially consistent with the land use plan and housing plan of the master plan, or designed to effectuate such plan elements.” The “Master Plan” referred to herein is the City of Ocean City Master Plan adopted February 3, 1988, and as subsequently updated and amended. “Substantially consistent” does not

mean “perfectly identical.” It means the ordinance must generally advance the goals, policies, and land-use pattern established in the Master Plan.

**Ordinance Summary.**

Ordinance 26-02 is based on the State’s model ordinance which provides a template for municipalities to regulate, produce, and administer affordable housing in compliance with the Mount Laurel Doctrine and the Fair Housing Act. The 2024 reforms (A4/S50) significantly updated the structure and requirements. Revisions to the updated Ordinance are highlighted on Page 43/44 and Page 47.

Ordinance 26-02 includes:

- Set-aside requirements for new development (e.g., 15–20% affordable units in inclusionary projects).
- Income categories: very-low, low, and moderate income.
- Rental vs. for-sale rules, including long-term deed restrictions.
- Compliance with Uniform Housing Affordability Controls (UHAC) for pricing, resale, and occupancy.

Key zoning and land use provisions in Ordinance 26-02 include zoning amendments to:

- Permit inclusionary developments.
- Allow higher densities where appropriate.

Ordinance 26-02 also establishes:

- A municipal housing liaison to oversee compliance.
- An administrative agent to manage applications, waiting lists, certifications, and resale controls.
- Reporting requirements to the NJ Department of Community Affairs (DCA). The 2024 reforms abolished COAH and shifted oversight to DCA and the courts.

Ordinance 26-02 addresses affordability controls and unit administration:

- 30-year minimum deed restrictions (often longer).
- Rules for:
  - Initial pricing
  - Annual rent increases
  - Income certification
  - Affirmative marketing
- Requirements for very-low-income set-asides (13% minimum of all affordable units).
- Monitoring and reporting

**Analysis, Recommendation and Conclusion.**

As noted above the Planning Board’s responsibility in terms of the master plan consistency review is to evaluate the ordinance with regard to the land use plan and housing plan and (1) identify any provisions in the proposed ordinance which are inconsistent with the Master Plan, and (2) make recommendations concerning those inconsistencies and any other matters as the Board deems appropriate.

In defining “substantial consistency” the Supreme Court in *Manalapan Realty v. Township Committee* made it clear that some inconsistency is permitted “provided it does not substantially or materially undermine or distort the basic provisions and objectives of the Master Plan.”

Ordinance 26-02 has relevance to the following Master Plan Goals:

- *To encourage municipal actions which will guide the long-range appropriate use and development of lands within the City of Ocean City in a manner which will promote the public health, safety, and general welfare of present and future residents.*
- *To encourage coordination of the numerous regulations and activities which influence land development with a goal of producing efficient uses of land with appropriate development types and scale.*

Having considered Ordinance 26-02, the City Master Plan, and the pertinent statutory requirements contained in the Municipal Land Use Law, it is my professional opinion that there are no provisions of Ordinance 26-02 that are inconsistent with the Ocean City Master Plan, and that Ordinance 26-02 is designed to effectuate the land use plan and housing plan elements of the Ocean City Master Plan.

Respectively submitted,



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April 7, 2026