

# DEVELOPING EFFECTIVE HOUSING PLANS IN THE FOURTH ROUND

A Guide for Municipalities, Planners,  
Developers, Nonprofits, and Advocates

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## ACKNOWLEDGEMENTS

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Finally, we wish to acknowledge and sincerely thank the guide’s primary author, David N. Kinsey, PhD, FAICP, whose expertise throughout Mount Laurel’s long history has been invaluable to New Jersey’s communities.



# INTRODUCTION

*In March 2024 the Governor and State Legislature enacted significant legislation amending the New Jersey's Fair Housing Act (FHA). It established new, streamlined, transparent, and more effective procedures, standards, and mechanisms for the continued implementation of the Mount Laurel Doctrine, New Jersey's constitutional requirement that all municipalities must provide their fair share of needed affordable housing.*

The new law governs how the Fourth Round (2025-2035) and future rounds of municipal fair share housing obligations are established and satisfied, through changes in master plans, zoning, and other initiatives in a municipal Housing Element and Fair Share Plan (HEFSP) certified by the state. This guide aims to help local officials and staff, planners, developers, advocates, and residents understand and participate in this process, as municipalities prepare and adopt updated municipal HEFSPs, create realistic low- and moderate-income housing opportunities, and obtain state certification of affordable housing compliance.

***This guide aims to help local officials and staff, planners, developers, advocates and citizens understand and participate in this process.***

This guide begins with a brief history of the Mount Laurel Doctrine, its origins, achievements, and role in the production of affordable housing in New Jersey over the past 50 years. Next, the guide explains New Jersey's new affordable housing law, P.L. 2024, c. 2 (Assembly Bill 4/Senate Bill 50) and its key provisions regarding municipal housing plans.

Determining municipal fair share housing obligations is a critical step in housing planning; the guide explains the statewide fair share housing methodology codified by the new law and how the state calculates municipal affordable housing obligations.

Almost two-thirds of New Jersey's municipalities have adopted court-approved Third Round (1999-2025) HEFSPs since the Supreme Court's *Mount Laurel IV* decision in 2015. Under the new law, municipalities will be required to provide the status of the affordable housing mechanisms in their Third Round plans and create new HEFSPs to address the Fourth Round obligation. This guide describes the purpose, required contents, and typical process for preparing and adopting these plans.

Municipalities can create affordable housing opportunities that satisfy their fair share housing obligations in several ways. The guide identifies the principal compliance mechanism options, their key features, and advantages and disadvantages, while using case studies of recent actual developments to illustrate the most common mechanisms. The guide summarizes several important principles, standards, and rules, established in the new



amendments to the FHA and regulations adopted by the Council on Affordable Housing (COAH) that have not been invalidated, that should be considered and followed in preparing municipal HEFSPs.

The amendments to the FHA also codified and changed the incentives for some compliance mechanisms, which this guide highlights. Securing adequate financial resources for affordable housing development is always a challenge in ensuring that local housing plans are more than “paper” plans. The guide addresses the most significant financial resources and provides an update on municipal affordable housing trust funds.

To assist participants in fair share housing planning at the municipal level, this guide:

- Explains what steps municipalities must take
- Provides timelines and key dates for Fourth Round planning
- Describes opportunities for public comment and influence
- Notes any judicial proceedings that may be anticipated

Finally, to underscore the crucial point that safe, healthy, affordable housing helps communities, families, and individuals in myriad ways, the guide concludes with some findings of rigorous New Jersey-based research on the impacts of affordable housing.

## COMMUNITY AT LYNWOOD



**PROJECT TYPE:**  
100%  
affordable,  
rental

**DEVELOPER:**  
Homes by TLC

**PROJECT ADDRESS:** Lynwood Ave, Hamilton Township, NJ 08609

**YEAR COMPLETED:** 2019

**TOTAL UNITS:** 16

**SELECTED FUNDING SOURCES:** \$2.5 million from HOME Housing Production Investment fund, additional funding from Hamilton Township’s Affordable Housing Trust Fund.

**DESCRIPTION:** This development features 7 duplex and two single family homes on a formerly vacant site. The units have in-unit laundry and energy efficient appliances. The development matches the character of the neighborhood and residents have access to a playground on the same block.

# DEFINING AFFORDABLE HOUSING

## GLOSSARY

*Several words and phrases will be used throughout this guide and are defined here:*

### **AFFORDABLE HOUSING**

Housing that is priced to be affordable and restricted to households with incomes at or below a certain percentage of the area median income (AMI).

### **FAIR SHARE HOUSING**

The portion of a region's housing needs for which a municipality must create realistic housing opportunities for very low-, low- and moderate-income households.

### **INCLUSIONARY HOUSING**

A residential development that includes a substantial percentage of income-restricted affordable housing, as well as units rented or sold at market rates.

### **LOW INCOME**

A gross monthly income less than 50% of the regional median household income, adjusted for household size.

### **LOW-AND MODERATE-INCOME HOUSING**

Affordable housing occupied by and limited to income-qualified low and moderate income households.

### **MODERATE INCOME**

A gross monthly income between 50% to 80% of the regional median household income, adjusted for household size.

### **VERY LOW INCOME**

A gross monthly income less than 30% of the regional median household income, adjusted for household size.

## EXAMPLES OF ANNUAL HOUSEHOLD INCOMES ELIGIBLE FOR AFFORDABLE HOUSING IN 2024 [1]

HOUSEHOLD SIZE	COUNTY	INCOME RANGE (30-80% OF AREA MEDIAN INCOME)
Family of 4	Essex County	\$38,825 - \$103,533
Family of 3	Burlington County	\$30,969 - \$82,584
Single person	Ocean County	\$27,311 - \$72,830

# THE MOUNT LAUREL DOCTRINE, FAIR HOUSING ACT, AND COAH: A Brief History, 1971-2024

The Mount Laurel Doctrine requires all municipalities (and state agencies with land use authority) to plan, zone for, and take affirmative actions to create realistic opportunities for their “fair share” of their region’s present and prospective need for housing affordable to low- and moderate-income families and individuals.

First articulated by the New Jersey Supreme Court in two landmark zoning and civil rights decisions, *Mount Laurel I* (1975) and *Mount Laurel II* (1983), and extrapolated upon in a series of legal cases known as the Mount Laurel cases (most recently in *Mount Laurel IV* [2015]), the Mount Laurel Doctrine prohibits economic discrimination against the poor by the state and municipalities in their exercise of land use powers.

***The Mount Laurel Doctrine prohibits economic discrimination against the poor by the state and municipalities in their exercise of land use powers.***

This doctrine on exclusionary zoning and affordable housing arose from efforts by the longtime Black community of Mount Laurel Township (Burlington County) to block being forcibly removed from their once-rural community as it underwent rapid suburbanization in the 1960s. When Mount Laurel Township stymied the attempt of a local nonprofit to develop 36 affordable garden apartments, the residents organized

and, assisted by, Camden Regional Legal Services attorneys, began the Mount Laurel litigation marathon in 1971 culminating in a state Supreme Court decision known as *Mount Laurel I* which outlawed exclusionary zoning and required all municipalities to provide their “fair share” of affordable housing.

Civil rights and housing advocates, as well as developers, pursued similar litigation in central and northern New Jersey as well in the 1970s-1980s, resulting in *Mount Laurel II* in 1983, which upheld *Mount Laurel I* and invited the legislature to draft legislation and implement the doctrine and created avenues for enforcement of the doctrine including the builder’s remedy.

In direct response to the *Mount Laurel II* decision, in 1985 the Legislature and Governor enacted the Fair Housing Act, which established the Council on Affordable Housing (COAH) as the state agency responsible for creating, implementing and enforcing municipal affordable housing obligations. COAH developed and implemented its fair share housing calculation and allocation methodology, adopted procedural and substantive rules, and reviewed and certified municipal housing elements and fair share plans in two rounds, from 1987-1993 and 1993-1999. More than one-half of New Jersey’s municipalities participated in the COAH process. Some non-participating municipalities were sued for non-compliance with *Mount Laurel* and other municipalities opted to

have compliance determined by trial courts.

As its Second Round came to a close in 1999, COAH paused, and delayed proposing Third Round rules and fair share obligations until 2004. After the Appellate Division of the Superior Court invalidated critical parts of these rules in 2007, COAH adopted its second iteration of Third Round Rules in 2008, which the Appellate Division again significantly invalidated in 2010. COAH ultimately failed to adopt constitutionally-compliant Third Round rules.

In 2015, the New Jersey Supreme Court then reinvigorated enforcement of the Mount Laurel Doctrine in *Mount Laurel IV*. The Supreme Court declared COAH “moribund,” required enforcement of the Mount Laurel Doctrine through trial courts, and offered municipalities the incentive of limited immunity to prepare new housing plans under court jurisdiction. It also ruled that the previous fair share methodology from the earlier rounds and standards that they did not invalidate should be used in municipal housing plans.

In 2017, in *Mount Laurel V* the Supreme Court ruled that municipalities were responsible for fair share obligations that accrued during the 16-year gap period of COAH malfeasance between 1999-2015. In the nine years since *Mount Laurel IV*, more than 340 municipalities have reached court-approved Third Round (1999-2025) settlement agreements with Fair Share Housing Center.

Since *Mount Laurel II* in 1983, significant affordable housing of various types — family, senior, supportive housing, rental, and homeownership — has been built throughout New Jersey. This includes apartments, townhouses, duplexes, single-family homes, assisted living residences, and accessory units, and mixed-use developments — totaling at least 75,000 units that can be attributed to implementation of the Mount Laurel Doctrine.

In addition, significant market-rate housing affordable to middle income families has been built throughout New Jersey, together with set-asides of income-restricted affordable housing, in multifamily inclusionary developments that were previously prohibited by exclusionary zoning.

***Since Mount Laurel IV in 2015, the pace of affordable housing production has been roughly doubled.***

Since *Mount Laurel IV* in 2015, the pace of affordable housing production has roughly doubled, with more than 2,700 affordable units built per year during 2015-2022 — twice the rate under COAH. More than 21,000 new deed-restricted affordable homes have been built since *Mount Laurel IV* and in all, more than 50,000 new affordable homes are anticipated to be developed throughout New Jersey during the 2020s under Third Round municipal housing plans.

# NEW JERSEY'S NEW AFFORDABLE HOUSING LAW P.L. 2024, C. 2 (ASSEMBLY BILL 4/SENATE BILL 50)

In preparation for the Fourth Round of affordable housing obligations, in early 2024 the Governor and Legislature made significant amendments to the Fair Housing Act and related housing laws to strengthen and streamline enforcement of the Mount Laurel Doctrine:

- 1.** Abolishing COAH.
- 2.** Codifying the fair share methodology based on the “Jacobson Methodology” as established by a Mercer County trial court in 2018 following a lengthy trial that ultimately resulted in standards widely accepted by both housing advocates and municipalities in interpreting the methodology as directed by Mount Laurel IV. The New Jersey Department of Community Affairs (DCA) is tasked with making initial calculations of Present Need and Prospective Need as guidance for municipalities.
- 3.** Directing the New Jersey Housing and Mortgage Finance Agency (NJHMFA) to update rules that provide vital statewide standards on affordability controls, bedroom distributions in affordable housing developments, design and integration of affordable housing units, and affirmative marketing requirements to ensure those in need of housing are aware of the opportunities that are created.
- 4.** Establishing longer minimum affordability control periods for new affordable housing — 40 years for rental housing and 30 years for for-sale housing — with options for further extensions to preserve housing affordability.
- 5.** Restructuring and codifying the system of bonus credits and establishing caps and minimums on certain affordable housing types.
- 6.** Requiring municipalities, if they wish to avoid builder’s remedy lawsuits, to amend their master plans and adopt a HEFSP that addresses the status of compliance towards the Prior Round obligations and identifies the municipality’s Present Need and Prospective Need, detailing how those housing needs will be satisfied. This plan is a binding agreement between the municipality and the state on how affordable housing opportunities will be created over the ten-year Fourth Round.
- 7.** Establishing a streamlined process for submission and certification of HEFSPs through the Affordable Housing Dispute Resolution Program. The Program requires participating municipalities to submit a HEFSP and supporting documentation to address affordable housing obligations. Should disputes



(CONT.) arise among interested parties as to the realistic opportunity the plan provides for the provision of affordable housing, the Program will provide opportunities for mediation. Special county-level housing judges may be appointed to resolve disputes over municipal compliance with the Fair Housing Act and the Mount Laurel Doctrine.

8. Directing DCA to monitor municipal collection, management, and spending of development fees in local affordable housing trust funds to implement HEFSPs.
9. Preventing delays in devising and implementing local housing plans by placing municipalities at risk of losing immunity from exclusionary zoning litigation if they miss housing planning deadlines or stymie housing proposed in a certified HEFSP.
10. Requiring both the state and local governments to post on publicly accessible websites key documents and decisions on their housing planning, determinations, mediations, certifications, and affordable housing trust funds to significantly increase transparency and keep the public informed.

## THE RESIDENCES AT NORTH VILLAGE



**PROJECT TYPE:** Inclusionary, mixed-use development, rental

**DEVELOPER:** Dykstra Associates

**YEAR COMPLETED:** 2019

**PROJECT ADDRESS:** 1 Prosper Pl, Sparta, NJ 07871

**TOTAL UNITS:** 60 units; 27 affordable units (45% set aside)

**DESCRIPTION:** This inclusionary rental development is part of a large mixed-use community that includes townhomes, single family homes, a shopping center with a grocery store, and an assisted-living facility. Amenities include in-unit laundry and a neighborhood park.

# AFFORDABLE HOUSING NEED AND MUNICIPAL FAIR SHARE HOUSING OBLIGATIONS

How much affordable housing for low- and moderate-income households is needed in New Jersey and where?

There is a clear approach to defining affordable housing need under the Mount Laurel Doctrine, with many ambiguities from past rounds clarified by the new legislation. While this number falls far short of the full housing needs in the state, the Mount Laurel Doctrine has been held by courts to only address a portion of overall housing need. These questions can be answered one of two different ways:

- A.** by calculating the number of households who spend too much of their income on housing costs or
- B.** by projecting future housing needs for a selected target year for a target group of households in targeted communities

New Jersey currently has a total of about 3.4 million households, of which 39% (about 1.3 million households) have incomes below 80% of median household income and are considered low- and moderate-income households under the Mount Laurel Doctrine and the Fair Housing Act.[2] The current (2023) median household income in New Jersey is \$99,781[3], which means that on a statewide basis households with annual incomes less than \$79,823 are considered low- and moderate-income, with adjustments for county, region, and household size (households with more

people have a higher median income, households with fewer people have a lower median income).

One approach to calculating housing need is to determine the share of household income devoted to housing costs, whether a mortgage, taxes, etc. for homeowners, or rent and utilities for renters. Households who spend more than 30% of their income on rental housing costs are considered to be “cost-burdened” and their housing is not considered “affordable,” under longstanding, nationally accepted standards. For homeownership, the standard is a maximum of 28% of household income. Consequently, these cost-burdened households have less disposable income to spend on food, transportation, health care, clothing, and other essentials of daily life.

By this metric, 69.6% of New Jersey’s low- and moderate-income households need affordable housing, with 927,105 New Jersey low- and moderate-income households being cost-burdened.[4] However, COAH excluded cost-burdened households and their affordable housing needs from its calculations of municipal fair share housing obligations under the Fair Housing Act, a determination upheld by the Supreme Court in *Mount Laurel IV* in 2015.

Consequently, a different approach to defining affordable housing need has been used under the Mount Laurel Doctrine. This approach projects the



housing needs of anticipated future new low- and moderate-income households in New Jersey by region and then allocates these regional housing needs fairly to each region's municipalities. This component of housing need is called "Prospective Need" under the Mount Laurel Doctrine and the Fair Housing Act.

In addition to the need for new affordable housing for projected new households, low- and moderate-income households currently living in substandard and overcrowded housing

often need housing rehabilitation assistance. This component of housing need is called "Present Need" under Mount Laurel Doctrine and the Fair Housing Act.

A third component of housing need is the Prospective Need allocated in the past that may not yet have been satisfied and is a continuing municipal responsibility. This component of housing need is called "Prior Round" obligation and was calculated by COAH in 1994 for the period 1987-1999, its

## THE CROSSINGS AT BENNETT AVENUE



**PROJECT TYPE:**  
100% affordable,  
brownfield  
redevelopment;  
for-sale

**DEVELOPER:** Morris Habitat for Humanity

**YEAR COMPLETED:** 2024

**PROJECT ADDRESS:** 26-32 Bennett Avenue, Randolph, NJ 07869

**TOTAL UNITS:** 25 condominiums

**SELECTED FUNDING SOURCES:** The property was acquired through tax foreclosure and Randolph Township donated it to Morris Habitat. The township covered environmental remediation, demolition, site design, approvals, and permitting. Funding for development came from a \$3 million federal grant and Morris Habitat for Humanity.

**DESCRIPTION:** Residents have affordable 30-year mortgages provided by Morris Habitat, and the condominiums have 30-year deed restrictions. Amenities include a community room, a play area, and a bike path to nearby stores and restaurants.

First and Second Rounds. The new law requires any unfulfilled Prior Round obligation, including for the Third Round (1999-2025), to be addressed in Fourth Round local housing plans.

***The new law requires any unfulfilled Prior Round obligation, including for the Third Round (1999-2025), to be addressed in Fourth Round local housing plans.***

Under the new law, Present Need is determined by estimating the existing deficient (substandard) housing by municipality occupied by low- and moderate-income households, using data collected, analyzed, and published by the U.S. Census Bureau. Certain qualifying municipalities, designated by DCA for additional state financial assistance and known as “urban aid municipalities,” are not allocated a Prior Round obligation or a Prospective Need obligation. Many already have significant income-restricted affordable housing built over the past several decades. They are not, however, exempted from their Present Need responsibilities.

### **COMPONENTS OF A TOWN’S AFFORDABLE HOUSING RESPONSIBILITY:**

- 1.** Rehabilitation/Present Need
- 2.** Prospective Need
- 3.** Prior Round Obligation

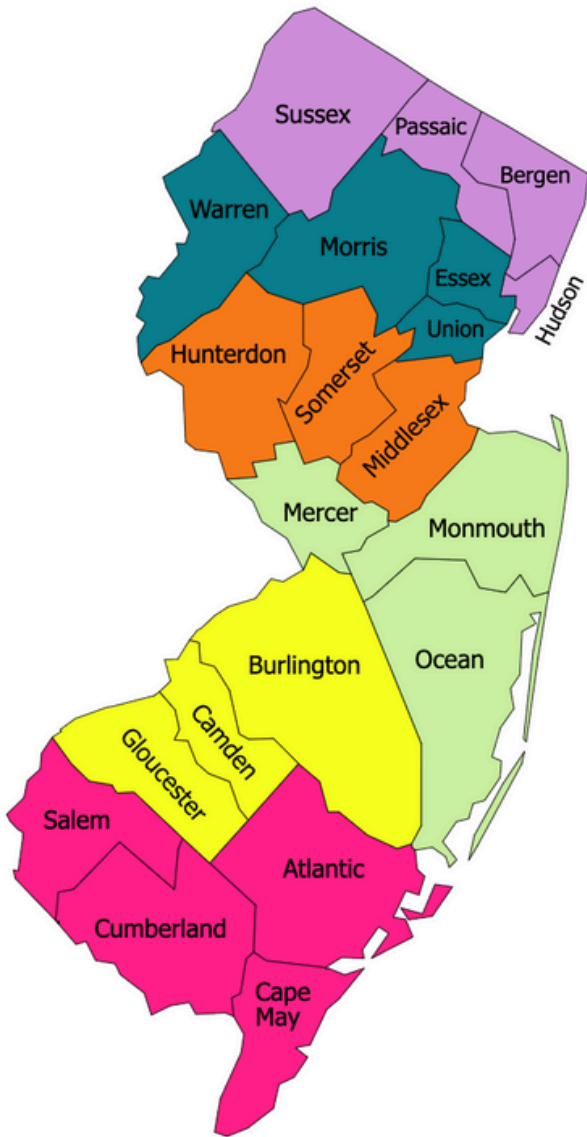


Under the new law, Prospective Need for the Fourth Round is calculated by region based on 40% of the change in the numbers of households counted by the U. S. Census Bureau in the 2010 and 2020 censuses by region, a total of 84,697 housing units statewide.

The Prospective Need of each of six regions is then allocated to each region’s municipalities using the average of three allocation factors:

- A.** The municipal share of regional nonresidential ratables change during 1999-2023 (nonresidential valuation factor), based on data published by DCA’s Division of Local Government Services
- B.** The municipal share of regional household income differences (income capacity factor), based on U. S. Census Bureau estimates
- C.** The municipal share of developable land in the region, based on “land use/land cover” geographic data published by the New Jersey Department of Environmental Protection, environmental constraints data, and other data sets. This land capacity factor weights developable land based on its Planning Area type in the State Development and Redevelopment Plan, as well as in Meadowlands, Pinelands, and Highlands regional plans.

**ROUND FOUR REGIONAL  
PROSPECTIVE NEED (2024-2025)**



- Region 1**
- Region 2**
- Region 3**
- Region 4**
- Region 5**
- Region 6**

**TOTAL PROSPECTIVE NEED:  
84,698 UNITS**

The new law codified the six regions used in the Prospective Need methodology, each grouping three or four counties:

**Region 1:**  
Bergen, Hudson, Passaic, and Sussex

**Region 2:**  
Essex, Morris, Union, and Warren

**Region 3:**  
Hunterdon, Middlesex, and Somerset

**Region 4:**  
Mercer, Monmouth, and Ocean

**Region 5:**  
Burlington, Camden, and Gloucester

**Region 6:**  
Atlantic, Cape May, Cumberland, and Salem

Furthermore, the new law caps a municipality's Prospective Need for the Fourth Round at 1,000 affordable housing units. Also, a municipality may lower its Fourth Round Prospective Need to avoid an obligation that exceeds 20% of the total households counted in the municipality in the most recent U.S. Census in 2020.

Finally, as required by the new law, DCA issued its report to the Governor, Legislature, and public with its determinations of recommended Fourth Round fair share housing obligations, both Present Need and Prospective Need for 2025-2035, by region and municipality, by October 20, 2024, as guidance to municipalities for their fair share determinations in accordance with the new law.

# PREPARING A HOUSING ELEMENT AND FAIR SHARE PLAN

Housing planning has been an integral part of local land use planning in New Jersey since enactment of the Fair Housing Act. Municipalities must, under the Municipal Land Use Law as amended by the Fair Housing Act in 1985, adopt a housing plan element of the master plan in order to exercise the power to zone and regulate land use.

As defined by the new law, the “**housing plan element**” is a portion of the municipal master plan and is prepared and adopted by the municipal planning board. A “**fair share plan**,” according to the new law, is the document in which the municipality details specifically the affirmative actions it will take to create a “realistic opportunity” to satisfy its fair share housing obligations, including proposed or adopted ordinances and resolutions. Under the new law, it is the responsibility of the municipality, i.e., the municipal governing body, to adopt the Housing Element and Fair Share Plan (HEFSP).

The Fair Housing Act, as amended by the new law, specifies the essential elements of the municipal housing plan, which must be designed to “achieve the goal of access to affordable housing to meet present and prospective housing needs” and pay “particular attention to low- and moderate-income housing”:

- Inventory of the municipality’s housing stock, including affordable housing and substandard housing capable of being rehabilitated
- Projection of the municipality’s housing stock, including probable future low- and moderate-income housing
- Analysis of the municipality’s demographic characteristics
- Analysis of the municipality’s employment characteristics
- Determination of the municipality’s present and prospective fair share for low- and moderate-income housing (i.e., Present Need and Prospective Need, and its capacity to accommodate its present and prospective housing needs)
- Consideration of the lands most appropriate for construction of low- and moderate-income housing and structures most appropriate for conversion and rehabilitation for low- and moderate-income housing, including land proposed by developers committed to providing low- and moderate-income housing
- Analysis of the extent that the municipal ordinances and other local factor advance or detract from the goal of preserving multigenerational family continuity
- For municipalities within the Highlands, an analysis of compliance with the Highlands Regional Master Plan of lands in the Highlands Preservation Area and in the Highlands Planning Area for Highlands-conforming municipalities, with consideration of Highlands build out reports and opportunities for redevelopment



## ABBETT AVENUE DUPLEX

- Analysis of consistency with the State Development and Redevelopment Plan, including water, wastewater, stormwater, and multi-modal transportation

The new law provides for an adjustment of the Prospective Need obligation, based on a lack of vacant land, which divides the Prospective Need into the Realistic Development Potential (RDP), to be satisfied in the Fourth Round, and the Unmet Need, to be addressed by incentivizing opportunities for affordable housing development as land becomes available.

For municipalities that calculate RDP, the new law requires the identification in the HEFSP of sufficient parcels likely to redevelop during the current round of obligations to address at least 25% of the Fourth Round Unmet Need through realistic zoning, or the municipality must demonstrate why it is unable to identify such parcels and realistic zoning.

The housing plan must be prepared by a New Jersey licensed professional planner, who conducts the required analyses and surveys, in consultation and cooperation with other municipal staff, professionals (e.g., attorney and engineer), consultants, planning board members, governing body members, developers, advocates, property owners, and the public. At a minimum, the planning board must give ten days published public notice of the required public hearing on adoption, revision, or amendment of the housing plan element, provide notice to adjoining municipalities, and make available the proposed plan for public review.



### **PROJECT TYPE:**

100% affordable, infill housing, transit oriented development, rental

**DEVELOPER:** Homeless Solutions

**PROJECT ADDRESS:** 23 Abbett Ave  
Morristown, NJ 07960

**YEAR COMPLETED:** 2018

**TOTAL UNITS:** 2 units

### **SELECTED FUNDING SOURCES:**

Property acquired with a \$300,000 interest-free mortgage provided by NJHMFA Special Needs Housing Trust Fund

**DESCRIPTION:** This development utilized an empty lot to create two two-bedroom units that are affordable to low income families. The building fits the character of the neighborhood, and residents are walking distance from businesses, a park with a playground, and a NJ transit rail station.

# CORNERSTONE AT SEASIDE HEIGHTS



## **PROJECT TYPE:**

100% affordable, age-restricted, rental

**DEVELOPER:** Walters Group

**PROJECT ADDRESS:** 314 Bay Blvd,  
Seaside Heights, NJ 08751

**YEAR COMPLETED:** 2019

**TOTAL UNITS:** 91 units

## **SELECTED FUNDING SOURCES:**

12.9 million in construction financing from NJHMFA, \$15.5 million in federal Community Development Block Grant - Disaster Recovery assistance, \$6.9 million from a 4% LIHTC.

**DESCRIPTION:** This four story project redeveloped an aging motel, lumberyard, and hardware store. All units are affordable for residents earning less than or equal to 60% AMI, and five units are reserved for residents with special needs. Residents are in walking distance from shopping and public transportation, and amenities include a fitness center and a roof deck.

At a minimum, the governing body must give ten days published public notice of the required public hearing, of any proposed zoning ordinance amendment to implement the housing plan element.

In practice, the housing element and fair share plan is typically prepared as a single, integrated document, discussed informally with and by the planning board and governing body, and made available to the public in draft form and adopted form at the municipal clerk's office, and often posted on the municipal website.

A typical plan provides required background data, details sites and projects slated to produce affordable housing, provides maps locating sites and portraying any site constraints, includes draft and adopted zoning amendments, contains agreements with developers and evidence of site plan and use variance approvals, documents claimed credits for completed affordable housing, and provides municipal revenue projections, as well as funding and bonding commitments, to support affordable housing activities.

Once adopted, the new law requires municipalities to promptly file the HEFSP with the state within 48 hours on the public website established by the Program. Municipalities may be expected to build their Fourth Round housing elements and fair share plans on the base of previously adopted plans, most prepared since 2015.

# OPTIONS FOR MUNICIPALITIES TO SATISFY THEIR AFFORDABLE HOUSING OBLIGATIONS

Municipalities have several well-established options to consider and adopt in their housing plans for satisfying their constitutional affordable housing obligations. At the outset it is critical to recall the Supreme Court's applicable standards established in *Mount Laurel II* in 1983 for determining compliance.

First, a "realistic opportunity" must be provided for satisfying the municipality's fair share obligation, with "realistic" depending "... on whether there is a likelihood-to the extent economic conditions allow-that the lower income housing will actually be constructed." Second, municipal compliance must be "... determined solely on an objective basis: if the municipality has in fact provided a realistic opportunity for the construction of its fair share ..., it has met the Mount Laurel obligation ..., if it has not, then it has failed to satisfy it."

## FOR ALL OPTIONS, THREE INGREDIENTS ARE ESSENTIAL TO ACTUALLY CREATE AFFORDABLE HOUSING:

- A. a suitable site or property with permissive zoning or land use approvals,
- B. a developer with capacity, and
- C. adequate financial resources.

### 1. PRESENT NEED – REHABILITATION

The Present Need component of the fair share obligation signifies that low- and moderate-income households are living in substandard and overcrowded housing in the municipality. Present Need obligations tend to be highest in urban municipalities and other municipalities with a high existing population of lower-income households.

To satisfy this need, most municipalities establish, fund, and administer a **local housing rehabilitation program**, administered by municipal staff, consultants, or a county community development agency housing improvement program. Housing rehabilitation must be available to rental properties that serve low-and moderate-income households. A municipality's Present Need obligation can alternatively be satisfied through new construction of affordable housing.

### 2. 100% AFFORDABLE (FAMILY OR SENIOR)

These are developed by the private and nonprofit sectors, often in partnership with municipalities, and typically relying for substantial equity from federal Low-Income Housing Tax Credits (LIHTC) allocated on a competitive basis by the New Jersey Housing and Mortgage Finance Agency and other subsidies. Mostly historically developed as rental housing — though the new legislation creates additional incentives for partnerships with nonprofits for homeownership —



**(CONT.)** municipalities often support 100% affordable developments by donating surplus land or buildings waiting for conversion, as well as by providing negotiated public subsidies from municipal housing trust funds, bonding, and tax abatements. The **New Jersey Affordable Housing Trust Fund** is another, critical source of funding for smaller 100% affordable developments. This option is popular from the municipal perspective not only because of the funding options, but also because under the new law, 100% affordable housing projects developed with sufficient municipal contributions of land or funding, most likely rental housing, will generate one bonus credit per unit.

## CAMP KILMER HOMES



**PROJECT TYPE:** 100% affordable, redevelopment, rental

**DEVELOPER:** A collaboration between Edison Housing Authority, for-profit development company Albert Group, and development nonprofit Monarch Housing.

**YEAR COMPLETED:** 2015

**TOTAL UNITS:** 120; 30 units (25% set aside) of supportive housing for homeless individuals.

**SELECTED FUNDING SOURCES:** \$5 million from a NJ HMFA construction loan, \$2.1 million from a NJHMFA permanent mortgage, \$3.5 million from NJHMFA Community Development Block Grant Disaster Recovery funds.

**DESCRIPTION:** Residents have access to a playground and the development is close to shopping centers and a commuter rail station. As a condition of the former military base's closure, Kilmer Homes made 25% of the affordable housing units (30 units) available to the homeless. The Kilmer Collaborative was established by the Middlesex County Continuum of Care, an organization of social service agencies serving the homeless. Triple C Housing provides case management and support services for the formerly homeless residents.

### 3. INCLUSIONARY DEVELOPMENT

This is mixed-income private sector development, including housing affordable and restricted to low- and moderate-income households as well as market-rate housing. Inclusionary development typically involves a set-aside of 20% of the total units as affordable housing in homeownership projects and 15% of the total units in rental projects, although increasingly a 20% set-aside is also the norm for rental projects, and some municipalities have succeeded in getting developments built with higher set-asides as well, often with creative approaches to making developments more financially feasible or in particularly economically strong markets. Sale or rental of the market-rate units internally subsidizes the cost of income-restricted affordable units. The affordable units in these mixed-income developments, whether townhouses, apartments, stacked flats, or small lot houses, should be **indistinguishable** from the exterior from — and **integrated** among — the market-rate units.

Inclusionary development may be implemented through zoning by a **new zoning district** that requires or allows inclusionary development, depending on the municipal objective, or by an **overlay zone** with inclusionary incentives. Inclusionary development may also be instituted as a compliance mechanism as part of a municipally-adopted redevelopment or rehabilitation plan, which acts as the zoning for a **designated redevelopment area**. Inclusionary development is increasingly less likely to be new construction on a greenfield site; obsolete or underutilized nonresidential structures should be converted

## 202 PARK



#### PROJECT TYPE:

Inclusionary,  
redevelopment,  
rental

**DEVELOPER:** First  
Montgomery Group

**PROJECT ADDRESS:** 202 Park Blvd, Cherry Hill, NJ 08002

**YEAR COMPLETED:** 2021      **TOTAL UNITS:** 192; 29 affordable units (15% set aside)

**SELECTED FUNDING SOURCES:** 5 year payment-in-lieu-of-taxes (PILOT)

**DESCRIPTION:** This project redeveloped a motel into a mixed-use residential development with amenities including in-unit laundry, a fitness center, and a pool. Affordable units are integrated with market-rate units, and the property is across from a large county park.

**(CONT.)** to residential use with an inclusionary component, if there is agreement from the owner to abandon the current uses on the site. Inclusionary zoning is a prime example of incentive-based affordable housing development, as the private sector will respond positively to economically feasible densities, set-asides, and design and development standards on suitable, appropriately located sites.

#### **4. SUPPORTIVE AND SPECIAL NEEDS HOUSING**

Different groups of people with low incomes have special needs for a high-quality, supportive place to live, including: people with mental illness and developmental disabilities, people with adult onset physical disabilities, disabled veterans, victims of domestic violence, youth aging out of foster care, and homeless individuals in need of affordable housing.

The new law codifies an important incentive for municipalities to welcome this housing type; each unit of special needs or permanent supportive housing counts as two credits, and the unit of credit against fair share obligations is the

### **FREEDOM VILLAGE AT HAMILTON WOODS**



**PROJECT TYPE:** 100% affordable, supportive housing, rental

**DEVELOPER:** Project Freedom

**PROJECT ADDRESS:** 2 Justice Samuel A. Alito Jr. Way Hamilton, NJ 08619

**YEAR COMPLETED:** 2023

**TOTAL UNITS:** 72

**SELECTED FUNDING SOURCES:** \$14 million through LIHTC, \$1.2 million through NJHMFA's Special Needs

Housing Trust Fund, additional funding through NJ DCA and Hamilton Township's Affordable Housing Trust Fund.

**DESCRIPTION:** Each unit in the development is accessible and contains energy efficient appliances. The property is located near the city's downtown which gives residents easy access to a health clinic, library, YMCA, retail businesses, and a bus stop. Eighteen of the units were designed for individuals with developmental disabilities or mental illnesses.



**(CONT.)** bedroom. The new law also allows credits for transitional housing for up to 10% of a municipality's fair share obligation. Municipalities seeking to welcome such state-licensed housing in their plans may provide land and/or funding, acquire houses suitable for conversion to group homes, amend zoning to make such housing permitted uses, support use variances, negotiate a **PILOT** (payment in lieu of taxes), and take other affirmative steps to create this type of affordable housing that is developed mostly, but not entirely by the nonprofit sector. The **Special Needs Housing Trust Fund**, administered by the New Jersey Housing and Mortgage Finance Agency, and the National Affordable Housing Trust are two examples of funding sources for supportive and special needs housing.

## **5. ASSISTED LIVING RESIDENCES**

An assisted living residence is a specialized housing type licensed by the New Jersey Department of Health and Senior Services that provides apartment-style living and congregate dining and other services, typically for older people. Assisted living residences can be developed under an inclusionary model in which a percentage of the units are set aside for low- and moderate-income households.

State law on licensing assisted living residences developed since 2001 requires the reservation of 10% of the beds for Medicaid-eligible individuals and provides that any beds so reserved shall be recognized as fulfilling low- and moderate-income housing requirements in municipal ordinances. Municipalities can provide for in their housing plans and encourage development of inclusionary assisted living residences by adopting permissive zoning and taking other affirmative steps.

## **6. ACCESSORY DWELLING UNITS (ADUS)**

An accessory dwelling unit is a self-contained, independent housing unit created either within an existing house, through conversion of an existing structure attached to a house, by an addition to the house, or by construction of a separate unit on the same lot as an existing house. Municipalities can encourage and make possible the creation of accessory affordable dwelling units by first amending zoning to permit a second dwelling unit on an otherwise single-family lot and by providing financial assistance to homeowners to undertake the necessary construction or renovations.

Homeowners need to place a **deed restriction** on the unit to ensure that the accessory unit remains affordable to lower-income households. Formerly known as "accessory apartments," this is not yet a very common, productive compliance mechanism. A maximum of ten units or ten percent of a municipality's fair share obligation, whichever is greater, may be addressed with ADUs, unless the municipality has demonstrated a successful history of implementing this compliance mechanism.

## NEWTOWN VILLAGE



### PROJECT TYPE:

100% affordable, market to affordable, manufactured housing

**PROJECT ADDRESS:** 199 Maple St, Robbinsville Twp, NJ 08691

**YEAR COMPLETED:** 2019

**TOTAL UNITS:** 149; 50 year deed restrictions

### SELECTED FUNDING SOURCES:

Robbinsville's affordable housing trust fund, town bonds

**DESCRIPTION:** As units become available, Robbinsville Township rehabilitates or replaces the manufactured homes and restricts the deed of each pad. They have facilitated

necessary upgrades to the park including water quality and flow rate upgrades in 2023, which were financed through the New Jersey Water Bank.

*"The residents of Newtown Village, formerly known as Mercer Mobile Home Park, petitioned the Township to take over the park in 2008. It was a long road to get there, but we successfully took ownership of the park and renamed it Newtown Village on July 1, 2019.*

*We were committed to upgrading the critical infrastructure of the park to improve the lives of the residents. Since 2019, we have replaced the sewer system, water lines and recently completed repaving all the streets. We are very proud of our affordable housing record and remain committed to providing safe and affordable housing to our residents well into the future."*

**— David Fried, Mayor of Robbinsville**

## 7. MARKET TO AFFORDABLE PROGRAM

The new law authorizes and incentivizes credits against fair share obligations for municipal programs that purchase existing market-rate housing, deed restrict the units, and sell or rent the housing (once rehabilitated, if necessary) to low- and moderate-income households. Municipalities subsidize the difference between the cost to acquire and renovate the market-rate unit and the restricted price or rent of the housing for income eligible households. A maximum of ten for-sale

(CONT.) units and ten rental units, or 10% of a municipality's fair share obligation, whichever is greater, may be addressed with this compliance mechanism, unless the municipality has demonstrated a successful history of implementing this a market-to-affordable program.

## 8. EXTENDING EXPIRING AFFORDABILITY CONTROLS

The new law also authorizes and incentivizes credits against fair share obligations for extensions of the term of affordability controls that preserve existing affordability for housing built after April 1, 1980, once rehabilitated up to code, if necessary. Affordable housing developed under COAH's First Round rules were generally subject to 20-year minimum terms of affordability controls, later extended to a 30-year maximum in COAH's Second Round rules and in 2004 changed to a minimum of 30 years in the Uniform Housing Affordability Controls rules (UHAC) adopted by NJHMFA. This means that controls on affordable units built in the mid-1980s generally began to expire in the mid-2000s, while 30-year controls generally began to expire in the 2010s.

Municipalities may extend the term of controls through agreement with the housing owner or by other means and options authorized by not validated COAH rules, local ordinances, and the deed restrictions on affordable ownership and rental units. While this mechanism does not increase the supply of affordable housing, it does ensure that affordable units that have been created continue to be available only to income-eligible households.

## 9. REDEVELOPMENT

Redevelopment under New Jersey's Local Redevelopment and Housing Law is not an affordable housing type, but rather an increasingly popular mechanism for rebuilding communities by transforming distressed areas, a process that makes available sites that may be redeveloped to include affordable housing.

Municipalities may designate **redevelopment or rehabilitation areas** that meet statutory criteria, then prepare and adopt redevelopment or redevelopment plans, either with or without the possibility of condemnation to facilitate site assembly by a municipally designated redeveloper. Certain types of redevelopment, such as certain **transit-oriented development** and redevelopment of commercial buildings, are eligible for bonus credits under the new law.



# KEY PRINCIPLES, STANDARDS, AND INCENTIVES IN DEVELOPING MUNICIPAL HOUSING PLANS

In developing a new, amended, revised, or updated Fourth Round municipal housing element and fair share plan, all participants in the plan preparation, adoption, review, and certification process must be mindful of certain well-established principles and standards, as well as some new and revised incentives.

The Fair Housing Act, including the 2024 amendments, codifies many of these principles and standards. The new law importantly adopts rules previously adopted by COAH on “municipal credits, adjustments, and compliance mechanisms” unless the rules have been “contradicted by statute ... or binding court decisions.” As a result, [N.J.A.C. 5:93](#) (known as the Prior Round Rules) and portions of [N.J.A.C. 5:97](#) (known as the Third Round Rules) remain relevant and binding for Fourth Round local housing planning. A non-exhaustive list of these principles and standards follows.

## 1 “REALISTIC OPPORTUNITY”

It bears reiterating at the outset that the bedrock principle for determining whether a municipal housing plan satisfies a municipality’s constitutional housing obligations is whether a “realistic opportunity” has been created for satisfying the obligations. As the Supreme Court stated in *Mount Laurel II*, “...whether the opportunity is ‘realistic’ will depend on whether there is in fact a likelihood—to the extent economic conditions allow—that the lower income housing will actually be constructed.”[5]

## 2 SITE SUITABILITY

A critical component of the “realistic opportunity” evaluation is whether the sites proposed for affordable housing development are “suitable.” In *Mount Laurel II*, the Supreme Court established general site suitability standards that are still valid decades later: “... the proposed project ... [must be] ... located and designed in accordance with sound zoning and planning concepts, including its environmental impact.” Also, “it is only if the proposed development ... is contrary to sound planning principles, or represents a substantial environmental hazard, that it should be denied.” COAH rules have articulated these principles and standards with more precision, with a dozen site suitability criteria, such as access to appropriate streets, compliance with flood hazard area constraints, and adjacent to compatible land uses (see [N.J.A.C. 5:94-4.5](#) and [N.J.A.C. 5:97-3.13](#)).

## 3 MINIMUM FAMILY AFFORDABLE HOUSING

The new law requires municipal housing plans to provide that at least 50% of the housing addressing the Prospective Need obligation is for families with children, without age restrictions.

## 4 SENIOR CAP

The new law allows municipalities to include age-restricted affordable housing in their housing plans, but only up to a new cap of 30% of the total number of homes addressing municipal Prospective Need obligations.



## **5 MINIMUM RENTAL AFFORDABLE HOUSING**

The new law requires municipal housing plans to provide for at least 25% of Prospective Need obligations to be satisfied by rental affordable housing, and requires that at least 50% of rental affordable housing be available to families with children.

## **6 HOUSING AFFORDABLE TO LOW-INCOME HOUSEHOLDS**

Municipal housing plans must ensure that at least 50% of the low- and moderate-income housing units made available in a municipality are affordable to low-income households.

## **7 HOUSING AFFORDABLE TO VERY LOW-INCOME HOUSEHOLDS**

Municipal housing plans must ensure that at least 13% of the low- and moderate-income housing units made available in a municipality are affordable to very low-income households.

## **8 INCLUSIONARY DEVELOPMENTS**

A minimum 20% set-aside of affordable housing is required, to the extent economically feasible, in new inclusionary developments within the jurisdiction of New Jersey's regional planning agencies: Meadowlands Commission, Pinelands Commission, Port Monmouth Planning Authority, and Highlands Council. Throughout the state, municipalities must provide, through their zoning powers, incentives to ensure the feasibility of inclusionary development, including increased densities and reduced costs. COAH's

Second Round rules, adopted in the early 1990s, established a presumptive minimum gross density of six units per acre with a 20% set-aside for inclusionary developments and ten units per acre with a 15% set-aside for rental inclusionary developments. However, multi-family inclusionary and affordable housing developments at significantly higher densities have become common throughout New Jersey since 2015 in the implementation of *Mount Laurel IV*.

## **9 ACCESSIBLE AND ADAPTABLE AFFORDABLE HOUSING UNITS**

The Fair Housing Act and COAH Third Round Rules require that newly constructed affordable housing units be adaptable, and that the first floor of townhouses and multistory buildings be accessible, in accordance with the Barrier Free Subcode of the State Uniform Construction Code.

The 2024 amendments to the Fair Housing Act also codify, revise, and expand to ten the types of affordable housing development in a municipal housing plan eligible for bonus credits against a municipality's Prospective Need obligations. The choice among these incentives is up to municipalities, with two caveats: first, the municipality may opt for only one bonus type per affordable housing unit, and, second, a maximum of 25% of the municipality's Prospective Need may be satisfied by these bonus credits.

## FOURTH ROUND BONUS CREDIT TYPES

### 1.0 BONUS CREDIT PER AFFORDABLE UNIT

- Special needs or permanent supportive housing.
- Municipal contribution (land or funds for at least 3% of the cost) to a 100% affordable project.
- Market-to-affordable program for rental or ownership units.

### 0.5 BONUS CREDIT PER AFFORDABLE UNIT

- Partnership sponsorship with non-profit developer for affordable ownership units.
- Transit-oriented development within one-half mile of public transit stations.
- Age-restricted housing (capped at 10% of age-restricted housing in local plan)
- More three-bedroom units than required by State bedroom distribution rules.
- Redevelopment of former or current retail office, or commercial sites.
- Extended affordability controls that preserve rental affordable housing.
- More housing affordable to very low-income households than the minimum 13% required.

**The choice among these incentives is up to municipalities, with two caveats:**

- 1.** The municipality may opt for only one bonus type per affordable housing unit.
- 2.** A maximum of 25% of the municipality's Prospective Need may be satisfied by these bonus credits.

# MUNICIPAL AFFORDABLE HOUSING TRUST FUNDS AND DEVELOPMENT FEES

Since the late 1980s, municipalities have collected development fees from residential and non-residential development that did not include affordable housing, for the purpose of funding affordable housing activities, after adopting a compliant municipal ordinance to establish a municipal affordable housing trust fund.

Deposited in municipal affordable housing trust funds, this is a flexible source that has helped many municipalities plan, build, rehabilitate, and preserve affordable housing to address their fair share housing

obligations. Over time the fee schedule has increased and is now 1.5% of the equalized assessed value of the land and improvement for new residential development (provided no increase in density is permitted), 1.5% of the equalized assessed value of residential additions and alterations, 2.5% of the equalized assessed value of the land and improvement for nonresidential development if the land being developed is vacant, and 2.5% of the equalized assessed value of the improvement for nonresidential development on land with existing improvements.

## 6 NOVAD COURT



**PROJECT TYPE:** 100% affordable, supportive/special needs, rental

**DEVELOPER:** Affordable Housing Alliance

**PROJECT ADDRESS:** 6 Novad Ct, Millstone Township, NJ 08510

**YEAR COMPLETED:** 2025 (estimated)

**TOTAL UNITS:** 52

**FUNDING SOURCES:** \$1 million from National Housing Trust Fund (NHTF) and \$340,000 from HOME Housing Production Investment fund.

**DESCRIPTION:** This development features three 2-bedroom apartments for very low income families who are experiencing homelessness. Each apartment has an in-unit washer/dryer, energy efficient appliances, and individual back patios that open to a community yard for all residents. The property is within walking distance of various stores, restaurants, and medical facilities. Affordable Housing Alliance partnered with Collaborative Support Systems Programs, who will connect residents with services including transportation out of the Millstone area.

## THE WILLOWS AT ANNANDALE VILLAGE

The 2024 amendments to the Fair Housing Act require municipalities to include a spending plan for current and projected funds in municipal affordable housing trust funds, as part of their Fourth Round local housing plans.

*Municipal affordable housing trust funds... [have] helped many municipalities plan, build, rehabilitate, and preserve affordable housing to address their fair share housing obligations.*

The new law adds substantial public reporting and transparency requirements on these trust funds. For example, it also requires DCA to establish by late 2024 and implement standards and reporting requirements on development fees, trust funds, and spending plans, to enhance accountability, transparency, and the production and preservation of affordable housing. To implement the new law, DCA has required municipalities to report all development fees collected, expended, and retained since the inception of municipal affordable housing trust funds.



### **PROJECT TYPE:**

100% affordable, redevelopment, rental

**DEVELOPER:** Ingerman

**PROJECT ADDRESS:** 100 Lechner Cir, Annandale, NJ 08801

**YEAR COMPLETED:** 2020

**TOTAL UNITS:** 66 units

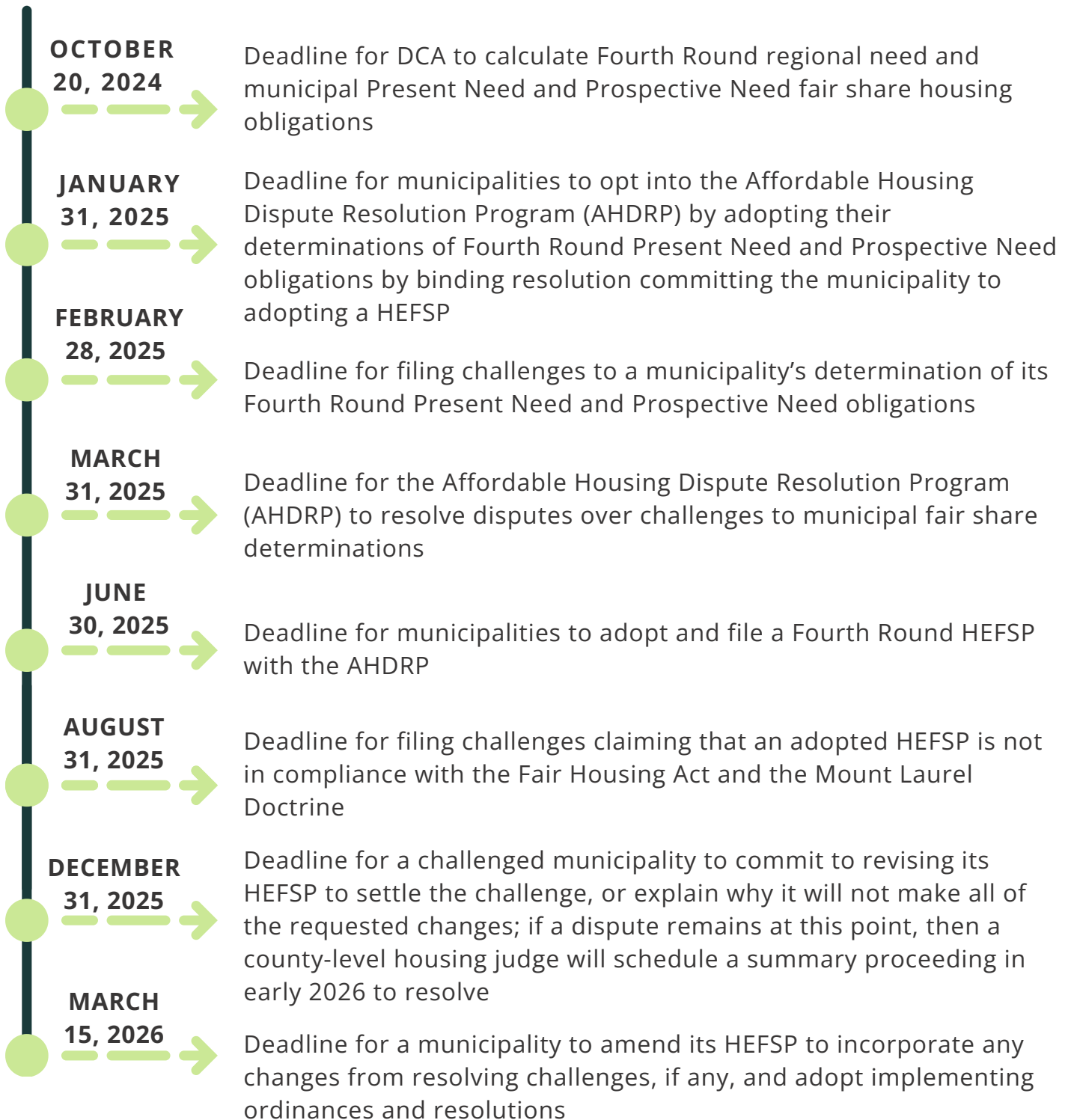
### **SELECTED FUNDING SOURCES:**

\$1.2 million from a NJHMFA 9% LIHTC

**DESCRIPTION:** This development is an adaptive reuse of a historic 1700s building that became the property management office and a community space. Residents have in-unit laundry, energy efficient appliances, and a playground. It is within walking distance of a commuter rail station and in proximity to shopping centers. Four units were designed to be accessible.

# PARTICIPATING IN FOURTH ROUND MUNICIPAL HOUSING PLANNING: Timelines, Key Dates, and Action Steps

*The 2024 amendments to the Fair Housing Act established a clear timeline with specific deadlines for the key steps in local housing planning leading to State certification and implementation of a compliant Fourth Round HEFSP:*





# WOOD AVENUE

**PROJECT TYPE:**

100% affordable, supportive/special needs, rental

**DEVELOPER:** Triple C Housing

**PROJECT ADDRESS:**

Wood Ave, North Brunswick Township, NJ 08902

**YEAR COMPLETED:** 2022

**TOTAL UNITS:** 2 units

**SELECTED FUNDING SOURCES:**

\$990,000 from National Housing Trust Fund (NHTF)

**DESCRIPTION:** Both units in this duplex have three bedrooms. This development provides permanent supportive housing for very low income residents who have experienced homelessness, with access to support services provided by Triple C Housing.

## ACTION STEPS

The Governor and Legislature have charted a clear new course for determining, planning for, and satisfying constitutional housing obligations throughout New Jersey for the Fourth Round. To ensure that effective municipal HEFSPs are prepared, discussed openly, adopted, timely filed with the state, reviewed, and certified by the state, and vigorously implemented, housing developers, advocates, and interested residents can and should take a variety of action steps, including:

- ✓ Encourage municipalities to plan for and satisfy their fair share housing obligations
- ✓ Meet with planners, planning board members, governing body members, and mayors to urge Mount Laurel compliance, propose options for municipal consideration, and offer cooperation, support, and partnerships
- ✓ Attend and participate at local public meetings, information sessions, and hearings on housing planning, particularly the municipal decision due by January 31, 2025 on the municipal fair share determination and commitment to adopt a HEFSP as well as subsequent meetings and hearings leading up to the adoption of the HEFSP by June 30, 2025
- ✓ Inquire about municipal fair share housing obligations and how and when the municipality intends to comply

- ✓ Request that drafts of housing plans be available for public review and comments, and be posted on municipal websites
- ✓ Participate at required planning board and governing body public hearings on consideration of proposed Fourth Round HEFSPs
- ✓ Pursue opportunities for municipally-sponsored affordable housing development with nonprofit partners
- ✓ Encourage municipalities to establish realistic timetables for actually getting affordable housing built
- ✓ Encourage municipalities to invest local affordable housing trust funds in projects to produce affordable housing, with bonding if necessary to ensure projects are realistic

***If the municipality has in fact provided a realistic opportunity for the construction of its fair share ..., it has met the Mount Laurel obligation ..., if it has not, then it has failed to satisfy it.***

***— Mount Laurel II,  
92 N.J. 222-223***

- ✓ Encourage municipalities to provide incentives to reduce the costs of and increase the likelihood of developing affordable housing, such as waivers or reductions of municipal fees, early and truly expedited processing of development applications by planning boards and zoning boards of

adjustment, use of local housing trust funds, payments in lieu of taxes (PILOTs), and timely triggers for municipal resolutions of intent to bond if other public subsidies are not available or sufficient

- ✓ Encourage municipalities to meet the deadlines established by the 2024 amendments to the Fair Housing Act, in order to advance the production of needed affordable housing, while preserving immunity and retaining municipal flexibility in planning choices
- ✓ Monitor the review of HEFSPs by the state through the Affordable Housing Dispute Resolution Program and county-level housing judges
- ✓ Object, if necessary, and challenge unrealistic, insufficient, and inadequate provisions of adopted housing elements and fair share plans filed with the state and participate, with the assistance of legal counsel, in mediation before the Affordable Housing Dispute Resolution Program and declaratory judgment proceedings before county-level housing judges





# IMPACT OF AFFORDABLE HOUSING ON COMMUNITIES AND PEOPLE'S LIVES

A rigorous Princeton University study of a 100% affordable housing development completed in 2000 in suburban New Jersey found that affordable housing in communities of higher opportunity had dramatic positive impacts on residents' mental health, personal safety, and economic independence.

Children had more parental support for academics, could study more per week with a quiet place to study, experienced less school disorder and violence, and attended better, more competitive schools.

These housing opportunities had no adverse effect on crime in the community, municipal property taxes, property values in the community, and specifically property values in adjacent neighborhoods.[6]



## CONCLUSION

New Jersey's Mount Laurel Doctrine distinguishes the state as a national leader in producing affordable housing and breaking down the barriers of exclusionary zoning.

After nearly a decade of progress and housing production since *Mount Laurel IV*, the Fourth Round of fair share housing obligations and implementation is about to begin, with a new path towards renewed and widespread compliance established in the 2024 amendments to the Fair Housing Act.

New Jersey's affordable housing needs are significant throughout the state, in all types of communities, but the new law provides important opportunities to realize the vision of the Mount Laurel Doctrine and the Fair Housing Act.

# ADDITIONAL RESOURCES

- New Jersey Fair Housing Act (codified and incorporating P.L. 2024, c. 2)
- P.L. 2024, c. 2 (Assembly Bill 4/Senate Bill 50)
- Fair Share Housing Center, “NJ’s New Affordable Housing Law, *Assembly Bill 4/Senate Bill 50*,” July 2024 [https://www.fairsharehousing.org/wp-content/uploads/2024/08/NJs-New-Affordable-Housing-Law\\_Fact-Sheet\\_Fair-Share-Housing-Center\\_July-2024.pdf](https://www.fairsharehousing.org/wp-content/uploads/2024/08/NJs-New-Affordable-Housing-Law_Fact-Sheet_Fair-Share-Housing-Center_July-2024.pdf)
- COAH Third Round Substantive Rules, N.J.A.C. 5:97 (2008)
- Fourth Round Municipal Fair Share Housing Obligations, 2025-2035, New Jersey Department of Community Affairs, October 2024
- *Complete Guide to Planning in New Jersey*, Fourth Edition, 2018, Carlos Rodriguez, PP/FAICIP, editor, American Planning Association, New Jersey Chapter, particularly the chapters on State Development and Redevelopment Plan, Municipal Land Use Law, Fair Housing Act, and Local Redevelopment and Housing Law; available at: <https://njplanning.org/complete-guide-to-planning-in-new-jersey/>
- Stan Slachetka and David G. Roberts, *The Redevelopment Handbook, A Guide to Rebuilding New Jersey’s Communities*, Third Edition, 2024, prepared for New Jersey Department of Community Affairs and the American Planning Association-New Jersey Chapter; available at <https://www.amazon.com/Redevelopment-Handbook-Rebuilding-Jerseys-Communities/dp/B0DJHCKX8J> at: <https://njplanning.org/>

# CITATIONS

- [1] The Affordable Housing Professionals of New Jersey annually calculates and publishes on its website household income limits using the methodology previously used by COAH: <https://ahpnj.org/resources/income-limits-rental-increases>
- [2] Analysis of US HUD Consolidated Planning/CHAS data based on 2017-2021 American Community Survey (ACS) 5-year estimates by the US Census Bureau.
- [3] US Census Bureau, 2023 American Community Survey 1-year estimates
- [4] Analysis of US HUD Consolidated Planning/CHAS data based on 2017-2021 American Community Survey (ACS) 5-year estimates by the US Census Bureau.
- [5] Mount Laurel II, 92 N.J. 222-223.
- [6] Douglas S. Massey, et al., *Climbing Mount Laurel: The Struggle for Affordable Housing and Social Mobility in an American Suburb*, Princeton University Press, 2013.