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# Fair Share Plan

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**LONG HILL TOWNSHIP  
MORRIS COUNTY, NEW JERSEY**

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**April 10, 2018**

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**Prepared by:**



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Morris County, New Jersey

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License No. 5944

## Table of Contents

FAIR SHARE PLAN .....	2
Executive Summary .....	2
Introduction .....	3
Plan Purpose and Goals .....	3
Determination of Housing Need .....	3
Municipal Options for Providing Affordable Housing .....	4
Bonus Credits .....	4
Affordable Housing Mechanisms .....	4
Prior Round .....	5
Present Need .....	6
Prospective Need .....	6
Durational Adjustment .....	7
Summary of Fair Share Plan Obligation and Credits .....	9

# FAIR SHARE PLAN

## Executive Summary

The Township of Long Hill filed a declaratory judgment on July 6, 2015 seeking a declaration of compliance with the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq. in accordance with In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1, 30 (2015) and also petitioned the court for temporary immunity from builder’s remedy lawsuits. The court granted temporary immunity from builder’s remedy lawsuits by order dated August 10, 2015. The Township reached a settlement agreement on September 14, 2017 with Fair Share Housing Center (FSHC), a Supreme Court-designated interested party in the matter in accordance with In re N.J.A.C. 5:96 and 5:97, supra. A Fairness Hearing was held before Judge Michael E. Hubner, JSC, in Superior Court on December 15, 2017, where the terms of the settlement agreement were deemed to be constitutionally compliant subject to adoption of an updated Housing Element and Fair Share Plan along with timely adoption of other compliance documents. This Fair Share Plan is being prepared in conjunction with a revised Housing Element to memorialize the terms of the settlement agreement and to meet the requirements of the December 15, 2017 court order.

To create this Fair Share Plan, the Township utilized the “New Jersey Low and Moderate-Income Housing Obligations for 1999-2025 Calculated Using the NJ COAH Prior Round (1987-1999) Methodology,” both prepared by David N. Kinsey, PhD, FACIP, PP for the Fair Share Housing Center (hereafter, the “Kinsey Report”) for its obligation and utilized a durational adjustment to address its obligation as follows:

## Summary of Obligation and Credits

Category	Obligation	Addressed
Prior Round	62 units	62 units
Present Need	6 units	6 units
Third Round Prospective Need	220 units	98 units / 163 durationally adjusted <sup>1</sup>
4th Round Carryover	n/a	32 units

<sup>1</sup> Up to 163 units were approved for a durational adjustment per the December 15, 2017 Court Order, however the Township proposes mechanisms to address some of the durationally adjusted obligation which is noted in the 98 units proposed and 122 units adjusted. Additional mechanisms for up to 72 units of the 122 units adjusted are also included as overlay zone proposals.

The Township proposes to immediately address 98 units of Third Round Prospective Need; however, the Township lacks sufficient sewer capacity to support new inclusionary housing development and therefore the Township is unable to create additional realistic opportunities for the production of affordable housing until sufficient sewer utilities become available. As such, the Township is eligible for a durational adjustment for 163-units of its 220-unit Third Round obligation pursuant to N.J.A.C. 5:93-4.3. The Township agrees to reserve sewer capacity, when it becomes available, for low- and moderate-income housing.

**Introduction**

This Fair Share Plan uses the methodology for determining a municipality’s affordable housing obligation identified in the Second Round and Third Round Rules as determined by the Supreme Court and relies on the most recent housing and socioeconomic data available as outlined in the Township’s Housing Element dated April 10, 2018.

**Plan Purpose and Goals**

This Fair Share Plan will describe specific projects, programs, strategies and funding sources to meet the Township’s affordable housing obligation, while also complying with COAH’s Second Round Rules for substantive certification and the Fair Housing Act. The overriding goal of this Fair Share Plan is to provide a framework for the Township of Long Hill to take affirmative steps towards providing a realistic opportunity to achieve its fair share of the present and prospective regional need for low and moderate-income housing.

**Determination of Housing Need**

The Township has based its fair share obligation on the methodology provided in the above-referenced Kinsey Report. The Kinsey Report identifies a municipal fair share obligation of **288 units** for Township of Long Hill. This is calculated as follows:

**Appendix E: Initial Summary Obligations by Municipality, Long Hill Township, Morris County**

<b>Prior Round</b>	62 units
<b>Present Need</b>	6 units
<b>Prospective Need</b>	220 units*
<b>Total Summary Obligation</b>	<b><u>288 units</u></b>

\*220 units represents an adjusted prospective need as part of the settlement agreement with FSHC

## **Municipal Options for Providing Affordable Housing**

The Second Round Rules allow municipalities to address their affordable housing obligation through a variety of mechanisms. A municipality may meet its present need, or rehabilitation obligation through a rehabilitation program, ECHO housing or by creating new units.

According to the Third Round Rules, a municipality may address its prospective need or fair share obligation, through a combination of techniques, including, but not necessarily limited to: municipally sponsored construction, inclusionary zoning, alternative living arrangements, the creation of accessory apartments, age restricted housing and market to affordable housing.

The Courts also provide discretion in allowing a municipality to propose affordable housing techniques that create the realistic opportunity for producing its fair share of the present and prospective need for low and moderate-income housing.

## **Bonus Credits**

The Courts have approved the allowance of bonus credits towards the satisfaction of a municipality's affordable housing obligations. In Re Adoption of N.J.A.C. 5:94 & 5:95, the Appellate Division affirmed the awarding of bonus credits for the construction of new rental units (one and one-third credits per senior rental unit; two credits per family rental unit), for the extension of expiring controls, and for each unit that is affordable to a very low-income household earning less than 30 percent of median income. In In Re Adoption of N.J.A.C. 5:96 & 5:97, the Appellate Division approved Smart Growth and Redevelopment bonuses of 1.33 units of credit for each affordable housing unit that was included in Transit Oriented Development in a Planning Area 1, 2 or a designated Center or in a designated redevelopment area pursuant to the Local Redevelopment and Housing Law (N.J.A.C 5:97-3.18-19). Additionally, in upholding the Round 2 Rules, the Courts have acknowledged the validity of those rules along with specifically acknowledging that Round 3 bonuses also continue to apply. Municipalities may receive bonus credits of up to 25 percent of the total prospective need, which is 55 units for Long Hill Township.

## **Affordable Housing Mechanisms**

The Township has utilized regional contribution agreements, inclusionary zoning, accessory apartments and 100 percent affordable housing to address its affordable housing obligation. The Township was very successful in the Prior Rounds in creating new units. The Township received 57 credits in the Prior Round certifications from the Council on Affordable Housing. The certification included proposed and completed units at the time.

The Township continues to address affordable housing needs through a variety of ongoing programs, which include the Township's accessory apartment program and inclusionary zoning through redevelopment of existing developed properties. The Township has maintained a successful accessory apartment program, creating 13 units in the prior round.

The program remains in place and will continue as funding becomes available. The Township has also entered into a Memorandum of Understanding with Community Options to assist them in purchasing a 3-bedroom group home within the Township utilizing the affordable housing trust fund.

**Prior Round**

On August 2, 2001, Long Hill Township received its Substantive Certification from COAH. The Township addressed its Prior Round obligation of 62 units as follows:

**Prior Round Completed Units, Long Hill Township**

Mechanism	Units/Credits	Bonus Credits	Total Credits	Carryover Credits
Accessory Apartments	13	1	14	0
Lounsberry Meadow Senior (51 age-restricted units)	15*	5	20	36
RCA (Newark) Prior Round (42 units)	28**	0	28	14
<b>Sub-Totals</b>	56	6**	62	50
<b>Total Prior Round</b>			<b><u>62 units</u></b>	
<b>Total Carryover Credits for Third Round</b>				<b><u>50 units</u></b>

\*15 units apply due to a 25% cap on age-restricted units in the Prior Round.

\*\*Bonuses are capped at 16 credits (25%) of the obligation.

\*\*\*RCAs are capped at 50% of the obligation; 28 are applied and 14 are carried over.

**The Township met the 62-unit obligation of the Prior Round and carried-over up to 50 units subject to age-restricted caps.**

**Present Need**

The Township has a present need of **6 units**. The Township has completed 5 units of rehabilitation via its housing rehabilitation program. One (1) more unit is proposed to be rehabilitated through this program to meet the present need obligation. The program is funded through the Township’s affordable housing trust fund.

**Prospective Need**

The Township has a prospective need of 220 units, of which 98 are addressed immediately as outlined below.

**Existing Third Round Mechanisms, Long Hill Township**

Mechanism	Units/Credits	Bonus Credits	Total Credits	Carryover Credits
<b>Lounsberry Meadow Senior</b>	36	1	37	
<b>RCA (Newark) Prior Round</b>	14	0	14	0
<b>Stirling Manor</b>	8	8	16	0
<b>Chestnut Run</b>	6	6	12	0
<b>Extension of Expiring Controls on Lounsberry Meadow (51 units)</b>	19*	0	19	32
<b>Sub-Totals</b>	83	15	98	32
			<b>98 credits</b>	<b>32 credits</b>

\*19 units apply due to a 25% cap on age-restricted units in the Third Round.



## **Durational Adjustment**

According to N.J.S.A 5:93-4.3, if a community has insufficient sewer to support inclusionary development, it may seek a durational adjustment. The Township is currently on a voluntary sewer connection moratorium until the sewer system capacity can be increased and/or repaired to prevent infiltration into the system causing the system's capacity to be exceeded during rain events. Any new development will be subject to this limited capacity for sewer and as a result inclusionary development cannot be built until additional sewer capacity is added to the system. As a result of mitigating factors related to sewer infrastructure, the Township was approved for a durational adjustment for up to 163<sup>2</sup> units and proposes to adopt the following mechanisms to address the durationally adjusted need in conjunction with efforts to expand the sewer capacity, as outlined in prior sections of this Fair Share plan.

The Township received court approval for a durational adjustment of 163 units according to the requirements of N.J.A.C. 5:93-4.3 subject to the following:

- In accordance with N.J.A.C. 5:93-4.3(c), the Township agreed to reserve and set aside new sewer capacity, when it becomes available, for low and moderate-income housing, on a priority basis. Municipal officials agreed to endorse all applications to the Department of Environmental Protection (DEP) or its agent to provide additional sewer capacity.
- The Township Governing Body is diligently attempting to remedy the sewer capacity issue that has led to the Township being limited by a voluntary sewer service moratorium since 2000. The Township intends to bond for the necessary further upgrades needed to the utility.

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<sup>2</sup> The Township's durational adjustment is for up to 163 units; however, the Township has proposed some mechanisms to address some of the durationally adjusted need via extension of expiring controls and additional senior housing credits, resulting in all but 122 units being addressed immediately. For simplification purposes, this plan identifies all of the mechanisms for the Third Round with remaining adjusted need identified.

The Township will address the remaining units of durationally adjusted need by placing overlay zoning on the following sites:

**Proposed Third Round Mechanisms, Long Hill Township**

Overlay Zone Sites	Block/Lot	Area(ac)	Total Units	Set-aside Rental (15%)	Set-aside For-sale (20%)
<b>TIFA Site</b>	12301/1	11.5	138	21	28
<b>Gillette Office</b>	10801/3	5.15	62	9	12
<b>Warren Ave</b>	11501/1 &4 11502/1,2,14	7.87	94	14	19
<b>Valley Road Redevelop Area</b>	10401/1-4 11514/6,31-32	4.4	66	10	13
<b>Sub-Totals</b>			360	54	72
<b>Total Credits towards Durationally Adjusted Need</b>				<b>54</b>	<b>72</b>

The Township is eligible for up to 55 units total for bonus credits. The Township is claiming 15 bonus credits as part of the 98 units of prospective need, as noted above. Up to an additional 40 units of bonus credits may apply to the Township’s obligation.

The Township also adheres to the minimum and maximum requirements for senior, family units and rental units from the Third-Round rules as shown below.

**Fair Share Obligation by Unit Type for Senior, Family & Rental, Township of Long Hill**

Requirement	Number of Units (Based on 220-Unit obligation)	Number of Units Proposed
<b>25% Senior Units</b>	Maximum 55 Units Senior	55 Units Senior
<b>Minimum 50% Family Housing</b>	Minimum 110 Units Family	110+ Units Family
<b>Minimum 25% rental (Min. 50% Family Rental)</b>	Minimum 55 Units Rental (Minimum 28 Family Rental Units)	55+ Units Rental 28+ Units Family Rental
<b>Minimum 50% for Low Income</b>	Minimum 55 Low-Income Units	55+ Units Low-Income
<b>Minimum 13% for Very Low Income</b>	Minimum 29 Very Low-Income Units	29 Units Very Low Income

### **Summary of Fair Share Plan Obligation and Credits**

The Township has addressed its Prior Round obligation and met the bulk of its present need obligation. The Township addresses 98 units of prospective need immediately and received a durational adjustment for up to 163 units of prospective need. The Township met a prior round obligation of 62 units and has 32 age-restricted credits to carry over for future obligations. Up to an additional 40 units of bonus credits may apply to the Township's obligation as this plan is implemented.