

Chapter 5:97

with amendments through April 6, 2009



NEW JERSEY COUNCIL ON AFFORDABLE HOUSING

Established 1985

Third Round Substantive Rules

CHAPTER 97
SUBSTANTIVE RULES OF
THE NEW JERSEY COUNCIL ON AFFORDABLE HOUSING
FOR THE PERIOD BEGINNING

June 2, 2008

with amendments through April 6, 2009

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CHAPTER 97
SUBSTANTIVE RULES OF
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FOR THE PERIOD BEGINNING
June 2, 2008

SUBCHAPTER 1. GENERAL PROVISIONS

5:97-1.1 Introduction

- (a) The New Jersey Supreme Court stated in *Southern Burlington County NAACP v. Mt. Laurel*, 92 N.J. 158, 238 (1983) (*Mount Laurel II*): “There is nothing in our Constitution that says that we cannot satisfy our constitutional obligation to provide lower income housing and, at the same time, plan the future of the state intelligently.” The Council’s third round rules in this chapter implement a “growth share” approach to affordable housing by linking the actual production of affordable housing with municipal development and growth. The Council believes that this approach will hew more closely to the doctrinal underpinning of *Southern Burlington County NAACP v. Mt. Laurel*, 67 N.J. 151 (1975) (*Mount Laurel*) in that municipalities will provide a realistic opportunity for construction of a fair share of low- and moderate-income housing based on sound land use and long range planning.
- (b) *In the Matter of the Adoption of N.J.A.C. 5:94 and 5:95*, 390 N.J. Super. 1, 56 (App. Div. 2007), *certif. denied* 192 N.J. 72 (2007), the New Jersey Appellate Division stated that, “If municipalities with substantial amounts of vacant land and access to infrastructure can decide for themselves whether and how much to grow, it is highly likely that housing opportunity will fall far short of identified housing need.” Therefore, the revised growth share approach relies in part on independent household and employment growth projections, which each municipality will utilize in its long range planning for affordable housing.
- (c) The Council’s “growth share” methodology requires that each municipality’s provision of affordable housing coincide with its obligation generated by actual residential and non-residential growth. Because each municipality must also develop a plan to address its growth share obligation based on the Council’s established projections, the realistic opportunity for affordable housing will address the overall need estimated by the Council, through this combined approach.
- (d) There are three components to the third round Methodology: the rehabilitation share, the prior round obligation, and the “growth share.” Growth share is generated by Statewide residential and non-residential growth during the period January 1, 2004 to December 31, 2018 based on individuals projected to need affordable housing from 1999 through 2018. As a result, for every five residential units constructed, the municipality shall be obligated to include one unit that is affordable to households of low or moderate income (one affordable unit for every four market rate units). Job creation carries a responsibility to provide housing as well. For every 16 newly created jobs as measured by new or expanded non-residential construction within the municipality in accordance with chapter Appendix D, incorporated herein by reference, the municipality shall be obligated to

provide one unit that is affordable to households of low- and moderate-income. This method requires that municipalities meet the actual growth share obligation with not merely a good faith attempt, but with the actual provision of housing for low- and moderate-income households, while continuing to provide a realistic opportunity for affordable housing to address the projected growth share obligation.

5:97-1.2 Short title; purpose; scope

- (a) The provisions of this chapter shall be known as the “Substantive Rules of the New Jersey Council on Affordable Housing for the Period Beginning on June 2, 2008.
- (b) The purpose of this chapter is to establish criteria to be used by municipalities in determining and addressing their 1987 through 2018 constitutional obligation to provide a fair share of affordable housing for low- and moderate-income households.
- (c) All municipalities within the jurisdiction of the Council are subject to evaluation in accordance with the provisions of this chapter.
- (d) A municipality’s Fair Share Plan to address its 1987 through 2018 obligation shall be governed by the provisions of this chapter as follows:
 - 1. A municipality’s rehabilitation share shall be subject to the provisions of N.J.A.C. 5:97-6.2 and 6.3.
 - 2. All built and/or created units shall be subject to the provisions of N.J.A.C. 5:97-4.
 - 3. All proposed units shall be subject to the provisions of N.J.A.C. 5:97-6.

5:97-1.3 Severability

If any part of this chapter shall be held invalid, the holding shall not affect the validity of remaining parts of this chapter. If a part of this chapter is held invalid in one or more of its applications, the rules shall remain in effect in all valid applications that are severable from the invalid application.

5:97-1.4 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

“Accessory apartment” means a self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is created within an existing home, or through the conversion of an existing accessory structure on the same site, or by an addition to an existing home or accessory building, or by the construction of a new accessory structure on the same site.

“Act” means the Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.).

“Adaptable” means constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

“Adjustment” means the application of the Council’s rules which, based on other limitations and/or methodological corrections, may reduce or defer a municipality’s prior round obligation or reduce a municipality’s 2004 through 2018 household and employment projections, pursuant to N.J.A.C. 5:97-5.

“Affirmative marketing” means a regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

“Affordability assistance” means the use of funds to render housing units more affordable to low- and moderate-income households, pursuant to N.J.A.C. 5:97-8.8.

“Affordable” means a sales price or rent within the means of a low or moderate income household as defined in N.J.A.C. 5:97-9.

“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 development.

“Affordable housing partnership program” means a voluntary agreement by which two or more municipalities cooperate to build low- and moderate-income housing units pursuant to N.J.A.C. 5:97-6.13.

“Affordable unit” means a housing unit proposed or created pursuant to the Act, credited pursuant to N.J.A.C. 5:97-4, and/or funded through an affordable housing trust fund.

“Agency” means the New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1 et seq.).

“Age-restricted housing” means a housing unit that is designed to meet the needs of, and is exclusively for, an age-restricted segment of the population such that:

1. All the residents of the development where the unit is situated are 62 years or older;
2. At least 80 percent of the units are occupied by one person that is 55 years or older; or
3. The development has been designated by the Secretary of HUD as “housing for older persons” as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. §§ 3607.

“Assisted living residence” means a facility licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor. Apartment units offer, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

“Assisted living services” means a coordinated array of supportive personal and health services, available 24 hours per day. Assisted living promotes resident self-direction and participation in decisions that emphasize independence, individuality, privacy and dignity in a homelike surrounding.

“Barrier free escrow” means the holding of funds collected to adapt affordable unit entrances to be accessible in accordance with P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.). Such funds must be held in a municipal affordable housing trust fund pursuant to N.J.A.C. 5:97-8.

“Calculated need” means the remaining obligation resulting from the subtraction of any adjustments, credits, or bonuses that were included in a municipality’s first round certified plan to address the 1987 through 1993 affordable housing obligation, from the prior round obligation.

“Conversion” means the conversion of existing commercial, industrial or residential structures for affordable housing purposes.

“Council” means the New Jersey Council on Affordable Housing established under the Act which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning considerations in the State.

“Credits” means built units, corresponding bonus credits for built units, units transferred to another municipality within the housing region pursuant to the terms of a regional contribution agreement (RCA), and units that were rehabilitated subsequent to April 1, 2000, pursuant to N.J.A.C. 5:97-4.

“DCA” means the New Jersey Department of Community Affairs.

“Deficient housing unit” means a housing unit with health and safety code violations that require the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load bearing structural systems.

“DEP” means the New Jersey Department of Environmental Protection.

“Designated center” means a center that has been officially recognized as such by the State Planning Commission.

“Developer” means any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land proposed to be included in a proposed development including the holder of an option to contract or purchase, or other person having an enforceable proprietary interest in such land.

“Development” means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1 et seq.

“Development application” means the application form and all accompanying documents required by ordinance for approval of a subdivision plat, a site plan, planned development, conditional use, zoning variance or direction of the issuance of a permit pursuant N.J.S.A. 40:55D-34 or 36.

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

“Disabled person” means a person with a physical disability, infirmity, malformation or disfigurement which is caused by bodily injury, birth defect, aging or illness including epilepsy and any other seizure disorders, and which shall include, but not be limited to, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment or physical reliance on a service or guide dog, wheelchair, or other remedial appliance or device (N.J.S.A. 52:27D-304k).

“DOT” means the New Jersey Department of Transportation.

“Durational adjustment” means a deferral of the prior round or projected growth share obligation based on lack of infrastructure pursuant to N.J.A.C. 5:97-5.4.

“Elder cottage housing opportunities (ECHO) units” means modular, self-contained units, erected on sites containing an existing dwelling. ECHO units are restricted to individuals aged 55 years or older and/or people with disabilities.

“Endorsed plan” means a municipal, county or regional plan which has been approved by the State Planning Commission for plan endorsement as a result of finding it consistent with the State Development and Redevelopment Plan, pursuant to N.J.A.C. 5:85-7.

“Equalized assessed value (EAV)” means the assessed value of a property divided by the current equalization ratio for the municipality. Estimates at the time of building permit may be obtained by the tax assessor utilizing estimates for construction cost. Final equalized assessed value shall be determined at project completion by the municipal assessor.

“Fair share obligation” means the sum of each municipality’s 1999 through 2018 rehabilitation share as assigned in chapter Appendix B, incorporated herein by reference; the 1987 through 1999 prior round obligation as assigned in chapter Appendix C, incorporated herein by reference; and the 1999 through 2018 growth share obligation as determined in accordance with N.J.A.C. 5:97-2.

“Fair share round” means any one of three periods in time during which the Council has established municipal obligations to provide a fair share of affordable housing. The first fair share round includes the period 1987 through 1993. The second fair share round includes the first fair share round and adds the period 1993 through 1999. The third fair share round includes the first and second fair share rounds and adds the period from 1999 through 2018 for which municipal affordable housing needs are estimated, projected, actualized and/or addressed.

“Fair Share Plan” means the plan that describes the mechanisms and the funding sources, if applicable, by which a municipality proposes to address its affordable housing obligation as established in the Housing Element, includes the draft ordinances necessary to implement that plan, and addresses the requirements of N.J.A.C. 5:97-3.

“Family unit” means a self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is available to the general public and not restricted to any specific segment of the population.

“Farm labor housing” means housing constructed on a commercial farm as defined by the Right to Farm Act, N.J.S.A. 4:1C-1 et seq., for any person (and the family of such person) who receives a substantial portion of his or her income from primary production of agricultural or aquacultural commodities or the handling of such commodities in the unprocessed stage.

“Final approval” means the official action of the planning board taken on a preliminary approved major subdivision or site plan after all conditions, engineering plans and other requirements have been completed or fulfilled and the required improvements have been installed or guarantees properly posted for their completion, or approval conditioned upon the posting of such guarantees.

“Growth share” means the affordable housing obligation generated in each municipality by both residential and non-residential development from 2004 through 2018 and represented by a ratio of one affordable housing unit among five housing units constructed plus one affordable housing unit for every 16 newly created jobs as measured by new or expanded non-residential construction within the municipality in accordance with chapter Appendix D pursuant to the methodology detailed in N.J.A.C. 5:97-2.

“Gut rehabilitation” means the same as “reconstruction.”

“Household” means the person or persons occupying a housing unit.

“Household and employment growth projection” means an estimate of the housing unit and job growth anticipated in each municipality between 2004 and 2018 provided by the Council in chapter Appendix F, incorporated herein by reference.

“Household and employment growth projection adjustment” means an adjustment to the household and employment growth projections due to available land capacity, pursuant to N.J.A.C. 5:97-5.6.

“Housing Element” means the portion of a municipality’s master plan, required by the Municipal Land Use Law (MLUL), N.J.S.A.40:55D-28b(3) and the Act, that includes all information required by N.J.A.C. 5:97-2 and establishes the municipality’s fair share obligation.

“Housing region” means a geographic area, determined by the Council, of no less than two and no more than four contiguous, whole counties, which exhibits significant social, economic and income similarities and which constitutes, to the greatest extent practicable, a Primary Metropolitan Statistical Area (PMSA) as last defined by the United States Census Bureau.

“Implementation schedule” means a schedule, pursuant to N.J.A.C. 5:97-3.2(a)4 that sets forth a detailed timetable for units to be provided within the period of substantive certification that demonstrates “realistic opportunity” as defined under this section and a timetable for the submittal of all information and documentation required by N.J.A.C. 5:97-6.

“Inclusionary development” means a development containing both affordable units and market-rate units. This term includes, but is not necessarily limited to: new construction, the conversion of a non-residential structure to residential and the creation of new affordable units through the reconstruction of a vacant residential structure.

“Individuals with special needs” means individuals with mental illness, individuals with physical or developmental disabilities and individuals in other emerging special needs groups identified by State agencies, that are at least 18 years of age if not part of a household. Special needs populations also include victims of domestic violence; ex-offenders; youth aging out of foster care; individuals and households who are homeless; and individuals with AIDS/HIV.

“Judgment of compliance” means a determination issued by the Superior Court approving a municipality’s plan to satisfy its fair share obligation.

“Low income” means 50 percent or less of the median gross household income for households of the same size within the housing region in which the household is located, based upon the U.S. Department of Housing and Urban Development’s (HUD) Section 8 Income Limits (uncapped) averaged across counties for the housing region.

“Low income housing” means housing affordable according to Federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs and occupied or reserved for occupancy by households with a gross household income equal to 50 percent or less of the median gross household income for households of the same size within the housing region in which the housing is located.

“Major system” means the primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building which include but are not limited to,

weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement or load bearing structural systems.

“Market-rate units” means housing not restricted to low- and moderate-income households that may sell or rent at any price.

“Market to affordable program” means a program to pay down the cost of market-rate units and offer them in sound condition, for sale or rent, at affordable prices to low- and moderate-income households to address all or a portion of the fair share obligation.

“Medicaid waiver” means a term used to designate a form of insurance payment for certain assisted living care, health and medical services paid through the Enhanced Community Options (ECO) waiver program implemented in response to the Omnibus Budget Reconciliation Act (OBRA) of 1981, Section 2176, Public Law 97-35. The New Jersey Department of Health and Senior Services licenses Medicaid providers of assisted living services and allocates Medicaid waivers to specific licensed assisted living residences.

“Mixed use zone” means a zone that permits a combination of uses within a single development.”

“Moderate income” means more than 50 percent but less than 80 percent of the median gross household income for households of the same size within the housing region in which the household is located, based upon the U.S. Department of Housing and Urban Development’s (HUD’s) Section 8 Income Limits (uncapped) averaged across counties for the housing region.

“Moderate income housing” means housing affordable according to Federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs and occupied or reserved for occupancy by households with a gross household income equal to more than 50 percent but less than 80 percent of the median gross household income for households of the same size within the housing region in which the housing is located.

“Office of Smart Growth (OSG)” means the Office in the Department of Community Affairs that staffs the State Planning Commission and provides planning and technical assistance as requested.

“1,000-unit limitation” means a cap of the prior round or projected growth share obligation, pursuant to the Act, where no municipality shall be required to address its fair share beyond 1,000 units within 10 years from the grant of substantive certification.

“Order for repose” means the protection a municipality has from builder’s remedy lawsuits for a period of time from the entry of a judgment of compliance from the Superior Court. A judgment of compliance often results in an order for repose.

“Payment in lieu of constructing affordable units” means the payment of funds to the municipality by a developer when affordable units are not produced on a site zoned for inclusionary development.

“Permanent supportive housing” means a permanent lease based housing unit that provides access to supportive services for individuals with special needs and households with individuals with special needs who can benefit from housing with services.

“Petition for substantive certification” means a request made by municipal resolution which a municipality files, or is deemed to have filed in accordance with N.J.A.C. 5:96, which engages

the Council's review process seeking a determination as to whether the Housing Element and Fair Share Plan of the municipality are consistent with the Act and compliant with rules promulgated by the Council.

"Plan endorsement," "plan endorsement process" or "endorsement" means the process undertaken by a municipality, county or regional agency, counties and municipalities or any grouping thereof, to petition the State Planning Commission for a determination of consistency of the submitted planning documents with the State Development and Redevelopment Plan.

"Planning area" means an area defined by a set of common criteria that focus on the degree and type of development or natural resources. Planning areas serve as organizing mechanisms for growth and development planning throughout the State. This definition is in accord with and derived from the State Development and Redevelopment Plan.

"Post-1986 Credit" means a credit granted by the Council for eligible low and moderate income units, except for rehabilitated units, constructed on or after December 15, 1986.

"Potential growth share opportunities" means the difference between the projected growth share obligation resulting from the household and employment projections provided by the Council in chapter Appendix F and the projected growth share obligation resulting from a household and employment growth projection adjustment as determined pursuant to N.J.A.C. 5:97-5.6.

"Preliminary approval" means the conferral of certain rights pursuant to N.J.S.A. 40:55D-46, 40:55D-48, and 40:55D-49 prior to final approval after specific elements of a development have been agreed upon by the planning board and the applicant.

"Prior-cycle credit" means a credit granted by the Council for eligible low and moderate income units, except for rehabilitated units, constructed on or after April 1, 1980 and before December 15, 1986.

"Prior round obligation" means the cumulative 1987-1999 fair share obligation, which is displayed for each municipality in chapter Appendix C.

"Qualified non-profit" means an organization granted non-profit status in accordance with Section 501(c)(3) of the Internal Revenue Service code.

"RCA Project Plan" means a completed application, submitted by the receiving municipality in an RCA, delineating the manner in which the receiving municipality shall create or rehabilitate low- and moderate-income housing.

"Realistic opportunity" means a reasonable likelihood that the affordable housing in a municipality's Housing Element and Fair Share Plan will actually be constructed or provided during the 10-year period of certification based upon a careful analysis of the elements in the municipality's plan, including the financial feasibility of each proposed mechanism and the suitability of specific sites as set forth in N.J.A.C. 5:97-3.13.

"Realistic development potential (RDP)" means the portion of the prior round affordable housing obligation that can realistically be addressed with inclusionary development, as determined by the Council through a vacant land adjustment pursuant to N.J.A.C. 5:97-5.2.

"Recapture funds" means funds collected by the municipality upon the first non-exempt sale of an affordable unit after the expiration of the control period pursuant to the terms of a lien or mortgage note.

“Receiving municipality” means, for the purposes of an RCA, a municipality that contractually agrees to assume a portion of another municipality’s fair share obligation.

“Reconstruction” means any project where the extent and nature of the work is such that the work area cannot be occupied while the work is in progress and where a new certificate of occupancy is required before the work area can be reoccupied, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6. Reconstruction shall not include projects comprised only of floor finish replacement, painting or wallpapering, or the replacement of equipment or furnishings. Asbestos hazard abatement and lead hazard abatement projects shall not be classified as reconstruction solely because occupancy of the work area is not permitted.

“Redevelopment” means planning and construction activities designed to build, conserve or rehabilitate structures, sites and improvements in accordance with a redevelopment plan pursuant to N.J.S.A. 40A:12A-3 of the Local Redevelopment and Housing Law.

“Redevelopment agency” means a municipal redevelopment agency created pursuant to N.J.S.A. 40A:12A-11 of the Local Redevelopment and Housing Law or pursuant to N.J.S.A. 40:55c-1 et seq. (repealed).

“Redevelopment area” or “area in need of redevelopment” means an area determined to be an area in need of redevelopment pursuant to N.J.S.A. 40A:12A-5 and 6 of the Local Redevelopment and Housing Law.

“Redevelopment plan” means a plan adopted by the governing body of a municipality for the redevelopment or rehabilitation of all or any part of a redevelopment area or rehabilitation area pursuant to N.J.S.A. 40A:12A-7 of the Local Redevelopment and Housing Law.

“Regional asset limit” means the maximum housing value, in each housing region, affordable to a four-person household with an income at 80 percent of the regional median as defined by the Council’s adopted Regional Income Limits as published annually by the Council.

“Regional Contribution Agreement (RCA)” means a contractual agreement, pursuant to the Act, into which two municipalities voluntarily enter to transfer a portion of a municipality’s fair share obligation to another municipality within its housing region.

“Rehabilitation” means the repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

“Rehabilitation area” or “area in need of rehabilitation” means an area determined to be in need of rehabilitation pursuant to N.J.S.A. 40A:12A-14 of the Local Redevelopment and Housing Law.

“Rehabilitation share” means the number of deficient housing units occupied by low- and moderate-income households within a municipality, established in chapter Appendix B that must be addressed in a Fair Share Plan.

“Residential health care facility” means a facility licensed and/or regulated by the New Jersey Department of Health and Senior Services or the Department of Community Affairs, that provides food, shelter, supervised health care and related services to four or more persons 18 years of age or older who are unrelated to the owner or administrator.

“Section 8 income limits” means a schedule of income limits according to Federal Department of Housing and Urban Development standards that define 50 percent and 80 percent of median

income by household size. When used in this chapter, Section 8 income limits shall refer to the “uncapped” schedule as published by the Council, in accordance with its rules.

“Sending municipality” means, for purposes of an RCA, a municipality that contractually agrees to transfer a portion of its fair share obligation to another willing municipality.

“Set-aside” means the percentage of housing units devoted to low- and moderate-income households within an inclusionary development.

“Sewer capacity” means the ability to treat and dispose of all sewage generated from a site by means of public or private, off-site or on-site facilities that are consistent with the areawide water quality management plan (including the wastewater management plan), or with an amendment to the areawide water quality management plan submitted to and under review by DEP, as applicable.

“Site control” means the demonstration that a developer or municipality maintains outright ownership of a site, a contract to purchase or an option on the property.

“State Development and Redevelopment Plan” means the plan prepared and adopted by the State Planning Commission pursuant to the State Planning Act, P.L. 1985, c. 398 (N.J.S.A. 52:18A-196 et seq.).

“Substantive certification” means a determination by the Council approving a municipality’s Housing Element and Fair Share Plan in accordance with the provisions of the Act, this chapter and N.J.A.C. 5:96. A grant of substantive certification may run for a period of 10 years beginning on the date that a municipality files its Housing Element and Fair Share Plan with the Council in accordance with N.J.S.A. 52:27D-313, but shall not extend beyond December 31, 2019.

“Suitable site” means a site that has clear title and is free of encumbrances which preclude development of affordable housing; is adjacent to compatible land uses; has access to appropriate streets, water and sewer infrastructure; can be developed consistent with the Residential Site Improvement Standards and the rules or regulations of all agencies with jurisdiction over the site; and is consistent with the site suitability criteria delineated in N.J.A.C. 5:97-3.13. A site may be deemed suitable although not currently zoned for affordable housing.

“Supportive and special needs housing” means a structure or structures in which individuals or households reside, as delineated in N.J.A.C. 5:97-6.10, previously referred to as alternative living arrangements.

“Supportive shared living housing” means permanent lease based supportive housing that provides access to supportive services to individuals with special needs who maintain separate leases for bedrooms and share common living space.

“Townhouse” shall mean a single family attached dwelling unit as defined in the Barrier Free Subcode of the Uniform Construction Code, N.J.A.C. 5:23-7.

“Transitional housing” means housing with on-site or off-site supportive services that facilitate the movement of individuals and families, who are homeless or lack stable housing to permanent housing, within a fixed amount of time, generally up to 24 months.

“Transit oriented development (TOD)” means individual development(s) located within a one-quarter-mile radius to one-half-mile radius (an average 1,000 to 2,000-foot or five to 10 minutes

walking distance) of a transit station (bus, train, light rail or ferry) within a larger, pedestrian-friendly, transit-supportive neighborhood core/center. A TOD is usually characterized by a mix of uses, compact, higher densities than typical development and designed using transit-supportive site design guidelines.

“20-percent cap” means a cap of the prior round affordable housing obligation, due to limited housing stock, pursuant to N.J.A.C. 5:97-5.5.

“UHAC” means the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.

“Unmet need” means the difference between the prior round affordable housing obligation and the realistic development potential (RDP) as determined pursuant to N.J.A.C. 5:97-5.2.

“Urban center” means a city of Statewide importance, designated as an Urban Center by the State Planning Commission. An Urban Center is a large settlement that has a high intensity of population and mixed land uses, including industrial, commercial, residential and cultural uses, the historical foci for growth in the major urban areas of New Jersey.

“Vacant land adjustment” means an adjustment to the prior round affordable housing obligation due to available land capacity, pursuant to N.J.A.C. 5:97-5.1 and 5.2.

“Very low income” means 30 percent or less of the median gross household income for households of the same size within the housing region in which the household is located, based upon the U.S. Department of Housing and Urban Development’s (HUD) Section 8 Income Limits (uncapped) averaged across counties for the housing region.

“Very low income housing” means housing affordable according to Federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs and occupied or reserved for occupancy by households with a gross household income equal to 30 percent or less of the median gross household income for households of the same size within the housing region in which the housing is located.

“Water capacity” means the ability to provide adequate potable water to a site from a public or private, off-site or on-site source of supply, in a manner consistent with all applicable regulations.

“Weatherization” means building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for rehabilitation.

“Workforce housing census tracts” means census tracts where 15 percent or more of the population falls below the Federal poverty level.

SUBCHAPTER 2. PREPARING A HOUSING ELEMENT AND DETERMINING MUNICIPAL FAIR SHARE OBLIGATION

5:97-2.1 General

- (a) The Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., requires a municipal master plan to include a Housing Element. A municipality's Housing Element shall be designed to achieve the goal of providing affordable housing to meet the fair share obligation, by demonstrating that existing zoning or planned changes in zoning provide adequate capacity to accommodate household and employment growth projections. The Housing Element shall be adopted by the planning board and endorsed by the governing body prior to the municipal filing pursuant to N.J.A.C. 5:96-2 or the municipal petition for substantive certification pursuant to N.J.A.C. 5:96-3.
- (b) The Housing Element sets forth the municipal fair share obligation. All components of a Housing Element shall be in accordance with the standards established by this subchapter and the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. The contents of a Fair Share Plan describing how the municipality intends to address the obligation determined in its Housing Element are described in N.J.A.C. 5:97-3.

5:97-2.2 Determining the fair share obligation

- (a) The need for affordable housing in the State, and in each of the State's six housing regions, is determined on a municipal basis as explained in chapter Appendix A, incorporated herein by reference, and is the sum of:
 - 1. The rehabilitation share;
 - 2. The prior round obligation; and
 - 3. The growth share.
- (b) The rehabilitation share for affordable housing is the number of existing housing units as of April 1, 2000 that are both deficient and occupied by households of low or moderate income as determined through the methodology provided in chapter Appendix B. Each municipality's rehabilitation share is displayed in Appendix B.
- (c) The prior round obligation is the cumulative 1987 through 1999 fair share obligation, which is displayed for each municipality in chapter Appendix C.
- (d) The growth share for the period January 1, 2004 through December 31, 2018 shall initially be calculated based on projections. Projections of household and employment growth shall be converted into projected growth share affordable housing obligations by applying a ratio of one affordable unit among five residential units projected, plus one affordable unit for every 16 newly created jobs projected. The household and employment projections provided for each municipality in chapter Appendix F are based on New Jersey Department of Labor and Workforce Development county projections, which are allocated to the municipal level based on historical trends for each municipality and the extent to which each municipality approaches its physical growth capacity. Alternatively, a municipality may utilize its own growth projections to calculate the growth share pursuant to N.J.A.C. 5:97-2.3(d), provided the municipal projections exceed the projections in Appendix F. A municipality with insufficient

vacant land may request an adjustment to the projections in Appendix F, pursuant to N.J.A.C. 5:97-5.6.

- (e) The actual growth share obligation shall be based on permanent certificates of occupancy issued within the municipality for market-rate residential units and newly constructed or expanded non-residential developments in accordance with chapter Appendix D. Affordable housing shall be provided in direct proportion to the growth share obligation generated by the actual growth. However, if the actual growth share obligation is less than the projected growth share obligation, the municipality shall continue to provide a realistic opportunity for affordable housing to plan for the projected growth share through inclusionary zoning or any of the mechanisms permitted by N.J.A.C. 5:97-6. The municipality may submit an implementation schedule as detailed in N.J.A.C. 5:94-3.2(a) that sets forth a detailed timetable for affordable units to be provided within the period of substantive certification that demonstrates realistic opportunity and a timetable for the submittal of all information and documentation required for each mechanism. The implementation schedule shall consider the economic viability of the proposed mechanism, including the availability of public subsidies, development fees and other sources of financing. Although the overall Statewide and regional need calculations are figured from the last year of the prior round (1999) to the last year of the new round (2018), the municipality's portion of the statewide need is compressed into a delivery period that runs from January 1, 2004 to December 31, 2018.

5:97-2.3 Content of a Housing Element

- (a) The Housing Element submitted to the Council shall include:
 - 1. The minimum requirements prescribed by N.J.S.A 52:27D-310;
 - 2. The household projection for the municipality as provided in chapter Appendix F;
 - 3. The employment projection for the municipality as provided in Appendix F;
 - 4. The municipality's prior round obligation (from chapter Appendix C);
 - 5. The municipality's rehabilitation share (from chapter Appendix B); and
 - 6. The projected growth share in accordance with the procedures in N.J.A.C. 5:97-2.4.
- (b) Supporting information to be submitted with the Housing Element shall include:
 - 1. A copy of the most recently adopted municipal zoning ordinance; and
 - 2. A copy of the most up-to date tax maps of the municipality, electronic if available, with legible dimensions.
- (c) The municipality shall submit any other documentation necessary to facilitate the review of the municipal Housing Element as requested by the Council.
- (d) As an alternate to the household and employment projections required by (a)2 and 3 above, a municipality may rely upon its own household and employment growth projections, provided the total growth share resulting from the municipal household and employment growth projections exceeds the total growth share resulting from the household and employment growth projections provided in Appendix F.

1. The alternate projection of the municipality's probable future construction of housing for 15 years covering the period January 1, 2004 through December 31, 2018 shall consider the following minimum information for residential development:
 - i. Certificates of occupancy issued since January 1, 2004;
 - ii. Pending, approved and anticipated applications for development; and
 - iii. Historical trends of at least the past 10 years, which includes certificates of occupancy issued.
2. The alternate projection of the probable future jobs based on the use groups outlined in chapter Appendix D for 15 years covering the period January 1, 2004 through December 31, 2018 for the municipality shall consider the following minimum information for non-residential development:
 - i. Square footage of new or expanded non-residential development authorized by certificates of occupancy issued since January 1, 2004;
 - ii. Square footage of pending, approved and anticipated applications for development;
 - iii. Historical trends, of, at least, the past 10 years, which shall include the square footage authorized by certificates of occupancy issued; and
 - iv. Demolition permits issued and projected.

5:97-2.4 Projecting the growth share obligation

- (a) A municipality shall determine the residential component of its projected growth share obligation for the period January 1, 2004 to December 31, 2018 based on the household projections provided in chapter Appendix F, unless municipal projections are utilized pursuant to N.J.A.C. 5:97-2.3(d). If municipal projections are utilized, the growth share obligation shall be determined pursuant to the procedures in N.J.A.C. 5:97-2.5(a) through (c).
 1. In determining its projected residential growth share obligation, a municipality may subtract the following from its household projection:
 - i. Affordable housing units that received credit in a first or second round certified plan or a court judgment of compliance which have been or are projected to be constructed after January 1, 2004; and
 - ii. Market-rate units in an inclusionary or mixed-use development where these affordable housing units received credit in a first or second round certified plan or a court judgment of compliance or are eligible for credit pursuant to N.J.A.C. 5:97-4 toward a municipality's prior round obligation, which have been or are projected to be constructed after January 1, 2004, provided these sites are zoned to produce affordable housing units. The Council shall assume, for crediting purposes, that market-rate units are constructed at a rate of four times the number of affordable units (this is a 20 percent set-aside) constructed on that particular site or constructed off-site but within the municipality, unless

the municipality demonstrates to the Council that a lower set-aside percentage was used to produce the affordable units using the gross density and set-aside standards or the set-aside standards for constructing affordable rental units pursuant to N.J.A.C. 5:97-6.4(b)3iii. A municipality shall not receive an exclusion of market-rate units from residential growth at a rate above 5.67 times the number of affordable units (this is a 15 percent set-aside constructed on that particular site or constructed off-site but within the municipality).

2. After subtracting any exclusions permitted in (a)1 above, the municipality shall have an obligation of one affordable housing unit among five residential units projected to be constructed. For the purpose of calculating the projected growth share obligation, the municipality shall divide the resulting total units by five. The projected residential growth share obligation shall not go below zero.
- (b) A municipality shall determine the non-residential component of its projected growth share obligation for the period January 1, 2004 to December 31, 2018 based on the employment projections provided in Appendix F, unless municipal projections are utilized pursuant to N.J.A.C. 5:97-2.3(d). If municipal projections are utilized, the growth share obligation shall be determined pursuant to N.J.A.C. 5:97-2.5(a) through (c).
1. In determining its projected non-residential growth share obligation, a municipality may fully or partially subtract from its employment projection, non-residential development that, as a condition of preliminary or final site plan approval granted prior to January 1, 2004 or as a stipulation included in a developer's agreement executed prior to January 1, 2004, was required to specifically address a portion of a municipality's first or second round obligation or an obligation determined by the court. Such non-residential development may be excluded at a rate of 16 jobs for every one affordable unit addressed within the municipality as measured by new or expanded non-residential construction. Jobs shall be measured by use group pursuant to chapter Appendix D.
 2. After subtracting any exclusions permitted in (b)1 above, the municipality shall have an obligation of one affordable housing unit for every 16 jobs projected. For the purpose of calculating the growth share obligation, the municipality shall divide the resulting total jobs by 16. The projected non-residential growth share obligation shall not go below zero.
- (c) The projected residential growth share obligation calculated pursuant to (a) above shall be added to the projected non-residential growth share obligation calculated pursuant to (b) above to determine a total projected growth share obligation.

5:97-2.5 Measuring the actual growth share obligation

- (a) A municipality's actual residential growth share obligation shall be measured based upon permanent market-rate residential certificates of occupancy issued within the municipality between January 1, 2004 and December 31, 2018.
1. In determining the actual residential growth share obligation, the following may be subtracted from the number of market rate certificates of occupancy issued:

- i. Units included in the exclusions permitted by N.J.A.C. 5:97-2.4(a)1ii that have been issued certificates of occupancy;
 - ii. Certificates of occupancy issued for continuing care retirement communities, dormitories, hotels and motels classified as R1 or R2 by the Uniform Construction Code (UCC). These certificates of occupancy shall be included in the non-residential growth share obligation calculated pursuant to (b) below;
 - iii. Certificates of occupancy issued for graduate student housing owned and/or operated by an institution of higher education and farm labor housing constructed on a commercial farm as defined by the Right to Farm Act, N.J.S.A. 4:1C-1 et seq., and classified as R2, R3, or R5 by the Uniform Construction Code (UCC);
 - iv. Additional market-rate rental units in an inclusionary or mixed-use development pursuant to N.J.A.C. 5:97-6.4(b)6ii where the affordable housing units are rental units that are addressing a municipality's growth share obligation; and
 - v. Certificates of occupancy issued for owner-occupied residential structures that have been issued a demolition permit provided the unit for which the demolition permit has been issued was occupied by its current owner for at least one year prior to the demolition and no change in use has occurred. Municipalities with an approved residential development fee ordinance that choose to subtract these units from actual growth shall impose a development fee pursuant to N.J.A.C. 5:97-8.3(c) based on the increase in equalized assessed value that results from re-construction, but shall exempt reconstruction that results from fire, flood or natural disaster.
2. After subtracting any exclusions permitted in (a)1 above, the municipality shall have an obligation of one affordable housing unit for every four market-rate residential units constructed. For the purpose of calculating the growth share obligation, the municipality shall divide the resulting total units by four. The residential growth share obligation shall not go below zero.
- (b) A municipality's actual non-residential growth share obligation shall be measured based upon the square footage of non-residential development converted to jobs based on the use group ratios provided in chapter Appendix D.
1. In determining the actual non-residential growth share obligation, the municipality shall measure the jobs gained based on the square footage authorized by permanent certificates of occupancy issued for new or expanded non-residential development for each use group in Appendix D, including continuing care retirement communities, dormitories, hotels and motels classified as R1 or R2 within the municipality between January 1, 2004 and December 31, 2018.
 2. In determining the actual non-residential growth share obligation, the following may be subtracted from the total jobs in (b)1 above:

- i. Jobs based on the square footage authorized by certificates of occupancy issued for developments excluded by N.J.A.C. 5:97-2.4(b)1;
 - ii. Jobs resulting from an increase in floor area for a mixed-use development pursuant to N.J.A.C. 5:97-6.4(b)9 that occurs after January 1, 2004, provided the required affordable units were constructed on-site;
 - iii. Jobs resulting from an increase in floor area for a non-residential development pursuant to N.J.A.C. 5:97-6.4(b)8 that occurs after January 1, 2004;
 - iv. Jobs lost based on demolition permits issued by square footage of non-residential structures for each use group in Appendix D, provided the structure was occupied at least one year prior to demolition; and
 - v. The equivalent number of jobs, as measured by use group in Appendix D, associated with the relocation of a hospital and/or nursing home from another municipality within the same housing region based upon the replacement square footage. Additional jobs, as measured by use group in Appendix D, resulting from an expansion and/or addition of the relocated hospital and/or nursing home shall not be exempt from a municipality's growth share obligation.
3. The municipality shall have an obligation of one affordable housing unit for every 16 newly created jobs. For the purpose of calculating the growth share obligation, the municipality shall divide the resulting total jobs by 16. The non-residential growth share obligation shall not go below zero.
- (c) The residential growth share obligation calculated pursuant to (a) above shall be added to the non-residential growth share obligation calculated pursuant to (b) above to determine a total growth share obligation.
 - (d) At such time and in such form as the Council requires, the municipality shall provide a comparison of its actual pro-rated growth share obligation and the actual number of affordable units that have been constructed or provided since January 1, 2004. At plan evaluation review pursuant to N.J.A.C. 5:96-10, the Council shall compare the actual growth share obligation with the actual number of affordable units constructed or provided for the purposes of enforcing remedies described in N.J.A.C. 5:96-10.4.
 - (e) If the actual growth share obligation determined in (c) above is less than the growth share obligation projected pursuant to N.J.A.C. 5:97-2.4, the municipality shall continue to provide a realistic opportunity for affordable housing to address the projected growth share, through inclusionary zoning or any of the mechanisms permitted by N.J.A.C. 5:97-6.

SUBCHAPTER 3. PREPARING A FAIR SHARE PLAN

5:97-3.1 General

- (a) A municipality shall develop a Fair Share Plan that meets the requirements of this subchapter to address the municipality's total 1987 through 2018 fair share obligation,

including implementing ordinances designed to ensure that the fair share of affordable housing for the 1987 through 2018 period is met.

- (b) The Fair Share Plan shall be adopted by the Planning Board and endorsed by the governing body prior to the municipal petition for substantive certification.

5:97-3.2 Content of a Fair Share Plan

- (a) A Fair Share Plan describes the completed or proposed mechanisms and funding sources, if applicable, that will be utilized to specifically address a municipality's rehabilitation share, prior round obligation, and growth share obligation. The Fair Share Plan shall be in a form provided by the Council and include at least the following:
 1. Descriptions of any credits intended to address any portion of the fair share obligation, which shall include all information and documentation required by N.J.A.C. 5:97-4 for each type of credit;
 2. Descriptions of any adjustments to any portion of the fair share obligation, which shall include all information and documentation required by N.J.A.C. 5:97-5 for each adjustment sought;
 3. Descriptions of any mechanisms intended to address the prior round obligation, the rehabilitation share, and the growth share obligation;
 4. An implementation schedule that sets forth a detailed timetable that demonstrates a "realistic opportunity" as defined under N.J.A.C. 5:97-1.4 and a timetable for the submittal of all information and documentation required by N.J.A.C. 5:97-6, based on the following:
 - i. Documentation for mechanisms to address the prior round obligation, the rehabilitation share, and the growth share obligation up to the first plan review pursuant to N.J.A.C. 5:96-10 shall be submitted at the time of petition;
 - ii. Documentation for zoning for inclusionary development, an accessory apartment program, or a market to affordable program shall be submitted at the time of petition and implemented within 45 days of substantive certification;
 - iii. Documentation for the extension of expiring controls shall be submitted at the time of petition and implemented in accordance with an implementation schedule pursuant to (a)4iv below; and
 - iv. Documentation for all mechanisms not included in (a)4i through iii above shall be submitted according to an implementation schedule, but no later than two years prior to scheduled implementation of the mechanism, and shall consider the economic viability of the mechanisms and the actual growth share obligation that has or will occur as calculated pursuant to N.J.A.C. 5:97-2.5. Pursuant to N.J.A.C. 5:97-2.5(d), the municipality shall comply with the plan evaluation requirements and shall be subject to the enforcement remedies of N.J.A.C 5:96-10.4.
 5. Notwithstanding (a)4iv above, a municipality with insufficient vacant land that

has been granted or is seeking a vacant land adjustment pursuant to N.J.A.C. 5:97-5.1 or a household and employment growth projection adjustment pursuant to N.J.A.C. 5:97-5.6 shall submit all information and documentation required by N.J.A.C. 5:97-6 at the time of petition, unless it meets the requirements of (a)5i and ii below, in which case it shall submit the required information and documentation in accordance with an implementation schedule, but no later than two years prior to scheduled implementation of the mechanism, and shall consider the economic viability of the mechanisms and the actual growth share obligation that has or will occur as calculated pursuant to N.J.A.C. 5:97-2.5. Pursuant to N.J.A.C. 5:97-2.5(d), the municipality shall comply with the plan evaluation requirements and shall be subject to the enforcement remedies of N.J.A.C 5:96-10.4.

- i. The municipality demonstrates that the mechanism(s) does not rely upon the availability of vacant land (that is, redevelopment); or
 - ii. The municipality takes appropriate measures to reserve scarce resources that may be essential to implement the mechanisms that rely on the availability of vacant land to address the growth share obligation.
6. Draft and/or adopted ordinances necessary for the implementation of the mechanisms designed to satisfy the fair share obligation;
 7. A demonstration that existing zoning or planned changes in zoning provide adequate capacity to accommodate any proposed inclusionary developments pursuant to N.J.A.C. 5:97-6.4;
 8. A demonstration of existing or planned water and sewer capacity sufficient to accommodate all proposed mechanisms; and
 9. A spending plan pursuant to N.J.A.C. 5:97-8.10, if the municipality maintains or intends to establish an affordable housing trust fund pursuant to N.J.A.C. 5:97-8.
- (b) The Fair Share Plan shall also include any other documentation pertaining to the review of the municipal Fair Share Plan as required by this chapter and N.J.A.C. 5:96 or requested by the Council.

5:97-3.3 Low/moderate income split of the fair share obligation

- (a) At least 50 percent of the units addressing a municipality's fair share obligation shall be affordable to low income households.
- (b) An odd number shall be split in favor of the low income unit.

5:97-3.4 Rental housing requirement

- (a) In addressing the fair share obligation, every municipality shall create a realistic opportunity to construct rental units pursuant to the applicable formula set forth in this subchapter.
- (b) At least 50 percent of the rental housing requirement for the projected growth share obligation addressed within a municipality shall be met with family housing in the Fair Share Plan.

- (c) The plan for a rental housing component may include, but not necessarily be limited to, any combination of the following:
1. An affordable rental development;
 2. Accessory apartments;
 3. Rental units through a market to affordable program;
 4. Assisted living residences;
 5. Supportive and special needs housing;
 6. Agreements with developers to construct and administer affordable rental units as part of an inclusionary development or redevelopment area, or development application approvals wherein the developer has committed to develop affordable rental housing;
 7. The transfer of the rental obligation via an RCA pursuant to N.J.A.C. 5:97-7, provided the RCA Project Plan provides for the creation or reconstruction of new rental units in the receiving municipality; and/or
 8. The extension of expiring controls on affordable rental units pursuant to N.J.A.C. 5:97-6.14.
- (d) The rental obligation for the growth share obligation shall be provided in proportion to the actual growth share obligation measured pursuant to N.J.A.C. 5:97-2.5, or in accordance with an implementation schedule that sets forth a detailed timetable for units to be provided and demonstrates a realistic opportunity pursuant to N.J.A.C. 5:97-3.2(a)4, and monitored during plan evaluation review pursuant to N.J.A.C. 5:96-10.
- (e) Rental units in excess of the prior round rental obligation may be eligible to satisfy the third round rental housing requirement provided the units satisfy the requirements of N.J.A.C. 5:97-4.1(a) and have affordability controls extending at least through 2018.

5:97-3.5 Rental bonuses for the prior round obligation

- (a) A municipality may receive two units of credit for each rental unit addressing its prior round rental obligation, provided the unit was or will be created and occupied in the municipality or received preliminary or final approval, on or after December 15, 1986, is not age-restricted and has controls on affordability for at least 30 years. No rental bonuses shall be granted for rental units in excess of the prior round rental obligation.
- (b) A municipality may receive 1.33 units of credit for each age-restricted rental unit addressing its prior round rental obligation, provided the unit was or will be created and occupied in the municipality or received preliminary or final approval, on or after December 15, 1986, and has controls on affordability for at least 30 years. No rental bonuses shall be granted for age-restricted rental units in excess of 50 percent of the prior round rental obligation.
- (c) If the affordable units have not been constructed as of the date of petition, the municipality shall submit evidence of a firm commitment for the construction of the units in conformance with N.J.A.C. 5:94-3.6(a)3ii.

5:97-3.6 Rental bonuses for the growth share obligation

- (a) A municipality may receive bonuses for rental units in excess of its growth share rental obligation subject to the following:
1. A municipality may receive two units of credit for each rental family or permanent supportive housing unit provided pursuant to N.J.A.C. 5:97-6.4, 6.5, 6.6, 6.7, 6.9, 6.10, 6.13 or 6.15;
 2. A municipality may receive 1.25 units of credit for each bedroom in supportive and special needs housing provided pursuant to N.J.A.C. 5:97-6.10, where the unit of credit is the bedroom;
 3. The unit meets one of the following conditions:
 - i. The unit was or will be created and occupied in the municipality or received preliminary or final approval, after June 6, 1999; or
 - ii. The municipality has provided or received a firm commitment for the construction of the unit. A municipality may lose the rental bonus if the municipality has not constructed the rental unit within the time period established as a condition of substantive certification; has not granted preliminary or final approval for the construction of the rental unit within the time period established as a condition of substantive certification; or if the preliminary or final approval is no longer valid.
 4. A minimum of 50 percent of the rental housing requirement has been addressed with family rental units provided pursuant to N.J.A.C. 5:97-6.4, 6.5, 6.6, 6.7, 6.9, 6.13, 6.14 or 6.15.

5:97-3.7 Very low income bonuses for the growth share obligation

- (a) A municipality may receive two units of credit for each affordable unit addressing its growth share obligation that was or will be created and occupied in the municipality or received preliminary or final approvals, after June 6, 1999 and is deed restricted to be affordable and only available to a very low income household, provided that, in the case of rental housing, only very low income rental units in excess of 10 percent of the total number of affordable units shall be eligible for a bonus.
- (b) Very low income bonuses may only be granted for family units provided pursuant to N.J.A.C. 5:97-6.4, 6.5, 6.6, 6.7, 6.9, 6.13 or 6.15;
- (c) If the unit has not been constructed as of the date of petition, the municipality shall submit evidence of a firm commitment for the construction of the unit in conformance with N.J.A.C. 5:94-3.6(a)3ii.

5:97-3.8 Age-restricted housing

In addressing the fair share obligation, each municipality may provide age-restricted housing pursuant to the applicable formula set forth in this subchapter.

5:97-3.9 Family housing

At least 50 percent of the units within the municipality addressing the growth share obligation shall be family housing units.

5:97-3.10 Formulas for municipalities that have not included a vacant land adjustment in any previous or pending Fair Share Plan

(a) This section sets forth formulas for rental units, age-restricted units, units transferred through RCAs, and age-restricted units transferred through RCAs, for municipalities that have not included a vacant land adjustment in any previous or pending Fair Share Plan.

(b) Rental units shall be provided as follows:

1. The rental requirement for the prior round obligation shall be based on the following formula:

Rental Requirement = 25 percent (Prior Round Obligation – Prior Cycle Credits – Impact of 20 percent cap – Impact of the 1,000-unit limitation)

2. For municipalities that received first round substantive certification, the rental requirement for the prior round obligation may be based on the following formula:

Rental Requirement = 25 percent (Calculated Need – Impact of the 1,000-unit limitation)

3. The rental requirement for the growth share obligation shall be based on the following formula:

Rental Requirement = 25 percent (Growth Share Obligation)

(c) Age-restricted units may be provided as follows:

1. The age-restricted maximum for the prior round obligation shall be based on the following formula:

Age-Restricted Maximum = 25 percent (Prior Round Obligation + Rehabilitation Share - Prior Cycle Credits – Rehabilitation Credits - Impact of 20 percent cap – Impact of the 1,000-unit limitation - Transferred or Proposed RCA Units Addressing the Prior Round Obligation)

2. The age-restricted maximum for the growth share obligation shall be based on the following formula:

Age-Restricted Maximum = 25 percent (Growth Share Obligation - Transferred or Proposed RCA Units Addressing the Growth Share Obligation)

(d) Units may be transferred through RCAs as follows:

1. The RCA maximum for the prior round obligation shall be based on the following formula:

RCA Maximum = 50 percent (Prior Round Obligation + Rehabilitation Share – Prior Cycle Credits – Rehabilitation Credits – Impact of 20 percent cap – Impact of the 1,000-unit limitation)

2. The RCA maximum for the growth share obligation shall be based on the following formula:

RCA Maximum = 50 percent (Growth Share Obligation)

(e) Age-restricted units may be transferred through RCAs as follows:

1. The number of age-restricted units that may be transferred through one or more RCAs addressing a prior round obligation shall be based on the following formula:

Age-Restricted Maximum = 25 percent (Prior Round Obligation + Rehabilitation Share - Prior Cycle Credits – Rehabilitation Credits - Impact of 20 percent cap – Impact of the 1,000-unit limitation) – (Any Age-restricted Units Addressing the Prior Round Obligation within the Sending Municipality)

2. The number of age-restricted units that may be transferred through one or more RCAs addressing a growth share obligation shall be based on the following formula:

Age-Restricted Maximum = 25 percent (Growth Share Obligation) - (Any Age-restricted Units Addressing the Growth Share Obligation within the Sending Municipality)

5:97-3.11 Formulas for municipalities that have been granted a vacant land adjustment as part of a second round substantive certification or judgment of compliance

(a) This section sets forth formulas for rental units, age-restricted units, units transferred through RCAs, and age-restricted units transferred through RCAs, for municipalities that have been granted a vacant land adjustment as part of a second round substantive certification or judgment of compliance.

(b) Rental units shall be provided as follows:

1. The rental requirement for the prior round obligation shall be based on the following formula:

Rental Requirement = 25 percent (RDP)

2. The rental requirement for the growth share obligation shall be based on the following formula:

Rental Requirement = 25 percent (Growth Share Obligation)

(c) Age-restricted units may be provided as follows:

1. For a municipality not transferring units through an RCA, the age-restricted maximum for the prior round obligation shall be based on the following formulas:

- i. Age-Restricted Maximum = 25 percent (RDP + Rehabilitation Share – Rehabilitation Credits); and

- ii. Age-Restricted Maximum = 25 percent (Unmet Need), unless exempted pursuant to N.J.A.C. 5:97-5.3(b)6.

2. For a municipality transferring units through an RCA, the age-restricted maximum for the prior round obligation shall be based on the following formulas:

- i. Age-Restricted Maximum = 25 percent (RDP – Transferred or Proposed RCA Units Addressing the RDP); and

- ii. Age-Restricted Maximum = 25 percent (Unmet Need – Transferred or Proposed RCA Units Addressing Unmet Need), unless exempted pursuant to N.J.A.C. 5:97-5.3(b)6.
 - 3. The age-restricted maximum for the growth share obligation shall be based on the following formula:
 Age-Restricted Maximum = 25 percent (Growth Share Obligation - Transferred or Proposed RCA Units Addressing the Growth Share Obligation)
- (d) Units may be transferred through RCAs as follows:
 - 1. The RCA maximum for the prior round obligation shall be based on the following formula:
 - i. RCA Maximum = 50 percent (RDP + Rehabilitation Share – Rehabilitation Credits); and
 - ii. RCA Maximum = 50 percent (Unmet Need)
 - 2. The RCA maximum for the growth share obligation shall be based on the following formula:
 RCA Maximum = 50 percent (Growth Share Obligation)
- (e) Age-restricted units may be transferred through RCAs as follows:
 - 1. The number of age-restricted units that may be transferred through one or more RCAs addressing a prior round obligation shall be based on the following formula:
 - i. Age-Restricted Maximum = 25 percent (RDP + Rehabilitation Share - Rehabilitation Credits) – (Any Age-restricted Units Addressing the RDP within the Sending Municipality); and
 - ii. Age-Restricted Maximum = 25 percent (Unmet Need) – (Any Age-restricted Units Addressing the Unmet Need within the Sending Municipality)
 - 2. The number of age-restricted units that may be transferred through one or more RCAs addressing a growth share obligation shall be based on the following formula:
 Age-Restricted Maximum = 25 percent (Growth Share Obligation) - (Any Age-restricted Units Addressing the Growth Share Obligation within the Sending Municipality)

5:97-3.12 Formulas for municipalities seeking a vacant land adjustment that was not granted as part of a second round substantive certification or judgment of compliance

- (a) This section sets forth formulas for rental units, age-restricted units, units transferred through RCAs, and age-restricted units transferred through RCAs, for municipalities seeking a vacant land adjustment that was not granted as part of a second round substantive certification or judgment of compliance.
- (b) Rental units shall be provided as follows:

1. The rental requirement for the prior round obligation shall be based on the following formula:

$$\text{Rental Requirement} = 25 \text{ percent (RDP)} - \text{Rental Credits Applied at the Time of Petition}$$
 2. The rental requirement for the growth share obligation shall be based on the following formula:

$$\text{Rental Requirement} = 25 \text{ percent (Growth Share Obligation)}$$
- (c) Age-restricted units may be provided as follows:
1. For a municipality not transferring units through an RCA, the age-restricted maximum for the prior round obligation shall be based on the following formulas:
 - i. $\text{Age-Restricted Maximum} = 25 \text{ percent (RDP} + \text{Rehabilitation Share} - \text{Rehabilitation Credits});$ and
 - ii. $\text{Age-Restricted Maximum} = 25 \text{ percent (Unmet Need)} - \text{Age-restricted credits pursuant to N.J.A.C. 5:97-5.3(b)6.}$
 2. For a municipality transferring units through an RCA, the age-restricted maximum for the prior round obligation shall be based on the following formulas:
 - i. $\text{Age-Restricted Maximum} = 25 \text{ percent (RDP} - \text{Transferred or Proposed RCA Units Addressing the RDP});$ and
 - ii. $\text{Age-Restricted Maximum} = 25 \text{ percent (Unmet Need} - \text{Transferred or Proposed RCA Units Addressing Unmet Need)} - \text{Age-restricted Credits pursuant to N.J.A.C. 5:97-5.3(b)6.}$
 3. The age-restricted maximum for the growth share obligation shall be based on the following formula:

$$\text{Age-Restricted Maximum} = 25 \text{ percent (Growth Share Obligation} - \text{Transferred or Proposed RCA Units Addressing the Growth Share Obligation)}$$
- (d) Units may be transferred through RCAs as follows:
1. The RCA maximum for the prior round obligation shall be based on the following formula:
 - i. $\text{RCA Maximum} = 50 \text{ percent (RDP} + \text{Rehabilitation Share} - \text{Rehabilitation Credits});$ and
 - ii. $\text{RCA Maximum} = 50 \text{ percent (Unmet Need)}$
 2. The RCA maximum for the growth share obligation shall be based on the following formula:

$$\text{RCA Maximum} = 50 \text{ percent (Growth Share Obligation)}$$
- (e) Age-restricted units may be transferred through RCAs as follows:

1. The number of age-restricted units that may be transferred through one or more RCAs addressing a prior round obligation shall be based on the following formula:
 - i. Age-Restricted Maximum = 25 percent (RDP + Rehabilitation Share - Rehabilitation Credits) – (Any Age-restricted Units Addressing the RDP within the Sending Municipality); and
 - ii. Age-Restricted Maximum = 25 percent (Unmet Need) – (Any Age-restricted Units Addressing the Unmet Need within the Sending Municipality)
2. The number of age-restricted units that may be transferred through one or more RCAs addressing a growth share obligation shall be based on the following formula:
 Age-Restricted Maximum = 25 percent (Growth Share Obligation) - (Any Age-restricted Units Addressing the Growth Share Obligation within the Sending Municipality)

5:97-3.13 Site suitability criteria and consistency with the State Development and Redevelopment Plan

- (a) Sites designated to produce affordable housing shall be available, approvable, developable and suitable, according to the following criteria:
 1. The site has a clear title and is free of encumbrances which preclude development of affordable housing;
 2. The site is adjacent to compatible land uses and has access to appropriate streets;
 3. Adequate sewer and water capacity, as defined under N.J.A.C. 5:97-1.4, shall be available to the site or the site is subject to a durational adjustment pursuant to N.J.A.C. 5:97-5.4; and
 4. The site can be developed consistent with the Residential Site Improvement Standards, N.J.A.C. 5:21, where applicable. Deviations from those standards are to be done in accordance with N.J.A.C. 5:21-3.
- (b) Sites designated to produce affordable housing shall be consistent with the State Development and Redevelopment Plan and shall be in compliance with the rules and regulations of all agencies with jurisdiction over the site, including, but not limited to:
 1. Sites that are located in Planning Areas 1 or 2 or located within a designated center or located in an existing sewer service area are the preferred location for municipalities to address their fair share obligation.
 2. Municipalities or developers proposing sites located in Planning Areas 3, 4, 4B, 5 or 5B that are not within a designated center or an existing sewer service area shall demonstrate to the Council that the site is consistent with sound planning principles and the goals, policies and objectives of the State Development and Redevelopment Plan. The Council may seek a recommendation from the Executive Director of the Office of Smart Growth on the consistency of the site

with sound planning principles and the goals, policies and objectives of the State Development and Redevelopment Plan.

3. Sites within the areas of the State regulated by the Pinelands Commission, Highlands Water Protection and Planning Council, Land Use Regulation Division of DEP and the New Jersey Meadowlands Commission, shall adhere to the land use policies delineated in The Pinelands Comprehensive Management Plan, N.J.A.C. 7:50; The Highlands Water Protection and Planning Act rules, N.J.A.C. 7:38; the Coastal Permit Program Rules, N.J.A.C. 7:7; the Coastal Zone Management Rules, N.J.A.C. 7:7E; and the Zoning Regulations of the New Jersey Meadowlands Commission, N.J.A.C. 19:3, where applicable.
 4. The portions of sites designated for construction shall adhere to wetland constraints as delineated on the New Jersey DEP Freshwater Wetlands Maps; or as delineated on-site by the U.S. Army Corps of Engineers or DEP, whichever agency has jurisdiction as regulated pursuant to the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B-1 et seq.) or Section 404 of the Federal Clean Water Act (33 U.S.C. §§ 1251 through 1375); Category One waterway constraints pursuant to N.J.A.C. 7:9B, 7:8, 7:13 and 7:15; flood hazard constraints as defined in N.J.A.C. 7:13; and steep slope constraints in excess of 15 percent if the municipality has an ordinance in place that uniformly regulates steep slope development throughout the municipality.
 5. Historic and architecturally important sites and districts listed on the State or National Register of Historic Places shall be reviewed by the New Jersey State Historic Preservation Office for a recommendation pertaining to the appropriateness and size of buffer areas that will protect the integrity of the site. The review and written recommendation by the New Jersey Historic Preservation Office shall be included in the Housing Element and Fair Share Plan that is the subject of any petition before the Council. Within historic districts, a municipality may regulate low- and moderate-income housing to the same extent it regulates all other development.
- (c) The Council may seek a recommendation from the appropriate regulating agency on the suitability of a proposed site. In taking such action, the Council may require the municipality to submit all necessary documentation to the agency so that a review and decision regarding the suitability of any site may be completed.

5:97-3.14 Accessible and adaptable affordable units

- (a) The first floor of all new townhouse dwelling units and of all other new multistory dwelling units that are attached to at least one other dwelling unit for which an application for a construction permit has not been declared complete by the enforcing agency before October 1, 2006, shall be subject to this section and the technical design standards of the Barrier Free Subcode at N.J.A.C. 5:23-7, provided the units are included in a municipal Fair Share Plan.
- (b) The municipality shall demonstrate the following features regarding townhouses or other multistory dwelling units that are attached to at least one other dwelling unit, provided the units are included in a municipal Fair Share Plan:

1. An adaptable toilet and bathing facility on the first floor;
 2. An adaptable kitchen on the first floor;
 3. An accessible route of travel, however an interior accessible route of travel shall not be required between stories;
 4. An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
 5. An accessible entranceway or evidence that the municipality has collected funds pursuant to (d) below.
- (c) In the case of a unit constructed with an adaptable entrance pursuant to (b)5 above, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
- (d) The builder of the development shall deposit funds, sufficient to adapt 10 percent of the affordable units that have not been constructed with accessible entrances, with the municipality in which the units are located.
1. The developer of the affordable units shall submit the design for conversion of the adaptable entrances with a cost estimate to the local enforcing agency.
 2. Once the local enforcing agency has determined that the plans to adapt the entrances meet the requirements of the Uniform Construction Code, N.J.A.C. 5:23, the municipality shall deposit the funds in an affordable housing trust fund pursuant to N.J.A.C. 5:97-8.5.
 3. These funds shall be available for the purpose of making the adaptable entrance of any affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
- (e) Full compliance with this section shall not be required where an entity can demonstrate that it is impracticable for the site to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7.

5:97-3.15 Affordable housing and State-funded smart growth initiatives

Municipalities that have petitioned the Council for substantive certification and are seeking a transit village designation from the Department of Transportation (DOT) or are participating in other State-funded smart growth initiatives shall ensure, to the extent economically feasible, that the plan for development includes a minimum 20 percent affordable housing set-aside for residential development in addition to complying with criteria that DOT may consider necessary for a transit village, as evidenced by a municipal resolution, developer's agreement(s), or zoning ordinance.

5:97-3.16 Coordination with other State agencies

- (a) Municipalities that have petitioned the Council for substantive certification are encouraged to seek plan endorsement from the State Planning Commission and shall include a status of the application with their petitions if participating in the plan endorsement process.

- (b) To determine whether a municipal Fair Share Plan creates a realistic opportunity for the provision of affordable housing, where applicable, the Council may consult with the State Planning Commission, the New Jersey Meadowlands Commission, the Highlands Water Protection and Planning Council, the Pinelands Commission or other relevant State agencies.
- (c) Municipalities are encouraged to work with regional planning commissions and authorities to address municipal affordable housing obligations on a regional level.
- (d) The Fort Monmouth Economic Revitalization Planning Authority (FMERPA) or its successor entity is authorized to address all or a portion of the affordable housing obligation of Oceanport Borough, Tinton Falls Borough and Eatontown Borough, Monmouth County in the form outlined in N.J.A.C. 5:97-6.13, the Affordable Housing Partnership Program. The FMERPA may address these obligations in accordance with N.J.A.C. 5:97-6.13 or in another manner consistent with these rules.
- (e) The New Jersey Meadowlands Commission (NJMC) is authorized to address a portion of the municipal affordable housing obligation generated by growth occurring within the 14 municipalities in its jurisdiction in the form outlined in N.J.A.C. 5:97-6.13, the Affordable Housing Partnership Program. The NJMC is encouraged to adopt rules consistent with these rules in order to assist the 14 municipalities in its jurisdiction in addressing municipal affordable housing obligations. The NJMC may address these obligations in accordance with N.J.A.C. 5:97-6.13 or in another manner consistent with these rules.

5:97-3.17 Compliance bonus

- (a) A municipality may receive two units of credit for each affordable housing unit that has been included in a development that received preliminary or final approval, or was the subject of an executed developer's agreement or redevelopment agreement, between December 20, 2004 and June 2, 2008 when:
 1. The zoning ordinance authorizing the development, 100 percent affordable development, or the proposed redevelopment was included as an affordable housing mechanism to address the growth share obligation in a third round petition for substantive certification submitted to Council prior to January 25, 2007, pursuant to N.J.A.C. 5:95;
 2. The development approval or executed developer's agreement or redevelopment agreement provides for the affordable housing units to be built on site; and
 3. The affordable housing units are eligible for credit pursuant to N.J.A.C. 5:97-4.

5:97-3.18 Smart growth bonus

- (a) A municipality may receive 1.33 units of credit for each affordable housing unit addressing its growth share obligation that was or will be created and occupied in the municipality or received preliminary or final approval, after June 6, 1999 that is included in a Transit Oriented Development in a Planning Area 1, 2 or a designated center when:
 1. The preliminary and/or final approval provides for a minimum set-aside of 20 percent of the total number of units in the development;

2. The affordable units are provided on-site;
 3. At least 50 percent of the affordable units are family units; and
 4. The development meets the zoning criteria pursuant to N.J.A.C. 5:94-6.4.
- (b) If the affordable units have not been constructed as of the date of petition, the municipality shall submit evidence of a firm commitment for the construction of the units in conformance with N.J.A.C. 5:94- 3.6(a)3ii.

5:97-3.19 Redevelopment bonus

- (a) A municipality may receive 1.33 units of credit for each affordable housing unit addressing its growth share obligation that was or will be created and occupied in the municipality or received preliminary or final approval, after June 6, 1999 that is included in a designated redevelopment area or rehabilitation area pursuant to the Local Redevelopment and Housing Law, N.J.S.A 40A:12A-1 et seq., when:
1. The preliminary and/or final approval provides for a minimum set-aside of 15 percent of the total number of units in the development, unless the development meets the criteria of N.J.A.C. 5:97-3.15. In this case, the development shall have a minimum 20 percent affordable housing set-aside, to the extent economically feasible;
 2. The affordable units are provided on-site;
 3. At least 50 percent of the affordable units are family units; and
 4. The development meets the redevelopment criteria pursuant to N.J.A.C. 5:97-6.6.
- (b) If the affordable units have not been constructed as of the date of petition, the municipality shall submit evidence of a firm commitment for the construction of the units in conformance with N.J.A.C. 5:94- 3.6(a)3ii.

5:97-3.20 Bonus caps

- (a) In no event shall a municipality receive more than one type of bonus for each unit (for example, a very-low income bonus or a rental bonus for one unit).
- (b) In no event shall the total number of bonuses for the growth share obligation granted in a municipal fair share plan exceed 25 percent of the projected growth share obligation.

SUBCHAPTER 4. CREDITS

5:97-4.1 General

- (a) At the time of petition, credits and corresponding bonuses for previous housing activity shall be applied toward the prior round obligation before the credits may be applied toward the growth share obligation, provided such activity complies with the applicable criteria in this subchapter and the applicable formulas set forth in N.J.A.C. 5:97-3. If the municipality's second round substantive certification included a vacant land adjustment,

the credits shall be applied toward the realistic development potential (RDP) before the credits may be applied toward unmet need or the growth share obligation.

- (b) A municipality shall document new construction activity with certificates of occupancy, rehabilitation with final inspections, and RCA units with evidence of the required transfer of funds to the receiving municipality, according to the payment schedule in the approved RCA contract. A municipality shall submit information regarding the units on forms provided by the Council.
- (c) All credits shall be subject to the applicable formulas set forth in N.J.A.C. 5:97-3. In the case of municipalities that received second round substantive certification or judgment of compliance, the Council shall honor the number of age-restricted credits, the credits addressing the rental requirement and RCA credits included in the previously certified plan or judgment of compliance if the mechanisms that were included in that certification or judgment still present a realistic opportunity pursuant to N.J.A.C. 5:97-6.5.
- (d) All credits shall be subject to verification and validation when a municipality petitions for substantive certification, or during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11.

5:97-4.2 Prior cycle credits

- (a) A housing unit created and occupied between April 1, 1980 and December 15, 1986 is eligible for one credit when it has been developed specifically for households whose income does not exceed 80 percent of median income and the unit was governed by controls on affordability that are not less than 20 years. The units shall be administered and affirmatively marketed in accordance with N.J.A.C. 5:97-9 and UHAC.
- (b) A municipality may receive one credit against its prior round obligation for each unit that does not have the controls on affordability described in (a) above provided the unit satisfies the following criteria:
 - 1. The unit shall have been constructed between April 1, 1980 and December 15, 1986. The municipality shall document the date of construction with a certificate of occupancy date;
 - 2. The unit shall have been certified to be in sound condition as a result of an exterior inspection;
 - 3. The unit is currently occupied by a low- or moderate-income household. The municipality shall document household income eligibility with a certification of household income in a form adopted by the Council. Such certification shall be signed by a head of household. It shall be reviewable only by the Council or its staff and shall not be a public record;
 - 4. If the unit is a for-sale unit, at the time the municipality files its petition for substantive certification, the unit shall have a market value that is affordable to a moderate income household, as follows:
 - i. The affordable sales price shall be determined pursuant to N.J.A.C. 5:97-9 and UHAC and shall utilize the homeowner or condominium fees chargeable to the unit on the date of the petition for substantive certification; and

- ii. The market value of the unit shall be determined by averaging the reported actual sale prices of three comparable housing units from the municipality that can be documented as being arms length, closed sales transactions and which occurred within one year of the date of filing of the petition. Documentation sources for such sales may include county tax records, TRW REDI Property Data or other such sources, or multi-list records;
5. If the unit is a rental unit, at the time the municipality files its petition for substantive certification, the unit shall have a monthly rent that is affordable to a moderate income household pursuant to the requirements of N.J.A.C. 5:97-9 and UHAC and the rental must be an arms length transaction; and
 6. The application shall be in such a form and contain such information as the Council may require. Such information may include a questionnaire on household composition and unit type, a worksheet to calculate household income, a certification, an exterior survey and a sheet for listing comparables for each eligible unit.
- (c) If the credit is to be applied toward the growth share obligation, the controls on affordability shall be in place through December 31, 2018 or, if expiring during the third round period, shall be renewed in conformance with N.J.A.C. 5:97-9 and UHAC.

5:97-4.3 Post-1986 credits

- (a) A municipality may receive one credit for each affordable housing unit within an inclusionary development, a municipally sponsored development or a 100 percent affordable development, subject to the applicable provisions of this subsection.
1. Affordable units that received preliminary or final approvals on or after December 15, 1986 and before June 6, 1994 shall meet the following criteria:
 - i. The units were subject to controls on affordability of not less than 20 years; 10 years for municipalities that received State Aid during that period pursuant to P.L. 1978, c. 14 (N.J.S.A. 52:27D-178 et seq.);
 - ii. The development demonstrated the appropriate low/moderate income split, bedroom distribution, and sales/rental prices in accordance with chapter Appendix E, incorporated herein by reference; and
 - iii. The units are administered and affirmatively marketed in accordance with N.J.A.C. 5:97-9 and UHAC.
 2. Affordable units that received preliminary or final approvals on or after June 6, 1994 and before October 1, 2001 shall meet the following criteria:
 - i. The units were subject to controls on affordability of not less than 30 years; 10 years for municipalities that received State Aid during that period pursuant to P.L. 1978, c. 14 (N.J.S.A. 52:27D-178 et seq.);
 - ii. The development demonstrated the appropriate low/moderate income split, bedroom distribution, and sales/rental prices in accordance with Appendix E; and

- iii. The units are administered and affirmatively marketed in accordance with N.J.A.C. 5:97-9 and UHAC.
 - 3. Affordable units that received preliminary or final approvals on or after October 1, 2001 and before December 20, 2004 shall meet the following criteria:
 - i. The units were subject to controls on affordability of not less than 30 years; 10 years for municipalities that received State Aid during that period pursuant to P.L. 1978, c. 14 (N.J.S.A. 52:27D-178 et seq.);
 - ii. The development demonstrated the appropriate low/moderate income split, bedroom distribution, and sales/rental prices in accordance with N.J.A.C. 5:97-9 and UHAC; and
 - iii. The units are administered and affirmatively marketed in accordance with N.J.A.C. 5:97-9 and UHAC.
 - 4. Affordable units created and occupied on or after December 20, 2004 shall meet the criteria in N.J.A.C. 5:97-6.4, 6.6 or 6.7, as applicable.
- (b) A municipality may receive one credit for each affordable unit created through an accessory apartment program, subject to the applicable provisions of this subsection.
 - 1. An accessory apartment created and occupied on or after June 6, 1994 and before June 2, 2008 shall meet the following criteria:
 - i. The apartment was subject to controls on affordability of not less than 10 years, 30 years if the unit is receiving a bonus credit toward the prior round obligation pursuant to N.J.A.C. 5:97-3.5;
 - ii. The program demonstrated the appropriate low/moderate income split in accordance with Appendix E;
 - iii. The average initial rent of all apartments in the program, including utilities and based on the number of bedrooms, was affordable to a household earning no more than 57.5 percent of median income;
 - iv. The apartment is administered and affirmatively marketed in accordance with N.J.A.C. 5:97-9 and UHAC; and
 - v. At least \$10,000 was provided to subsidize the creation of the accessory apartment, unless the accessory apartment was created prior to the municipal adoption of an accessory apartment ordinance or was otherwise illegal.
 - 2. Accessory apartments created and occupied on or after June 2, 2008 shall meet the criteria in N.J.A.C. 5:97-6.8.
- (c) A municipality may receive one credit for each bedroom in supportive and/or special needs housing (formerly known as alternative living arrangements), subject to the applicable provisions of this subsection.
 - 1. Supportive and special needs housing created and occupied on or after December 15, 1986 and before December 20, 2004 shall meet the following criteria:

- i. Supportive and special needs housing may include: transitional housing, Class A, B, C, D, and E boarding homes as licensed and/or regulated by the New Jersey Department of Community Affairs and/or the New Jersey Department of Health and Senior Services; residential health care facilities as licensed and/or regulated by DCA or the New Jersey Department of Health and Senior Services if the facility is located with, and operated by, a licensed health care facility; group homes for people with developmental disabilities and/or mental illness as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements; and.
 - ii. The facility was subject to controls on affordability of not less than 10 years, 30 years if the unit is receiving a bonus credit toward the prior round obligation pursuant to N.J.A.C. 5:97-3.5.
2. Supportive and special needs housing created and occupied after December 20, 2004 and before June 2, 2008 shall meet the criteria in N.J.A.C. 5:97-6.10, with the following exception:
 - i. Units with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, provided said contract is in effect through the period of third round certification, are exempt from the requirement for affordability controls of not less than 30 years.
 3. Supportive and special needs housing created and occupied on or after June 2, 2008 shall meet the criteria in N.J.A.C. 5:97-6.10.
- (d) A municipality may receive one credit for each apartment in an assisted living residence that received preliminary or final approvals on or after December 15, 1986, subject to the provisions of N.J.A.C. 5:97-6.11.
- (e) A municipality may receive one credit for each affordable unit created through a market to affordable program (formerly known as a write-down/buy-down program), subject to the applicable provisions of this subsection.
1. A unit created and occupied on or after June 6, 1994 and before December 20, 2004 shall meet the following criteria:
 - i. The unit was subject to controls on affordability of not less than 30 years, 10 years for municipalities that received State Aid during that period pursuant to P.L. 1978, c. 14 (N.J.S.A. 52:27D-178 et seq.);
 - ii. The program demonstrated the appropriate low/moderate income split in accordance with Appendix E;
 - iii. The average initial sales price of all units in the program, based on the number of bedrooms, was affordable to a household earning no more than 57.5 percent of median income, unless the range of affordability was accommodated elsewhere in the Fair Share Plan;
 - iv. The unit is administered and affirmatively marketed in accordance with N.J.A.C. 5:97-9 and UHAC; and

- v. A minimum of \$20,000 was provided to subsidize the creation of the unit.
- 2. Market to affordable units created and occupied on or after December 20, 2004 shall meet the criteria in N.J.A.C. 5:97-6.9.
- (f) A municipality may receive one credit for each affordable unit that received preliminary or final approvals on or after December 20, 2004 through an affordable housing partnership program, subject to the provisions of N.J.A.C. 5:97-6.13.
- (g) If the credit is to be applied toward the growth share obligation, the controls on affordability shall be in place through December 31, 2018 or, if expiring during the third round period, shall be renewed in conformance with N.J.A.C. 5:97-9 and UHAC.
- (h) Any affordable units where funding was allocated for construction by the Low-Income Housing Tax Credit Program (Internal Revenue Code Section 42h) or Balanced Housing Program (N.J.A.C. 5:43) during the period beginning on or after December 15, 1986 and before June 6, 1999, and not included in a Housing Element and Fair Share Plan submitted to the Council as of May 6, 2008, shall not be eligible for credit against any portion of the fair share obligation.

5:97-4.4 RCA credits

- (a) A municipality may receive credit for units transferred through an RCA when the RCA contract has been approved by the Council, subject to the provisions of this section.
- (b) RCA credits shall be subject to the applicable formulas set forth in N.J.A.C. 5:97-3.
- (c) The sending municipality shall submit verification that all payments have been transferred to the receiving municipality in accordance with the payment schedule outlined in the RCA contract.
- (d) In order to maintain credit for the RCA, any remaining payments shall be made to the receiving municipality in accordance with the payment schedule outlined in the RCA contract.

5:97-4.5 Rehabilitation credits

- (a) A municipality may receive credit for rehabilitation of deficient housing units occupied by low- and moderate-income households performed subsequent to April 1, 2000, subject to the applicable provisions of this section. In order to receive a rehabilitation credit, the municipality shall submit information regarding the rehabilitated units on forms provided by the Council.
- (b) Units rehabilitated or subject to an executed contract for rehabilitation on or after April 1, 2000 and before December 20, 2004 shall meet the following criteria:
 - 1. The unit was rehabilitated up to the applicable code standard and the average capital cost expended on rehabilitating the unit was at least \$8,000;
 - 2. The unit is currently occupied by the occupants who resided within the unit at the time of rehabilitation or by other eligible low- or moderate-income households;
 - 3. Owner-occupied units were subject to controls on affordability of not less than six years and rental units were subject to controls on affordability of not less than

- 10 years. The controls on affordability may be in the form of a lien filed with the county;
4. The rehabilitation program is administered by an experienced administrator, pursuant to N.J.A.C. 5:97-9 and UHAC;
 5. Rental units must be included in the rehabilitation program; and
 6. The municipality shall submit its adopted rehabilitation manual which includes a description of the program procedures and administration in accordance with this section.
- (c) Units rehabilitated or subject to an executed contract for rehabilitation on or after December 20, 2004 and before June 2, 2008 shall meet the criteria in (b)1 and 2 and 4 through 6 above and the following:
1. The units were subject to 10-year controls on affordability on both owner-occupied units and rental units. On owner-occupied units, the controls on affordability may have been in the form of a lien filed with the appropriate property's deed. For rental units, the controls on affordability shall have been in the form of a deed restriction and may have also included a lien pursuant to N.J.A.C. 5:97-6.2(c).
- (d) Units rehabilitated or subject to an executed contract for rehabilitation on or after June 2, 2008 shall meet the criteria in N.J.A.C. 5:97-6.2.
- (e) A municipality may receive one credit against its rehabilitation share for each ECHO unit completed subsequent to April 1, 2000, in which a low- or moderate-income occupant is residing, provided the municipality purchased or leased the ECHO unit for a minimum of 10 years.
- (f) Credits for rehabilitation shall only be credited against the rehabilitation share.
- (g) If a municipality received a rehabilitation credit for the rehabilitation of a unit prior to April 1, 2000, as part of a previous round Fair Share Plan, and the controls on affordability have expired, the municipality may receive a rehabilitation credit if the unit is rehabilitated pursuant to the criteria set forth in this section.
- (h) If a municipality received a new construction credit for a deed restricted affordable unit that was built between 1987 and 1993, as part of a first round Fair Share Plan, the municipality may receive a rehabilitation credit if the unit is rehabilitated pursuant to the criteria set forth in this section.

CHAPTER 5. ADJUSTMENTS

5:97-5.1 Vacant land adjustment applicability

- (a) A municipality may request a vacant land adjustment of its prior round obligation for the first time in accordance with N.J.A.C. 5:97-5.2.
- (b) A municipality that is requesting a vacant land adjustment for the first time or whose vacant land adjustment was not granted as part of a second round substantive certification shall apply its eligible credits pursuant to N.J.A.C. 5:97-4 for units that are

constructed or have received preliminary or final approvals, as applicable, prior to June 6, 1999 toward its unmet need at the time of petition prior to applying credits toward its realistic development potential or growth share obligation. Units that are constructed or have received preliminary or final approvals after June 6, 1999 may be applied to the RDP or unmet need, provided the unit was not a mechanism previously included in the plan to address unmet need. Municipalities may apply credits for units constructed or received preliminary or final approvals after June 6, 1999 to the growth share obligation provided credits have first been applied to the RDP.

- (c) A vacant land adjustment that was granted as part of a second round certification or judgment of compliance shall continue to be valid provided the municipality has implemented all of the terms of the substantive certification or judgment of compliance. If the municipality failed to implement the terms of the substantive certification or judgment of compliance, the Council may reevaluate the vacant land adjustment.
- (d) A vacant land adjustment that was granted as part of a first round certification or judgment of compliance shall continue to be valid provided the municipality has implemented all of the terms of the substantive certification or judgment of compliance, and received or petitioned to the Council for second round substantive certification or was under the Court's jurisdiction for second round. If the municipality failed to implement the terms of the substantive certification or judgment of compliance, the Council may reevaluate the vacant land adjustment.
- (e) A municipality that was granted or is seeking a vacant land adjustment shall be subject to the applicable formulas set forth in N.J.A.C. 5:97-3.

5:97-5.2 Vacant land adjustment procedures

- (a) The standards and procedures in this section shall be used to determine the RDP for a municipality requesting a vacant land adjustment of its prior round obligation.
- (b) The municipality shall be responsible for demonstrating that the municipal response to its housing obligation is limited by the lack of land capacity. The municipality shall identify sites that are realistic for inclusionary development in order for the Council to calculate the municipality's RDP. The vacant land adjustment, or unmet need, is the difference between the prior round affordable housing obligation and the RDP. Municipalities shall provide a response to the unmet need in accordance with N.J.A.C. 5:97-5.3.
- (c) The municipality shall submit the following:
 1. An existing land use map displaying the land uses of each parcel within the municipality, and a tax map of the entire municipality with legible dimensions at appropriate scales. The land use map shall display the following land uses: single family, two-to-four family, other multi-family, commercial, industrial, agricultural, parkland, other public uses, semipublic uses and vacant land;
 2. A copy of the most recently adopted municipal master plan and, when less than three years old, the immediately preceding, adopted master plan;
 3. An inventory of all privately and municipally-owned vacant parcels from the tax assessor's office pursuant to (d) below;

4. An inventory of sites that are devoted to a specific use which involves relatively low-density development and could create an opportunity for affordable housing if inclusionary zoning was in place. Such sites include, but are not limited to: a golf course not owned by its members; a farm in Planning Areas 1 or 2; a driving range; nursery; and a nonconforming use;
 5. Transparent overlays drawn to the same scale as the existing land use map depicting those sites which the municipality maintains are unsuitable for development pursuant to (d) below; and
 6. An inventory of any areas in the municipality that may develop or redevelop. Examples of such areas include, but are not limited to: a private club owned by its members; publicly owned land; downtown mixed use areas; high density residential areas surrounding the downtown; areas with a large aging housing stock appropriate for accessory apartments; properties that may be subdivided and support additional development; and any parcel(s) that has the potential to be redeveloped.
- (d) The inventory of vacant parcels shall be listed by lot and block and include the address, acreage, current zoning (residential or non-residential), Planning Area, whether the lot is in a sewer service area, and owner of each lot. The municipality shall list contiguous parcels next to each other. The inventory shall also list the amount of acreage that is suitable for development and the amount of acreage that is unsuitable for development and the reasons why the acreage is unsuitable based on the following criteria:
1. The land is owned by a local government entity that adopted a resolution authorizing the execution of an agreement that such land shall be utilized for a public purpose other than housing, prior to January 1, 1997 and the filing of a petition for substantive certification;
 2. The individual parcel and/or a combination of contiguous parcels, is of a size which would accommodate less than five dwelling units pursuant to the standard in (h) below.
 3. Agricultural lands when the development rights to these lands have been purchased or restricted by covenant.
 4. Environmentally sensitive lands as follows:
 - i. Within the areas of the State regulated by the Pinelands Commission, the Highlands Water Protection and Planning Council, the Land Use Regulation Division of DEP and the New Jersey Meadowlands Commission, municipalities may exclude sites based on: The Pinelands Comprehensive Management Plan, N.J.A.C. 7:50; The Highlands Water Protection and Planning Act rules, N.J.A.C. 7:38; the Coastal Permit Program Rules, N.J.A.C. 7:7; the Coastal Zone Management Rules, N.J.A.C. 7:7E; and the Zoning Regulations of the New Jersey Meadowlands Commission, N.J.A.C. 19:3. Where rules of the above agencies permit development within an area, the parcel(s) shall not be excluded from the vacant land inventory.

- ii. In areas of the State not regulated by the Pinelands Commission, the Highlands Water Protection and Planning Council, the Land Use Regulation Division of DEP and the New Jersey Meadowlands Commission, municipalities may exclude sites based on: wetland constraints as delineated on the New Jersey DEP Freshwater Wetlands Maps or as delineated on-site by the U.S. Army Corps of Engineers or DEP, whichever agency has jurisdiction as regulated pursuant to the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B-1 et seq.) or Section 404 of the Federal Clean Water Act (33 U.S.C. §§ 1251 through 1375); Category One waterway constraints pursuant to N.J.A.C. 7:9B, 7:8, 7:13 and 7:15; flood hazard constraints as defined in N.J.A.C. 7:13; and sites with slopes in excess of 15 percent, as determined from the U.S.G.S. Topographic Quadrangles, which render a site unsuitable for low- and moderate-income housing. In the case of slopes in excess of 15 percent, a municipality may regulate inclusionary development through a steep slope ordinance, provided the ordinance also regulates non-inclusionary developments in a consistent manner.
 - iii. Where the Legislature adopts legislation that requires the mapping of other natural resources that would restrict development capacity and provides a mechanism for the regulation of such resources, municipalities may exclude sites accordingly;
5. Historic and architecturally important sites as follows:
- i. Historic and architecturally important sites listed on the State Register of Historic Places in accordance with N.J.A.C. 7:4 or National Register of Historic Places in accordance with 36 CFR 60 prior to the submission of the petition of substantive certification.
 - ii. Municipalities may apply to exempt a buffer area to protect sites listed on the State or National Register of Historic Places. The municipality shall include with its petition for substantive certification the review and written recommendation from the New Jersey Historic Preservation Office pertaining to the appropriateness and size of buffer areas that will protect the integrity of the site. Upon review of New Jersey Historic Preservation Office's recommendation, the Council shall determine if any part of a site should be eliminated from the inventory;
6. Active recreational lands as follows:
- i. Sites designated for active recreation that are designated for recreational purposes in the municipal master plan. Municipalities shall submit appropriate documentation demonstrating that such active recreational lands are precluded from development.
 - ii. Additional sites proposed for designation as active municipal recreation, provided that the total active recreational lands do not exceed three percent of the municipality's total developed and developable acreage,

calculated pursuant to (d)6iii below. Any sites listed in the municipal master plan as active recreation, including, but not limited to, parking areas and storage areas, shall be included in the three percent calculation.

- iii. In determining developable acreage, municipalities shall calculate their total vacant and undeveloped lands and deduct from that total number the lands excluded by the Council's rules regarding historic and architecturally important sites, agricultural lands and environmentally sensitive lands. Municipalities shall also deduct those lands owned by nonprofit organizations, counties and the State or Federal government when such lands are precluded from development at the time of substantive certification; and

7. Conservation, parklands and open space (passive recreation) lands as follows:

- i. Land designated by the municipal master plan or dedicated by easement or otherwise for the purposes of conservation, parklands or open space, provided the land is owned, leased, licensed or in any other manner operated by a county, municipality or tax-exempt, nonprofit organization including a local board of education or by more than one municipality, by joint agreement pursuant to P.L. 1964, c. 185 (N.J.S.A. 40:61-35.1 et seq.).
 - ii. Additional land reserved for conservation, parklands or open space, provided that the total lands designated and/or reserved for conservation, parklands or open space do not exceed three percent of the municipality's total land area.
- (e) The Council shall review the existing land use map, tax map, master plan(s) and land inventory to determine consistency with this section and reserves the right to include additional vacant and non vacant sites that were excluded by the municipality. Such examples include those listed in (c)4 above. In the case of non vacant sites pursuant to (c)4 above, the Council may request a letter from the owner of the site indicating the site's availability for inclusionary development.
 - (f) Partial elimination of a site shall not necessarily eliminate an entire site as unsuitable. The Council reserves the right to exclude sites in whole or in part when an environmental constraint(s) threatens the viability of an inclusionary development.
 - (g) Individual sites that the Council determines are not suitable for low and moderate income housing may also be eliminated from the inventory described in (d) above.
 - (h) The Council shall consider sites, or parts thereof, not specifically eliminated from the inventory, for inclusionary development. The Council shall consider the character of the area surrounding each site and the need to provide housing for low and moderate income households in establishing densities and set-asides for each site, or part thereof, remaining in the inventory. The Council shall also rely on the appropriate regulating agency's regulations regarding development capacity of the site, including the density, when determining RDP. The minimum presumptive density shall be six units per acre and the maximum presumptive set-aside shall be 20 percent. The density and set-aside of each site shall be summed to determine the RDP of each municipality.

Example: Johnsonville Borough has three suitable sites. The sites are 10 acres, five acres and one acre. The larger sites may accommodate eight units/acre. The one acre site may accommodate six units/acre. All sites are assigned a 20 percent set-aside. The RDP equals 25 low and moderate income units.

10 acres	X	8 units/acre	X	.2	=	16
5 acres	X	8 units/acre	X	.2	=	8
1 acre	X	6 units/acre	X	.2	=	1
RDP					=	25

- (i) In the assignment of an RDP, the Council recognizes that some sites are more realistic and/or appropriate than others for the location of inclusionary development. For example, some sites may lack infrastructure or be surrounded by incompatible land uses. However, these sites and others have the potential to develop or redevelop over time and, as such development takes place, the Council has determined that such sites shall contribute toward the housing obligation.
- (j) The municipality may address its RDP through any activity approved by the Council, pursuant to N.J.A.C. 5:97-6. The municipality need not utilize any of the sites used to calculate the RDP if the municipality can devise alternate means of addressing its RDP. The RDP shall not vary with the mechanisms employed by the municipality. In addressing the RDP, a municipality may designate land in (d)2 above for affordable housing infill purposes, but is not required to do so.
- (k) The Council may reevaluate a municipality’s RDP subsequent to substantive certification if one or more of the following conditions occur:
 1. Sites excluded pursuant to (d)6 above are not purchased and limited to active recreational purposes within one year of substantive certification;
 2. Sites excluded pursuant to (d)7 above are not purchased and limited to conservation, parklands or open space within one year of substantive certification; or
 3. Sites excluded pursuant to (d)7 above no longer serve the purposes of conservation, parklands or open space and subsequently become available for residential or nonresidential development.

5:97-5.3 Unmet need

- (a) All components designed to address unmet need as part of a municipality’s prior round certification or judgment of compliance shall continue in full force (for example, overlay zoning shall be retained). Any affordable housing units created thereunder shall be credited toward unmet need until such time as the municipality has provided for its entire unmet need. During the Council’s review of the municipality’s petition for substantive certification, the Council shall review the municipality’s mechanisms to address unmet

need and may require the municipality to amend or add additional mechanisms in accordance with (b) below.

- (b) If the municipality has an unmet need, the Council shall review the existing municipal land use map and inventory pursuant to N.J.A.C. 5:97-5.2(c)6 for areas that may develop or redevelop. After such an analysis, the Council may require one or any combination of the following in an effort to address the unmet need:
1. Zoning amendments that permit apartments or accessory apartments in accordance with N.J.A.C. 5:97-6.8;
 2. A market to affordable program in accordance with N.J.A.C. 5:97-6.9;
 3. Overlay zoning requiring inclusionary development in accordance with N.J.A.C. 5:97-6.4. In approving an overlay zone, the Council may allow the existing use to continue and expand as a conforming use, but provide that when the prior use on the site is changed, the site shall produce low and moderate income housing;
 4. A redevelopment area that includes affordable housing pursuant N.J.A.C. 5:97-6.6, utilizing the standards in N.J.A.C. 5:97-6.4(b);
 5. The adoption of a development fee ordinance pursuant to N.J.A.C. 5:97-8.3 and a plan for the use of development fees pursuant to N.J.A.C. 5:97-8.10; and/or
 6. Age-restricted units and RCAs may be applied to unmet need subject to the formulas in N.J.A.C. 5:97-3, except that age-restricted units to address unmet need that were included in the municipality's prior round certification or judgment and are constructed or have preliminary or final approvals at the time of the municipality's petition are not subject to the formulas in N.J.A.C. 5:97-3.
- (c) No bonuses shall be provided for mechanisms used to address unmet need.

5:97-5.4 Durational adjustment

- (a) A municipality may request a durational adjustment for a site addressing its prior round obligation or its projected growth share obligation for the first time in accordance with (e) through (h) below.
- (b) A durational adjustment that was granted as part of second round certification or judgment of compliance for a site that remains un-built shall be reevaluated by the Council at the time the municipality petitions to determine if the site continues to present a realistic opportunity for the construction of affordable housing, which includes an analysis of the availability of infrastructure, pursuant to N.J.A.C. 5:97-6.5.
- (c) If the Council approves the continued imposition of a durational adjustment, the municipality may continue to rely on the site that received the adjustment in addressing its prior round obligation provided it has implemented all the terms of the substantive certification or the judgment of compliance. All components of said certification or judgment that are designed to assure affordable housing development on the site(s) affected by the durational adjustment shall continue in full force and any affordable housing units created hereunder shall be credited toward the municipality's prior round obligation until such time as the municipality has provided for its entire prior round

obligation associated with the affected site(s), prior to being used to address the growth share obligation.

- (d) If the Council finds that the site no longer presents a realistic opportunity or that the site can realistically accommodate a lower number of units than proposed in the previous Fair Share Plan, the municipality may be required to re-petition in accordance with N.J.A.C. 5:96-3.4 to replace the site or address the shortfall.
- (e) When a municipality has sufficient land, but insufficient water and/or sewer to support inclusionary development, the municipality shall be responsible for demonstrating that the municipal response to its housing obligation is limited by the lack of water and/or sewer capacity.
- (f) The Council shall review each site proposed for inclusionary development to determine if it is realistic for the site to receive the required water and/or sewer during the period of substantive certification. The Council shall require sufficient information to determine the site's prospects of receiving infrastructure, and the site's prospects of inclusion in an areawide water quality management plan amendment (including the wastewater management plan, developed in accordance with the rules of the DEP). If the site had been zoned for inclusionary development, the Council shall consider how long the site had been zoned and if the developer had filed a development application.
- (g) The Council shall require the site(s) to be zoned for inclusionary development pursuant to N.J.A.C. 5:97-6.4, or, if the site(s) had already been zoned for inclusionary development, the Council shall require the continuation of that zoning.
- (h) The lack of adequate capacity, in and of itself, shall constitute a durational adjustment of the prior round obligation. The requirement to address the portion of the prior round obligation with such site(s) shall be deferred until adequate water and/or sewer are made available. The requirement to plan for the projected growth share obligation pursuant to N.J.A.C. 5:97-1.1(c) shall be addressed by zoning the site pursuant to (g) above. In order to provide water and/or sewer on sites the Council determines are realistic for inclusionary development, municipalities shall adhere to the following:
 - 1. Notwithstanding the lack of adequate water and/or sewer at the time a municipality petitions for substantive certification, the municipality shall reserve and set aside new water and/or sewer capacity, when it becomes available, for low- and moderate-income housing, on a priority basis;
 - 2. Municipalities shall endorse all applications to the DEP or its agent to provide water and/or sewer capacity. Such endorsements shall be simultaneously submitted to the Council;
 - 3. Where the DEP or its designated agent approves a proposal to provide infrastructure to a site for the development of low- and moderate-income housing identified in the Fair Share Plan, the municipality shall permit such development; and
 - 4. Where a municipality has designated site(s) for low- and moderate-income housing that lack adequate water and/or sewer and where the DEP or its designated agent approves a proposal to provide water and/or sewer to a site other than those designated for the development of low- and moderate-income

housing in the Fair Share Plan, the municipality shall amend its Housing Element and Fair Share Plan and applicable zoning ordinances to permit development of such site for low- and moderate-income housing. The amended Housing Element and Fair Share Plan and zoning ordinances shall be submitted to the Council within 90 days of the site's approval by the DEP or its agent. The Council may waive these requirements when it determines that the municipality has a plan that will provide water and/or sewer to sufficient sites to address the prior round or projected growth share obligation within the substantive certification period.

- (i) No durational adjustment shall be provided for a municipality's actual growth share obligation.

5:97-5.5 20 percent cap

- (a) A cap of 20 percent of the occupied housing stock (community capacity at the time the municipality requests the 20 percent cap for the first time) cannot be exceeded by a municipality's prior round affordable housing obligation. This is based on the premise that if the affordable housing was provided as a 20-percent set-aside of inclusionary housing, and if the planned affordable housing was more than 20 percent of units then the new affordable housing and accompanying market units would exceed the number of existing housing units in the community.
- (b) An adjustment based on the 20 percent cap which was granted as part of a second round certification or judgment of compliance shall continue to be valid.
- (c) Community capacity is determined by multiplying the occupied housing in the municipality at the time the municipality requests the 20 percent cap for the first time by 0.20 and comparing this to the municipal prior round affordable housing obligation.
 1. If the community capacity is larger than the municipal prior round affordable housing obligation, the 20 percent cap is zero.
 2. If community capacity is smaller than the municipal prior round affordable housing obligation, the difference between community capacity and the municipal prior round affordable housing obligation is the adjustment based on the 20 percent cap.

Johnsonville's		20 Percent		Community
Occupied	X		=	Capacity
Housing Units				
80	X	0.20	=	16
Municipal Affordable Obligation		Prior Round Housing -		Community Capacity = Adjustment based on 20 Percent Cap
30	-	16	=	14

5:97-5.6 Adjustment of household and employment growth projections

- (a) A municipality may request an adjustment to its household and employment projections provided in chapter Appendix F utilized to project the municipal growth share obligation, based on an analysis of existing land capacity. In reviewing the request, the Council shall consider both residential and non-residential land capacity regardless of the adjustment sought.
- (b) The municipality shall first measure its actual residential and non-residential growth from January 1, 2004 to the date of petition using the procedures in N.J.A.C. 5:97-2.5 and then subtract housing units created by actual residential growth from the household projection and jobs generated from actual non-residential growth (based on an application of the conversion factors in chapter Appendix D to certificates of occupancy issued) from the employment projection in Appendix F. An adjustment may only be sought against the remaining portion of the projections.
- (c) The municipality shall submit the information required by N.J.A.C. 5:97-5.2(c) and (d), but may not exclude sites pursuant to N.J.A.C. 5:97-5.2(d)2. Municipalities may exclude from the inventory sites that cannot accommodate one housing unit. However, a growth share obligation shall still accrue on any excluded parcels if market-rate growth occurs on those parcels, as monitored pursuant to N.J.A.C. 5:96-10. If the municipality was previously granted or is requesting a vacant land adjustment pursuant to N.J.A.C. 5:97-5.1, sites utilized to determine the RDP shall be excluded from the inventory.
- (d) The Council shall review the adjustment request pursuant to the procedures in N.J.A.C. 5:97-5.2(e) through (g). The Council shall consider sites, or parts thereof, not specifically eliminated from the inventory, for development.
- (e) The Council shall generally utilize the municipality's zoning to determine whether to assign the residential or non-residential density to each site remaining in the inventory. The Council shall consider the character of the area surrounding each site in establishing densities for each site, or part thereof, remaining in the inventory. The Council shall also rely on the appropriate regulating agency's regulations regarding development capacity of the site, including the density. The Council shall assign the following densities to the remaining sites in the inventory:
 - 1. Land in Urban Centers, as designated or identified by the State Planning Commission, shall have a minimum presumptive density of 22 units per acre for residential sites and 220 jobs per acre for non-residential sites;
 - 2. Land in Planning Area 1 shall have a minimum presumptive density of eight units per acre for residential sites and 80 jobs per acre for non-residential sites;
 - 3. Land in Planning Area 2 and centers shall have a minimum presumptive density of six units per acre for residential sites and 60 jobs per acre for non-residential sites;
 - 4. Land in existing or proposed sewer service areas outside of Planning Areas 1 or 2 shall have a minimum presumptive density of four units per acre for residential sites and 40 jobs per acre for non-residential sites; and
 - 5. Land outside of a sewer service area in Planning Areas 3, 4 and 5 shall have a minimum presumptive density for residential sites that is established in DEP's Water Quality Management Planning rules (N.J.A.C. 7:15) 2.0 mg/L nitrate

dilution standards. The minimum presumptive density for non-residential sites shall be established by applying a conversion factor of 4,000 square feet for every housing unit prescribed by the residential densities in N.J.A.C. 7:15. The resulting non-residential square footage shall be divided by 1,000 and multiplied by 2 to determine the number of jobs per acre. The Council shall also publish the residential and converted non-residential densities for each Hydrologic Unit Code 11 (HUC-11) watershed on its website. The Council shall apply the appropriate residential/non-residential density (depending on whether it is zoned residential or non-residential) based on which HUC-11 watershed the site is located in.

- (f) These adjusted housing and employment growth projections shall be added back to the actual growth for the period January 1, 2004 to the date of petition. If the result exceeds the growth projections shown in Appendix F, no change will be made to the projections utilized for the purpose of projecting the growth share obligation pursuant to N.J.A.C. 5:97-2.4. If the result is less than the growth projections shown in Appendix F by greater than 10 percent, the projections utilized for the purpose of projecting the growth share obligation pursuant to N.J.A.C. 5:97-2.4 may be adjusted downward. However, the municipality shall not apply the adjustment to its actual growth share obligation measured pursuant to N.J.A.C. 5:97-2.5. If the actual growth share obligation is less than the adjusted projected growth share obligation, the municipality shall continue to provide a realistic opportunity for affordable housing to address the adjusted projected growth share.

Example: Johnsonville Borough has five sites that are suitable for development, totaling 20 acres. Three of the sites are zoned for residential development and two are zoned for non-residential development. All five sites are located in a sewer service area. Two of the residential sites are located in Planning Area 1 and may accommodate eight units per acre and one residential site is located in Planning Area 2 and may accommodate six units per acre. Both non-residential sites are located in Planning Area 2 and may accommodate 60 jobs per acre. The resulting household projection is 103 units and the employment projection is 420 jobs.

Household Adjustment				
8 acres	X	8 units/acre	=	64
4.5 acres	X	8 units/acre	=	36
0.5 acre	X	6 units/acre	=	3
		TOTAL	=	103
Employment Adjustment				
4 acres	X	60 jobs/acre	=	240
3 acres	X	60 jobs/acre	=	180
		TOTAL	=	420

When added to the Borough’s actual growth of 31 units, the projected household growth through 2018 is 134 units. The total jobs resulting from the square footage of actual non-residential development to date is 65, resulting in projected employment growth through 2018 of 485 jobs.

5:97-5.7 Potential growth share opportunities

- (a) Municipalities that request an adjustment to household and employment growth projections shall evaluate the existing municipal land use map and inventory for areas that may develop or redevelop to identify additional opportunities that may accommodate growth and corresponding affordable housing. In response to the municipal evaluation, the Council may require one or any combination of the following to address potential growth share opportunities:
 - 1. Zoning amendments that permit apartments or accessory apartments in accordance with N.J.A.C. 5:97-6.8;
 - 2. A market to affordable program in accordance with N.J.A.C. 5:97-6.9;
 - 3. Overlay zoning requiring inclusionary development in accordance with N.J.A.C. 5:97-6.4. In approving an overlay zone, the Council may allow the existing use to continue and expand as a conforming use, but provide that where the prior use on the site is changed, the site shall produce low and moderate income housing;
 - 4. A redevelopment area that includes affordable housing pursuant N.J.A.C. 5:97-6.6, utilizing the standards in N.J.A.C. 5:97-6.4(b); and/or
 - 5. The adoption of a development fee ordinance pursuant to N.J.A.C. 5:97-8.3 and a plan for the use of development fees pursuant to N.J.A.C. 5:97-8.10.
- (b) If upon plan evaluation review pursuant to N.J.A.C. 5:96-10, the difference between the number of affordable units constructed or provided in a municipality and the number of units required pursuant to N.J.A.C. 5:97-2.5 results in a pro-rated production shortage of 10 percent or greater or the mechanisms addressing the projected growth share obligation no longer present a realistic opportunity for the creation of affordable housing, the Council may direct the municipality to amend its plan in conformance with N.J.A.C. 5:96-14 to address the affordable housing obligation set forth in N.J.A.C. 5:97-2.5.

5:97-5.8 1,000-unit limitation

- (a) No municipality shall be required to plan for a projected growth share obligation beyond 1,000 units within 10 years from the grant of substantive certification, unless it is demonstrated, following an objection and an evidentiary hearing, based upon the facts and circumstances of the affected municipality that it is likely that the municipality through its zoning powers could create a realistic opportunity for more than 1,000 low- and moderate-income units within the 10-year period. The facts and circumstances which shall determine whether a municipality's projected growth share shall exceed 1,000 units shall be a finding that the municipality has issued more than 5,000 certificates of occupancy for residential units in the 10-year period preceding the petition for substantive certification.
- (b) A municipality that seeks a 1,000-unit limitation shall first subtract from its projected growth share obligation all credits and associated bonuses pursuant to N.J.A.C. 5:97-4 that are proposed to address the growth share obligation to determine if the municipality

is eligible for the 1,000-unit limitation. A municipality that is eligible for a 1,000-unit limitation may then submit a Housing Element and Fair Share Plan that provides for a realistic opportunity for affordable housing to address the 1,000-unit projected growth share obligation.

- (c) Pursuant to N.J.A.C. 5:97-2.5(d), the municipality shall comply with the plan evaluation requirements and shall be subject to the enforcement remedies of N.J.A.C. 5:96-10.4. If the actual growth share obligation exceeds the 1,000-unit projected growth share obligation, the municipality shall be responsible for addressing the actual growth share obligation determined pursuant to N.J.A.C. 5:97-2.5.
- (d) If the actual growth share obligation determined in N.J.A.C. 5:97-2.5 is less than the 1,000-unit projected growth share obligation, the municipality shall continue to provide a realistic opportunity for affordable housing to address the 1,000-unit projected growth share obligation, through inclusionary zoning or any of the mechanisms permitted by N.J.A.C. 5:97-6.

SUBCHAPTER 6. MECHANISMS FOR ADDRESSING THE FAIR SHARE OBLIGATION

5:97-6.1 General

Subject to the formulas established in N.J.A.C. 5:97-3, a municipality may implement the mechanisms contained in this subchapter for the purpose of addressing any portion of its fair share obligation.

5:97-6.2 Rehabilitation

- (a) The purpose of a rehabilitation program is to renovate deficient housing units that are occupied by low- and moderate-income households. The estimate of each municipality's deficient units occupied by low- and moderate-income households is determined through the methodology provided in chapter Appendix B. This rehabilitation number may also be provided through a survey of the municipal housing stock conducted in accordance with the exterior housing survey available on the Council's website. Where the municipality or objector performs the exterior housing survey, the Council shall review the results of the data collected and shall modify the rehabilitation share number if it determines a modification is warranted.
- (b) The following provisions shall apply to a rehabilitation program:
 - 1. Upon rehabilitation, housing deficiencies shall be corrected and the unit shall comply with the New Jersey State Housing Code, N.J.A.C. 5:28. For construction projects that require the issuance of a construction permit pursuant to the Uniform Construction Code, the unit must also comply with the requirements of the Rehabilitation Subcode, N.J.A.C. 5:23-6. In these instances, the more restrictive requirements of the New Jersey State Housing Code or the Rehabilitation Subcode shall apply. For projects that require construction permits, the rehabilitated unit shall be considered complete at the date of final approval pursuant to the Uniform Construction Code.

2. Municipal rehabilitation investment for hard costs shall average at least \$10,000 per unit, and include the rehabilitation of a major system. If the rehabilitation program is funded by an affordable housing trust fund, administrative costs shall be limited by the provisions of N.J.A.C. 5:97-8.9.
 3. Municipalities shall provide sufficient dollars to fund no less than half of the municipal rehabilitation component by the mid-point of substantive certification.
 4. Financing of rehabilitation programs shall be structured to encourage rehabilitation and continued occupancy. Low interest rates and forgivable loans are encouraged. Leveraging of private financing is also encouraged if the result is low interest loans that encourage rehabilitation. If an owner-occupied housing unit is sold prior to the end of the controls on affordability, at least part of the loan shall be recaptured and used to rehabilitate another housing unit, unless the unit is sold to a low- or moderate-income household at an affordable price pursuant to N.J.A.C. 5:97-9.
 5. If the municipality structures a loan program to recapture funds, recaptured funds shall be deposited into an affordable housing trust fund pursuant to N.J.A.C. 5:97-8.6 and subject to the provisions thereof.
 6. A municipal rehabilitation program shall provide for the rehabilitation of rental units. If a municipality participates in a County rehabilitation program that is solely for owner occupied units, the municipality shall establish a rehabilitation program for rental units.
 7. Pursuant to N.J.A.C. 5:97-4.3, units that are eligible to receive new construction credit may be used to address a municipal rehabilitation share.
- (c) Units in a rehabilitation program shall be exempt from N.J.A.C. 5:97-9 and UHAC, but shall be administered in accordance with the following:
1. For owner-occupied units, the controls on affordability shall be for a minimum of 10 years and may be in the form of a lien recorded with the county clerk.
 2. For rental units, the controls on affordability shall be for a minimum of 10 years and in the form of a deed restriction and may also include a lien, each recorded with the county clerk.
 - i. If a unit is vacant, upon initial rental subsequent to rehabilitation, or if a renter-occupied unit is re-rented prior to the end of controls on affordability, the deed restriction shall require the unit to be rented to a low- or moderate-income household at an affordable rent and affirmatively marketed pursuant to N.J.A.C. 5:97-9 and UHAC.
 - ii. If a unit is renter-occupied, upon completion of the rehabilitation, the maximum rate of rent shall be the lesser of the current rent or the maximum permitted rent pursuant to N.J.A.C. 5:97-9 and UHAC.
 - iii. Rents in rehabilitated units may increase annually based on the standards in N.J.A.C. 5:97-9.

3. Applicant and/or tenant households shall be certified as income-eligible in accordance with N.J.A.C. 5:97-9 and UHAC, except that households in owner-occupied units shall be exempt from the regional asset limit.
 4. The municipality shall demonstrate the capability to administer the program by designating an experienced administrative agent in accordance with N.J.A.C. 5:96-18.
- (d) The following minimum documentation, as detailed further in a checklist provided by the Council, shall be submitted by the municipality with its petition for substantive certification:
1. Information regarding the rehabilitation program on forms provided by the Council;
 2. Documentation demonstrating the source(s) of funding;
 3. A municipal resolution appropriating funds or a resolution of intent to bond in the event of a shortfall of funds; and
 4. A schedule illustrating how the rehabilitation share shall be addressed within the period of substantive certification;
- (e) The following minimum documentation, as detailed further in a checklist provided by the Council, shall be submitted by the municipality prior to the grant of substantive certification:
1. A draft or adopted rehabilitation manual that includes a description of the program procedures and administration in accordance with this section;
 2. An affirmative marketing plan for the re-rental of rehabilitated rental units, in accordance with UHAC; and
 3. Designation of an experienced administrative agent, including a statement of his or her qualifications, in accordance with N.J.A.C. 5:96-18.
- (f) The administrator of the rehabilitation program shall maintain files on each program applicant. The files may be used in responding to monitoring requests and periodic programmatic and fiscal audits conducted by the Council, and to protect the municipality against charges of irregularity. The files shall include, at a minimum:
1. An application, including the name and address of each applicant;
 2. If the applicant is not approved, the reasons for the disapproval; and
 3. If the applicant is approved:
 - i. Proof of income eligibility;
 - ii. A copy of the deed of the property to be rehabilitated;
 - iii. Proof of homeowner insurance;
 - iv. Proof that the applicant's income is sufficient to meet the carrying costs of the unit;

- v. Proof that the municipal lien plus the total of other liens does not exceed the market value of the unit;
 - vi. The initial inspection by the building inspector, demonstrating that the structure is a deficient unit;
 - vii. The work write-up and cost estimate;
 - viii. Bids by contractors, a minimum of three bids;
 - ix. The final contract to do the work;
 - x. The payment schedule;
 - xi. Progress inspections and reports;
 - xii. Change orders;
 - xiii. A copy of the final inspection;
 - xiv. The lien and/or deed on the property; and
 - xv. A copy of the mortgage note.
- (g) A municipality receiving State aid pursuant to P.L. 1978, c. 14 (N.J.S.A. 52:27D-178 et seq.) may seek a waiver from addressing its entire rehabilitation component in one 10-year period of substantive certification. A municipality seeking such a waiver shall demonstrate that it cannot rehabilitate the entire rehabilitation component in 10 years and/or that an extraordinary hardship exists, related to addressing the entire rehabilitation component in 10 years.

5:97-6.3 ECHO units

- (a) ECHO units are modular, self-contained units erected on sites containing an existing dwelling, which may only address a municipality's rehabilitation share.
- (b) The following provisions shall apply to ECHO units:
 - 1. The municipality may purchase or lease the ECHO housing.
 - 2. No more than 10 ECHO units may be used to address a municipality's rehabilitation share.
- (c) ECHO units shall be exempt from N.J.A.C. 5:97-9 and UHAC, but shall be administered in accordance with the following:
 - 1. The units shall remain affordable for a minimum of ten years;
 - 2. If a unit is vacated within the 10-year period, it shall be moved to another site for an eligible household;
 - 3. Households occupying the ECHO units shall be certified as income-eligible in accordance with N.J.A.C. 5:97-9 and UHAC;
 - 4. Rents shall be established and may increase annually based on the standards in N.J.A.C. 5:97-9 and UHAC; and

5. The municipality shall demonstrate the capability to administer the program by designating an experienced administrative agent in accordance with N.J.A.C. 5:96-18.
- (d) The following minimum documentation, as detailed further in a checklist provided by the Council, shall be submitted by the municipality with its petition for substantive certification:
1. Documentation demonstrating the source(s) of funding; and
 2. A municipal resolution appropriating funds or a resolution of intent to bond in the event of a shortfall of funds.
- (e) The following minimum documentation, as detailed further in a checklist provided by the Council, shall be submitted by the municipality prior to the grant of substantive certification:
1. A draft or adopted operating manual that includes a description of the program procedures and administration in accordance with this section; and
 2. Designation of an experienced administrative agent, including a statement of his/her qualifications, in accordance with N.J.A.C. 5:96-18.

5:97-6.4 Zoning for inclusionary development

- (a) Affordable housing units proposed through inclusionary development shall be provided through zoning for development that includes a financial incentive to produce the affordable housing, including but not limited to increased densities and reduced costs to the developer. Inclusionary zoning may apply to all or some zones or sites within the municipality. Financial incentives may provide for a range of opportunities to induce affordable housing production at varying levels provided the compensatory benefits minimally meet the criteria set forth in this section.
- (b) The following provisions presumptively apply to each site or zone proposed for inclusionary development:
1. All sites shall meet the site suitability criteria set forth in N.J.A.C. 5:97-3.13;
 2. To ensure the efficient use of land through compact forms of development and to create realistic opportunities for the construction of affordable housing, inclusionary zoning shall permit minimum presumptive densities and presumptive maximum affordable housing set-asides as follows:
 - i. Inclusionary zoning in Planning Area 1 shall permit residential development at a presumptive minimum gross density of eight units per acre and a presumptive maximum affordable housing set-aside of 25 percent of the total number of units in the development;
 - ii. Inclusionary zoning in Planning Area 2 and designated centers shall permit residential development at a presumptive minimum gross density of six units per acre and a presumptive maximum affordable housing set-aside of 25 percent of the total number of units in the development;
 - iii. Inclusionary zoning in existing or proposed sewer service areas outside of

- Planning Areas 1 or 2 shall permit residential development at a presumptive minimum gross density of four units per acre and a presumptive maximum affordable housing set-aside of 25 percent of the total number of units in the development;
- iv. Inclusionary zoning outside of a sewer service area in Planning Areas 3, 4 and 5 shall permit a presumptive density increase of 40 percent over the existing zoning. The presumptive maximum affordable housing set-aside shall be 20 percent of the total number of units in the development; and
 - v. Inclusionary zoning in Urban Centers, as designated or identified by the State Planning Commission, shall permit residential development at a presumptive minimum gross density of 22 units per acre and a presumptive maximum affordable housing set-aside of 20 percent of the total number of units in the development.
3. Inclusionary zoning shall ensure sufficient incentives for the provision of affordable housing. The Council shall generally accept such zoning as providing a realistic opportunity for the creation of affordable housing when at least one of the following conditions is met:
- i. The zoning provides for the presumptive densities and set-asides pursuant to the provisions of (b)2 above;
 - ii. The municipality has submitted a fully executed agreement between the municipality and the developer or redeveloper setting forth mutually agreed to terms for the production of the required affordable housing or a planning board resolution approving the development and setting forth requirements for the production of the affordable housing; or
 - iii. The site or district was previously zoned specifically to address a prior round obligation at a minimum gross density of six units per acre with a 20 percent set-aside, a gross density of five units per acre with a 17.5 percent set-aside, a gross density of four units per acre with a 15 percent set-aside for single family detached units, or a gross density of 10 units per acre with a 15 percent set-aside for rental housing;
4. Bulk standards shall minimally reflect a decrease in lot size and lot width requirements for both affordable and market-rate units in an inclusionary zone to enable the additional number of permitted units to fit on the site without the need for variances. Attached single family housing, clustering and/or lot-size averaging shall be permitted in such inclusionary zones located both within and outside of a sewer service area, as necessary to accommodate the additional number of units. Municipalities shall also evaluate the zoning to determine whether reduced setbacks, increased building heights and/or additional stories must be permitted to accommodate the increased number of units;
5. Additional incentives to subsidize the creation of affordable housing available to very-low income households may be included in the zoning ordinance or specified in a developer's or redeveloper's agreement;
6. Inclusionary zoning may be established to encourage the production of affordable

rental units by providing the option for the site to be developed as sale or rental housing with a density increase if the developer chooses to build rental housing. The Council shall generally accept such zoning as providing a realistic opportunity for the creation of affordable rental housing when at least one of the following conditions are met with regard to the rental option:

- i. Inclusionary zoning permits a presumptive minimum density of 12 units per acre and a presumptive maximum affordable housing set-aside of 20 percent of the total number of units in the development and the zoning provides for at least 10 percent of the affordable units to be affordable to households earning 30 percent or less of the area median income for the COAH region;
 - ii. In Urban Centers and Workforce Housing Census Tracts, inclusionary zoning permits a presumptive minimum of 25 units per acre and a presumptive maximum affordable housing set-aside of 15 percent of the total number of units in a mixed-income development; or
 - iii. A fully executed agreement between the municipality and the developer or a planning board resolution approving the development and setting forth mutually agreed to terms for the production of a specified number of affordable rental units has been included with the fair share plan;
7. Inclusionary zoning ordinances shall contain a development size threshold below which affordable units shall not be required. Such a threshold shall be based on whether or not the density and set-aside required by the zoning ordinance could result in the provision of at least one affordable unit on-site, for example, the individual parcel would accommodate fewer than five dwelling units where the zoning requires a 20 percent set-aside. Sites falling below such threshold shall not be required to provide affordable housing or make a payment in lieu pursuant to (c) below. In considering “d” variances pursuant to N.J.S.A 40:55D-70, municipalities may evaluate whether any increased number of residential units permitted on a site as a result of the grant of said variance could reasonably result in an opportunity to include affordable housing. However, the ordinance may require the payment of a development fee pursuant to N.J.A.C. 5:97-8.3;
 8. Zoning in non-residential districts shall provide an increase in permitted floor area with proportional increases in allowable height and/or impervious coverage to offset the cost of any affordable housing requirements;
 9. Inclusionary zoning in mixed use districts shall incorporate residential density increases and affordable set asides based on the standards set forth in (b)3 through 5 above and/or shall provide an increase in permitted floor area with proportional increases in allowable height and/or impervious coverage to offset the cost of any on-site affordable housing requirements. Mixed use zoning ordinances shall permit both residential density increase and non-residential floor area increase options at the developer’s discretion to be exercised at the beginning of the development approval process; and

10. The vested rights pursuant to N.J.S.A. 40:55D-49 and 50 exist for developments which received preliminary or final approval between December 20, 2004 and June 2, 2008 under N.J.A.C. 5:94 and N.J.A.C. 5:95.
- (c) Inclusionary zoning ordinances shall require developers to construct the required affordable units on site; alternatively, the ordinance may allow the developer the option of providing the units elsewhere in the municipality or making a payment in lieu of providing the whole or fractional affordable units required by the zoning, subject to the following:
1. Payments in lieu of constructing affordable units may represent fractional affordable units. The affordable housing requirement shall not be rounded.
 2. The zoning ordinance may include specific criteria to be met for a development to be eligible to provide a payment in lieu. Examples of such criteria include, but are not limited to, minimum development size thresholds or environmental or site configuration concerns. Once criteria are established by ordinance, exercising the option shall be at the developer's discretion.
 3. The amount of payments in lieu of constructing affordable units on site shall be established by ordinance and based on the cost of constructing new residential units pursuant to this section. The cost of constructing new residential units includes the sum of development hard costs, related soft costs and developer's fees pursuant to the cost containment provisions of N.J.A.C. 5:43-2.4(a)1 through 6 and land costs equal to 25 percent of the first quartile of new construction costs as reported to the Homeowner Warranty Program. These costs are totaled by region to reflect average construction costs. Offsetting proceeds anticipated from the sale of the unit or the capitalization of rental income may be updated and published by the Council periodically. The initial determination of these costs is as follows and may be revised periodically by the Council:

<u>COAH Region</u>	<u>1st Quartile</u>	<u>Land Costs</u>	<u>Construction Costs</u>	<u>Total Cost</u>	<u>Affordable Price</u>	<u>Subsidy Required/ Payment in Lieu Amount</u>
1	\$330,000	\$82,500	\$165,798	\$267,332	\$87,065	\$180,267
2	\$255,000	\$63,750	\$163,206	\$244,491	\$95,808	\$148,683
3	\$381,966	\$95,492	\$141,258	\$256,824	\$110,921	\$145,903
4	\$343,725	\$85,931	\$140,697	\$245,937	\$93,710	\$152,227
5	\$257,790	\$64,448	\$152,835	\$237,471	\$79,784	\$156,089
6	\$264,690	\$66,173	\$167,262	\$251,163	\$68,304	\$182,859

4. Payments in lieu of constructing affordable units shall be deposited into an affordable housing trust fund pursuant to N.J.A.C. 5:97-8.4 and subject to the provisions thereof.
 5. Payments in lieu of constructing affordable housing shall not be permitted where affordable housing is not required. Zoning that does not require an affordable housing set-aside or permit a corresponding payment in lieu may be subject to a development fee ordinance pursuant to N.J.A.C. 5:97-8.3.
- (d) Inclusionary zoning ordinances shall require affordable housing units to be built in accordance with the following schedule:
- | Percentage of
Market-rate Units
<u>Completed</u> | Minimum Percentage of
Low- and Moderate-Income Units
<u>Completed</u> |
|--|---|
| 25 | 0 |
| 25 + 1 unit | 10 |
| 50 | 50 |
| 75 | 75 |
| 90 | 100 |
- (e) The Council encourages the design of inclusionary and mixed-use developments providing affordable housing to be consistent with the general policies and implementation mechanisms regarding design in the State Development and Redevelopment Plan.
 - (f) Inclusionary zoning ordinances shall require, to the extent feasible, that developers fully integrate the low- and moderate-income units with the market units.
 - (g) Inclusionary zoning ordinances shall require that affordable units utilize the same heating source as market-rate units within the inclusionary development and have access to all community amenities available to market-rate units and subsidized in whole by association fees.
 - (h) Inclusionary zoning ordinances shall require that the first floor of all townhouse dwelling units and all other multistory dwelling units comply with N.J.A.C. 5:97-3.14.
 - (i) The affordable units shall comply with N.J.A.C. 5:97-9 and UHAC.
 - (j) The following minimum documentation, as detailed further in a checklist provided by the Council, shall be submitted with the municipality's petition for substantive certification:
 1. Information regarding the development on forms provided by the Council;
 2. The draft or adopted inclusionary zoning ordinance(s);
 3. For site specific inclusionary zoning, a description of the site(s), including the street location, block and lot, and acreage;
 4. For site specific inclusionary zoning, demonstration of the suitability of the site(s); and

5. Any agreements with developers or approvals for the development of specific property. The agreement or approval shall include specific language, addressing the following:
 - i. The number, tenure and type of units;
 - ii. Compliance with N.J.A.C. 5:97-9 and UHAC;
 - iii. Compliance with this subchapter; and
 - iv. The progress points at which the developer shall coordinate with the municipal housing liaison.
- (k) The following documentation shall be submitted prior to marketing the completed units:
1. A draft or adopted operating manual that includes a description of the program procedures and administration in accordance with UHAC;
 2. An affirmative marketing plan in accordance with UHAC; and
 3. Designation of an experienced administrative agent, including a statement of his or her qualifications, in accordance with N.J.A.C. 5:96-18.

5:97-6.5 Status of sites addressing the 1987 through 1999 obligation

- (a) A municipality that zoned one or more sites for inclusionary development to address the 1987 through 1999 housing obligation and included the site(s) in a previously certified fair share plan or judgment of compliance shall retain such zoning in the third round fair share plan if:
1. The Council determines that the site continues to present a realistic opportunity pursuant to (c) below; and
 2. The site meets one of the following conditions:
 - i. The site was subject to an agreement pursuant to the Council's mediation process or part of a negotiated settlement in court; or
 - ii. The developer of the site has filed a development application with the municipality prior to the expiration of the second round substantive certification period or the municipal petition for substantive certification for the 1999 through 2018 period, whichever is later.
- (b) Notwithstanding the provisions of (a) above, pursuant to N.J.S.A. 52:27-311(g), a municipality that has received substantive certification for the 1987 through 1999 period and which has effected the construction of its entire affordable housing obligation of that period may amend its fair share plan or zoning ordinances with respect to sites being used to address its 1987 through 1999 affordable housing obligation. Prior to amending the fair share plan or zoning ordinances, the municipality shall obtain a determination from the Council as to whether the municipality has effected construction of its entire affordable housing obligation. To make such a determination, the Council shall require the municipality to submit the filed deeds with the appropriate deed restrictions, certificates of occupancy for units constructed and evidence of the transfer of RCA funds, if applicable.

- (c) A zoned but unbuilt site that was included in a housing element and fair share plan that received prior round substantive certification or a judgment of compliance shall be evaluated by the Council at the time the municipality petitions for the third round to determine if the site continues to present a realistic opportunity for the construction of affordable housing. The municipality shall submit all decisions on applications for development on any unbuilt sites included in the prior round certified fair share plan. In evaluating an unbuilt site, the Council shall consider whether the site meets all of the following criteria:
 - 1. The site is a suitable site pursuant to N.J.A.C. 5:97-3.13; and
 - 2. Market conditions create a realistic opportunity for the affordable housing to be constructed.
- (d) Sites that no longer present a realistic opportunity shall not be eligible to address a portion of the fair share obligation. If the Council determines that the site continues to present a realistic opportunity, but can realistically accommodate a lower number of units than proposed in the fair share plan, the municipality may continue to utilize the site, but at the lower number of units.
- (e) Sites that address the prior round obligation and are found to present a realistic opportunity pursuant to the provisions above shall be reviewed during plan evaluation pursuant to N.J.A.C. 5:96-10. If a site has not developed, a municipality may be required to amend its plan to address the shortfall.

5:97-6.6 Redevelopment

- (a) New Jersey's Local Redevelopment and Housing Law, N.J.S.A 40A:12A-1 et seq., may be used to create affordable housing units.
- (b) The following provisions shall apply to affordable housing units proposed in a redevelopment area or rehabilitation area:
 - 1. All sites shall meet the site suitability criteria set forth in N.J.A.C. 5:97-3.13. If the redevelopment or rehabilitation area contains brownfields, the Council may require the municipality and the redeveloper to participate in OSG's Brownfield Redevelopment Interagency Team (BRIT) process.
 - 2. The municipality shall designate the site as an area in need of redevelopment or rehabilitation.
 - 3. The municipality shall adopt a redevelopment plan.
 - 4. The redevelopment agreement shall comply with N.J.A.C. 5:97-6.4(b) through (h).
 - 5. The municipality shall issue a request for proposals for a designated redeveloper, if applicable.
- (c) The units shall comply with N.J.A.C. 5:97-9 and UHAC.
- (d) The following minimum documentation, as detailed further in a checklist provided by the Council, shall be submitted with the municipality's petition for substantive certification

or in accordance with the municipality's implementation schedule pursuant to N.J.A.C. 5:97-3.2(a)4:

1. Information regarding the redevelopment area on forms provided by the Council;
2. Demonstration that the resolution designating the area in need of redevelopment or rehabilitation has been approved by DCA, if required by the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. at the time the area was so designated;
3. A redevelopment plan adopted by the governing body which includes the requirements for affordable housing;
4. A description of the site, including its location, acreage, and existing and intended use; and
5. An anticipated timeline and development process expected for the site.

(e) The following minimum documentation, as detailed further in a checklist provided by the Council, shall be submitted by the municipality prior to the grant of substantive certification or in accordance with the municipality's implementation schedule pursuant to N.J.A.C. 5:97-3.2(a)4:

1. A copy of the final Request for Proposals, if applicable, which includes the requirements for affordable housing;
2. A demonstration that the municipality or redeveloper either has site control or a plan in place for obtaining site control, in accordance with the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq.;
3. An executed redevelopment agreement that results in the creation of affordable housing and which shall include the following:
 - i. A description of the number, tenure and type of units;
 - ii. A schedule for the overall redevelopment plan, including the phasing of residential development; and
 - iii. Compliance with N.J.A.C. 5:97-6.4(i) through (k); and
4. The current status of the municipality's Workable Relocation Assistance Program (WRAP), pursuant to N.J.S.A. 52:31B-1 et seq. and N.J.S.A. 20:3-1 et seq., if applicable.

(f) The following documentation shall be submitted prior to marketing the completed units:

1. A draft or adopted operating manual that includes a description of the program procedures and administration in accordance with UHAC;
2. An affirmative marketing plan in accordance with UHAC, except that low- and moderate-income households that have been displaced in areas designated in need of redevelopment or areas in need of rehabilitation pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., may be provided a preference over other applicants for referral to the newly created restricted units within the redevelopment area, provided that households otherwise meet all certification requirements set forth at N.J.A.C. 5:80-26.6; and

3. Designation of an experienced administrative agent, including a statement of his or her qualifications, in accordance with N.J.A.C. 5:96-18.

5:97-6.7 Municipally sponsored and 100 percent affordable developments

- (a) Municipally sponsored and 100 percent affordable developments include, but are not limited to:
 1. Developments in which all units are available to low- and moderate-income households;
 2. Units created through a municipal partnership with a non-profit or other affordable housing provider; and
 3. Developments for which the municipality serves as the primary sponsor.
- (b) The following provisions shall apply to municipally sponsored and 100 percent affordable developments:
 1. All sites shall meet the site suitability criteria set forth in N.J.A.C. 5:97-3.13.
 2. The municipality or developer/sponsor shall have control or the ability to control the site(s).
 3. The construction schedule shall provide for construction to begin within two years of substantive certification or in accordance with the municipality's implementation schedule pursuant to N.J.A.C. 5:97-3.2(a)4.
 4. The first floor of all townhouse dwelling units and of all other multistory dwelling units must comply with N.J.A.C. 5:97-3.14.
- (c) The units shall comply with N.J.A.C. 5:97-9 and UHAC.
- (d) The following minimum documentation, as detailed further in a checklist provided by the Council, shall be submitted with the municipality's petition for substantive certification or in accordance with the municipality's implementation schedule pursuant to N.J.A.C. 5:97-3.2(a)4:
 1. Information regarding the development on forms provided by the Council;
 2. A demonstration that the municipality or developer/sponsor has site control or has the ability to control the site(s). Control may be in the form of outright ownership, a contract to purchase or an option on the property;
 3. A description of the site, including the street location, block and lot, and acreage;
 4. A demonstration of the suitability of the site;
 5. A request for proposals (RFP) or executed agreement, including a schedule for the construction of the units, with the developer or sponsor; or documentation that the development has received preliminary or final approvals; and
 6. Detailed information demonstrating that the municipality or developer has adequate funding capabilities. The documentation shall include:
 - i. A pro forma statement for the project; and

- ii. Evidence of adequate and stable funding. If State and/or Federal funds will be used, documentation shall be provided indicating the available funding and any pending applications. In the case where an application for outside funding is pending, a stable alternative source such as municipal bonding shall be provided in the event the funding request is not approved. As outside funds become available, the municipality may reduce its reliance on municipal sources.
- (e) The following documentation shall be submitted prior to marketing the completed units:
- 1. A draft or adopted operating manual that includes a description of the program procedures and administration in accordance with UHAC;
 - 2. An affirmative marketing plan in accordance with UHAC; and
 - 3. Designation of an experienced administrative agent, including a statement of his or her qualifications, in accordance with N.J.A.C. 5:96-18.

5:97-6.8 Accessory apartment program

- (a) An accessory apartment program shall be established by ordinance to permit accessory apartments, provided the units are affordable to low- and moderate-income households. Subject to the provisions of (b)2 below, accessory apartment programs may be designed to produce only low-income units, only moderate-income units or both low- and moderate-income units.
- (b) The following provisions shall apply to an accessory apartment program:
- 1. No more than 10 or an amount equal to 10 percent of the fair share obligation, whichever is greater, accessory apartments may be used to address the fair share obligation, unless the municipality has demonstrated a successful history of an accessory apartment program.
 - 2. The municipality shall provide a minimum of \$20,000 per unit to subsidize the creation of each moderate-income accessory apartment or \$25,000 to subsidize the creation of each low-income accessory apartment. Subsidy may be used to fund actual construction costs and/or to provide compensation for reduced rental rates.
 - 3. There shall be water and sewer infrastructure with sufficient capacity to serve the proposed accessory apartments.
- (c) The units shall comply with N.J.A.C. 5:97-9 and UHAC with the following exceptions:
- 1. Control periods for rental units (N.J.A.C. 5:80-26.11(a)); accessory apartments may have 10-year controls on affordability;
 - 2. Bedroom distribution (N.J.A.C. 5:80-26.3(b) and (c)); however, the ordinance shall not restrict the number of bedrooms per unit;
 - 3. Low/moderate income split (N.J.A.C. 5:80-26.3(a)); subject to the provisions of (b)2 above, accessory apartments shall be exempt from the requirement that at least 50 percent of the units created shall be affordable to households earning 50 percent or less of regional median income. In programs limited only to moderate-

income households, an equivalent number of housing units for low-income households shall be addressed through other mechanisms in the Fair Share Plan; and

4. Affordability average (N.J.A.C. 5:80-26.3(d) and (e)); however, the maximum rent for a moderate-income unit shall be affordable to households earning no more than 60 percent of median income and the maximum rent for a low-income unit shall be affordable to households earning no more than 44 percent of median income;
- (d) The following minimum documentation, as detailed further in a checklist provided by the Council, shall be submitted by the municipality with its petition for substantive certification:
1. Information regarding the program on forms provided by the Council;
 2. A draft or adopted accessory apartment ordinance;
 3. Documentation demonstrating the source(s) of funding;
 4. A municipal resolution appropriating funds or a resolution of intent to bond in the event of a shortfall of funds;
 5. A demonstration that the housing stock lends itself to accessory apartments; and
 6. A demonstration that there is water and sewer infrastructure with sufficient capacity to serve the proposed accessory apartments; where the proposed location of an accessory apartment is served by individual well and/or septic system, the municipality must show that the well and/or septic system meet the appropriate DEP standards and have sufficient capacity for the additional unit.
- (e) The following minimum documentation, as detailed further in a checklist provided by the Council, shall be submitted by the municipality prior to the grant of substantive certification:
1. A draft or adopted operating manual that includes a description of the program procedures and administration in accordance with UHAC;
 2. An affirmative marketing plan in accordance with UHAC; and
 3. Designation of an experienced administrative agent, including a statement of his or her qualifications, in accordance with N.J.A.C. 5:96-18.

5:97-6.9 Market to affordable program

- (a) A market to affordable program shall include units purchased or subsidized through a written agreement with the property owner and sold or rented to low- and moderate-income households. Subject to the provisions of (b)3 below, market to affordable programs may be designed to produce only low-income units, only moderate-income units or both low- and moderate-income units.
- (b) The following provisions shall apply to market to affordable programs:
1. At the time they are offered for sale or rental, eligible units may be new, pre-owned or vacant.

2. The units shall be certified to be in sound condition as a result of an inspection performed by a licensed building inspector.
 3. The municipality shall provide a minimum of \$25,000 per unit to subsidize each moderate-income unit and/or \$30,000 per unit to subsidize the each low-income unit, with additional subsidy depending on the market prices or rents in a municipality.
 4. No more than 10 for-sale and 10 rental units, or an amount equal to a combined total of 10 percent of the fair share obligation, whichever is greater, may be used to address the fair share obligation, unless the municipality has demonstrated a successful history of a market to affordable program.
- (c) The units shall comply with N.J.A.C. 5:97-9 and UHAC with the following exceptions:
1. Bedroom distribution (N.J.A.C. 5:80-26.3(b) and (c)); however, the ordinance shall not restrict the number of bedrooms per unit;
 2. Low/moderate income split (N.J.A.C. 5:80-26.3(a)); subject to the provisions of (a) above, units in a market to affordable program shall be exempt from the requirement that at least 50 percent of the units created shall be affordable to households earning 50 percent or less of regional median income. In programs limited only to moderate-income households, an equivalent number of housing units for low-income households shall be addressed through other mechanisms in the Fair Share Plan; and
 3. Affordability average (N.J.A.C. 5:80-26.3(d) and (e)); however:
 - i. The maximum rent for a moderate-income unit shall be affordable to households earning no more than 60 percent of median income and the maximum rent for a low-income unit shall be affordable to households earning no more than 44 percent of median income; and
 - ii. The maximum sales price for a moderate-income unit shall be affordable to households earning no more than 70 percent of median income and the maximum sales price for a low-income unit shall be affordable to households earning no more than 40 percent of median income.
- (d) The following minimum documentation, as detailed further in a checklist provided by the Council, shall be submitted by the municipality with its petition for substantive certification:
1. Information regarding the program on forms provided by the Council;
 2. A demonstration that there are sufficient market-rate units within the municipality, as documented by the multiple listing service;
 3. An estimate, based on (d)2 above, of the amount required to subsidize typical for-sale and/or rental units, including any anticipated rehabilitation costs;
 4. Documentation demonstrating the source(s) of funding; and

5. A municipal resolution appropriating funds or a resolution of intent to bond in the event of a shortfall of funds.
- (e) The following minimum documentation, as detailed further in a checklist provided by the Council, shall be submitted by the municipality prior to the grant of substantive certification:
1. A draft or adopted operating manual that includes a description of the program procedures and administration in accordance with UHAC;
 2. An affirmative marketing plan in accordance with UHAC; and
 3. Designation of an experienced administrative agent, including a statement of his or her qualifications, in accordance with N.J.A.C. 5:96-18.

5:97-6.10 Supportive and special needs housing

- (a) Supportive and special needs housing includes, but is not limited to: residential health care facilities as licensed and/or regulated by DCA or the New Jersey Department of Health and Senior Services if the facility is located with, and operated by, a licensed health care facility; group homes for people with developmental disabilities and mental illness as licensed and/or regulated by the New Jersey Department of Human Services; permanent supportive housing; and supportive shared living housing. Long term health care facilities including nursing homes, and Class A, B, C, D, and E boarding homes do not qualify as supportive and special needs housing.
- (b) The following provisions shall apply to group homes, residential health care facilities, and supportive shared living housing:
1. The unit of credit shall be the bedroom.
 2. Housing that is age-restricted shall be included with the maximum number of units that may be age-restricted pursuant to N.J.A.C. 5:97-3.8.
 3. Occupancy shall not be restricted to youth under 18 years of age.
 4. All sites shall meet the site suitability criteria set forth in N.J.A.C. 5:97-3.13.
 5. The municipality or developer/sponsor shall have site control or the ability to control the site(s).
- (c) The following provisions shall apply to permanent supportive housing:
1. The unit of credit shall be the unit.
 2. Housing that is age-restricted shall be included with the maximum number of units that may be age-restricted pursuant to N.J.A.C. 5:97-3.8.
 3. Units shall not be restricted to youth under 18 years of age.
 4. All sites shall meet the site suitability criteria set forth in N.J.A.C. 5:97-3.13.
 5. The municipality or developer/sponsor shall have site control or the ability to control the site(s).
- (d) The bedrooms and/or units pursuant to (b) and (c) above shall comply with N.J.A.C. 5:97-9 and UHAC with the following exceptions:

1. Affirmative marketing (N.J.A.C. 5:80-26.15); however, group homes, residential health care facilities, permanent supportive housing and supportive shared living housing shall be affirmatively marketed to individuals with special needs in accordance with a plan approved by the Council's Executive Director;
 2. Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3); and
 3. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, group homes, residential health care facilities, supportive shared living housing and permanent supportive housing shall have the appropriate controls on affordability in accordance with N.J.A.C. 5:97-9.
- (e) The following minimum documentation for supportive and special needs housing, as detailed further in a checklist provided by the Council, shall be submitted by the municipality with its petition for substantive certification or in accordance with the municipality's implementation schedule pursuant to N.J.A.C. 5:97-3.2(a)4:
1. Information regarding the development on forms provided by the Council;
 2. A description of the site, including the street location, block and lot, and acreage;
 3. A demonstration of the suitability of the site;
 4. A demonstration that the municipality or provider has site control or has the ability to control the site(s); control may be in the form of outright ownership, a contract to purchase or an option on the property;
 5. An executed agreement, including a schedule for the construction of the development, with the provider, sponsor or developer;
 6. A pro forma for the development;
 7. Documentation demonstrating the source(s) of funding; and
 8. A municipal resolution appropriating funds or a resolution of intent to bond in the event of a shortfall of funds.
- (f) The following documentation shall be submitted prior to marketing the completed units or facility:
1. An affirmative marketing plan in accordance with (d)1 above; and
 2. If applicable, proof that the supportive and/or special needs housing is regulated by the New Jersey Department of Health and Senior Services, the New Jersey Department of Human Services or another State agency in accordance with the requirements of this section, which includes validation of the number of bedrooms or units in which low- or moderate-income occupants reside.

5:97-6.11 Assisted living residence

- (a) An assisted living residence is a facility licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available. All or a designated number of apartments in the facility shall be restricted to low- and moderate-income households.

- (b) The following provisions shall apply to assisted living residences:
1. The unit of credit shall be the apartment. However, a two-bedroom apartment shall be eligible for two units of credit if it is restricted to two unrelated individuals.
 2. A recipient of a Medicaid waiver shall automatically qualify as a low- or moderate-income household.
 3. Assisted living units are considered age-restricted housing in a Fair Share Plan and shall be included with the maximum number of units that may be age-restricted pursuant to N.J.A.C. 5:97-3.8.
 4. Low- and moderate-income residents cannot be charged any upfront fees.
 5. All sites for assisted living residences shall meet the site suitability criteria set forth in N.J.A.C. 5:97-3.13.
 6. The municipality or developer/sponsor shall have control or the ability to control the site(s).
- (c) The units shall comply with N.J.A.C. 5:97-9 and UHAC with the following exceptions:
1. Affirmative marketing (N.J.A.C. 5:80-26.15); provided that the units are restricted to recipients of Medicaid waivers;
 2. The deed restriction may be on the facility, rather than individual apartments or rooms;
 3. Low/moderate income split and affordability average (N.J.A.C. 5:80-26.3(a), (d) and (e)); only if all of the affordable units are affordable to households at a maximum of 60 percent of median income; and
 4. Tenant income eligibility (N.J.A.C. 5:80-26.13(b)); up to 80 percent of an applicant's gross income may be used for rent, food and services based on occupancy type and the affordable unit must receive the same basic services as required by the Agency's underwriting guidelines and financing policies. The cost of non-housing related services shall not exceed one and two-thirds times the rent established for each unit.
- (d) The following minimum documentation, as detailed further in a checklist provided by the Council, shall be submitted by the municipality with its petition for substantive certification or in accordance with the municipality's implementation schedule pursuant to N.J.A.C. 5:97-3.2(a)4:
1. Information regarding the facility on forms provided by the Council;
 2. A description of the site, including the street location, block and lot, and acreage;
 3. A demonstration that the municipality or provider has site control or has the ability to control the site(s); control shall be in the form of outright ownership, a contract to purchase or an option on the property;
 4. A demonstration of the suitability of the site;

5. An executed agreement, including a schedule for the construction of the assisted living residence, with the provider, sponsor or developer;
 6. A pro forma for the facility;
 7. Documentation demonstrating the source(s) of funding; and
 8. A municipal resolution appropriating funds or a resolution of intent to bond in the event of a shortfall of funds.
- (e) The documentation in (e)1 through 3 below shall be submitted prior to marketing the completed units or facility. In place of (e)2 and 3 below, an executed Memorandum of Understanding with the Agency may be submitted.
1. A draft or adopted operating manual that includes a description of the program procedures and administration in accordance with UHAC;
 2. An affirmative marketing plan in accordance with UHAC if the units are not restricted to recipients of Medicaid waivers; and
 3. Designation of an experienced administrative agent, including a statement of his or her qualifications, in accordance with N.J.A.C. 5:96-18.

5:97-6.12 Regional contribution agreement

- (a) A municipality may transfer up to 50 percent of its prior round obligation and/or growth share obligation to another municipality by means of a contractual agreement in accordance with the formulas in N.J.A.C. 5:97-3 and the procedures set forth at N.J.A.C. 5:97-7.
- (b) A municipality may not transfer any portion of its rehabilitation share.
- (c) Previously approved RCAs shall be reviewed pursuant to the criteria set forth in N.J.A.C. 5:97-4.4.

5:97-6.13 Affordable housing partnership program

- (a) An affordable housing partnership is a voluntary agreement by which two or more municipalities cooperate to build low- and moderate-income housing units.
- (b) The following provisions shall apply to affordable housing partnership programs:
 1. The municipalities shall be located within the same housing region.
 2. Partnering municipalities may propose and shall meet the requirements of any affordable housing mechanism outlined in this subchapter, except for N.J.A.C. 5:97-6.2, 6.3 and 6.12.
 3. The municipalities shall set forth the number of credits each municipality will be allotted. No credit shall be given to more than one municipality for the same unit.
 4. Each municipality shall contribute resources, including, but not limited to, funding, sewer, water, and land.
 5. Units constructed in another municipality shall fall within the maximum number of units permitted to be provided through an RCA, consistent with the provisions of N.J.A.C. 5:97-3.

- (c) The units shall comply with N.J.A.C. 5:97-9 and UHAC, unless exempted pursuant to the applicable section of this subchapter for the proposed mechanism.
- (d) The following minimum documentation, as detailed further in a checklist provided by the Council, shall be submitted by each municipality, as applicable, with its petition for substantive certification or in accordance with the municipality's implementation schedule pursuant to N.J.A.C. 5:97-3.2(a)4:
 - 1. Information regarding the partnership program on forms provided by the Council;
 - 2. A draft or executed agreement between all municipalities, which in addition to the requirements of b(3) and (4) above, includes a schedule for the creation of the units and designation of the municipality responsible for monitoring the partnership program; and
 - 3. All documentation required for the proposed mechanism, pursuant to the applicable section of this subchapter.

5:97-6.14 Extension of expiring controls

- (a) A municipality may address a portion of its growth share obligation through the extension of affordability controls in accordance with N.J.A.C. 5:97-9 and UHAC, subject to the following:
 - 1. The unit meets the criteria for prior-cycle or post-1986 credits set forth in N.J.A.C. 5:97-4.2 or 4.3;
 - 2. The affordability controls for the unit are scheduled to expire during the 1999 through 2018 period;
 - 3. The municipality shall obtain a continuing certificate of occupancy or a certified statement from the municipal building inspector stating that the restricted unit meets all code standards; and
 - 4. If a unit requires repair and/or rehabilitation work in order to receive a continuing certificate of occupancy or certified statement from the municipal building inspector, the municipality shall fund and complete the work. A municipality may utilize its affordable housing trust fund to purchase the unit and/or complete the necessary repair and/or rehabilitation work.
- (b) The following minimum documentation, as detailed further in a checklist provided by the Council, shall be submitted by each municipality with its petition for substantive certification:
 - 1. Information regarding the development and specific units on forms provided by the Council;
 - 2. A written commitment from the owner to extend controls, or evidence that the controls have been extended in accordance with UHAC; and
 - 3. The proposed or filed deed restriction for the extended control period.
- (c) The following minimum documentation, as detailed further in a checklist provided by the Council, shall be submitted by the municipality prior to the grant of substantive

certification or in accordance with the municipality's implementation schedule pursuant to N.J.A.C. 5:97-3.2(a)4:

1. A pro-forma for any proposed acquisition and/or rehabilitation costs;
2. Documentation demonstrating the source(s) of funding;
3. A municipal resolution appropriating funds or a resolution of intent to bond in the event of a shortfall of funds;
4. A draft or adopted operating manual that includes a description of the program procedures and administration in accordance with UHAC;
5. An affirmative marketing plan in accordance with UHAC; and
6. Designation of an experienced administrative agent, including a statement of his or her qualifications, in accordance with N.J.A.C. 5:96-18.

5:97-6.15 Other innovative approaches

- (a) A municipality may propose innovative programs or mechanisms, or any combination of mechanisms included in this subchapter, for the creation of affordable housing, provided that the following performance standards can be achieved and clearly demonstrated:
 1. The units shall comply with N.J.A.C. 5:97-9 and UHAC;
 2. All sites to be developed with new units shall meet the site suitability criteria set forth in N.J.A.C. 5:97-3.13;
 3. Rehabilitated and converted units shall meet all local building codes;
 4. The municipality shall demonstrate source(s) of funding; and
 5. Units shall not be restricted to youth under 18 years of age.

SUBCHAPTER 7. REGIONAL CONTRIBUTION AGREEMENTS

5:97-7.1 General provisions

- (a) A municipality that intends to enter into regional contribution agreements (RCAs) as a receiving municipality shall notify the Council of its interest and of any proposed conditions or requirements for its participation.
- (b) The Council shall maintain current lists of municipalities which have notified it of the intent to enter into RCAs as receiving municipalities and shall provide copies of such lists to potential sending municipalities as requested.
- (c) A municipality that is a defendant in an exclusionary zoning lawsuit or that is under the jurisdiction of the court for its housing obligation may request permission from the court to fulfill a portion of its fair share obligation by entering into an RCA. Pursuant to the Act, the court shall request that the Council review and make a recommendation concerning the proposed RCA.

- (d) The minimum per unit transfer amount for each housing region, which may be reconsidered by the Council periodically, shall be the following:

<u>Housing Region</u>	<u>Amount Per Unit</u>
1	\$80,000
2	\$67,000
3	\$67,000
4	\$70,000
5	\$71,000
6	\$80,000

- (e) If resolutions of intent or a signed agreement were adopted by both the sending and receiving municipalities between December 20, 2004 and December 17, 2007, the per unit transfer amount may be less than the minimums in (d) above, but not less than \$35,000 per unit, provided the project plan is feasible pursuant to N.J.A.C. 5:97-7.6. If resolutions of intent or a signed agreement were adopted by both municipalities on or before December 20, 2004, the per unit transfer amount may be less than the minimums in (d) above, but not less than \$25,000 per unit, provided the project plan is feasible pursuant to N.J.A.C. 5:97-7.6. If the RCA resolutions or contracts are amended to add additional units after December 17, 2007, the additional units shall be transferred at the minimums in (d) above.

5:97-7.2 Submission requirements

- (a) The sending municipality shall notify its county planning board of its intent to enter into an RCA prior to submission of its plan to the Council.
- (b) Statements of intent shall be submitted at the time of petition or in accordance with the municipality's implementation schedule pursuant to N.J.A.C. 5:97-3.2(a)4 by the sending municipality and the receiving municipality and shall be in the form of a duly adopted resolution. Resolutions of intent are not binding upon either municipality and shall not preclude a receiving municipality from negotiating with any other potential sending municipality or renegotiating the per unit transfer amount.
- (c) A draft contractual agreement shall be submitted to the Council by the sending municipality at the time of petition or in accordance with the municipality's implementation schedule pursuant to N.J.A.C. 5:97-3.2(a)4 and shall specify, at a minimum, the receiving municipality, the number of units to be transferred, the type of housing activity anticipated by the receiving municipality and the amount of compensation to be paid to the receiving municipality in return for such a transfer. The Council's Executive Director may require revisions to the initial contract upon review of the RCA and prior to the Council's approval.
- (d) The receiving municipality's completed RCA Project Plan shall be submitted to the Council by the receiving municipality no later than 90 days from the date the sending municipality's petition is submitted to the Council or in accordance with the municipality's implementation schedule pursuant to N.J.A.C. 5:97-3.2(a)4.
- (e) The sending municipality shall submit documentation demonstrating source(s) of funding.

5:97-7.3 Terms

- (a) All draft RCA contracts shall specify payment schedules that conform to a construction or rehabilitation schedule, relate to the receiving municipality's ability to deliver housing units in a timely fashion, and take place within the period of substantive certification of the sending municipality. For RCAs that include a scattered site rehabilitation program, all funds must be transferred one year prior to expiration of substantive certification.
- (b) The Council may, in its discretion, limit the number of RCA units that may be transferred to a receiving municipality based on a determination of the receiving municipality's capacity to administer the RCA units. The Council shall consider the municipality's past experience, if any, in administering affordable housing programs.
- (c) At least 50 percent of all units accepted by a receiving municipality shall be affordable to low income households. In the case of RCAs that include a scattered site rehabilitation program, the receiving municipality shall ensure, as best as practicable, that 50 percent of the rehabilitated units are occupied by low income households.
- (d) All units created or rehabilitated with RCA funds shall comply with N.J.A.C. 5:97-6, N.J.A.C. 5:97-9 and UHAC, as applicable.
- (e) No receiving municipality shall receive credit toward its fair share obligation for units provided pursuant to an RCA.
- (f) No municipality shall receive credit for any units provided for in the receiving municipality in excess of the units transferred pursuant to the RCA.
- (g) No municipality shall receive rental bonuses for rental units created with RCA funds.

5:97-7.4 Sending municipality

- (a) The number of age-restricted units that may be transferred shall be limited according to the sending municipality's age-restricted maximum pursuant to N.J.A.C. 5:97-3.8.
- (b) No funds shall be transferred by the sending municipality until COAH has reviewed and signed the escrow agreement required by N.J.A.C. 5:97-7.5(g).

5:97-7.5 Receiving municipality

- (a) A receiving municipality may use funds transferred through an RCA for any affordable housing activity including, but not limited to, the mechanisms set forth in N.J.A.C. 5:97-6. Rental obligations required by N.J.A.C. 5:97-3.4 or portions thereof that are transferred to a receiving municipality via an RCA must either create new rental housing units or meet the criteria for reconstruction.
- (b) If a receiving municipality intends to accept RCA units in excess of its rehabilitation share for a scattered site rehabilitation program, it shall demonstrate a need for rehabilitation by documenting an existing waiting list of eligible applicants or conducting an exterior housing survey in a form provided by the Council. The Council shall determine the proportion of deteriorated or substandard housing units that are occupied by low- and moderate-income households by applying the appropriate "Low-Moderate Deterioration Share" number found in chapter Appendix B.
- (c) The use of all funds shall be specified in an RCA Project Plan and shall be subject to Council approval. If there are funds in excess of the amount necessary to implement the RCA, the balance shall be used within the receiving municipality to produce additional

low- and moderate-income housing units or for capital or other expenditures benefiting low- and moderate-income households.

- (d) A maximum of \$6,000 per unit transferred may be expended on administration in the receiving municipality. These funds shall only be spent on expenses that are directly related to the administration of the RCA program and units. If additional units above the number transferred are created or rehabilitated, the receiving municipality may submit a request to COAH to expend additional funds on administration. The request shall document the need for the additional funds.
- (e) For RCA scattered site rehabilitation programs, the cumulative cost of major systems shall be no less than 50 percent of the hard costs for the unit.
- (f) RCA funds shall be deposited into a separate interest bearing escrow account for each RCA.
- (g) A receiving municipality shall enter into an escrow agreement with the Council and the bank that holds the escrow account, whereby the Council has access to the escrow account.
- (h) A receiving municipality shall create the position of RCA Administrator pursuant to N.J.A.C. 5:96-19 and, subject to the Council's approval, appoint a municipal employee to serve in that position.

5:97-7.6 Review by the Agency

- (a) The Agency shall review and provide the Council with a recommendation regarding the financial feasibility of the RCA Project Plan prior to the RCA receiving the Council's approval.
- (b) The receiving municipality shall submit a completed RCA Project Plan application to the Agency delineating the manner in which the receiving municipality shall create or rehabilitate low- and moderate-income housing in response to the RCA. The RCA Project Plan shall be in such a form and contain such information as the Council or the Agency may require, and shall include, but not be limited to the names of the project(s) and/or program(s) and the number of affordable units funded by the RCA, development costs, additional sources of funding for the projects or programs, applicability to COAH and UHAC rules and the agent responsible for administering the affordable units. The Council or the Agency may impose time limitations for the submission of an RCA Project Plan or any updates or conditions thereto.
- (c) The Agency may undertake such review as is necessary, including scheduling meetings or hearings and requiring further information, studies or reports, in order to render a timely report on the financial feasibility of the proposed plan for the Council. Failure of the receiving municipality to promptly or properly comply with the requirements of the Agency may result in the Agency's refusal to recommend the approval of the proposed project.

5:97-7.7 Review and approval by county planning board(s)

- (a) The receiving municipality's county planning board shall review and provide the Council with a recommendation regarding whether or not the RCA is in accordance with sound comprehensive regional planning and the goals and objectives of the State Development

and Redevelopment Plan and provides a realistic opportunity for low- and moderate-income housing within convenient access to employment opportunities prior to the RCA receiving the Council's approval.

- (b) A completed RCA Project Plan application, and the master plans and zoning ordinances of the sending and receiving municipalities, shall be forwarded to the county planning board of the county in which the receiving municipality is located for review and recommendation. The county planning board of the receiving municipality shall make a determination as to whether or not the RCA is in accordance with sound comprehensive regional planning and the goals and objectives of the State Development and Redevelopment Plan and provides a realistic opportunity for low- and moderate-income housing within convenient access to employment opportunities. If the RCA is between two municipalities in different counties, the county planning board of the receiving municipality may confer with or request information from the county planning board of the sending municipality.
- (c) All determinations of a county planning board shall be by resolution and shall be accompanied by a report detailing the reasons for the determination. No fee shall be paid to the county planning board for its review pursuant to this section.
- (d) The county planning board or agency shall file its review and recommendation with the Council within 45 days of receipt of a complete application for review. For good cause shown, a 15-day extension may be granted.

5:97-7.8 Review and approval by the Council

- (a) An RCA shall be approved upon a finding by the Council that:
 - 1. The project provides a realistic opportunity for low- and moderate-income housing within convenient access to employment opportunities as determined by the county planning board;
 - 2. The project is consistent with sound comprehensive regional planning and the goals, policies and objectives of the State Development and Redevelopment Plan as determined by the county planning board; and
 - 3. The receiving municipality's project is a financially feasible means of achieving the purposes of the RCA, as determined by the Agency.
- (b) Upon recommendation of the Agency, the Council may approve, as part of the RCA, a provision that the time limitations for contractual guarantees or resale controls for low- and moderate-income units included in the proposed RCA Project Plan may be for less than 30 years if the Agency determines that modification is necessary to assure the economic viability of the project.
- (c) The Council shall approve all RCAs by resolution. The Council shall set forth in its resolution a schedule for the contributions to be appropriated annually by the sending municipality. A copy of the adopted resolution shall be filed promptly with the Division of Local Government Services of the Department of Community Affairs. The Director of the Division, pursuant to N.J.S.A. 52:27D-312(d), shall thereafter not approve an annual budget of a sending municipality if it does not include appropriations necessary to meet the terms of the resolution.

- (d) An RCA that has been approved by the Council may be executed once the Council grants substantive certification to the sending municipality.

5:97-7.9 Monitoring

The RCA Administrator of the receiving municipality shall submit monitoring reports to the Council and with the Agency setting forth fiscal accountability and progress in implementing the projects to be produced under the RCA. These reports shall be submitted at such time and in such form as the Council and the Agency may require.

5:97-7.10 Enforcement

- (a) The Council shall take such actions as may be necessary to enforce an RCA with respect to the timely implementation of a project by the receiving municipality. Such actions may include, but are not limited to, one or more of the following:
 1. Initiating a lawsuit to enforce an RCA contract;
 2. Preventing a delinquent receiving municipality from entering into further RCAs for a specified period of time;
 3. Ordering a sending municipality to temporarily or permanently cease payments to a receiving municipality;
 4. Recommending that the Agency and DCA withhold further assistance available under the Act from the receiving municipality;
 5. Ordering the receiving municipality's bank to cease disbursements from the RCA escrow account;
 6. Ordering the receiving municipality to amend its RCA Project Plan to include viable alternative housing activity;
 7. Directing the use of RCA funds to eligible housing activity in the municipality, county, or region; or
 8. Such other actions as the Council may determine necessary.

SUBCHAPTER 8. AFFORDABLE HOUSING TRUST FUNDS

5:97-8.1 Purpose

- (a) Affordable housing trust funds are intended to better enable municipalities to meet the low- and moderate-income housing needs in their municipality and region.
- (b) Affordable housing trust funds may contain mandatory development fees, payments in lieu of constructing affordable units on sites zoned for affordable housing, funds in a barrier free escrow, recapture funds, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, enforcement fines and application fees, and any other funds collected by the municipality in connection with its affordable housing programs, as permitted by the Council.
- (c) A municipality may impose, collect and spend affordable housing trust funds only through participation in the Council's substantive certification process or through a comprehensive review designed to achieve a judgment of compliance.

- (d) No municipality under the Council’s jurisdiction shall spend affordable housing trust funds unless the Council has approved a plan for spending such funds in conformance with N.J.A.C. 5:97-8.10 and 5:96-5.3.
- (e) The rules in this subchapter shall govern those municipalities that petition for substantive certification. The Council shall review development fee ordinances and spending plans and monitor affordable housing trust funds upon the request of the court.

5:97-8.2 Account requirements

- (a) All affordable housing trust funds shall be deposited in a separate, interest-bearing account. In establishing the account, the municipality shall provide written authorization, in the form of a three-party escrow agreement between the municipality, the bank and the Council, to permit the Council to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b). This authorization shall be submitted to the Council within seven days from the opening of the trust fund account.
- (b) With the approval of the Council and of the Division of Local Government Services, the municipality may invest its affordable housing trust fund in the State of New Jersey cash management fund, provided that the amount of money in the cash management fund that comprises the funds and income attributable to such funds shall at all times be identifiable. The municipality shall provide written authorization, in the form of a three-party escrow agreement between the municipality, the bank which holds the account linked to the cash management fund, and the Council, to permit the Council to direct the disbursement of development fees as provided for in N.J.A.C. 5:97-8.13(b). This authorization shall be submitted to the Council within seven days from the opening of the trust fund account.
- (c) All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by the Council.

5:97-8.3 Development fee ordinances

- (a) The New Jersey Supreme Court, in *Holmdel Builders Association v. Holmdel Township*, 121 N.J. 550 (1990), determined that mandatory development fees are both statutorily and constitutionally permissible. The Court directed the Council to promulgate appropriate development fee rules specifying, among other things, the standards for these development fees.
- (b) No municipality, except municipalities seeking to achieve or that have received a judgment of compliance, shall impose or collect development fees unless the municipality has petitioned the Council with an adopted Housing Element and Fair Share Plan and the Council has approved the municipality’s development fee ordinance pursuant to N.J.A.C. 5:96-5.1.
- (c) Residential development fees may be imposed pursuant to the following:
 - 1. Fees shall be a maximum of one and one half percent of the equalized assessed value (EAV), provided no increased density is permitted.
 - 2. When a municipality approves an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a “d” variance), the municipality may impose a development fee of up to six percent of the equalized assessed value (EAV), for

each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the 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.

3. Fees may be imposed on the construction of new residential development and additions and alterations to existing development. Ordinances governing the imposition of development fees shall clearly indicate which types of development shall be subject to the imposition of development fees. New construction fees shall be based on the equalized assessed value of land and improvements. Fees that result from additions and alterations shall be based on the increase in equalized assessed value that results from the addition or alteration.

(d) Non-residential development fees may be imposed pursuant to the following:

1. Fees shall be a maximum of three percent of the equalized assessed value.
2. When a municipality approves an increase in floor area pursuant to N.J.S.A. 40:55D-70d(4) (known as a “d” variance), the municipality may impose a development fee of up to six percent on the additional floor area realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base floor area for the purposes of calculating the bonus development fee shall be the highest floor area permitted by right during the two-year period preceding the filing of the variance application.
3. Fees may be imposed on the construction of new non-residential development and additions and alterations to existing development. Ordinances governing the imposition of development fees shall clearly indicate which types of development shall be subject to the imposition of development fees. New construction fees shall be based on the equalized assessed value of land and improvements. Fees that result from additions and alterations shall be based on the increase in equalized assessed value that results from the addition or alteration.

(e) The following are eligible exactions, ineligible exactions and exemptions:

1. Affordable housing developments and developments where the developer has made a payment in lieu of constructing affordable units shall be exempt from development fees.
2. Development fees may be imposed and collected when an existing structure is expanded, undergoes a change to a more intense use, or is demolished and replaced. The development fee that may be imposed and collected shall be calculated on the increase in the equalized assessed value.
3. Residential 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 construction permit shall be synonymous with preliminary or final site plan approval for this purpose.

4. Municipalities may exempt specific types of development from fees or may impose lower fees for specific types of development, provided each classification of development is addressed consistently. For example, all retail development, all development by non-profit organizations, hospitals, or educational institutions may be exempt from the imposition of fees.
 5. Municipalities may exempt specific areas or zones of the municipality from the imposition of fees or reduce fees in order to promote development in specific areas of the municipality. For example, all development north of Main Street may be exempt from the imposition of fees.
- (f) Municipalities may collect 100 percent of the development fee on any specific development at the issuance of the certificate of occupancy. As an alternative, municipalities may collect up to 50 percent of the development fee at the time of issuance of the building permit. The remaining portion may be collected at the issuance of the certificate of occupancy. Regardless of the time of collection, the fee shall be based on the percentage that applies on the date that residential building permits are issued.
 - (g) Imposed and collected development fees that are challenged shall be placed in an interest bearing escrow account by the municipality. If all or a portion of the contested fees are returned to the developer, the accrued interest on the returned amount shall also be returned.
 - (h) Any ordinance adopted by a municipality for the purpose of imposing and collecting development fees shall provide that, in the event any of the conditions described in N.J.A.C. 5:97-8.13(a) occur, the Council shall be authorized, on behalf of the municipality, to direct the manner in which all funds in the affordable housing trust fund shall be expended.
 - (i) A municipality that collects or anticipates collecting development fees must identify the funds on its monitoring report pursuant to N.J.A.C. 5:97-8.12 and include a plan for the use of the funds in its spending plan pursuant to N.J.A.C. 5:97-8.10.

5:97-8.4 Payments in lieu of constructing affordable units on site

- (a) A municipality may, as an option to the on-site construction of affordable housing otherwise required by ordinance, provide for a payment in lieu of construction subject to the requirements of this section and N.J.A.C. 5:97-6.4.
- (b) The amount of payments in lieu of constructing affordable units on site shall be established by ordinance and consistent with the amounts detailed in N.J.A.C. 5:97-6.4(c).
- (c) Payments in lieu of constructing affordable units on residential and mixed-use sites shall only be used to fund eligible affordable housing activities within the municipality. However, payments-in-lieu of construction from non-residential sites where residential development is not a permitted use may be used for funding regional compliance mechanisms.
- (d) A municipality that collects or anticipates collecting payments in lieu of construction must identify the funds on its monitoring report pursuant to N.J.A.C. 5:97-8.12 and

include a plan for the use of the funds in its spending plan pursuant to N.J.A.C. 5:97-8.10.

5:97-8.5 Barrier free escrow

An affordable housing trust fund may contain fees collected to adapt affordable unit entrances to be accessible in accordance with the Act and N.J.A.C. 5:97-3.14. The municipality shall set forth the mechanism by which it will collect and distribute funds intended to convert adaptable entrances. Funds collected for this purpose must at all times be identifiable from other funds. A municipality that collects or anticipates collecting funds to adapt affordable unit entrances must identify the funds on its monitoring report pursuant to N.J.A.C. 5:97-8.12.

5:97-8.6 Other funds

An affordable housing trust fund may also contain recapture funds, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, enforcement fines and application fees, and any other funds collected by the municipality in connection with its affordable housing programs. A municipality that collects or anticipates collecting such fees must identify the funds on its monitoring report pursuant to N.J.A.C. 5:97-8.12 and include a plan for the use of the funds in its spending plan pursuant to N.J.A.C. 5:97-8.10.

5:97-8.7 Use of funds for housing activity

- (a) A municipality may use affordable housing trust funds for any housing activity as itemized in the spending plan and approved by the Council. Such activities include, but are not limited to:
1. A rehabilitation program;
 2. New construction of affordable housing units and related development costs; in the case of inclusionary developments, eligible costs shall be pro-rated based on the proportion of affordable housing units included in the development;
 3. Extensions or improvements of roads and infrastructure directly serving affordable housing development sites; in the case of inclusionary developments, costs shall be pro-rated based on the proportion of affordable housing units included in the development;
 4. RCAs, except that payments in lieu of construction collected from residential and mixed-use development may not be used for this purpose;
 5. Acquisition and/or improvement of land to be used for affordable housing;
 6. Purchase of existing market rate or affordable housing for the purpose of maintaining or implementing affordability controls, such as in the event of a foreclosure;
 7. Accessory apartment, market to affordable, or affordable housing partnership programs;
 8. ECHO housing and related repair or unit relocation costs;
 9. Green building strategies designed to be cost-saving for low- and moderate-income households, either for new construction that is not funded by other sources, or as part of necessary maintenance or repair of existing units, in

accordance with accepted national or state standards or such guidance as may be provided by DCA or the New Jersey Housing and Mortgage Finance Agency;

10. Maintenance and repair of affordable housing units;
 11. To defray the costs of structured parking; in the case of inclusionary developments, eligible costs shall be pro-rated based on the proportion of affordable housing units included in the development;
 12. Repayment of municipal bonds issued to finance low- and moderate-income housing activity; and
 13. Any other activity as specified in the approved spending plan.
- (b) Municipalities are encouraged to use affordable housing trust funds to attract other funds such as, but not limited to, available public subsidies and funds from private lending institutions.
- (c) Municipalities are encouraged to work cooperatively with residential and/or non-residential developers subject to development fees to identify specific affordable housing projects within the municipality for funding from the affordable housing trust fund.

5:97-8.8 Use of funds for affordability assistance

- (a) At least 30 percent of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipality's Fair Share Plan. One-third of the affordability assistance portion shall be used to provide affordability assistance to very low income households.
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.
 2. Affordability assistance for very low income households may include offering a subsidy to developers of inclusionary or 100 percent affordable developments or buying down the cost of low- or moderate-income units in a municipal Fair Share Plan to make them affordable to very low income households.

Example: A 100-unit development in a municipality consists of 80 market-rate rental units, 10 moderate-income rental units and 10 low-income rental units. Two of the low-income units are priced to be affordable to a household earning 30 percent of regional median income (RMI). The remaining eight low-income units are priced to be affordable to households earning 45 percent of RMI. The rental rate established for the units priced at a 45 percent level of affordability is \$603.00 per month while the rental rate established for units priced at a 30 percent level of affordability is \$353.00 for a difference of \$250.00 per month or \$3,000 per year. Assuming a capitalization rate of 8.5 percent would establish a 30-year present value of \$35,294 on the reduced rental income. Therefore, a developer might consider re-pricing low-income units to provide additional very-low income units in exchange for an up-front lump sum payment of \$35,294 for each unit re-priced.

- (b) Subject to the approval of the Council, municipalities may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.
- (c) If the municipality demonstrates that there are no units for which affordability assistance programs can be offered, this requirement may be waived.

5:97-8.9 Use of funds for administrative expenses

- (a) No more than 20 percent of all development fee revenue, exclusive of the fees used to fund an RCA, shall be expended on administration.
- (b) Administrative expenses can include salaries and benefits for municipal employees or consultant fees necessary to develop or implement an affordable housing program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, preserving existing affordable housing, and compliance with Council monitoring requirements.
- (c) Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.

5:97-8.10 Spending plans

- (a) A plan to spend affordable housing trust funds shall include the following:
 1. A projection of revenues anticipated from imposing fees on development, based on pending, approved and anticipated developments and historic development activity;
 2. A projection of revenues anticipated from other sources, including payments in lieu of constructing affordable units on sites zoned for affordable housing, funds from the sale of units with extinguished controls, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, and interest earned;
 3. A description of the administrative mechanism that the municipality will use to collect and distribute revenues;
 4. A description of the anticipated use of all affordable housing trust funds pursuant to N.J.A.C. 5:97-8.7, 8.8 and 8.9;
 5. A schedule for the expenditure of all affordable housing trust funds;
 6. If applicable, a schedule for the creation or rehabilitation of housing units;
 7. If the municipality is supporting or sponsoring public sector or non-profit construction of housing, a pro-forma statement of the anticipated costs and revenues associated with the development, consistent with standards required by the Agency in its review of funding applications;
 8. If the municipality maintains an existing affordable housing trust fund, a plan to spend the trust fund balance as of the date of its third round petition within four

years of the Council's approval of the spending plan, or in accordance with an implementation schedule approved by the Council;

9. The manner through which the municipality will address any expected or unexpected shortfall if the anticipated revenues are not sufficient to implement the plan; and
 10. A description of the anticipated use of excess affordable housing trust funds, in the event more funds than anticipated are collected, or projected funds exceed the amount necessary for satisfying the municipal affordable housing obligation.
- (b) All spending plans are subject to the review and approval of the Council pursuant to N.J.A.C. 5:96-5.3.

5:97-8.11 Consideration for mechanisms not in the adopted Fair Share Plan

- (a) A municipality may request authorization for expenditure of affordable housing trust funds on emergent affordable housing mechanisms not included in the municipal Fair Share Plan, in the form of an amendment to the spending plan.
- (b) In addition to the requirements for approval of a spending plan or amendment to an approved spending plan set forth at N.J.A.C. 5:96-5, the resolution submitted by the municipality shall include a certification that the affordable housing opportunity addresses the Council's criteria set forth in N.J.A.C. 5:97-6, and the municipality shall submit information regarding the proposed mechanism in a format to be provided by the Council.
- (c) The municipality shall submit an amendment to its Fair Share Plan to include the mechanism at the earlier of two years after the Council's approval of the spending plan amendment or the next planned amendment to the Fair Share Plan resulting from plan evaluation review pursuant to N.J.A.C. 5:96-10.
- (d) The municipality shall submit monitoring pursuant to N.J.A.C. 5:96-11 relating to the affordable units created using affordable housing trust funds.

5:97-8.12 Monitoring

All municipalities under the Council's jurisdiction that maintain affordable housing trust funds shall submit monitoring to the Council. At a minimum, the monitoring shall include an accounting of any housing trust fund activity, including the source and amount of funds collected, the amount and purpose for which any funds have been expended, and the status of the plan to spend the remaining balance pursuant to N.J.A.C. 5:97-8.10(a)8. At the request of the Court, the Council will also conduct monitoring of affordable housing trust funds maintained by municipalities subject to the terms of a judgment of compliance. These reports shall be submitted by the municipal housing liaison at such time and in such form as the Council requires.

5:97-8.13 Enforcement

- (a) The municipality's ability to impose and collect funds and maintain its affordable housing trust fund shall be conditioned on compliance with all requirements of this subchapter, which the Council shall monitor at least annually. Occurrence of any of the following may result in the Council taking an action pursuant to (b) below:
1. Failure to meet deadlines for information required by the Council in its review of a Housing Element and Fair Share Plan, development fee ordinance or plan for spending fees;
 2. Failure to address the Council's conditions for approval of a plan to spend funds within the deadlines imposed by the Council;
 3. Failure to address the Council's conditions for substantive certification within deadlines imposed by the Council;
 4. Failure to submit accurate monitoring reports pursuant to N.J.A.C. 5:97-8.12 within the time limits imposed by the Council;
 5. Failure to implement the spending plan and expend the funds within the time schedules specified in the spending plan, including the requirement to spend the remaining trust fund balance pursuant to N.J.A.C. 5:97-8.10(a)8;
 6. Expenditure of funds on activities not approved by the Council;
 7. Revocation of certification; or
 8. Other good cause demonstrating that the funds are not being used for the approved purpose.
- (b) In the event any of the conditions described in (a) above occur, the Council shall notify the municipality, including the chief financial officer, and the service list that such a condition has occurred and direct the municipality to remedy the condition.
1. If the municipality does not remedy the condition within the time period specified by the Council, the municipality shall cease imposition, collection, and expenditure of affordable housing trust funds.
 2. Upon notifying the bank in accordance with the escrow agreement pursuant to N.J.A.C. 5:97-8.2, the Council shall direct the manner in which all funds in the affordable housing trust fund shall be expended.
 3. In its direction of affordable housing trust funds, the Council shall first consider mechanisms included in the municipality's Fair Share Plan.
 4. In the event that funding is not needed for mechanisms included in the municipality's Fair Share Plan, the Council shall solicit proposals from developers and organizations to create or rehabilitate affordable housing in compliance with the Council's regulations. In its solicitation, review, and selection of proposals, the Council shall act in consultation with the DCA Division of Housing.
 5. To the extent practicable, the Council shall assign funds from the affordable housing trust fund to mechanisms planned within the municipality that generated

the revenues or within close proximity to the municipality, such as within the county or region.

6. When the Council takes action pursuant to this section and additional units are created or rehabilitated, those units shall be eligible for credit in the municipality in which the units are constructed or rehabilitated.
- (c) Any party that presents evidence to the Council's satisfaction that one or more of the conditions listed in (a) above exist in a particular municipality may request Council action pursuant to (b) above in the form of a motion pursuant to N.J.A.C. 5:96-13. The motion may also include a proposal to create or rehabilitate affordable housing, which shall be considered by the Council consistent with (b)3 and 4 above, and may include directing the municipality to expend funds on the proposal.
- (d) The Council may also revoke a development fee ordinance approval for any municipality that fails to comply with the requirements of this subchapter. Where such approval has been revoked, the Council shall not approve an ordinance permitting such municipality to impose or collect development fees for the remainder of the substantive certification period or judgment of compliance.
- (e) Neither loss of funds from the affordable housing trust fund account, nor loss of the municipality's ability to impose and collect development fees shall alter the municipality's responsibilities pursuant to substantive certification or a court ordered judgment of compliance.

5:97-8.14 Ongoing collection of fees and maintenance of the affordable housing trust fund

The ability for all municipalities to impose and collect fees and maintain an affordable housing trust fund shall expire with their substantive certification or judgment of compliance unless the municipality has petitioned the Council for substantive certification of a Housing Element and Fair Share Plan that addresses its succeeding affordable housing obligation, and has received the Council's approval of its development fee ordinance. Municipalities that fail to renew their ability to impose and collect development fees and maintain an affordable housing trust fund prior to the expiration of their substantive certification or judgment of compliance may resume the imposition and collection of development fees by complying with the requirements of this section. A municipality shall not impose a development fee on a development that receives preliminary or final approval after the expiration of substantive certification or a judgment of compliance, nor shall a municipality retroactively impose a development fee on such a development. A municipality shall not expend affordable housing trust funds after the expiration of substantive certification or a judgment of compliance.

SUBCHAPTER 9. ADMINISTRATION OF AFFORDABLE UNITS

5:97-9.1 Applicability of UHAC

- (a) Affordable housing included in a municipal Fair Share Plan shall comply with UHAC. Exemptions from UHAC are provided in this chapter and UHAC. Municipal housing liaisons, administrative agents, and RCA administrators shall be governed by the applicable provisions of N.J.A.C. 5:96 and UHAC.

- (b) If the cost of administering and/or advertising affordable units is to be a developer's responsibility, the requirement shall be a condition of the municipal planning board or zoning board approval and required by ordinance.

5:97-9.2 Regional income limits

- (a) Administrative agents shall utilize the regional income limits established by the Council for the purpose of pricing affordable units and determining income eligibility of households.
- (b) Regional income limits shall be established by the Council based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households in each housing region. This quotient represents the regional weighted average of median income for a household of four. This regional weighted average is adjusted by household size based on multipliers used by HUD to adjust median income by household size.
- (c) The Council shall annually adopt the regional income limits based on household size. In no event shall the income limits be less than the previous year.

5:97-9.3 Establishing sale prices and rents of units

- (a) In establishing sale prices and rents of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC, utilizing the regional income limits established by the Council.
- (b) The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.
- (c) The rent of low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low income housing tax credit regulations shall be indexed pursuant to the regulations governing low income housing tax credits.

SUBCHAPTER 10. COST GENERATION AND DEVELOPMENT REVIEW PROCESS

5:97-10.1 Purpose and scope

The Act incorporates the need to eliminate unnecessary cost generating features from municipal land use ordinances as a requirement of substantive certification. In order to receive and retain substantive certification, municipalities shall eliminate development standards and requirements that are not essential to protect the public welfare and shall design municipal ordinances to expedite municipal decisions on affordable housing development applications.

5:97-10.2 Unnecessary cost generating requirements

- (a) In the development of municipal ordinances, a municipality shall use the Residential Site Improvement Standards, N.J.A.C. 5:21, where applicable. N.J.A.C. 5:21 establishes standards for all site improvements associated with residential development and deviations from those standards are to be done in accordance with N.J.A.C. 5:21-3. A municipality that wishes to impose more stringent standards shall bear the burden of justifying the need for such standards. To ensure that its municipal ordinances are not detrimental to the production of affordable housing or the financial feasibility of an affordable housing development, a municipality shall give special attention to:
 - 1. Ensuring that municipal zoning requirements work to promote affordable housing developments by achieving the density and set-aside necessary to address the municipal fair share obligation. Examples of such requirements include but are not limited to: building setbacks, height and/or stories, spacing between buildings, and impervious surface standards;
 - 2. Requirements to provide oversized water and sewer mains, as well as stormwater management provisions including culverts, to accommodate future development without a reasonable prospect for reimbursement;
 - 3. Excessive open space, recreation, landscape, buffering, tree replacement and reforestation requirements; and
 - 4. Excessive road width, pavement specifications and parking requirements.
- (b) Municipal Housing Elements and Fair Share Plans, and resolutions of approval as necessary, shall allow for phased construction and phased performance guarantees for on-site, off-site and off-tract improvements required of affordable housing developments.
- (c) The Council shall not permit restrictions on the bedroom mix of the market-rate units within an inclusionary development.
- (d) Failure to remove unnecessary cost generative requirements on an affordable housing development application shall be considered a reason for dismissal from the Council's jurisdiction or revocation of substantive certification.

5:97-10.3 Development application procedures

- (a) Affordable housing developments that are included in a Housing Element and Fair Share Plan have proceeded through a public process. Therefore, the focus of municipal development application review shall not be whether the sites are properly zoned. The focus shall be whether the design of the affordable housing development is consistent with the municipal zoning, subdivision and site plan ordinances. In order to expedite the review of development applications, municipalities shall cooperate with developers of affordable housing developments in scheduling pre-application conferences. Municipal boards shall schedule regular and special monthly meetings as needed and provide ample time at these meetings to consider the merits of an affordable housing development application. The goal of such a schedule is to ensure that development applications are acted upon within time limits mandated in the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.
- (b) Municipalities shall cooperate with developers of affordable housing developments in granting reasonable variances and waivers necessary to construct the affordable housing

development.

- (c) Municipalities shall cooperate with developers by expeditiously endorsing applications to other governmental agencies that require review and approval of that agency. Such endorsements shall be simultaneously submitted to the Council.
- (d) Failure of the municipality to take any of the above actions on an affordable housing development application shall be considered a reason for dismissal from the Council's jurisdiction or revocation of substantive certification.

5:97-10.4 Special studies/escrow accounts

- (a) It is common for municipalities to require developers of affordable housing developments to conduct special studies related to the fiscal, traffic and environmental impacts of proposed inclusionary developments. These studies are then reviewed by municipal professionals who are paid from escrow accounts funded by the developer of affordable housing developments as a requirement of the municipal review of the development application pursuant to N.J.S.A. 40:55D-1 et seq. The Council has determined that these studies shall not be used to alter the permitted density, unless as part of a use variance application pursuant to N.J.S.A. 40:55D-70d(4) or (5). Such studies may be used to foster proper design and to determine pro-rata off-tract improvement costs, but may not be excessive. In addition, special studies related to the fiscal impact of affordable housing developments that are included in a Housing Element and Fair Share Plan shall not be conducted, unless as part of a use variance application pursuant to N.J.S.A. 40:55D-70d(4) or (5). The Council has also determined that it is unnecessary for developers of affordable housing developments to pay for both the preparation of such studies and to pay into an escrow account for subsequent municipal review. Therefore, municipalities that receive substantive certification shall offer developers of affordable housing developments the option of preparing traffic and environmental impact studies or choosing a consultant from a list of at least six professionals prepared by the municipality to prepare the studies. If the developer chooses a consultant from the municipally prepared list, the developer and municipality shall rely on the consultant's recommendations and no other reports shall be prepared.
- (b) Fees to review development applications shall be estimated prior to payment of filing fees. Developers shall be entitled to review all charges against any escrowed fees and be provided with monthly accounting reports upon request as provided in N.J.S.A. 40:55D-1 et seq.

5:97-10.5 Developer relief

- (a) Developers of affordable housing sites in conformance with a Housing Element and Fair Share Plan may seek relief from the Council if the municipality and the developer cannot agree on specific standards that apply to an affordable housing site.
- (b) The developer of the affordable housing site may request the Council to provide a mediator to resolve the dispute. The resulting mediation shall not require a transfer to the Office of Administrative Law pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq.
- (c) Developers of affordable housing sites in conformance with a Housing Element and Fair Share Plan may seek an administrative order requiring the municipality to remove

unnecessary cost generating requirements or to expedite the municipal review of a development application by filing a motion pursuant to N.J.A.C. 5:96-13. Developers need not request mediation pursuant to (b) above in order to file such a motion. The Council may hear such a motion concurrent with any such mediation notwithstanding the provisions of N.J.A.C. 5:96-13.1(d).

- (d) Developers of affordable housing sites in conformance with a Housing Element and Fair Share Plan may request the Council to assist in expeditious processing or review provided the site meets the site suitability standards pursuant to N.J.A.C. 5:97-3.13. The Council shall act as an advocate with other State agencies, including DEP and DOT, in assisting the municipality and developer to move the affordable housing development forward expeditiously.
- (e) If, after a hearing conducted pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedural Rules, N.J.A.C. 1:1, and failure to comply with any resultant administrative order, the Council determines that a municipality has delayed action on a development application for an affordable housing site in conformance with the Housing Element and Fair Share Plan, or has required unnecessary cost generating requirements or obstructed the construction of an affordable housing site that is in conformance with a Housing Element and Fair Share Plan, the Council shall dismiss the municipality from the Council's jurisdiction or revoke its substantive certification.

Appendix A

COUNCIL ON AFFORDABLE HOUSING (COAH)

GROWTH SHARE RATIO METHODOLOGY

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STATEWIDE GROWTH SHARE RATIOS

MUNICIPAL-LEVEL PROJECTIONS

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MAY 1, 2008

INTRODUCTION

In COAH's Third Round Rules, municipalities incur affordable housing obligations when local housing units and jobs increase. The extent to which they do – each municipality's "growth share" for housing unit and employment growth – are determined by two Statewide Growth Share Ratios, developed using the methodology described in detail in this Appendix.¹ The numerator in both of these ratios is New Jersey's projected affordable housing need. This total is calculated based on an estimate of future housing need as a percentage of future household growth, as was done in the previously adopted Third Round Substantive Rules. We use the most recent and best data available and estimate that future need will grow as it has in the past. This assumes that in the period for which we are projecting need (between 1999 and 2018), low- and moderate-income households (those with incomes below 80 percent of their regional medians) represent the same percentage of all households as they do in 2000 (according to the 2000 U.S. Census 5-Percent Public Use Microdata Sample (PUMS)). Low- and moderate-income owners with significant assets – those who have paid off their mortgages and spend less than 38 percent of their income on other housing costs – are removed from this total, and low- and moderate-income residents of noninstitutional group quarters are added to this total, to reach a "Total Projected Need (1999-2018)" of 131,297 households.

Some of these households are accommodated by supply responses including "Secondary Sources of Supply." These adjustments to the composition and value of the housing stock include filtering and residential conversions (which can decrease the demand for affordable housing) and demolitions (which can increase the demand for affordable housing). In all, these Secondary Sources of Supply are expected to reduce New Jersey's projected affordable housing need by 15,631 units, or from 131,297 to 115,666.

This numerator (115,666) is then divided by two denominators – projected housing unit growth from 2004 to 2018 and projected employment growth from 2004 to 2018 – to create two Growth Share Ratios, one for housing and one for employment. Projected housing unit growth incorporates the expected increase in units over this time period as well as the predicted number of replacement units required. Also, units required to deliver prior round obligations are subtracted from this total², resulting in a statewide figure for housing unit growth of 314,069. Projected job growth is simply based on the difference between Econsult's estimates for 2004 and 2018 employment, or 791,465.

Assigning roughly 60 percent of projected affordable housing need to projected housing unit growth from 2004 to 2018, and the remainder (43 percent) to projected net employment growth from 2004 to 2018, results in the following growth share ratios:

¹ This current round obligation is in addition to municipalities' remaining obligations from prior rounds and rehabilitation obligation. These reflect communities' Rehabilitation Share and Prior Round Affordable Housing Need, described in detail in Appendices B and C.

² These units are removed because they are part of prior round plans to deliver affordable housing.

New Jersey	
57 percent/43 percent Split	1 Affordable Unit among 5 Units Produced
	1 Affordable Unit for 16 Jobs Created

This document has been updated slightly since it was first released in December 2007. Over the last few months, new data has become available that allowed Econsult to update their housing unit and employment projections. These new figures, and the Growth Share Ratios they generated, are documented in this version. While the Growth Share Ratios did not change, the portion of the projected affordable housing need accommodated by new housing units and by new jobs did change slightly.

LOW- AND MODERATE-INCOME HOUSING NEED (1999-2018)

The first step in understanding low- and moderate-income housing need in New Jersey is identifying the share of households with incomes below 80 percent of their regional medians – those households qualifying for housing assistance through federal and state programs. This methodology then assumes that the same portion of New Jersey’s new households will be below 80 percent of their regional median incomes as were below 80 percent of their regional median according to the 2000 U.S. Census 5-Percent Public Use Microdata Sample (PUMS), released in August 2003. (This database is comprised of a sample of state housing units and includes characteristics about those units and the households that reside in them. It is especially valuable for identifying low- and moderate-income households since it reports household size as well as income level; both are necessary to compare incomes to COAH-published figures for low- and moderate-income category limits.)

Econsult projections predict that New Jersey will add 377,190 households between 1999 and 2018. An analysis of the PUMS data suggests that 37.7 percent of these households, or 142,201, will have low- or moderate-incomes.

This figure is refined to isolate low- and moderate-income households in need of affordable housing. Low- and moderate-income owners who have paid off their mortgages and currently spend less than 38 percent of their household income on housing costs are removed from this total. Low- and moderate-income residents of noninstitutional group quarters, as well as an estimate of vacant units, are added to this total. These calculations result in a Total Projected Need (1999-2018) of 131,071. (As described in subsequent sections, Secondary Sources of Supply reduce this need number.)

As described in detail in chapter Appendix F, Econsult bases its housing unit projections on data from the New Jersey Labor and Workforce Development (NJLWD). While other projections exist, most notably from the Metropolitan Planning Organization (MPO), Econsult

uses NJLWD’s population and employment projections as the county control totals because these forecasts are based on state of the art methodology consistently applied across all State of New Jersey counties. Econsult also relies on data from the U.S. Census Bureau’s 1990 and 2000 Census and 2002 American Community Survey, and on land capacity estimates provided by Rutgers’ National Center for Neighborhood & Brownfields Redevelopment (NCNBR). The Rutgers team identifies New Jersey’s available land – the amount of undeveloped and unconstrained land available for future development on a statewide basis as of 2002 – using spatial files from the Office of Smart Growth (OSG), Department of Environmental Protection (DEP), and the New Jersey Department of Agriculture. (This is described separately in Appendix F.) This estimate of vacant land is then converted into estimates of residential and non-residential development capacity at the municipal level.

Using this information, Econsult constructs housing unit projections for municipalities based on county-wide projections, communities’ historical growth rates, physical growth capacities, and expected growth rates (a function of the relationship between local build-out levels and historical growth rates) in the State’s 566 municipalities. This technique produces housing unit totals going backward to 1999 and going forward to 2018.

Area	Population (1999)	Average Household Size (2000)	Households (1999)
New Jersey	8,359,592	2.68	3,116,867

The number of households in 2018 is derived from Econsult’s housing unit estimates for 1999 and 2018. In 1999, total household figure – 3,116,867 – was just over 5 percent lower than the total housing unit figure. This implies that roughly 5 percent of the State’s housing units (3,294,671 in all) were vacant that year. We assume that this same vacancy rate will exist in 2018 as well, when the number of households will again be approximately 5 percent less than the number of housing units.

Area	Housing Units (2018)	Vacancy Rate	Households (2018)
New Jersey	3,693,378	5.4 percent	3,494,057

Therefore, according to Econsult’s projections, New Jersey is expected to add the following number of households between 1999 and 2018:

COAH Region		Households		Household Change
		1999	2018	1999-2018
1	Northeast Region	783,927	818,694	34,767
2	Northwest Region	689,671	733,077	43,406
3	West Central Region	424,610	471,092	46,482
4	East Central Region	560,127	683,012	122,885
5	Southwest Region	440,239	494,539	54,300
6	South-Southwest Region	218,515	293,643	75,128
Total		3,116,867	3,494,057	377,190

What portion of these households will have low or moderate incomes – incomes below 80 percent of their regional medians? To answer this question, we rely on the 2000 U.S. Census 5-Percent Public Use Microdata Sample (PUMS) and the COAH regions established in earlier rounds. (An analysis by the Center for Urban Policy Research (CUPR), a component of Rutgers University’s Edward J. Bloustein School of Planning and Public Policy, and reported in the previously adopted Third Round Substantive Rules, justified retaining the COAH Regions used in earlier rounds. That research found the linkages between counties in the same region to be stronger than between counties in different regions. For one thing, at least two-thirds (and in some cases nearly all) workers not working at home commuted somewhere else within their region of residence (pages 60-61). Their work also found “significant social, economic, and income interrelationships” between counties within a given region (page 60). Additionally, these COAH Regions “comport with State Plan principles and land designations” (page 61).) Each PUMS record includes a “PUMS Area” to describe the geographic location of that housing unit and household. To fit PUMS records to COAH regions, we group PUMS Areas in the following ways:

COAH Region	PUMS Area	County	
1	Northeast	301, 302, 303, 304, 305, 306	Bergen
		400, 501, 502	Passaic
		601, 602, 701, 702, 703	Hudson
		1600	Sussex
2	Northwest	1301, 1302, 1401, 1402, 1403, 1404	Essex
		1501, 1502, 1503, 1504	Morris
		1700	Warren
		1800, 1901, 1902, 1903	Union
3	West Central	800	Hunterdon
		901, 902, 903, 904, 905	Middlesex
		1001, 1002	Somerset

COAH Region		PUMS Area	County
4	East Central	1101, 1102, 1103, 1104, 1105	Monmouth
		1201, 1202, 1203	Ocean
		2301, 2302	Mercer
5	Southwest	2001, 2002, 2003	Burlington
		2101, 2102, 2103, 2104	Camden
		2201	Gloucester
6	South-Southwest	101, 102	Atlantic
		200	Cape May
		2400	Cumberland

PUMS Area 2202 is partially in Gloucester County (and COAH Region 5) and partially in Salem County (and COAH Region 6). Since county information is not available in the PUMS dataset, records in 2202 are assigned to regions and compared to regional median incomes using methods described in further detail below.

To determine what portion of New Jersey households have incomes below 80 percent of their regional median income, this methodology arrays all households by size and income, and uses the regional median income levels adopted by COAH on April 5, 2000, for households including 1 to 8 persons (see table). (The regional median incomes for 8-person households were used for any household including more than 8 people.)

COAH Region		Household Size							
		1	2	3	4	5	6	7	8
1	Northeast	\$37,426	\$42,772	\$48,118	\$53,465	\$57,742	\$62,019	\$66,296	\$70,574
2	Northwest	\$39,536	\$45,184	\$50,832	\$56,480	\$60,998	\$65,517	\$70,035	\$74,554
3	West Central	\$45,248	\$51,712	\$58,176	\$64,640	\$69,811	\$74,982	\$80,154	\$85,325
4	East Central	\$36,123	\$41,283	\$46,444	\$51,604	\$55,732	\$59,861	\$63,989	\$68,118
5	Southwest	\$32,368	\$36,992	\$41,616	\$46,240	\$49,939	\$53,638	\$57,338	\$61,037
6	South-Southwest	\$27,978	\$31,974	\$35,971	\$39,968	\$43,166	\$46,363	\$49,560	\$52,758

Since those records in PUMS Area 2202 could not be assigned to a COAH Region, income levels for these records are calculated twice. First, Region 5 income levels are used to identify a low number of low- and moderate-income households. Second, Region 6 income levels (below Region 5 levels) are used to identify a high number of low- and moderate-income households. To ensure that all low- and moderate-income households are included in this analysis, the table below shows high results.

Steps	PUMS Records
1. Households <80 percent of Regional Median Income	62,421
2. All PUMS Records (Housing Units Only)	165,513
3. percent Housing Need Interim (Step 1 ÷ Step 2)	37.7 percent

According to these procedures, low- and moderate-income households represent 37.7 percent of all households in the State. If 37.7 percent of the households New Jersey is expected to add between 1999 and 2018 similarly qualify for affordable housing, Econsult's projections imply that 142,201 additional households will qualify for affordable housing over the 19 year period.

COAH Region		Projected Need
1	Northeast Region	13,107
2	Northwest Region	16,364
3	West Central Region	17,524
4	East Central Region	46,328
5	Southwest Region	20,471
6	South-Southwest Region	28,323
Total		142,201

To refine this number and further identify households in need of affordable housing, this methodology then removes qualifying households likely to have significant assets – owner households with incomes below 80 percent of their regional median income whose mortgages were fully paid off and who spent less than 38 percent of their income on housing costs, as reported in the PUMS file. (This replicates the methodology used to develop the previously adopted Third Round Substantive Rules.) According to the PUMS file, these owners represent 17 percent of all households statewide and the following percentages in each region below 80 percent of their regional median income in the state:

COAH Region		Percent Paid Down
1	Northeast Region	12 percent
2	Northwest Region	13 percent
3	West Central Region	20 percent
4	East Central Region	25 percent
5	Southwest Region	20 percent
6	South-Southwest Region	20 percent
Total		17 percent

We assume that owners without mortgages and housing costs below 38 percent represent the same portion of “Initial Projected Need” households. These households are then subtracted from the “Initial Projected Need” to get a “Projected Need Subtotal.”

COAH Region		Projected Need	Paid-Down	Subtotal
1	Northeast Region	13,107	-1,537	11,570
2	Northwest Region	16,364	-2,119	14,245
3	West Central Region	17,524	-3,451	14,073
4	East Central Region	46,328	-11,699	34,628
5	Southwest Region	20,471	-4,135	16,336
6	South-Southwest Region	28,323	-5,681	22,642
Total		142,201	-24,350	117,850

While owners with significant assets reduce the overall need, demand from low- and moderate-income households in group quarters increases the overall need. The 1990 and 2000 Censuses specify the populations in group quarters, making it possible to identify individuals living in correctional facilities, nursing homes, mental hospitals, juvenile facilities, college dormitories, military quarters, and other noninstitutional group quarters. Residents living in “other” noninstitutional group quarters are included in this methodology. (The 1990 Census further highlights individuals living in emergency shelters or on the street; the 2000 Census considers these individuals to be living in “other” noninstitutional group quarters. To make the two years’ numbers compatible, individuals living in emergency shelters or on the street are added to those in “other” group quarters in 1990.)

Between 1990 and 2000, the number of individuals in “other” noninstitutional group quarters increased by 11,297. We assume that every two residents contribute to the demand for one additional unit of housing. Therefore, the 11,297 additional residents in these group quarters represent the demand for 5,649 additional housing units. If the number of residents in these group quarters increases at the same rate in the future, the overall demand for housing by residents in “other” noninstitutional group quarters is expected to be 11,015 (or 5,649 x 1.95) over the 19-year period from 1999 to 2018.

Since income data is not available for residents of group quarters, we assume that 80 percent have low or moderate incomes. (This assumption was also used by CUPR (see footnote 14 on page 160 of Appendix A of the previously adopted Third Round Substantive Rules).) Therefore, the additional demand for affordable housing units by individuals in “other” noninstitutional group quarters between 1999 and 2018 is expected to be 8,812 Statewide.

COAH Region		Population in "Other" Noninstitutional Group Quarters		Change 1990-2000	Additional Demand (1990-2000)	Additional Demand (1999-2018)	Additional Affordable Housing Demand (1999-2018)
		1990	2000				
1	Northeast Region	5,528	9,059	3,531	1,766	3,443	2,754
2	Northwest Region	8,355	7,437	-918	-459	-895	-716
3	West Central Region	1,950	5,236	3,286	1,643	3,204	2,563
4	East Central Region	4,272	5,080	808	404	788	630
5	Southwest Region	2,713	4,769	2,056	1,028	2,005	1,604
6	South-Southwest Region	2,024	4,558	2,534	1,267	2,471	1,977
Total		24,842	36,139	11,297	5,649	11,015	8,812

Vacancies in the housing stock available to low- and moderate-income households also increase the need. This vacancy rate (more limited than that used to transform housing unit numbers into household totals) is derived by taking the number of non-seasonal vacant units as a percentage of all housing units in 2000 (according to the Census). These rates (roughly 4 percent statewide) added 4,365 units to the subtotal numbers.

COAH Region		Vacancy Rate (excluding Seasonal Properties)	Vacant Units
1	Northeast Region	2.9 percent	339
2	Northwest Region	4.0 percent	565
3	West Central Region	2.4 percent	334
4	East Central Region	4.5 percent	1,554
5	Southwest Region	5.2 percent	842
6	South-Southwest Region	5.9 percent	1,334
Total		3.9 percent	4,635

Together, these steps result in a "Total Projected Need" number of 131,297 for the state as a whole.

COAH Region		Projected Need (37.7 percent of Household Change)	Paid-Down	Vacancy Rate (excluding Seasonal Properties)	Additional Demand from Group Quarters	Total Projected Need (1999-2018)
1	Northeast Region	13,107	-1,537	339	2,754	14,663
2	Northwest Region	16,364	-2,119	565	-716	14,094
3	West Central Region	17,524	-3,451	334	2,563	16,970
4	East Central Region	46,328	-11,699	1,554	630	36,812
5	Southwest Region	20,471	-4,135	842	1,604	18,782
6	South-Southwest Region	28,323	-5,681	1,334	1,977	25,953
Total		142,201	-24,350	4,635	8,812	131,297

SECONDARY SOURCES OF SUPPLY

Secondary Sources of Housing Supply refers to those housing market adjustments that change the composition and value of the housing stock. This methodology reviews three types of adjustments: filtering, residential conversions, and demolitions.³

“Filtering” is the process by which units decline in value and therefore become affordable to lower-income households. This process begins when higher end housing is built by private developers. When higher-income consumers move into these new units, the demand for their prior units declines, causing values or rents to drop; the units then become affordable to consumers at a lower income level. In this way, the construction of new, market-rate housing may reduce affordable housing needs by freeing up additional existing units for purchase or rent by moderate-income households. Filtering is most likely to take place in housing markets containing sound housing undergoing significant turnover and in close proximity to substantial new development.

According to this Econsult analysis (these methods are described in further detail in Appendix F), 47,306 units are expected to filter down to households of lower incomes between 1999 and 2018. Half (50 percent) of these filtered units (23,626 units) are located in suburban communities (as defined by the Rutgers University Center for Urban Policy Research). This suburban share of filtering is included in this analysis.

³ Spontaneous rehabilitations were not included in this methodology. Research team members felt that while units were likely brought up to code (“spontaneously rehabilitated”) over the course of the study period, others likely fell out of compliance, and it was not possible to verify the number of properties doing either one.

COAH Region		Filtering (1999-2018)
1	Northeast	5,254
2	Northwest	2,111
3	West Central	610
4	East Central	2,459
5	Southwest	7,428
6	South-Southwest	5,764
Total		23,626

Next, a residential conversion is the creation of a new dwelling unit from an existing structure (either residential or non-residential). Residential conversions occur when renovations increase the number of units in existing structures. The U.S. Department of Housing and Urban Development (HUD) considers residential conversions to be a significant source of housing supply to low- and moderate-income families. This primarily occurs in markets where new housing construction is not meeting the demand for smaller units.

This methodology (replicating that resulting in the previously adopted Third Round Substantive Rules) defines residential conversions as the change in total units, accounting for new construction (as indicated by certificates of occupancy) and demolitions. According to the U.S. Census, the number of housing units increased by 234,965 in New Jersey between 1990 and 2000. Our analysis of municipal-level data from the New Jersey Construction Reporter finds that, during the same time period, 233,916 certificates of occupancy were issued. According to state-level data reported in the previously adopted Third Round Substantive Rules (Appendix A, page 86), 26,212 residential properties were demolished between 1990 and 1999. Subtracting certificates of occupancy and adding demolitions to the total change in housing units (234,965 – 233,916 + 26,212) results in a difference of 27,261 units; these units were likely added through residential conversions.

This methodology estimates that 19.5 percent of converted units (5,316 units) are priced for low- and moderate-income households (since 19.5 percent of New Jersey’s housing stock was affordable to these households in 2000).⁴ Projecting these 10-year trends out 19 and a half years (from mid-1999 through 2018) suggests that 10,366 units will be created as a result of residential conversions throughout New Jersey.

⁴ According to the National Association of Realtors’ mortgage calculator – and assuming households could put up to \$10,000 toward their down-payment, had the State’s average car payment (\$447.00, reported by Edmunds Automotive Network) and credit card debt (\$165.00, reported by PlasticEconomy.com), took out a loan at 6.375 percent (roughly the average commitment rate for 30-year, fixed rate loans in 2006 and 2007, according to Freddie Mac), and faced a 2.5 percent property tax rate (slightly below the average effective property tax rate for all New Jersey municipalities in 2004, reported by the New Jersey Division of Taxation) – a household earning \$52,276 (or 80 percent of the State’s median family income in 2000) could afford a \$109,547 home. U.S. Census data from 2000 indicates that 19.5 percent of specified owner-occupied units were valued below \$109,547.

COAH Region		Residential Conversion (1999-2018)
1	Northeast	1,163
2	Northwest	1,283
3	West Central	1,782
4	East Central	3,144
5	Southwest	2,079
6	South-Southwest	915
Total		10,366

Unlike filtering and residential conversions, demolitions, which occur as land values outpace housing utility and dilapidated building conditions reach hazardous levels, represent a source of additional demand (not supply). In other words, while filtering and residential conversions can create affordable units, demolitions eliminate affordable units. By removing housing from the existing stock, particularly that portion of the stock affordable and available to low-income households, demolitions increase the demand for those units that remain.

In order to estimate the number of demolitions likely to occur through 2018, this analysis collects demolition totals for all New Jersey municipalities from the New Jersey Construction Reporter for the years 1996 through 2006. On average, 4,829 properties were demolished annually during this time period.

COAH Region		Average Annual Number of Demolitions (1996-2006)
1	Northeast Region	907
2	Northwest Region	1,245
3	West Central Region	315
4	East Central Region	811
5	Southwest Region	504
6	South-Southwest Region	1,046
Total		4,829

These annual averages are multiplied by 14 to determine the total number of demolitions expected to occur between 2004 and 2018 (used to estimate the number of units required to replace the loss of depreciated units, a component of housing unit growth described in the next section) and by 19.5 to determine the total number of demolitions expected to occur between the middle of 1999 and the end of 2018 (used as a secondary source of supply in this section).

As with residential conversions, this methodology assumes that 19.5 percent of demolitions directly affect low- and moderate-income households by removing low-cost units from the housing stock.

COAH Region		All Demolitions (1999-2018)	Demolitions affecting Low- and Moderate-Income Households (19.5 percent of All Demolitions)
1	Northeast Region	17,685	3,449
2	Northwest Region	24,279	4,734
3	West Central Region	6,146	1,198
4	East Central Region	15,816	3,084
5	Southwest Region	9,835	1,918
6	South-Southwest Region	20,397	3,977
Total		94,158	18,361

Together these methods result in the following number of affordable housing units provided by secondary sources of supply for the State as a whole:

COAH Region		Filtering (1999-2018)	Residential Conversions (1999-2018)	Demolitions (1999-2018)	Total of Secondary Sources
1	Northeast	5,254	1,163	-3,449	2,969
2	Northwest	2,111	1,283	-4,734	-1,340
3	West Central	610	1,782	-1,198	1,194
4	East Central	2,459	3,144	-3,084	2,519
5	Southwest	7,428	2,079	-1,918	7,589
6	South-Southwest	5,764	915	-3,977	2,701
Total		23,626	10,366	-18,361	15,631

ADJUSTED PROJECTED NEED

Ultimately, affordable housing need is the Total Projected Need (based on household growth) minus the Secondary Sources of Supply already responding to a portion of that need.

COAH Region		Projected Affordable Housing Need (1999-2018)	Secondary Sources (1999-2018)	Adjusted Projected Need (1999-2018)
1	Northeast Region	14,663	-2,969	11,694
2	Northwest Region	14,094	1,340	15,434
3	West Central Region	16,970	-1,194	15,776
4	East Central Region	36,812	-2,519	34,293
5	Southwest Region	18,782	-7,589	11,193
6	South-Southwest Region	25,953	-2,701	23,251
Total		131,297	-15,631	115,666

This figure, the “Adjusted Projected Need (1999-2018),” is the numerator in the growth share ratio and therefore determines how much affordable housing need will be distributed across residential development and job increases.

To check the robustness of this approach, we estimate affordable housing need using a second approach. This second approach is modeled on the Department of Housing and Urban Development’s (HUD) technique for identifying households with housing problems. According to the HUD approach, “housing need” is comprised of low- and moderate-income households (those below 80 percent of median income) paying 30 percent or more of household income on owner costs or rent, and any household living in dilapidated housing or in overcrowded conditions. As in the Secondary Sources approach, we assume that these issues will affect the same portion of new New Jersey households as they do all New Jersey households in 2000 (according to the Comprehensive Housing Affordability Strategy (CHAS) Dataset (available at www.huduser.org/datasets/cp.html)). We also add to this total the additional demand stemming from individuals currently living in non-institutional group quarters. As expected (because the HUD approach incorporates both primary and secondary sources of supply), the need number reached using this approach is slightly lower than that using the Secondary Sources approach. However, both result in similar growth share ratios (described in further detail below). As a result, this helps validate the use of and conclusions reached using the Secondary Sources Approach.

HOUSING UNIT GROWTH (2004-2018)

In COAH’s Third Round Rules, municipalities incur affordable housing obligations when local housing units and jobs increase. To quantify these increases, Econsult projects housing unit and employment growth from 2004 to 2018 for all municipalities and the State as a whole. Because housing prices and production vary over long periods of time, with rapid growth in some periods and slow growth in others, extending projections out to 2018 makes sense in order to

reflect both strong and weak housing markets. Given New Jersey’s very strong housing market in recent years, it is likely that that projections stopping in 2014 would disproportionately capture a relatively slow part of the housing cycle.

According to Econsult’s projections (described in detail in Appendix F), New Jersey will add the following number of housing units between 2004 and 2018:

COAH Regions		Housing Units 2004	Housing Units 2018	Net Housing Unit Change (2004-2018)
1	Northeast Region	821,701	864,193	42,492
2	Northwest Region	726,750	774,894	48,144
3	West Central Region	449,911	497,964	48,053
4	East Central Region	656,113	721,977	65,864
5	Southwest Region	478,002	522,752	44,750
6	South-Southwest Region	296,027	316,172	20,145
Total		3,428,504	3,697,952	269,448

These figures show new construction but cannot capture the number of units built to replace those removed from the housing stock through demolition. The net removal of existing homes – through intentional demolition as well as due to disasters such as storms or fires – represents a “crucial component of overall housing demand.”⁵ This component is the number of housing units required to replace units lost, over and above the new units required to accommodate household growth.

Existing techniques for quantifying the number of net removals rely on Census estimates and direct measures of net removals, construction data, and housing counts from the decennial census. The Census estimates a roughly 0.3 percent net removal rate. Our net removal rate is based on actual demolition trends and the existing housing stock in New Jersey. On average, 4,829 units were demolished annually between 1996 and 2006 Statewide. This figure represents 0.15 percent of New Jersey’s total housing units (3,310,275 in 2000, according to the Census). This net removal rate (0.15 percent) is similar to but below the national rate, a result not unanticipated given the higher-than-average property values in New Jersey.

To account for the replacement of depreciated units, this methodology adds a figure comparable to the total number of demolitions (projected for the period from 2004 to 2018 by multiplying the average annual number of properties demolished between 1996 and 2006 by 14) to the Net Housing Unit Change to arrive at an overall figure for projected housing unit

⁵ America’s Home Forecast: The Next Decade for Housing and Mortgage Finance issued by the Homeownership Alliance, pg. 19.

growth. This calculation results in an estimate of 67,601 replacement units between 2004 and 2018.

COAH Region		Replacement Units (2004-2018)
1	Northeast Region	12,697
2	Northwest Region	17,431
3	West Central Region	4,413
4	East Central Region	11,355
5	Southwest Region	7,061
6	South-Southwest Region	14,644
Total		67,601

As in the previously adopted Third Round Substantive Rules, it is further assumed that the delivery of the Remaining Prior Round Obligation will reduce the housing supply able to support the current round’s affordable housing requirement. An analysis by COAH staff determined that 22,980 units are necessary to deliver prior round obligations.

COAH Region		Units Required to Deliver Prior Round
1	Northeast Region	3,480
2	Northwest Region	4,740
3	West Central Region	2,610
4	East Central Region	8,880
5	Southwest Region	3,000
6	South-Southwest Region	270
Total		22,980

Therefore, considering growth between 2004 and 2018, factoring in replacement units, and subtracting out the number of units required to deliver the prior round obligation, the total number of units available to deliver housing for the current round need is 314,069 units.

COAH Region		Housing Unit Change (2004-2018)	Replacement Units (2004-2018)	Units Required to Deliver Prior Round	Reduced Units to Deliver Current Round
1	Northeast Region	42,492	12,697	-3,480	51,709
2	Northwest Region	44,144	17,431	-4,740	60,835
3	West Central Region	48,053	4,413	-2,610	49,856
4	East Central Region	65,864	11,355	-8,880	68,339
5	Southwest Region	44,750	7,061	-3,000	48,811
6	South-Southwest Region	20,145	14,644	-270	34,519
Total		269,448	67,601	-22,980	314,069

EMPLOYMENT GROWTH (2004-2018)

There is a strong link between jobs and housing. New jobs create a demand for housing by attracting new workers into a municipality, who will themselves require housing. (New jobs can also increase municipalities' tax bases.) Therefore, this non-residential development will generate a portion of the State's future affordable housing need.

According to Econsult's analysis (based on employment data from the New Jersey Department of Labor and Workforce Development, described in Appendix F), overall employment is expected to increase Statewide by 790,465 jobs between 2004 and 2018.

COAH Region		Employment 2004	Employment 2018	Net Total Employment Change (2004-2018)
1	Northeast Region	885,699	1,063,924	178,226
2	Northwest Region	877,676	1,068,027	190,351
3	West Central Region	584,742	700,025	115,284
4	East Central Region	575,027	726,719	151,693
5	Southwest Region	495,337	614,834	119,497
6	South-Southwest Region	271,209	306,625	35,418
Total		3,689,688	4,480,153	790,465

STATEWIDE GROWTH SHARE RATIOS

New residential and non-residential growth – and the municipalities that experience that growth – will be responsible for addressing the projected affordable housing need (115,666 units). The more municipalities grow, the greater their obligation, or “growth share.” A

municipality’s “growth share” is a function of its actual growth. The Growth Share Ratios show the affordable obligation incurred by growth in housing units and jobs.

Because municipalities’ affordable housing need stems from their increase in low- and moderate-income households as well as their increase in jobs (which attract additional employees, themselves in need of housing), there are two ratios: one for housing; and one for employment.

Affordable housing obligation is balanced between housing unit and employment growth, with a slightly greater emphasis on housing unit growth. Assigning roughly 60 percent of projected affordable housing need to projected housing unit growth from 2004 to 2018, and 43 percent to projected net employment growth from 2004 to 2018, results in the following growth share ratios:

New Jersey	
57 percent/43 percent Split	One Affordable Unit among Five Units
	One Affordable Unit for 16 Jobs Created

MUNICIPAL-LEVEL OBLIGATIONS

To generate housing unit and employment growth at the municipal level, Econsult follows a five-step process. First, Econsult projects 2018 figures for each municipality based on its historical growth rate and build-out level. (These individual projections are aggregated at the county level and compared to county control figures. Whenever this sum exceeds county control totals, Econsult proportionally scales the individual projections down.) Second, Econsult verifies these projections against the physical growth capacity of each municipality and ensures that no town has exceeded its maximum growth level. Third, Econsult checks to see that future growth is not significantly faster than historical growth. Fourth, when municipalities exceed both these upper growth limits, the excess population “spills over” into neighboring communities until those communities reach their own upper growth limits. Lastly, these final municipal totals are again summed to the county level and compared to county controls.

These totals provide estimates of growth at the municipal level. It should be noted that these are projections and actual growth will differ. As noted by the New Jersey Department of Labor and Workforce Development, projections “are not intended to constrain or to advocate specific levels of growth in the state.... These projections are best used as a reference framework for planning, research, and program evaluation.” While municipalities incur affordable housing obligations with actual growth, these totals establish the expected need for affordable units which municipalities are obligated to respond to through zoning and other methods. Municipal-level projections are used

as a starting point to determine that municipalities are providing for their fair share of affordable need going forward, with a focus on that portion that can be accommodated through inclusionary zoning of vacant land. At a minimum, municipalities must zone or otherwise provide for their projected increase in housing units based on available vacant land.

Although they are derived from the best available data and methodology, replacement units cannot be reliably predicted at the municipal or regional level going forward. However, at the statewide level, they provide an estimate for how much growth New Jersey can expect in the future. This actual growth, wherever it takes place, will be captured by the Growth Share Ratios described in this appendix.

In sum, municipalities incur obligations to provide affordable housing only when and to the extent growth occurs. Each municipality's current round affordable housing obligation is based on actual growth while maintaining zoning based on projections to establish a realistic opportunity for affordable housing.

Appendix B

COUNCIL ON AFFORDABLE HOUSING (COAH)

REHABILITATION SHARE METHODOLOGY

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INTRODUCTION

This methodology makes two changes to the Rehabilitation Share calculation presented in the previously released Third Round Substantive Rules: 1) it flagged overcrowded units built in 1949 or earlier (rather than 1939 or earlier); and 2) it excluded spontaneous rehabilitations. Researchers felt it was important to include all overcrowded properties that were at least 50 years old in 2000. (Fifty years is the National Park Service’s cut-off for eligibility for listing in the National Register of Historic Places.) At the same time, researchers felt it was best to exclude spontaneous rehabilitations.⁶

This methodology borrows the remaining rehabilitation share numbers calculated by the Center for Urban Policy Research (CUPR), a component of Rutgers University’s Edward J. Bloustein School of Planning and Public Policy, and reported in the previously released Third Round Substantive Rules.

CROWDING

Overcrowding is defined by the U.S. Department of Housing and Urban Development as any unit with more than one person living per room. These figures are reported by the U.S. Census. In 2000, the Census also specified occupancy levels by the year an individual unit was built (Table H.49). Therefore, using municipal-level data from the U.S. Census, it was possible to determine how many units built prior to 1950 – or at least fifty-years-old in 2000 – were overcrowded.

COAH Region		Overcrowded, Built Pre-1950
1	Northeast Region	25,303
2	Northwest Region	15,337
3	West Central Region	4,416
4	East Central Region	4,179
5	Southwest Region	3,348
6	South-Southwest Region	2,367
Total		54,950

⁶ While units were likely brought up to code (“spontaneously rehabilitated”) over the course of the study period, others likely fell out of compliance, and it was not possible to verify the number of properties doing either one. In addition, spontaneous rehabilitations were likely captured in the updated filtering numbers.

DILAPIDATED HOUSING

As determined previously by researchers from Rutgers' CUPR and as reported in the previously released Third Round Substantive Rules, the following numbers of properties in each region are dilapidated – lacking complete plumbing and/or kitchen facilities (as reported by the 2000 Census).

COAH Region		Lack Complete Plumbing	Lack Complete Kitchen
1	Northeast Region	5,785	6,229
2	Northwest Region	4,795	5,013
3	West Central Region	1,529	1,560
4	East Central Region	1,891	1,774
5	Southwest Region	1,643	1,724
6	South-Southwest Region	887	1,231
Total		16,530	17,531

LOW-MODERATE DETERIORATION SHARE

CUPR researchers further concluded in their previous work that the following portion of overcrowded and dilapidated housing would be occupied by low- or moderate-income households in each region:

COAH Region		Low-/Moderate-Income Deterioration Share
1	Northeast Region	0.639
2	Northwest Region	0.714
3	West Central Region	0.691
4	East Central Region	0.665
5	Southwest Region	0.737
6	South-Southwest Region	0.715

REHABILITATION SHARE CREDIT

Prior work also concluded that municipalities had received roughly 8,500 units in Rehabilitation Share Credits:

COAH Region		Rehabilitation Share Credit
1	Northeast Region	3,912
2	Northwest Region	2,474
3	West Central Region	370
4	East Central Region	536
5	Southwest Region	937
6	South-Southwest Region	237
Total		8,466

TOTAL REHABILITATION SHARE

As in earlier work, a municipality's Total Rehabilitation Share is equal to the sum of its overcrowded and dilapidated units, multiplied by its regional Low-/Moderate-Income Deterioration Share, minus its Rehabilitation Share Credit. Statewide, this calculation results in a Total Rehabilitation Share of nearly 52,000 units:

COAH Region		Total Rehabilitation Share
1	Northeast Region	19,934
2	Northwest Region	15,480
3	West Central Region	4,816
4	East Central Region	4,680
5	Southwest Region	4,012
6	South-Southwest Region	2,970
Total		51,891

The municipal level figures are as follows:

Municipality	County	Crowded, Built Pre-1950	Incomplete Plumbing	Incomplete Kitchen	Low-/ Moderate- Income Share	Rehab. Share Credit	Total Rehab. Share
Absecon City	Atlantic	29	6	6	0.715	0	29
Atlantic City	Atlantic	700	182	215	0.715	-193	591
Brigantine City	Atlantic	0	7	9	0.715	0	11
Buena Borough	Atlantic	30	7	12	0.715	0	35
Buena Vista Township	Atlantic	12	0	10	0.715	0	16
Corbin City	Atlantic	0	2	0	0.715	0	1
Egg Harbor City	Atlantic	53	0	0	0.715	0	38
Egg Harbor Township	Atlantic	19	38	83	0.715	0	100
Estell Manor City	Atlantic	3	5	0	0.715	0	6
Folsom Borough	Atlantic	5	2	0	0.715	0	5
Galloway Township	Atlantic	5	35	25	0.715	0	46
Hamilton Township	Atlantic	20	15	44	0.715	0	56
Hammonton Township	Atlantic	105	8	4	0.715	0	84
Linwood City	Atlantic	5	0	101	0.715	-10	66
Longport City	Atlantic	2	0	3	0.715	0	4
Margate City	Atlantic	4	0	0	0.715	0	3
Mullica City	Atlantic	27	10	0	0.715	0	26
Northfield City	Atlantic	13	0	6	0.715	0	14
Pleasantville City	Atlantic	87	35	10	0.715	0	94
Port Republic City	Atlantic	0	0	0	0.715	0	0
Somers Point City	Atlantic	28	0	8	0.715	0	26
Ventnor City	Atlantic	91	60	33	0.715	0	132
Weymouth Township	Atlantic	0	7	4	0.715	0	8
Allendale Borough	Bergen	6	0	0	0.639	0	4
Alpine Borough	Bergen	0	0	3	0.639	0	2
Bergenfield Borough	Bergen	228	22	7	0.639	-45	119
Bogota Borough	Bergen	95	7	7	0.639	-1	69
Carlstadt Borough	Bergen	22	14	14	0.639	0	32
Cliffside Park Borough	Bergen	233	84	59	0.639	-104	136
Closter Borough	Bergen	20	8	8	0.639	-9	14
Cresskill Borough	Bergen	32	0	9	0.639	0	26
Demarest Borough	Bergen	7	0	0	0.639	0	4
Dumont Borough	Bergen	36	6	6	0.639	0	31
Elmwood Park Borough	Bergen	129	67	22	0.639	-72	67
East Rutherford Borough	Bergen	145	11	6	0.639	-19	85

Municipality	County	Crowded, Built Pre-1950	Incomplete Plumbing	Incomplete Kitchen	Low-/ Moderate- Income Share	Rehab. Share Credit	Total Rehab. Share
Edgewater Borough	Bergen	17	39	12	0.639	-19	24
Emerson Borough	Bergen	0	0	0	0.639	0	0
Englewood City	Bergen	364	40	35	0.639	-87	194
Englewood Cliffs Borough	Bergen	9	0	0	0.639	-4	2
Fair Lawn Borough	Bergen	59	16	9	0.639	-1	53
Fairview Borough	Bergen	222	263	235	0.639	-296	164
Fort Lee Borough	Bergen	198	53	54	0.639	-35	160
Franklin Lakes Borough	Bergen	5	0	0	0.639	0	3
Garfield City	Bergen	355	85	65	0.639	-148	175
Glen Rock Borough	Bergen	5	6	6	0.639	0	11
Hackensack City	Bergen	530	118	186	0.639	-232	301
Harrington Park Borough	Bergen	0	6	0	0.639	0	4
Hasbrouck Heights Borough	Bergen	51	17	8	0.639	0	49
Haworth Borough	Bergen	7	0	0	0.639	0	4
Hillsdale Borough	Bergen	7	5	11	0.639	0	15
Ho-Ho-Kus Borough	Bergen	0	0	0	0.639	0	0
Leonia Borough	Bergen	82	21	27	0.639	-11	72
Little Ferry Borough	Bergen	74	31	29	0.639	-44	42
Lodi Borough	Bergen	247	39	28	0.639	-78	123
Lyndhurst Township	Bergen	49	11	23	0.639	0	53
Mahwah Township	Bergen	23	15	32	0.639	-1	44
Maywood Borough	Bergen	21	7	21	0.639	-2	29
Midland Park Borough	Bergen	18	0	7	0.639	0	16
Montvale Borough	Bergen	8	9	0	0.639	-6	5
Moonachie Borough	Bergen	12	0	0	0.639	-1	7
New Milford Borough	Bergen	48	32	52	0.639	-39	45
North Arlington Borough	Bergen	34	16	41	0.639	0	58
Northvale Borough	Bergen	13	5	5	0.639	0	15
Norwood Borough	Bergen	0	21	14	0.639	-12	10
Oakland Borough	Bergen	14	11	0	0.639	0	16
Old Tappan Borough	Bergen	0	10	15	0.639	-9	7
Oradell Borough	Bergen	0	0	10	0.639	0	6
Palisades Park Borough	Bergen	292	37	20	0.639	-97	126
Paramus Borough	Bergen	58	12	7	0.639	-5	44
Park Ridge Borough	Bergen	47	5	0	0.639	-14	19
Ramsey Borough	Bergen	13	11	0	0.639	0	15
Ridgefield Borough	Bergen	78	16	23	0.639	-24	51

Municipality	County	Crowded, Built Pre-1950	Incomplete Plumbing	Incomplete Kitchen	Low-/ Moderate- Income Share	Rehab. Share Credit	Total Rehab. Share
Ridgefield Park Village	Bergen	157	31	25	0.639	-35	101
Ridgewood Village	Bergen	76	20	24	0.639	0	77
River Edge Borough	Bergen	35	12	7	0.639	-4	31
River Vale Township	Bergen	0	0	0	0.639	0	0
Rochelle Park Township	Bergen	11	0	54	0.639	-10	32
Rockleigh Borough	Bergen	4	0	0	0.639	-2	1
Rutherford Borough	Bergen	94	6	51	0.639	0	96
Saddle Brook Township	Bergen	56	0	8	0.639	-3	38
Saddle River Borough	Bergen	0	0	33	0.639	-6	15
South Hackensack Township	Bergen	24	4	5	0.639	-11	10
Teaneck Township	Bergen	228	129	84	0.639	-48	234
Tenafly Borough	Bergen	71	0	27	0.639	-1	62
Teterboro Borough	Bergen	0	0	0	0.639	0	0
Upper Saddle River Borough	Bergen	0	0	0	0.639	0	0
Waldwick Borough	Bergen	13	13	15	0.639	0	26
Wallington Borough	Bergen	109	13	14	0.639	-16	71
Washington Township	Bergen	0	0	0	0.639	0	0
Westwood Borough	Bergen	26	21	22	0.639	-3	41
Woodcliff Lake Borough	Bergen	0	0	0	0.639	0	0
Wood-Ridge Borough	Bergen	13	37	45	0.639	0	61
Wyckoff Township	Bergen	0	21	43	0.639	-5	36
Bass River Township	Burlington	4	9	7	0.737	-2	13
Beverly City	Burlington	19	4	0	0.737	-1	16
Bordentown City	Burlington	7	0	0	0.737	0	5
Bordentown Township	Burlington	14	15	0	0.737	0	21
Burlington City	Burlington	59	23	7	0.737	0	66
Burlington Township	Burlington	34	16	46	0.737	-15	56
Chesterfield Township	Burlington	0	0	0	0.737	0	0
Cinnaminson Township	Burlington	7	0	0	0.737	0	5
Delanco Township	Burlington	3	6	0	0.737	0	7
Delran Township	Burlington	14	14	6	0.737	0	25
Eastampton Township	Burlington	0	17	6	0.737	0	17
Edgewater Park Township	Burlington	16	0	0	0.737	0	12
Evesham Township	Burlington	0	7	0	0.737	0	5
Fieldsboro Borough	Burlington	2	0	3	0.737	0	4
Florence Township	Burlington	30	13	6	0.737	0	36
Hainesport Township	Burlington	7	0	6	0.737	0	10

Municipality	County	Crowded, Built Pre-1950	Incomplete Plumbing	Incomplete Kitchen	Low-/ Moderate- Income Share	Rehab. Share Credit	Total Rehab. Share
Lumberton Township	Burlington	27	24	15	0.737	0	49
Mansfield Township	Burlington	7	0	0	0.737	0	5
Maple Shade Borough	Burlington	23	32	6	0.737	0	45
Medford Township	Burlington	10	0	10	0.737	0	15
Medford Lakes Borough	Burlington	0	0	0	0.737	0	0
Moorestown Township	Burlington	12	6	6	0.737	0	18
Mount Holly Township	Burlington	43	7	51	0.737	0	74
Mount Laurel Township	Burlington	0	25	19	0.737	0	32
New Hanover Township	Burlington	12	0	0	0.737	0	9
North Hanover Township	Burlington	9	13	0	0.737	0	16
Palmyra Borough	Burlington	19	0	8	0.737	0	20
Pemberton Borough	Burlington	14	0	5	0.737	-4	10
Pemberton Township	Burlington	65	21	29	0.737	0	85
Riverside Township	Burlington	39	11	7	0.737	0	42
Riverton Borough	Burlington	17	0	6	0.737	0	17
Shamong Township	Burlington	0	10	0	0.737	0	7
Southampton Township	Burlington	0	7	0	0.737	0	5
Springfield Township	Burlington	0	4	0	0.737	0	3
Tabernacle Township	Burlington	0	7	7	0.737	0	10
Washington Township	Burlington	0	0	0	0.737	0	0
Westampton Township	Burlington	9	9	0	0.737	0	13
Willingboro Township	Burlington	23	12	37	0.737	0	53
Woodland Township	Burlington	0	6	2	0.737	0	6
Wrightstown Borough	Burlington	2	3	0	0.737	0	4
Audubon Borough	Camden	16	6	0	0.737	0	16
Audubon Park Borough	Camden	7	0	0	0.737	0	5
Barrington Borough	Camden	0	0	5	0.737	0	4
Bellmawr Borough	Camden	46	12	5	0.737	-1	45
Berlin Borough	Camden	26	6	0	0.737	0	24
Berlin Township	Camden	0	6	0	0.737	0	4
Brooklawn Borough	Camden	12	0	0	0.737	0	9
Camden City	Camden	1629	586	451	0.737	-736	1229
Cherry Hill Township	Camden	31	42	259	0.737	-100	145
Chesilhurst Borough	Camden	0	0	3	0.737	0	2
Clementon Borough	Camden	34	7	7	0.737	0	35
Collingswood Borough	Camden	45	10	87	0.737	0	105
Gibbsboro Borough	Camden	16	8	3	0.737	-2	18

Municipality	County	Crowded, Built Pre-1950	Incomplete Plumbing	Incomplete Kitchen	Low-/ Moderate- Income Share	Rehab. Share Credit	Total Rehab. Share
Gloucester City	Camden	64	8	20	0.737	0	68
Gloucester Township	Camden	24	64	67	0.737	0	114
Haddon Township	Camden	29	13	15	0.737	0	42
Haddonfield Borough	Camden	5	24	11	0.737	0	29
Haddon Heights Borough	Camden	18	14	0	0.737	0	24
Hi-nella Borough	Camden	5	0	0	0.737	0	4
Laurel Springs Borough	Camden	6	0	2	0.737	0	6
Lawnside Borough	Camden	13	5	6	0.737	0	18
Lindenwold Borough	Camden	55	28	17	0.737	0	74
Magnolia Borough	Camden	0	7	8	0.737	0	11
Merchantville Borough	Camden	21	0	0	0.737	0	15
Mount Ephraim Borough	Camden	6	0	6	0.737	0	9
Oaklyn Borough	Camden	13	6	0	0.737	0	14
Pennsauken Township	Camden	195	40	40	0.737	0	203
Pine Hill Borough	Camden	22	19	10	0.737	0	38
Pine Valley Borough	Camden	0	0	0	0.737	0	0
Runnemede Borough	Camden	13	7	10	0.737	0	22
Somerdale Borough	Camden	6	10	6	0.737	0	16
Stratford Borough	Camden	9	19	7	0.737	0	26
Tavistock Borough	Camden	0	0	0	0.737	0	0
Voorhees Township	Camden	7	35	155	0.737	-59	86
Waterford Township	Camden	10	29	19	0.737	0	43
Winslow Township	Camden	0	67	58	0.737	0	92
Woodlynne Borough	Camden	42	0	0	0.737	-7	24
Avalon Borough	Cape May	0	0	0	0.715	0	0
Cape May City	Cape May	4	7	0	0.715	0	8
Cape May Point Borough	Cape May	0	0	0	0.715	0	0
Dennis Township	Cape May	6	18	0	0.715	0	17
Lower Township	Cape May	31	15	55	0.715	0	72
Middle Township	Cape May	7	5	34	0.715	0	33
North Wildwood City	Cape May	8	15	0	0.715	0	16
Ocean City	Cape May	18	18	157	0.715	0	138
Sea Isle City	Cape May	0	0	7	0.715	0	5
Stone Harbor Borough	Cape May	0	0	0	0.715	0	0
Upper Township	Cape May	11	9	0	0.715	0	14
West Cape May Borough	Cape May	3	7	6	0.715	0	11
West Wildwood Borough	Cape May	0	0	0	0.715	0	0

Municipality	County	Crowded, Built Pre-1950	Incomplete Plumbing	Incomplete Kitchen	Low-/ Moderate- Income Share	Rehab. Share Credit	Total Rehab. Share
Wildwood City	Cape May	65	26	66	0.715	-30	82
Wildwood Crest Borough	Cape May	3	0	0	0.715	0	2
Woodbine Borough	Cape May	9	6	10	0.715	0	18
Bridgeton City	Cumberland	295	35	56	0.715	0	276
Commercial Township	Cumberland	5	0	0	0.715	0	4
Deerfield Township	Cumberland	17	8	5	0.715	0	21
Downe Township	Cumberland	4	9	5	0.715	0	13
Fairfield Township	Cumberland	0	0	5	0.715	0	4
Greenwich Township	Cumberland	0	0	0	0.715	0	0
Hopewell Township	Cumberland	0	0	0	0.715	0	0
Lawrence Township	Cumberland	4	5	0	0.715	0	6
Maurice River Township	Cumberland	8	0	0	0.715	0	6
Millville City	Cumberland	81	38	62	0.715	0	129
Shiloh Borough	Cumberland	0	0	0	0.715	0	0
Stow Creek Township	Cumberland	6	2	0	0.715	0	6
Upper Deerfield Township	Cumberland	9	6	16	0.715	0	22
Vineland City	Cumberland	385	132	79	0.715	0	426
Belleville Township	Essex	353	64	71	0.714	-99	249
Bloomfield Township	Essex	369	65	68	0.714	-38	320
Caldwell Township	Essex	24	10	40	0.714	-28	25
Cedar Grove Township	Essex	11	11	11	0.714	-17	7
East Orange City	Essex	1135	361	321	0.714	-163	1134
Essex Fells Township	Essex	0	5	2	0.714	-3	2
Fairfield Township	Essex	0	0	0	0.714	0	0
Glen Ridge Borough	Essex	0	16	24	0.714	0	29
Irvington Township	Essex	912	310	350	0.714	-107	1015
Livingston Township	Essex	38	13	7	0.714	-24	17
Maplewood Township	Essex	110	10	55	0.714	0	125
Millburn Township	Essex	16	27	13	0.714	-22	18
Montclair Township	Essex	319	50	169	0.714	-15	369
Newark City	Essex	4638	1280	1232	0.714	-471	4634
North Caldwell Borough	Essex	0	0	0	0.714	0	0
Nutley Township	Essex	41	33	19	0.714	0	66
City of Orange Township	Essex	439	283	210	0.714	-196	469
Roseland Borough	Essex	0	8	0	0.714	-5	1
South Orange Village	Essex	40	14	22	0.714	0	54
Verona Township	Essex	32	25	37	0.714	-39	28

Municipality	County	Crowded, Built Pre-1950	Incomplete Plumbing	Incomplete Kitchen	Low-/ Moderate- Income Share	Rehab. Share Credit	Total Rehab. Share
West Caldwell Township	Essex	6	0	0	0.714	-1	3
West Orange Township	Essex	266	66	122	0.714	0	324
Clayton Borough	Gloucester	49	20	0	0.737	0	51
Deptford Township	Gloucester	20	6	4	0.737	0	22
East Greenwich Township	Gloucester	8	6	0	0.737	0	10
Elk Township	Gloucester	10	0	0	0.737	0	7
Franklin Township	Gloucester	29	17	14	0.737	0	44
Glassboro Borough	Gloucester	25	19	26	0.737	0	52
Greenwich Township	Gloucester	9	11	0	0.737	0	15
Harrison Township	Gloucester	6	8	0	0.737	0	10
Logan Township	Gloucester	0	0	0	0.737	0	0
Mantua Township	Gloucester	7	0	10	0.737	0	13
Monroe Township	Gloucester	23	30	13	0.737	0	49
National Park Borough	Gloucester	8	0	0	0.737	0	6
Newfield Borough	Gloucester	0	2	2	0.737	0	3
Paulsboro Borough	Gloucester	19	15	15	0.737	0	36
Pitman Borough	Gloucester	25	6	0	0.737	0	23
South Harrison Township	Gloucester	4	5	0	0.737	0	7
Swedesborough Borough	Gloucester	4	4	4	0.737	0	9
Washington Township	Gloucester	8	12	40	0.737	0	44
Wenonah Borough	Gloucester	0	0	0	0.737	0	0
West Deptford Township	Gloucester	19	42	0	0.737	0	45
Westville Borough	Gloucester	40	10	6	0.737	-10	31
Woodbury City	Gloucester	56	26	11	0.737	0	69
Woodbury Heights Borough	Gloucester	7	0	7	0.737	0	10
Woolwich Township	Gloucester	0	5	0	0.737	0	4
Bayonne City	Hudson	544	170	105	0.639	0	523
East Newark Borough	Hudson	43	8	7	0.639	-8	29
Guttenberg Town	Hudson	93	29	11	0.639	0	85
Harrison Town	Hudson	211	75	111	0.639	-68	186
Hoboken City	Hudson	328	158	169	0.639	0	419
Jersey City	Hudson	5453	975	1027	0.639	0	4764
Kearny Town	Hudson	455	85	152	0.639	0	442
North Bergen Township	Hudson	852	361	292	0.639	0	962
Secaucus Town	Hudson	54	41	10	0.639	0	67
Union City	Hudson	2726	460	688	0.639	-731	1744
Weehawken Township	Hudson	268	50	48	0.639	-17	217

Municipality	County	Crowded, Built Pre-1950	Incomplete Plumbing	Incomplete Kitchen	Low-/ Moderate- Income Share	Rehab. Share Credit	Total Rehab. Share
West New York Town	Hudson	1705	346	339	0.639	-391	1136
Alexandria Township	Hunterdon	0	15	0	0.691	0	10
Bethlehem Township	Hunterdon	0	7	0	0.691	0	5
Bloomsbury Borough	Hunterdon	0	0	0	0.691	0	0
Califon Borough	Hunterdon	0	2	2	0.691	0	3
Clinton Town	Hunterdon	0	0	0	0.691	0	0
Clinton Township	Hunterdon	0	16	7	0.691	0	16
Delaware Township	Hunterdon	11	0	0	0.691	0	8
East Amwell Township	Hunterdon	13	0	0	0.691	0	9
Flemington Borough	Hunterdon	18	7	0	0.691	0	17
Franklin Township	Hunterdon	3	13	12	0.691	0	19
Frenchtown Borough	Hunterdon	2	4	4	0.691	0	7
Glen Gardner Borough	Hunterdon	6	0	2	0.691	0	6
Hampton Borough	Hunterdon	3	0	0	0.691	0	2
High Bridge Borough	Hunterdon	0	0	0	0.691	0	0
Holland Township	Hunterdon	0	25	11	0.691	0	25
Kingwood Township	Hunterdon	7	0	9	0.691	0	11
Lambertville City	Hunterdon	20	27	14	0.691	-5	37
Lebanon Borough	Hunterdon	4	0	0	0.691	0	3
Lebanon Township	Hunterdon	0	10	19	0.691	0	20
Milford Borough	Hunterdon	8	0	0	0.691	0	6
Raritan Township	Hunterdon	0	23	0	0.691	0	16
Readington Township	Hunterdon	0	0	0	0.691	0	0
Stockton Borough	Hunterdon	2	2	2	0.691	0	4
Tewksbury Township	Hunterdon	0	0	0	0.691	0	0
Union Township	Hunterdon	0	0	6	0.691	0	4
West Amwell Township	Hunterdon	2	4	0	0.691	0	4
East Windsor Township	Mercer	72	21	0	0.665	-17	45
Ewing Township	Mercer	47	53	10	0.665	0	73
Hamilton Township	Mercer	216	144	57	0.665	0	277
Hightstown Borough	Mercer	44	19	0	0.665	-12	30
Hopewell Borough	Mercer	0	0	0	0.665	0	0
Hopewell Township	Mercer	0	0	7	0.665	0	5
Lawrence Township	Mercer	8	44	18	0.665	0	47
Pennington Borough	Mercer	0	0	0	0.665	0	0
Princeton Borough	Mercer	69	20	47	0.665	-23	67
Princeton Township	Mercer	45	16	9	0.665	0	47

Municipality	County	Crowded, Built Pre-1950	Incomplete Plumbing	Incomplete Kitchen	Low-/ Moderate- Income Share	Rehab. Share Credit	Total Rehab. Share
Trenton City	Mercer	1371	239	260	0.665	-86	1158
Washington Township	Mercer	0	17	9	0.665	0	17
West Windsor Township	Mercer	12	16	6	0.665	0	23
Carteret Borough	Middlesex	207	50	50	0.691	0	212
Cranbury Township	Middlesex	0	9	0	0.691	0	6
Dunellen Borough	Middlesex	25	0	32	0.691	0	39
East Brunswick Township	Middlesex	18	30	18	0.691	0	46
Edison Township	Middlesex	154	55	41	0.691	0	173
Helmetta Borough	Middlesex	2	0	2	0.691	0	3
Highland Park Borough	Middlesex	94	14	0	0.691	0	75
Jamesburg Borough	Middlesex	24	0	0	0.691	0	17
Old Bridge Township	Middlesex	72	72	62	0.691	0	142
Metuchen Borough	Middlesex	18	26	17	0.691	0	42
Middlesex Borough	Middlesex	22	13	0	0.691	0	24
Milltown Borough	Middlesex	14	0	0	0.691	0	10
Monroe Township	Middlesex	6	24	116	0.691	0	101
New Brunswick City	Middlesex	897	137	185	0.691	-10	832
North Brunswick Township	Middlesex	63	15	14	0.691	0	64
Perth Amboy City	Middlesex	1132	191	212	0.691	-132	929
Piscataway Township	Middlesex	79	78	51	0.691	0	144
Plainsboro Township	Middlesex	0	14	50	0.691	0	44
Sayreville Borough	Middlesex	30	74	40	0.691	0	100
South Amboy City	Middlesex	6	15	19	0.691	0	28
South Brunswick Township	Middlesex	0	47	5	0.691	0	36
South Plainfield Borough	Middlesex	90	35	21	0.691	0	101
South River Borough	Middlesex	77	22	33	0.691	0	91
Spotswood Borough	Middlesex	20	7	0	0.691	0	19
Woodbridge Township	Middlesex	261	95	78	0.691	0	300
Allenhurst Borough	Monmouth	0	0	2	0.665	0	1
Allentown Borough	Monmouth	9	0	2	0.665	0	7
Asbury Park City	Monmouth	345	109	133	0.665	-91	299
Atlantic Highlands Borough	Monmouth	9	0	0	0.665	0	6
Avon-by-the-Sea Borough	Monmouth	0	12	8	0.665	0	13
Belmar Borough	Monmouth	50	17	15	0.665	0	55
Bradley Beach Borough	Monmouth	36	0	10	0.665	0	31
Brielle Borough	Monmouth	0	0	0	0.665	0	0
Colts Neck Township	Monmouth	0	0	0	0.665	0	0

Municipality	County	Crowded, Built Pre-1950	Incomplete Plumbing	Incomplete Kitchen	Low-/ Moderate- Income Share	Rehab. Share Credit	Total Rehab. Share
Deal Borough	Monmouth	0	0	2	0.665	0	1
Eatontown Borough	Monmouth	11	31	6	0.665	0	32
Englishtown Borough	Monmouth	6	2	62	0.665	-21	26
Fair Haven Borough	Monmouth	0	0	7	0.665	0	5
Farmingdale Borough	Monmouth	7	0	0	0.665	0	5
Freehold Borough	Monmouth	137	43	51	0.665	-49	105
Freehold Township	Monmouth	9	14	20	0.665	0	29
Highlands Borough	Monmouth	23	8	0	0.665	0	21
Holmdel Township	Monmouth	0	9	22	0.665	-5	16
Howell Township	Monmouth	58	22	34	0.665	0	76
Interlaken Borough	Monmouth	0	0	0	0.665	0	0
Keansburg Borough	Monmouth	54	34	23	0.665	-1	73
Keyport Borough	Monmouth	19	11	5	0.665	0	23
Little Silver Borough	Monmouth	0	0	0	0.665	0	0
Loch Arbour Village	Monmouth	0	0	0	0.665	0	0
Long Branch City	Monmouth	308	95	81	0.665	0	322
Manalapan Township	Monmouth	5	39	10	0.665	0	36
Manasquan Borough	Monmouth	29	9	9	0.665	0	31
Marlboro Township	Monmouth	0	31	23	0.665	0	36
Matawan Borough	Monmouth	15	6	0	0.665	0	14
Aberdeen Township	Monmouth	14	13	20	0.665	0	31
Middletown Township	Monmouth	108	40	83	0.665	0	154
Millstone Township	Monmouth	0	22	0	0.665	0	15
Monmouth Beach Borough	Monmouth	0	7	0	0.665	0	5
Neptune Township	Monmouth	111	82	67	0.665	0	173
Neptune City Borough	Monmouth	6	8	0	0.665	0	9
Tinton Falls Borough	Monmouth	6	41	17	0.665	-17	26
Ocean Township	Monmouth	49	20	9	0.665	0	52
Oceanport Borough	Monmouth	0	0	0	0.665	0	0
Hazlet Township	Monmouth	32	0	8	0.665	0	27
Red Bank Borough	Monmouth	105	0	24	0.665	0	86
Roosevelt Borough	Monmouth	4	0	0	0.665	0	3
Rumson Borough	Monmouth	0	0	0	0.665	0	0
Sea Bright Borough	Monmouth	19	17	0	0.665	-3	21
Sea Girt Borough	Monmouth	4	0	0	0.665	0	3
Shrewsbury Borough	Monmouth	0	0	0	0.665	0	0
Shrewsbury Township	Monmouth	0	2	0	0.665	0	1

Municipality	County	Crowded, Built Pre-1950	Incomplete Plumbing	Incomplete Kitchen	Low-/ Moderate- Income Share	Rehab. Share Credit	Total Rehab. Share
South Belmar Borough	Monmouth	13	11	8	0.665	-9	12
Spring Lake Borough	Monmouth	6	14	75	0.665	-23	40
Spring Lake Heights Borough	Monmouth	7	0	0	0.665	0	5
Union Beach Borough	Monmouth	19	0	18	0.665	0	25
Upper Freehold Township	Monmouth	0	6	8	0.665	0	9
Wall Township	Monmouth	35	25	8	0.665	0	45
West Long Branch Borough	Monmouth	0	0	0	0.665	0	0
Boonton Town	Morris	70	0	10	0.714	0	57
Boonton Township	Morris	0	0	0	0.714	0	0
Butler Borough	Morris	27	8	16	0.714	0	36
Chatham Borough	Morris	0	18	12	0.714	0	21
Chatham Township	Morris	6	13	7	0.714	0	19
Chester Borough	Morris	12	0	3	0.714	0	11
Chester Township	Morris	6	0	0	0.714	0	4
Denville Township	Morris	16	8	19	0.714	0	31
Dover Town	Morris	322	69	53	0.714	-66	251
East Hanover Township	Morris	0	0	0	0.714	0	0
Florham Park Borough	Morris	0	50	44	0.714	-42	25
Hanover Township	Morris	24	0	0	0.714	0	17
Harding Township	Morris	0	0	0	0.714	0	0
Jefferson Township	Morris	0	17	0	0.714	0	12
Kinnelon Borough	Morris	7	12	0	0.714	0	14
Lincoln Park Borough	Morris	44	0	0	0.714	0	31
Madison Borough	Morris	40	55	26	0.714	0	86
Mendham Borough	Morris	0	7	0	0.714	0	5
Mendham Township	Morris	0	0	0	0.714	0	0
Mine Hill Township	Morris	16	21	6	0.714	0	31
Montville Township	Morris	0	9	10	0.714	0	14
Morris Township	Morris	35	11	6	0.714	0	37
Morris Plains Borough	Morris	5	0	0	0.714	0	4
Morristown Town	Morris	292	61	23	0.714	-99	169
Mountain Lakes Borough	Morris	0	0	0	0.714	0	0
Mount Arlington Borough	Morris	19	0	0	0.714	0	14
Mount Olive Township	Morris	19	58	17	0.714	0	67
Netcong Borough	Morris	8	0	6	0.714	0	10
Parsippany-Troy Hills Twp	Morris	285	83	78	0.714	-76	242
Long Hill Township	Morris	0	0	0	0.714	0	0

Municipality	County	Crowded, Built Pre-1950	Incomplete Plumbing	Incomplete Kitchen	Low-/ Moderate- Income Share	Rehab. Share Credit	Total Rehab. Share
Pequanock Township	Morris	0	0	0	0.714	0	0
Randolph Township	Morris	19	19	9	0.714	0	34
Riverdale Borough	Morris	4	0	0	0.714	0	3
Rockaway Borough	Morris	17	0	0	0.714	0	12
Rockaway Township	Morris	14	21	24	0.714	0	42
Roxbury Township	Morris	21	13	15	0.714	0	35
Victory Gardens Borough	Morris	15	9	7	0.714	-1	21
Washington Township	Morris	0	0	8	0.714	0	6
Wharton Borough	Morris	25	7	8	0.714	0	29
Barneget Light Borough	Ocean	0	3	3	0.665	0	4
Bay Head Borough	Ocean	5	0	3	0.665	0	5
Beach Haven Borough	Ocean	0	0	0	0.665	0	0
Beachwood Borough	Ocean	28	0	0	0.665	0	19
Berkeley Township	Ocean	18	43	33	0.665	0	63
Brick Township	Ocean	39	49	51	0.665	0	92
Dover Township	Ocean	39	69	30	0.665	0	92
Eagleswood Township	Ocean	3	0	0	0.665	0	2
Harvey Cedars Borough	Ocean	0	0	0	0.665	0	0
Island Heights Borough	Ocean	0	0	0	0.665	0	0
Jackson Township	Ocean	16	44	9	0.665	0	46
Lacey Township	Ocean	10	17	10	0.665	0	25
Lakehurst Borough	Ocean	3	0	0	0.665	0	2
Lakewood Township	Ocean	334	200	238	0.665	-163	350
Lavallette Borough	Ocean	0	0	0	0.665	0	0
Little Egg Harbor Township	Ocean	0	0	0	0.665	0	0
Long Beach Township	Ocean	0	0	0	0.665	0	0
Manchester Township	Ocean	6	17	34	0.665	0	38
Mantoloking Borough	Ocean	0	0	3	0.665	0	2
Ocean Township	Ocean	0	8	8	0.665	0	11
Ocean Gate Borough	Ocean	8	0	0	0.665	0	5
Pine Beach Borough	Ocean	0	0	0	0.665	0	0
Plumsted Township	Ocean	13	0	0	0.665	0	9
Point Pleasant Borough	Ocean	12	10	0	0.665	0	15
Point Pleasant Beach Boro	Ocean	38	17	33	0.665	-15	44
Seaside Heights Borough	Ocean	19	5	5	0.665	-1	18
Seaside Park Borough	Ocean	8	6	0	0.665	0	9
Ship Bottom Borough	Ocean	4	4	2	0.665	0	7

Municipality	County	Crowded, Built Pre-1950	Incomplete Plumbing	Incomplete Kitchen	Low-/ Moderate- Income Share	Rehab. Share Credit	Total Rehab. Share
South Toms River Borough	Ocean	4	0	0	0.665	0	3
Stafford Township	Ocean	11	8	17	0.665	0	24
Surf City Borough	Ocean	2	2	2	0.665	0	4
Tuckerton Borough	Ocean	7	0	0	0.665	0	5
Barneget Township	Ocean	0	0	0	0.665	0	0
Bloomington Borough	Passaic	25	0	0	0.639	0	16
Clifton City	Passaic	762	180	169	0.639	0	710
Haledon Borough	Passaic	94	17	15	0.639	0	81
Hawthorne Borough	Passaic	28	15	10	0.639	0	34
Little Falls Township	Passaic	15	9	0	0.639	0	15
North Haledon Borough	Passaic	0	0	0	0.639	0	0
Passaic City	Passaic	2725	342	416	0.639	-742	1484
Paterson City	Passaic	3610	717	809	0.639	-386	2896
Pompton Lakes Borough	Passaic	14	20	22	0.639	0	36
Prospect Park Borough	Passaic	94	0	0	0.639	0	60
Ringwood Borough	Passaic	40	0	7	0.639	0	30
Totowa Borough	Passaic	24	15	15	0.639	0	35
Wanaque Borough	Passaic	0	32	22	0.639	0	35
Wayne Township	Passaic	52	48	31	0.639	0	84
West Milford Township	Passaic	48	28	27	0.639	0	66
West Paterson Borough	Passaic	11	13	5	0.639	0	19
Alloway Township	Salem	3	4	4	0.715	0	8
Elmer Borough	Salem	4	3	0	0.715	0	5
Elsinboro Township	Salem	0	0	0	0.715	0	0
Lower Alloways Creek Twp	Salem	3	5	8	0.715	0	11
Mannington Township	Salem	4	6	0	0.715	0	7
Oldmans Township	Salem	3	4	0	0.715	0	5
Penns Grove Borough	Salem	50	21	22	0.715	-4	62
Pennsville Township	Salem	7	6	13	0.715	0	19
Pilesgrove Township	Salem	6	0	0	0.715	0	4
Pittsgrove Township	Salem	8	16	0	0.715	0	17
Quinton Township	Salem	0	8	4	0.715	0	9
Salem City	Salem	43	21	14	0.715	0	56
Carneys Point Township	Salem	4	13	13	0.715	0	21
Upper Pittsgrove Township	Salem	3	0	3	0.715	0	4
Woodstown Borough	Salem	12	0	14	0.715	0	19
Bedminster Township	Somerset	0	0	0	0.691	0	0

Municipality	County	Crowded, Built Pre-1950	Incomplete Plumbing	Incomplete Kitchen	Low-/ Moderate- Income Share	Rehab. Share Credit	Total Rehab. Share
Bernards Township	Somerset	11	6	0	0.691	0	12
Bernardsville Borough	Somerset	22	0	0	0.691	0	15
Bound Brook Borough	Somerset	219	28	32	0.691	-62	131
Branchburg Township	Somerset	0	16	31	0.691	-10	22
Bridgewater Township	Somerset	13	71	56	0.691	0	97
Far Hills Borough	Somerset	3	0	0	0.691	0	2
Franklin Township	Somerset	124	67	85	0.691	-49	142
Green Brook Township	Somerset	0	0	0	0.691	0	0
Hillsborough Township	Somerset	0	14	13	0.691	0	19
Manville Borough	Somerset	32	44	61	0.691	-25	70
Millstone Borough	Somerset	3	0	0	0.691	0	2
Montgomery Township	Somerset	0	8	8	0.691	0	11
North Plainfield Borough	Somerset	353	47	71	0.691	-43	282
Peapack-Gladstone Borough	Somerset	4	3	2	0.691	0	6
Raritan Borough	Somerset	35	8	21	0.691	0	44
Rocky Hill Borough	Somerset	0	3	3	0.691	0	4
Somerville Borough	Somerset	98	8	0	0.691	0	73
South Bound Brook Borough	Somerset	71	20	32	0.691	-34	51
Warren Township	Somerset	8	0	11	0.691	0	13
Watchung Borough	Somerset	10	8	0	0.691	0	12
Andover Borough	Sussex	0	0	0	0.639	0	0
Andover Township	Sussex	0	0	0	0.639	0	0
Branchville Borough	Sussex	0	0	0	0.639	0	0
Byram Township	Sussex	12	13	13	0.639	0	24
Frankford Township	Sussex	9	0	0	0.639	0	6
Franklin Borough	Sussex	33	0	0	0.639	0	21
Fredon Township	Sussex	0	0	0	0.639	0	0
Green Township	Sussex	4	4	0	0.639	0	5
Hamburg Borough	Sussex	11	0	0	0.639	0	7
Hampton Township	Sussex	0	0	0	0.639	0	0
Hardyston Township	Sussex	0	7	7	0.639	0	9
Hopatcong Borough	Sussex	9	16	27	0.639	0	33
Lafayette Township	Sussex	4	0	0	0.639	0	3
Montague Township	Sussex	8	4	11	0.639	0	15
Newton Town	Sussex	30	13	25	0.639	0	43
Ogdensburg Borough	Sussex	11	0	0	0.639	0	7
Sandyston Township	Sussex	2	2	5	0.639	0	6

Municipality	County	Crowded, Built Pre-1950	Incomplete Plumbing	Incomplete Kitchen	Low-/ Moderate- Income Share	Rehab. Share Credit	Total Rehab. Share
Sparta Township	Sussex	4	14	6	0.639	0	15
Stanhope Borough	Sussex	0	6	0	0.639	0	4
Stillwater Township	Sussex	13	6	9	0.639	0	18
Sussex Borough	Sussex	21	23	26	0.639	-10	35
Vernon Township	Sussex	28	0	20	0.639	0	31
Walpack Township	Sussex	0	0	0	0.639	0	0
Wantage Township	Sussex	0	0	0	0.639	0	0
Berkeley Heights Township	Union	23	12	0	0.714	-1	24
Clark Township	Union	0	8	8	0.714	0	11
Cranford Township	Union	32	31	14	0.714	0	55
Elizabeth City	Union	2609	864	949	0.714	-429	2728
Fanwood Borough	Union	0	10	37	0.714	0	34
Garwood Borough	Union	14	0	0	0.714	0	10
Hillside Township	Union	198	18	35	0.714	-1	178
Kenilworth Borough	Union	28	9	0	0.714	0	26
Linden City	Union	233	49	78	0.714	-64	193
Mountainside Borough	Union	0	8	53	0.714	-16	28
New Providence Borough	Union	19	7	0	0.714	0	19
Plainfield City	Union	1070	161	116	0.714	-272	690
Rahway City	Union	161	132	125	0.714	-102	196
Roselle Borough	Union	193	33	61	0.714	-38	167
Roselle Park Borough	Union	109	34	41	0.714	-35	96
Scotch Plains Township	Union	15	7	15	0.714	0	26
Springfield Township	Union	0	19	8	0.714	0	19
Summit City	Union	95	0	12	0.714	0	76
Union Township	Union	188	47	50	0.714	-4	199
Westfield Town	Union	19	16	23	0.714	0	41
Winfield Township	Union	22	0	3	0.714	0	18
Allamuchy Township	Warren	0	0	6	0.714	0	4
Alpha Borough	Warren	0	0	3	0.714	0	2
Belvidere Town	Warren	10	0	0	0.714	0	7
Blairstown Township	Warren	10	6	6	0.714	0	16
Franklin Township	Warren	8	0	4	0.714	0	9
Frelinghuysen Township	Warren	0	4	4	0.714	0	6
Greenwich Township	Warren	4	12	12	0.714	0	20
Hackettstown Town	Warren	52	10	44	0.714	0	76
Hardwick Township	Warren	0	2	2	0.714	0	3

Municipality	County	Crowded, Built Pre-1950	Incomplete Plumbing	Incomplete Kitchen	Low-/ Moderate- Income Share	Rehab. Share Credit	Total Rehab. Share
Harmony Township	Warren	0	4	0	0.714	0	3
Hope Township	Warren	2	6	4	0.714	0	9
Independence Township	Warren	7	12	7	0.714	0	19
Knowlton Township	Warren	16	3	0	0.714	0	14
Liberty Township	Warren	3	4	9	0.714	0	11
Lopatcong Township	Warren	7	9	0	0.714	0	11
Mansfield Township	Warren	0	0	0	0.714	0	0
Oxford Township	Warren	5	4	0	0.714	0	6
Phillipsburg Town	Warren	44	34	55	0.714	0	95
Pohatcong Township	Warren	0	0	0	0.714	0	0
Washington Borough	Warren	24	0	49	0.714	0	52
Washington Township	Warren	0	0	0	0.714	0	0
White Township	Warren	0	0	0	0.714	0	0

Appendix C

COUNCIL ON AFFORDABLE HOUSING (COAH)

PRIOR ROUND AFFORDABLE NEED UPDATED METHODOLOGY

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INTRODUCTION

As part of this effort, researchers also reviewed prior round obligation numbers and updated those numbers based on the latest data available for measuring secondary sources of supply. Replicating the existing methodology with updated data (described in detail below) increased municipalities' collective prior round obligation by 992 units in comparison to the 1993 unadjusted obligations. COAH is adopting municipalities' unadjusted 1987 to 1999 obligations, first published in 1993, which totaled 85,964, as shown in this Appendix. These are the numbers under which municipalities received substantive certification for their second round new construction obligations (prior round obligation). The methodology description below details the process researchers undertook to validate and update (where indicated) the prior round obligation numbers.

THE ADJUSTED BASE

In 1993, COAH released municipal-level affordable housing obligations that consisted of Indigenous Need plus Reallocated Present Need plus Prospective Need (1993 to 1999) plus Prior Round Prospective Need plus Demolitions minus Filtered Units minus Residential Conversions minus Spontaneous Rehabilitations. The Prior Round Prospective Need, as published in 1993, was updated by the prior research team of Robert W. Burchell and William R. Dolphin, from Rutgers University, in 2004.

Replication efforts followed the methodology described in the Existing Third Round Rules, used data presented in the August 19, 2004, OPRA response, and accepted the Appendix A assertion that 2000 Census data indicated a 25 percent increase in all previously published projections (based on 1993 numbers). This effort recalculated only 1993 to 1999 Prospective Need, Demolitions, Filtered Units, and Residential Conversions. (The First Round Prospective Need was already adjusted in 1993 to reflect the difference between 1987 projections and data published in 1993 based on the 1990 Census.)

This work resulted in a Prior Round Obligation of 3,844 more units than previously published. These updated numbers were used as the Adjusted Base in this methodology.

COAH Region		Adjusted Base
1	Northeast	12,882
2	Northwest	7,490
3	West Central	17,573
4	East Central	32,602
5	Southwest	18,303
6	South-Southwest	10,582
Total		99,432

Again, the Adjusted Base of 99,432 units consists of the following three components: 1) the first round prior round prospective need of 38,202 units; 2) the second round prospective need of 42,127 units with a 25 percent increase in the 1993 numbers, resulting in 52,658 units; and 3) the second round reallocated present need of 8,572 units. The remaining reallocated present need was credited to the third round Rehabilitation Share.

DEMOLITIONS

Demolition data by municipality is available from the New Jersey Construction Reporter for the years 1996 to 2007. Statewide demolition totals from 1990 to 1999 were listed in the existing Third Round Substantive Rules. To determine the number of demolitions in each municipality between 1993 and 1999, this methodology first gathered municipal-level data for 1996 to 1999 from the New Jersey Construction Reporter. Next, this methodology analyzed the State-level data to determine what portion of New Jersey demolitions occurring between 1993 and 1999 occurred between 1996 and 1999.

Year	Demolitions	Breakdown
1993	1,430	30 percent
1994	1,471	
1995	3,350	
1996	2,642	70 percent
1997	4,918	
1998	2,867	
1999	4,052	
Total	20,730	

It was assumed that this breakdown held at the municipal level as well, or that each municipal total for 1996 to 1999 represented 70 percent of a community's total number of demolitions from 1993 to 1999. Therefore, to get a demolition figure for 1993 to 1999 at the municipal level, each municipal total from 1996 to 1999 was divided by 70 percent.

To isolate demolitions affecting low- and moderate-income households (by removing stock affordable to these households), this methodology then multiplied municipality demolition totals by 19.5 percent, the portion of New Jersey’s housing valued at a level that low- and moderate-income households can afford.⁷

COAH Region		Demolitions (1993-1999)
1	Northeast	587
2	Northwest	1,422
3	West Central	298
4	East Central	556
5	Southwest	383
6	South-Southwest	795
Total		4,040

FILTERING

Econsult reviewed comprehensive property-level data on all paired home transactions in New Jersey from 1989-2006 to identify “filtered” housing unit – those that experienced a significant price change and whose occupant experienced a significant income change. Researchers further refined this analysis to focus only on those units starting or ending at values affordable to low- and moderate-income households or with occupants earning incomes below 80 percent of their regional median. (These methods are described in further detail in Appendix F.)

According to Econsult’s analysis (described in further detail in Appendix F), 7,796 units filtered down to households of lower incomes between 1993 and 1999:

⁷ According to the National Association of Realtors’ mortgage calculator – and assuming households could put up to \$10,000 toward their down-payment, had the state’s average car payment (\$447, reported by Edmunds Automotive Network) and credit card debt (\$165, reported by PlasticEconomy.com), took out a loan at 6.375 percent (roughly the average commitment rate for 30-year, fixed rate loans in 2006 and 2007, according to Freddie Mac), and faced a 2.5 percent property tax rate (slightly below the average effective property tax rate for all New Jersey municipalities in 2004, reported by the New Jersey Division of Taxation) – a household earning \$52,296 (80 percent of the State’s median family income in 2000) could afford a \$109,547 home. U.S. Census data from 2000 indicates that 19.5 percent of specified owner-occupied units were valued below \$109,547.

COAH Region		Filtering (1993-1999)
1	Northeast	3,422
2	Northwest	1,708
3	West Central	402
4	East Central	554
5	Southwest	1,351
6	South-Southwest	359
Total		7,796

RESIDENTIAL CONVERSIONS

This methodology replicated the technique used in the previously released Third Round Substantive Rules, using the following steps to quantify residential conversions:

- The change in total units was derived by subtracting the number of housing units reported by the U.S. Census in 1990 from the number of housing units reported by the U.S. Census in 2000.
- Certificates of Occupancy numbers are available at the municipal level from the New Jersey Construction Reporter for 1996 to 1999. These totals were extrapolated to the 1990 to 1999 time span by analyzing building permits issued at the state level from 1990 to 1999 (available from the U.S. Census at <http://www.census.gov/const/www/C40/table2.html#annual>) to determine what portion of New Jersey building permits issued between 1990 and 1999 were issued between 1996 and 1999. It was assumed that the same breakdown held at the municipal level, or that each municipal total for 1996 to 1999 represented 48 percent of a community's total number of certifications from 1990 to 1999. Therefore, to get a certification figure for 1990 to 1999 at the municipal level, each municipal total from 1996 to 1999 was divided by 48 percent.
- Demolition data was collected at the municipal level from the New Jersey Construction Reporter for the years 1996 to 1999. To determine the number of demolitions in each municipality between 1990 and 1999, this methodology analyzed the state-level data to determine what portion of New Jersey demolitions occurring between 1990 and 1999 occurred between 1996 and 1999. It was assumed that this breakdown held at the municipal level, or that each municipal total for 1996 to 1999 represented 55 percent of a community's total number of demolitions from 1990 to 1999. Therefore, to get a demolition figure for 1990 to 1999 at the municipal level, each municipal total from 1996 to 1999 was divided by 55 percent.

Residential Conversions = Change in Units minus C of Os plus Demolitions
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This methodology assumed that 19.5 percent of residential conversions were occupied by low- or moderate-income households. (In 2000, this portion of all New Jersey housing units was affordable to low- and moderate-income households.) The number of residential conversions affecting low- and moderate-income households between 1993 and 1999 is simply two-thirds (66.67 percent) of the Low-/Moderate-Income Share of Residential Conversions occurring between 1990 and 1999.

If a municipality lost low- or moderate-income units through conversions (the case in 257 communities), its residential conversion figure was 0. This was done because filtering numbers implicitly account for any loss of stocks.

Ultimately, these calculations indicated that there were 8,720 residential conversions statewide between 1993 and 1999:

COAH Region		Residential Conversions (1993-1999)
1	Northeast	2,338
2	Northwest	1,833
3	West Central	1,334
4	East Central	1,273
5	Southwest	1,299
6	South-Southwest	643
Total		8,720

REACHING AN UPDATED PRIOR ROUND AFFORDABLE HOUSING NEED

The Updated Affordable Housing Need is equal to the Adjusted Base plus Demolitions minus Filtering minus Residential Conversions.⁸ According to this analysis, 58 municipalities had negative Updated Prior Round Need numbers. Converting these negative figures to zero results in the following regional and statewide totals:⁹

⁸ Spontaneous rehabilitations were not included in this methodology since, while units were likely brought up to code (“spontaneously rehabilitated”) over the course of the study period, others likely fell out of compliance, and it was not possible to verify the number of properties doing either.

⁹ If these negative figures were not zeroed out but kept as negative values, the Statewide Update Prior Round Need would be 86,956 and the regional subtotals as follows:

COAH Region		Updated Prior Round Need
1	Northeast	7,709
2	Northwest	5,371
3	West Central	16,135
4	East Central	31,331
5	Southwest	16,035
6	South-Southwest	10,374

COAH Region		Updated Prior Round Need
1	Northeast	11,355
2	Northwest	6,774
3	West Central	16,310
4	East Central	31,931
5	Southwest	16,988
6	South-Southwest	10,456
Total		93,813

This total is 7,849 units higher than that calculated in 1993 (85,964).

AFFORDABLE HOUSING ASSISTED THROUGH FEDERAL AND STATE PROGRAMS

COAH additionally reviewed data describing the number of housing units allocated between 1987 and 1999 through the Federal Low Income Housing Tax Credit (LIHTC) program and the State's Balanced Housing (BH) Program.

COAH Region		LIHTC Units	BH Units	Total
1	Northeast	1,315	503	1,818
2	Northwest	2,107	544	2,651
3	West Central	48	136	184
4	East Central	1,166	660	1,826
5	Southwest	465	420	885
6	South-Southwest	579	79	658
Total		5,680	2,173	7,853

These units were built but never credited toward any municipal affordable housing plan. COAH will not provide credit for these units to individual municipalities but will instead credit the total updated Statewide need of 93,813, to reach an updated prior round need number of 85,960 ($93,813 - 7,853 = 85,960$), nearly the same as that published in 1993.

The municipal level figures are as follows:

Municipality	County	1987-99 Obligation
Absecon City	Atlantic County	144
Atlantic City	Atlantic County	2,458
Brigantine City	Atlantic County	124
Buena Borough	Atlantic County	41
Buena Vista Township	Atlantic County	19
Corbin City	Atlantic County	13
Egg Harbor City	Atlantic County	42
Egg Harbor Township	Atlantic County	763
Estell Manor City	Atlantic County	21
Folsom Borough	Atlantic County	20
Galloway Township	Atlantic County	328
Hamilton Township	Atlantic County	349
Hammonton Town	Atlantic County	257
Linwood City	Atlantic County	140
Longport Borough	Atlantic County	59
Margate City	Atlantic County	96
Mullica Township	Atlantic County	40
Northfield City	Atlantic County	190
Pleasantville City	Atlantic County	0
Port Republic City	Atlantic County	19
Somers Point City	Atlantic County	103
Ventnor City	Atlantic County	27
Weymouth Township	Atlantic County	15
TOTAL ATLANTIC		5,268
Allendale Borough	Bergen County	137
Alpine Borough	Bergen County	214
Bergenfield Borough	Bergen County	87
Bogota Borough	Bergen County	13
Carlstadt Borough	Bergen County	228
Cliffside Park Borough	Bergen County	28
Closter Borough	Bergen County	110
Cresskill Borough	Bergen County	70
Demarest Borough	Bergen County	66

Dumont Borough	Bergen County	34
East Rutherford Borough	Bergen County	90
Edgewater Borough	Bergen County	28
Elmwood Park Borough	Bergen County	54
Emerson Borough	Bergen County	74
Englewood City	Bergen County	152
Englewood Cliffs Borough	Bergen County	219
Fair Lawn Borough	Bergen County	152
Fairview Borough	Bergen County	20
Fort Lee Borough	Bergen County	180
Franklin Lakes Borough	Bergen County	358
Garfield City	Bergen County	0
Glen Rock Borough	Bergen County	118
Hackensack City	Bergen County	201
Harrington Park Borough	Bergen County	56
Hasbrouck Heights Borough	Bergen County	58
Haworth Borough	Bergen County	64
Hillsdale Borough	Bergen County	111
Hohokus Borough	Bergen County	83
Leonia Borough	Bergen County	30
Little Ferry Borough	Bergen County	28
Lodi Borough	Bergen County	0
Lyndhurst Township	Bergen County	100
Mahwah Township	Bergen County	350
Maywood Borough	Bergen County	36
Midland Park Borough	Bergen County	54
Montvale Borough	Bergen County	255
Moonachie Borough	Bergen County	95
New Milford Borough	Bergen County	23
North Arlington Borough	Bergen County	4
Northvale Borough	Bergen County	86
Norwood Borough	Bergen County	118
Oakland Borough	Bergen County	220
Old Tappan Borough	Bergen County	98
Oradell Borough	Bergen County	89
Palisades Park Borough	Bergen County	0
Paramus Borough	Bergen County	698
Park Ridge Borough	Bergen County	112

Ramsey Borough	Bergen County	189
Ridgefield Borough	Bergen County	47
Ridgefield Park Village	Bergen County	25
Ridgewood Village	Bergen County	229
River Edge Borough	Bergen County	73
River Vale Township	Bergen County	121
Rochelle Park Township	Bergen County	64
Rockleigh Borough	Bergen County	84
Rutherford Borough	Bergen County	95
Saddle Brook Township	Bergen County	127
Saddle River Borough	Bergen County	162
South Hackensack Township	Bergen County	50
Teaneck Township	Bergen County	192
Tenafly Borough	Bergen County	159
Teterboro Borough	Bergen County	106
Upper Saddle River Borough	Bergen County	206
Waldwick Borough	Bergen County	81
Wallington Borough	Bergen County	5
Washington Township	Bergen County	85
Westwood Borough	Bergen County	87
Woodcliff Lake Borough	Bergen County	170
Wood-Ridge Borough	Bergen County	38
Wyckoff Township	Bergen County	221
TOTAL BERGEN		8,017
Bass River Township	Burlington County	15
Beverly City	Burlington County	18
Bordentown City	Burlington County	33
Bordentown Township	Burlington County	211
Burlington City	Burlington County	89
Burlington Township	Burlington County	445
Chesterfield Township	Burlington County	55
Cinnaminson Township	Burlington County	331
Delanco Township	Burlington County	61
Delran Township	Burlington County	208
Eastampton Township	Burlington County	49
Edgewater Park Township	Burlington County	30
Evesham Township	Burlington County	534

Fieldsboro Borough	Burlington County	19
Florence Township	Burlington County	114
Hainesport Township	Burlington County	150
Lumberton Township	Burlington County	152
Mansfield Township	Burlington County	114
Maple Shade Township	Burlington County	0
Medford Lakes Borough	Burlington County	60
Medford Township	Burlington County	418
Moorestown Township	Burlington County	621
Mount Holly Township	Burlington County	0
Mount Laurel Township	Burlington County	815
New Hanover Township	Burlington County	4
North Hanover Township	Burlington County	1
Palmyra Borough	Burlington County	39
Pemberton Borough	Burlington County	9
Pemberton Township	Burlington County	0
Riverside Township	Burlington County	6
Riverton Borough	Burlington County	15
Shamong Township	Burlington County	84
Southampton Township	Burlington County	85
Springfield Township	Burlington County	54
Tabernacle Township	Burlington County	106
Washington Township	Burlington County	11
Westampton Township	Burlington County	221
Willingboro Township	Burlington County	268
Woodland Township	Burlington County	19
Wrightstown Borough	Burlington County	10
TOTAL BURLINGTON		5,474
Audubon Borough	Camden County	0
Audubon Park Borough	Camden County	4
Barrington Borough	Camden County	8
Bellmawr Borough	Camden County	107
Berlin Borough	Camden County	154
Berlin Township	Camden County	109
Brooklawn Borough	Camden County	23
Camden City	Camden County	0
Cherry Hill Township	Camden County	1,829

Chesilhurst Borough	Camden County	28
Clementon Borough	Camden County	19
Collingswood Borough	Camden County	0
Gibbsboro Borough	Camden County	112
Gloucester City	Camden County	0
Gloucester Township	Camden County	359
Haddon Heights Borough	Camden County	23
Haddon Township	Camden County	35
Haddonfield Borough	Camden County	192
Hi-Nella Borough	Camden County	0
Laurel Springs Borough	Camden County	17
Lawnside Borough	Camden County	33
Lindenwold Borough	Camden County	0
Magnolia Borough	Camden County	22
Merchantville Borough	Camden County	0
Mount Ephraim Borough	Camden County	33
Oaklyn Borough	Camden County	1
Pennsauken Township	Camden County	0
Pine Hill Borough	Camden County	22
Pine Valley Borough	Camden County	47
Runnemede Borough	Camden County	40
Somerdale Borough	Camden County	95
Stratford Borough	Camden County	70
Tavistock Borough	Camden County	80
Voorhees Township	Camden County	456
Waterford Township	Camden County	102
Winslow Township	Camden County	377
Woodlynne Borough	Camden County	0
TOTAL CAMDEN		4,397
Avalon Borough	Cape May County	234
Cape May City	Cape May County	58
Cape May Point Borough	Cape May County	34
Dennis Township	Cape May County	220
Lower Township	Cape May County	324
Middle Township	Cape May County	454
North Wildwood City	Cape May County	80
Ocean City City	Cape May County	411

Sea Isle City City	Cape May County	109
Stone Harbor Borough	Cape May County	141
Upper Township	Cape May County	317
West Cape May Borough	Cape May County	7
West Wildwood Borough	Cape May County	33
Wildwood City	Cape May County	113
Wildwood Crest Borough	Cape May County	42
Woodbine Borough	Cape May County	88
TOTAL CAPE MAY		2,665
Bridgeton City	Cumberland County	0
Commercial Township	Cumberland County	45
Deerfield Township	Cumberland County	41
Downe Township	Cumberland County	10
Fairfield Township	Cumberland County	79
Greenwich Township	Cumberland County	13
Hopewell Township	Cumberland County	114
Lawrence Township	Cumberland County	10
Maurice River Township	Cumberland County	22
Millville City	Cumberland County	0
Shiloh Borough	Cumberland County	7
Stow Creek Township	Cumberland County	14
Upper Deerfield Township	Cumberland County	242
Vineland City	Cumberland County	0
TOTAL CUMBERLAND		597
Belleville Township	Essex County	0
Bloomfield Township	Essex County	0
Caldwell Borough Township	Essex County	0
Cedar Grove Township	Essex County	70
City of Orange Township	Essex County	0
East Orange City	Essex County	0
Essex Fells Township	Essex County	40
Fairfield Township	Essex County	318
Glen Ridge Borough Township	Essex County	28
Irvington Town	Essex County	0
Livingston Township	Essex County	375
Maplewood Township	Essex County	51

Millburn Township	Essex County	261
Montclair Township	Essex County	0
Newark City	Essex County	0
North Caldwell Township	Essex County	63
Nutley Township	Essex County	29
Roseland Borough	Essex County	182
South Orange Village Township	Essex County	63
Verona Township	Essex County	24
West Caldwell Township	Essex County	200
West Orange Township	Essex County	226
TOTAL ESSEX		1,930
Clayton Borough	Gloucester County	94
Deptford Township	Gloucester County	522
East Greenwich Township	Gloucester County	252
Elk Township	Gloucester County	127
Franklin Township	Gloucester County	166
Glassboro Borough	Gloucester County	0
Greenwich Township	Gloucester County	308
Harrison Township	Gloucester County	198
Logan Township	Gloucester County	455
Mantua Township	Gloucester County	292
Monroe Township	Gloucester County	439
National Park Borough	Gloucester County	28
Newfield Borough	Gloucester County	14
Paulsboro Township	Gloucester County	0
Pitman Borough	Gloucester County	40
South Harrison Township	Gloucester County	31
Swedesboro Borough	Gloucester County	23
Washington Township	Gloucester County	507
Wenonah Borough	Gloucester County	30
West Deptford Township	Gloucester County	368
Westville Borough	Gloucester County	27
Woodbury City	Gloucester County	0
Woodbury Heights Borough	Gloucester County	55
Woolwich Township	Gloucester County	209
TOTAL GLOUCESTER		4,185

Bayonne City	Hudson County	0
East Newark Borough	Hudson County	2
Guttenerg Borough	Hudson County	23
Harrison Town	Hudson County	30
Hoboken City	Hudson County	0
Jersey City	Hudson County	0
Kearny Town	Hudson County	211
North Bergen Township	Hudson County	0
Secaucus Town	Hudson County	590
Union City	Hudson County	0
Weehawken Township	Hudson County	3
West New York Town	Hudson County	0
TOTAL HUDSON		859
Alexandria Township	Hunterdon County	22
Bethlehem Township	Hunterdon County	42
Bloomsbury Borough	Hunterdon County	17
Califon Borough	Hunterdon County	21
Clinton Town	Hunterdon County	51
Clinton Township	Hunterdon County	335
Delaware Township	Hunterdon County	23
East Amwell Township	Hunterdon County	40
Flemington Borough	Hunterdon County	38
Franklin Township	Hunterdon County	36
Frenchtown Borough	Hunterdon County	2
Glen Gardner Borough	Hunterdon County	7
Hampton Borough	Hunterdon County	2
High Bridge Borough	Hunterdon County	27
Holland Township	Hunterdon County	17
Kingwood Township	Hunterdon County	19
Lambertville City	Hunterdon County	0
Lebanon Borough	Hunterdon County	34
Lebanon Township	Hunterdon County	28
Milford Borough	Hunterdon County	5
Raritan Township	Hunterdon County	360
Readington Township	Hunterdon County	394
Stockton Borough	Hunterdon County	6
Tewksbury Township	Hunterdon County	119

Union Township	Hunterdon County	78
West Amwell Township	Hunterdon County	16
TOTAL HUNTERDON		1,739
East Windsor Township	Mercer County	367
Ewing Township	Mercer County	481
Hamilton Township	Mercer County	706
Hightstown Borough	Mercer County	45
Hopewell Borough	Mercer County	29
Hopewell Township	Mercer County	520
Lawrence Township	Mercer County	891
Pennington Borough	Mercer County	52
Princeton Borough	Mercer County	311
Princeton Township	Mercer County	330
Trenton City	Mercer County	0
Washington Township	Mercer County	293
West Windsor Township	Mercer County	899
TOTAL MERCER		4,924
Carteret Borough	Middlesex County	0
Cranbury Township	Middlesex County	217
Dunellen Borough	Middlesex County	0
East Brunswick Township	Middlesex County	648
Edison Township	Middlesex County	965
Helmetta Borough	Middlesex County	26
Highland Park Borough	Middlesex County	0
Jamesburg Borough	Middlesex County	8
Metuchen Borough	Middlesex County	99
Middlesex Borough	Middlesex County	105
Milltown Borough	Middlesex County	64
Monroe Township	Middlesex County	554
New Brunswick City	Middlesex County	0
North Brunswick Township	Middlesex County	395
Old Bridge Township	Middlesex County	439
Perth Amboy City	Middlesex County	0
Piscataway Township	Middlesex County	736
Plainsboro Township	Middlesex County	205
Sayreville Borough	Middlesex County	261

South Amboy City	Middlesex County	0
South Brunswick Township	Middlesex County	841
South Plainfield Borough	Middlesex County	379
South River Borough	Middlesex County	0
Spotswood Borough	Middlesex County	48
Woodbridge Township	Middlesex County	955
TOTAL MIDDLESEX		6,945
Aberdeen Township	Monmouth County	270
Allenhurst Borough	Monmouth County	50
Allentown Borough	Monmouth County	28
Asbury Park City	Monmouth County	0
Atlantic Highlands Borough	Monmouth County	86
Avon by the Sea Borough	Monmouth County	20
Belmar Borough	Monmouth County	59
Bradley Beach Borough	Monmouth County	20
Brielle Borough	Monmouth County	159
Colts Neck Township	Monmouth County	218
Deal Borough	Monmouth County	54
Eatontown Borough	Monmouth County	504
Englishtown Borough	Monmouth County	65
Fair Haven Borough	Monmouth County	135
Farmingdale Borough	Monmouth County	19
Freehold Borough	Monmouth County	188
Freehold Township	Monmouth County	1,036
Hazlet Township	Monmouth County	407
Highlands Borough	Monmouth County	20
Holmdel Township	Monmouth County	768
Howell Township	Monmouth County	955
Interlaken Borough	Monmouth County	40
Keansburg Borough	Monmouth County	0
Keyport Borough	Monmouth County	1
Little Silver Borough	Monmouth County	197
Loch Arbour Village	Monmouth County	31
Long Branch City	Monmouth County	0
Manalapan Township	Monmouth County	706
Manasquan Borough	Monmouth County	149
Marlboro Township	Monmouth County	1,019

Matawan Borough	Monmouth County	141
Middletown Township	Monmouth County	1,561
Millstone Township	Monmouth County	81
Monmouth Beach Borough	Monmouth County	70
Neptune City Borough	Monmouth County	33
Neptune Township	Monmouth County	0
Ocean Township	Monmouth County	873
Oceanport Borough	Monmouth County	149
Red Bank Borough	Monmouth County	427
Roosevelt Borough	Monmouth County	29
Rumson Borough	Monmouth County	268
Sea Bright Borough	Monmouth County	37
Sea Girt Borough	Monmouth County	115
Shrewsbury Borough	Monmouth County	277
Shrewsbury Township	Monmouth County	12
South Belmar Borough	Monmouth County	30
Spring Lake Borough	Monmouth County	132
Spring Lake Heights Borough	Monmouth County	76
Tinton Falls Borough	Monmouth County	622
Union Beach Borough	Monmouth County	83
Upper Freehold Borough	Monmouth County	43
Wall Township	Monmouth County	1,073
West Long Branch Borough	Monmouth County	219
TOTAL MONMOUTH		13,555
Boonton Town	Morris County	11
Boonton Township	Morris County	20
Butler Borough	Morris County	16
Chatham Borough	Morris County	77
Chatham Township	Morris County	83
Chester Borough	Morris County	16
Chester Township	Morris County	32
Denville Township	Morris County	325
Dover Town	Morris County	6
East Hanover Township	Morris County	262
Florham Park Borough	Morris County	326
Hanover Township	Morris County	356
Harding Township	Morris County	83

Jefferson Township	Morris County	69
Kinnelon Borough	Morris County	73
Lincoln Park Borough	Morris County	74
Long Hill Township	Morris County	62
Madison Borough	Morris County	86
Mendham Borough	Morris County	25
Mendham Township	Morris County	41
Mine Hill Township	Morris County	61
Montville Township	Morris County	261
Morris Plains Borough	Morris County	144
Morris Township	Morris County	293
Morristown Town	Morris County	227
Mount Arlington Borough	Morris County	17
Mount Olive Township	Morris County	45
Mountain Lakes Borough	Morris County	80
Netcong Borough	Morris County	0
Parsippany-Troy Hills Township	Morris County	664
Pequannock Township	Morris County	134
Randolph Township	Morris County	261
Riverdale Borough	Morris County	58
Rockaway Borough	Morris County	43
Rockaway Township	Morris County	370
Roxbury Township	Morris County	255
Victory Gardens Borough	Morris County	0
Washington Township	Morris County	66
Wharton Borough	Morris County	42
TOTAL MORRIS		5,064
Barnegat Light Borough	Ocean County	84
Barnegat Township	Ocean County	329
Bay Head Borough	Ocean County	65
Beach Haven Borough	Ocean County	70
Beachwood Borough	Ocean County	123
Berkeley Township	Ocean County	610
Brick Township	Ocean County	930
Dover Township	Ocean County	2,233
Eagleswood Township	Ocean County	36
Harvey Cedars Borough	Ocean County	37

Island Heights Borough	Ocean County	31
Jackson Township	Ocean County	1,247
Lacey Township	Ocean County	580
Lakehurst Borough	Ocean County	66
Lakewood Township	Ocean County	0
Lavallette Borough	Ocean County	82
Little Egg Harbor Township	Ocean County	194
Long Beach Township	Ocean County	41
Manchester Township	Ocean County	370
Mantoloking Borough	Ocean County	59
Ocean Gate Borough	Ocean County	12
Ocean Township	Ocean County	236
Pine Beach Borough	Ocean County	41
Plumsted Township	Ocean County	47
Point Pleasant Beach Borough	Ocean County	167
Point Pleasant Borough	Ocean County	343
Seaside Heights Borough	Ocean County	0
Seaside Park Borough	Ocean County	52
Ship Bottom Borough	Ocean County	71
South Toms River Borough	Ocean County	51
Stafford Township	Ocean County	555
Surf City Borough	Ocean County	49
Tuckerton Borough	Ocean County	69
TOTAL OCEAN		8,880
Bloomington Borough	Passaic County	168
Clifton City	Passaic County	379
Haledon Borough	Passaic County	5
Hawthorne Borough	Passaic County	58
Little Falls Township	Passaic County	101
North Haledon Borough	Passaic County	92
Passaic City	Passaic County	0
Paterson City	Passaic County	0
Pompton Lakes Borough	Passaic County	102
Prospect Park Borough	Passaic County	0
Ringwood Borough	Passaic County	51
Totowa Borough	Passaic County	247
Wanaque Borough	Passaic County	332

Wayne Township	Passaic County	1,158
West Milford Township	Passaic County	98
West Paterson Borough	Passaic County	146
TOTAL PASSAIC		2,937
Alloway Township	Salem County	17
Carneys Point Township	Salem County	184
Elmer Borough	Salem County	12
Elsinboro Township	Salem County	26
Lower Alloways Creek Township	Salem County	26
Mannington Township	Salem County	19
Oldmans Township	Salem County	183
Penns Grove Borough	Salem County	4
Pennsville Township	Salem County	228
Pilesgrove Township	Salem County	35
Pittsgrove Township	Salem County	58
Quinton Township	Salem County	15
Salem City	Salem County	0
Upper Pittsgrove Township	Salem County	27
Woodstown Borough	Salem County	8
TOTAL SALEM		842
Bedminster Township	Somerset County	154
Bernards Township	Somerset County	508
Bernardsville Borough	Somerset County	127
Bound Brook Borough	Somerset County	0
Branchburg Township	Somerset County	302
Bridgewater Township	Somerset County	713
Far Hills Borough	Somerset County	38
Franklin Township	Somerset County	766
Green Brook Township	Somerset County	151
Hillsborough Township	Somerset County	461
Manville Borough	Somerset County	0
Millstone Borough	Somerset County	21
Montgomery Township	Somerset County	307
North Plainfield Borough	Somerset County	0
Peapack - Gladstone Borough	Somerset County	82
Raritan Borough	Somerset County	82

Rocky Hill Borough	Somerset County	25
Somerville Borough	Somerset County	153
South Bound Brook Borough	Somerset County	0
Warren Township	Somerset County	543
Watchung Borough	Somerset County	206
TOTAL SOMERSET		4,639
Andover Borough	Sussex County	7
Andover Township	Sussex County	55
Branchville Borough	Sussex County	13
Byram Township	Sussex County	33
Frankford Township	Sussex County	36
Franklin Borough	Sussex County	9
Fredon Township	Sussex County	29
Green Township	Sussex County	20
Hamburg Borough	Sussex County	14
Hampton Township	Sussex County	44
Hardyston Township	Sussex County	18
Hopatcong Borough	Sussex County	93
Lafayette Township	Sussex County	27
Montague Township	Sussex County	9
Newton Town	Sussex County	24
Ogdensburg Borough	Sussex County	13
Sandyston Township	Sussex County	13
Sparta Township	Sussex County	76
Stanhope Borough	Sussex County	15
Stillwater Township	Sussex County	15
Sussex Borough	Sussex County	0
Vernon Township	Sussex County	60
Walpack Township	Sussex County	0
Wantage Township	Sussex County	35
TOTAL SUSSEX		658
Berkeley Heights Township	Union County	183
Clark Township	Union County	92
Cranford Township	Union County	148
Elizabeth City	Union County	0
Fanwood Borough	Union County	45

Garwood Borough	Union County	19
Hillside Township	Union County	0
Kenilworth Borough	Union County	83
Linden City	Union County	209
Mountainside Borough	Union County	123
New Providence Borough	Union County	135
Plainfield City	Union County	0
Rahway City	Union County	70
Roselle Borough	Union County	0
Roselle Park Borough	Union County	0
Scotch Plains Township	Union County	182
Springfield Township	Union County	135
Summit City	Union County	171
Union Township	Union County	233
Westfield Town	Union County	139
Winfield Township	Union County	0
TOTAL UNION		1,967
Allamuchy Township	Warren County	13
Alpha Borough	Warren County	13
Belvidere Town	Warren County	0
Blairstown Township	Warren County	12
Franklin Township	Warren County	11
Frelinghuysen Township	Warren County	6
Greenwich Township	Warren County	41
Hackettstown Town	Warren County	62
Hardwick Township	Warren County	6
Harmony Township	Warren County	47
Hope Township	Warren County	8
Independence Township	Warren County	10
Knowlton Township	Warren County	14
Liberty Township	Warren County	7
Lopatcong Township	Warren County	56
Mansfield Township	Warren County	3
Oxford Township	Warren County	2
Phillipsburg Town	Warren County	0
Pohatacong Township	Warren County	47
Washington Borough	Warren County	0

Washington Township	Warren County	48
White Township	Warren County	16
TOTAL WARREN		422
TOTAL STATE		85,964

Municipalities affected by the 1,000-unit limitation described in N.J.A.C. 5:97-5.8 will be subject to verification and validation at the time a municipality submits its petition for substantive certification.

Municipalities that were previously granted an employment adjustment may utilize the resulting adjusted 1987-1999 obligation.

APPENDIX D

UCC USE GROUPS FOR PROJECTING AND IMPLEMENTING NON-RESIDENTIAL COMPONENTS OF GROWTH SHARE

A one in 16 non-residential ratio shall be used to determine the number of affordable units to be created for each new job created in a municipality. For every 16 new jobs created in a municipality, as measured by new or expanded non-residential construction, the municipality shall have the obligation to provide one affordable residential unit. New jobs created shall be based on the gross square footage of non-residential development and on the use group of the facility being constructed. Use groups are as defined by the International Building Code (IBC) which has been incorporated by reference into the Uniform Construction Code (UCC). The following chart shall be used to project and implement the non-residential component of growth share:

<u>Use Group</u>	<u>Description</u>	<u>Square Feet Generating One Affordable Unit</u>	<u>Jobs Per 1,000 Square Feet</u>
B-Business	Use of a building or structure, or a portion thereof, for office, professional or service-type transactions, including storage of records and accounts amongst others. Examples include, but are not limited to, corporate and professional offices, banks, outpatient clinics, motor vehicle showrooms, and offices in higher education institutions.*	5,714	2.8
M- Mercantile	Buildings and structures, or a portion thereof, used to display and sell products accessible to the public. Includes retail stores, strip malls, shops and gas stations. Factories where people make, process, or assemble	9,412	1.7
F-Factory Industrial	products. Includes automobile manufacturers, electric power plants, foundries, and incinerators. F use group includes F1 and F2.	13,333	1.2
S- Storage	Use of a building or structure, or a portion thereof for storage not classified as hazardous occupancy. Examples include warehouses, lumberyards, and aircraft hangers, amongst others. S group includes S1 and S2, but parking garages are excluded.**	16,000	1.0
H-Hazardous	High Hazard manufacturing, processing, generation and storage uses. H group includes H1, H2, H3, H4 and H5.	10,000	1.6
A1	Assembly uses including theaters, concert halls and TV and radio studios.	10,000	1.6
A2	Assembly uses including casinos, night clubs, restaurants and taverns.	5,000	3.2
A3	Assembly uses including libraries, lecture halls, arcades, galleries, bowling alleys, funeral parlors, gymnasiums and museums but excluding houses of worship, covered athletic fields, and higher education uses.*	10,000	1.6
A4	Assembly uses including arenas, skating rinks and pools.	4,706	3.4
A5	Assembly uses including amusement park structures and stadiums, but bleachers and grandstands are excluded.	6,154	2.6

E-Educational	Schools K - 12	Exclude	Exclude
I-Institutional	Institutional uses such as assisted living facilities, hospitals, nursing homes, jails, and day care facilities. I group includes I1, I2, I3 and I4.**	6,154	2.6
R1	Hotels, motels, dormitories, and continuing care retirement communities that are classified as R2.	9,412	1.7
U-Utility	Miscellaneous uses. Fences, tanks, barns, agricultural buildings, sheds, greenhouses, etc.	Exclude	Exclude

* Offices as defined in the most recent Postsecondary Education Facilities Inventory Classification Manual (FICM) published by the National Center for Education Statistics, U.S. Dept. of Education. Non-office higher education uses noted in Section 303.1 “Exceptions” of the building subcode as adopted by N.J.A.C. 5:23-3.14 are excluded. Classroom and classroom laboratory facilities, conference rooms, meeting rooms, and study facilities are examples of A3 Assembly exclusions.

**Replacement square footage of hospitals and nursing homes (I-2) within the same COAH Region are excluded pursuant to N.J.A.C. 5:94-2.5(b)2v.

***In recognition of the disparity between self-storage and distribution centers in this category, actual jobs created may be submitted by municipalities for this use group.

In the case of mixed-use development, the jobs calculation will be assigned in proportion to the square footage of each use in the mixed use development.

For example, if a municipality issues a certificate of occupancy for a 10,000 square foot restaurant (use group A2), the affordable housing obligation would be $10,000 \div 5,000$ or two affordable units. Alternatively, the affordable housing obligation for this same development could be calculated by applying a ratio of one unit for each 16 jobs created as follows: $10,000 \div 1,000 \times 3.2 \div 16 = 2$.

APPENDIX E

Criteria for post-1986 credits

In order to be eligible as a post-1986 credit, as referenced in N.J.A.C. 5:94-4.3, affordable housing developments and units must meet the following criteria:

Distribution of low and moderate income units:

With the exception of inclusionary developments constructed pursuant to the four percent low income tax credit regulations pursuant to the Internal Revenue Code Section 42h, at least half of all affordable units within each affordable housing development are affordable to low income households.

With the exception of inclusionary developments constructed pursuant to the four percent low income tax credit regulations pursuant to the Internal Revenue Code Section 42h, at least one-third of all affordable units in each bedroom distribution (pursuant to below) are affordable to low income households.

Bedroom distribution for affordable housing developments that are not age-restricted:

The combination of efficiency and one bedroom units is at least ten percent and no greater than 20 percent of the total low and moderate income units.

At least 30 percent of all low and moderate income units are two bedroom units.

At least 20 percent of all low and moderate income units are three bedroom units.

Bedroom distribution for affordable housing developments that are age-restricted:

At a minimum, the number of bedrooms equals the number of age restricted low and moderate income units within the inclusionary development. The standard can be met by having all one bedroom units or by having a two bedroom unit for each efficiency unit.

Rents and prices of affordable units:

The following criteria was used to determine the initial maximum rents and sale prices of affordable units:

1. Efficiency units are affordable to one person households;
2. One bedroom units are affordable to 1.5 person households;
3. Two bedroom units are affordable to three person households; and
4. Three bedroom units are affordable to 4.5 person households.

The initial price of a low and moderate income owner-occupied single family housing unit was established so that after a down payment of five percent, the monthly principal, interest, homeowner and private mortgage insurances, property taxes (property taxes shall be based on the restricted value of low and moderate income units) and condominium or homeowner fees did not exceed 28 percent of the eligible gross monthly income. The master deeds of inclusionary developments regulating condominium or homeowner association established fees or special

assessments of low and moderate income purchasers at a specific percentage of those paid by market purchasers. The percentage that shall be paid by low and moderate income purchasers is at least one-third of the condominium or homeowner association fees paid by market purchasers.

Once established within the master deed, the percentage shall not be amended without prior approval from the Council.

Gross rents of affordable units, including an allowance for utilities, was established so as not to exceed 30 percent of the gross monthly income of the appropriate household size. Those tenant-paid utilities that are included in the utility allowance are so stated in the lease. The allowance for utilities shall be consistent with the utility allowance approved by HUD for use in New Jersey.

Any increases in rents and sales prices did not exceed the annual maximums permitted by COAH's regulations.

Affordability Average

For affordable housing developments constructed before January 1, 2001, the initial maximum average rent or price of low and moderate income units within each development was affordable to households earning 57.5 percent of median income. The moderate income sales units were available for at least three different prices and low income sales units were available for at least two different prices. For rental units, there must have been one rent for a low income unit and one rent for a moderate income unit for each bedroom distribution.

For affordable housing developments that received preliminary or final approvals on or after January 2, 2001 the initial maximum rents of low and moderate-income units within each development were affordable to households earning no more than 60 percent of median income. In averaging an affordability range of 52 percent for rental units, there must have been one rent for a low-income unit and one rent for a moderate-income unit for each bedroom distribution. The initial maximum sales prices of low and moderate income units within each development were affordable to households earning no more than 70 percent of median income. In averaging an affordability range of 55 percent for sales units, the moderate income sales units were available for at least two different prices and low income sales units were available for at least two different prices.