



# Introduction to the New Jersey Council on Affordable Housing



Supporting Development at the State Level  
Chicago, Illinois  
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# Mount Laurel and Affordable Housing Timeline

- 1971 - Southern Burlington County NAACP sued the Township of Mount Laurel for exclusionary zoning
  - 1975 – *Mount Laurel I* – NJ Supreme Court ruled that municipalities have a constitutional obligation to provide for the construction of low- and moderate-income housing.
  - Southern Burlington County NAACP again sued Mount Laurel for failing to create realistic opportunities for affordable housing
  - 1983 - NJ Supreme Court unanimously reaffirmed *Mount Laurel* doctrine
    - Directed 3 special trial courts to manage Mount Laurel litigation
    - Authorized the use of the builder's remedy
    - Encouraged legislative action
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# Mount Laurel and Affordable Housing Timeline

- 1985 – State Legislature adopted the Fair Housing Act (FHA), establishing the Council on Affordable Housing (COAH).
- COAH developed two sets of rules that assigned each municipality an affordable housing obligation:
  - First round: 1987 to 1993
  - Second round: Cumulative 1987 to 1999
- Prior methodologies were developed using population, employment, and economic growth projections. These projections formed the basis for each municipality's affordable housing obligation.



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# The Council on Affordable Housing

- Council consists of 12 members appointed by the Governor
- COAH is empowered to:
  - ❑ Define housing regions
  - ❑ Estimate low and moderate income housing needs
  - ❑ Set criteria and guidelines for municipalities to determine and address their fair share numbers
  - ❑ Review and approve:
    - Housing elements and fair share plans
    - Regional contribution agreements
    - Development fees



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# The Council on Affordable Housing

- COAH is an administrative and regulatory organization
  - COAH does not produce or fund affordable housing
  - COAH cannot compel municipalities to expend local funds to build affordable housing
  - The COAH process is voluntary
  - Benefits of COAH:
    - Protection from exclusionary zoning lawsuits
    - Many choices in how to address the affordable housing obligation
    - Opportunity to engage in pro-active planning
    - Priority access to state affordable housing funds
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# Amendments to State Fair Housing Act

- Signed by the Governor on July 17, 2008. Provides significant housing reform and amends FHA.
  - Eliminates Regional Contribution Agreements
  - Establishes requirement for very-low income housing
  - Imposes a Statewide 2.5% non-residential development fee - Municipalities under COAH's jurisdiction or with Court may keep non-residential fees in own trust fund
  - New role for 5 regional planning entities to plan for affordable housing based on infrastructure and transportation (exception for Urban Aid municipalities or Abbott Districts); requires 20% set-aside
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# COAH Regulations

- Third round regulations adopted December 20, 2004 and revised June 2, 2008, consist of:
  1. Growth Share (1999 – 2018)
  2. Rehabilitation Share (2000)
  3. Prior Round Obligation (1987 – 1999)



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## Growth Share (1999 – 2018)

- Municipalities are provided household and employment projections and must provide a realistic opportunity to provide affordable housing based on a percentage of this anticipated future residential and non-residential growth.
  - Actual growth, based on certificates of occupancy issued for residential and non-residential development, is measured from January 1, 2004 to December 31, 2018.
  - Affordable housing production must keep pace with actual growth
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## Growth Share (1999 – 2018) (cont.)

- Growth share ratios:
  - ❑ **Residential.** For every four market-rate units built in a municipality, one affordable housing unit must be provided.
  - ❑ **Non-residential.** For every 16 jobs created, one affordable unit must be provided. Job growth is measured by square feet of non-residential construction.
  - ❑ Add residential and non-residential to arrive at total growth share obligation.



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# COAH Process

- Municipality adopts Housing Element and Fair Share Plan to meet fair share of affordable housing and petitions COAH for substantive certification
- Interested public given reasonable opportunity to comment on or object to plan
- Any objections are resolved through mediation with a professional COAH mediator



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## COAH Process (cont.)

- COAH makes the decision to certify, certify with conditions or deny a municipality's petition for substantive certification.
- Substantive certification lasts 10 years.
- Municipality adopts the required ordinances and implements affordable housing plan, COAH monitors



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# Funding Options

- Development fees – Over \$264 million in municipal funds statewide
    - 1.5% of equalized assessed value (EAV) for residential construction
    - 2.5% of EAV for non-residential construction (PL 2008, c.46. Only towns in compliance with COAH may retain fees)
  - Payments in lieu of construction
  - State Balanced Housing program – provides average subsidies of \$65,000 per unit
  - LIHTC program – biannual allocations – recently allocated \$10.6 million for 420 units
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# Municipal Fair Share Plan

- Plan may seek credit for existing affordable housing and include proposals for additional units
  - Units must be deed restricted and affirmatively marketed
  - There are requirements for rental, family, and very low income housing. Age-restricted and special needs housing are also eligible for credit.
  - Units can be provided in inclusionary developments, 100% affordable developments, supportive housing arrangements, through the purchase, deed restriction, and resale or rental of existing market rate housing, the creation of accessory apartments, and in redevelopment areas.
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# Inclusionary Zoning

- ❑ Zoning which provides an incentive to the developer to induce production of affordable housing
- ❑ Municipal ordinance sets presumptive densities and set-asides
- ❑ Ordinance requires consideration of bulk standard relief, clustering, reduced setbacks and increased building heights.
- ❑ To encourage rental units, presumptive density is 12 units/acre and maximum 20% set-aside.



# Inclusionary Zoning/Presumptive Densities

- PA1 – 8 units/acre with a 25% maximum set-aside
- PA2 and Designated Centers –  
6 units/acre with a 25% maximum set-aside
- In Existing/Proposed Sewer Service Areas outside  
of PA1&2- 4 units/acre with a 25% maximum set-aside
- Outside of Sewer Service Areas and in PA3, 4 or 5 –  
40% increase in existing zoning with a 20% maximum set-aside
- In Urban Centers –  
22 units/ acre with a 20% maximum set-aside



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## Current Plans

- More than 250 municipalities have petitioned for third round substantive certification since December of 2008; 50 more Highlands communities have committed to come into the process next year
  - To date 18 communities have received certification of their Housing Element and Fair Share Plans
  - Since 1985, over 56,000 units have been constructed and over 22,000 rehabilitated
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# Contact Information

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