

Affordable Housing Definitions

“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 attached accessory structure on the same site, or by an addition to an existing home or accessory building.

“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*.

“Affordable” means, a sales price or rent level that is within the means of a low- or moderate-income household as defined within *N.J.A.C. 5:93-7.4*, and, in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in *N.J.A.C. 5:80-26.6*, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in *N.J.A.C. 5:80-26.12*, as may be amended and supplemented.

“Affordable housing development” means a development included in or approved pursuant to the Housing Element and Fair Share Plan or otherwise intended to address the City's fair share obligation, and includes, but is not limited to, an inclusionary development, a municipal construction project or a one hundred percent (100%) affordable housing development.

“Affordable housing program(s)” means any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

“Affordable unit” means a housing unit proposed or created pursuant to the Act and approved for crediting by the Court and/or funded through an affordable housing trust fund.

“Age-restricted unit” means a housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that: 1) all the residents of the development wherein the unit is situated are 62 years of age or older; or 2) at least 80 percent of the units are occupied by one person who is 55 years of age or older; or 3) the development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as “housing for older persons” as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

“Builder's Remedy Lawsuit” is a court imposed remedy for a litigant who is an individual or profit making entity in which the court requires a municipality to utilize zoning techniques such as mandatory set-asides or density bonuses which provide for the economic viability of a residential development which is not for low and moderate income households. A developer is entitled to a builder's remedy if (1) it succeeds in Mount Laurel litigation; (2) it proposes a project with a substantial amount of affordable housing, and (3) the site is suitable, i.e. the municipality fails to meet its burden of proving that the site is environmentally constrained or construction of the project would represent bad planning. [Toll Bros. v. Twp. Of West Windsor, 334 NJ Super.

109 (App.Div.2000)] A successful developer in a builder's remedy suit can be entitled to a court ordered zoning designation, including all aspects of zoning such as density, setbacks, building heights, lot coverage, green area, etc. Municipalities in builder's remedy lawsuits may be held liable for developers' attorney's fees and costs of suit, the fees of a special master appointed by the court to assist in developing the zoning scheme on the affected property, the costs of any infrastructure improvements, such as sewer and water system upgrades and road improvements. When a builder's remedy is granted against a municipality, the town and its planning and zoning boards lose all control over the zoning of the subject property, which is left to the special master, who only reports to the court.

"COAH" or the "Council" mean the New Jersey Council on Affordable Housing, as established by the New Jersey Fair Housing Act (*N.J.S.A. 52:27D-301, et seq.*) which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State.

"DCA" means the State of New Jersey Department of Community Affairs.

"Declaratory Judgment" means a judgment of a court which determines the rights of parties without ordering anything be done or awarding damages. While this borders on the prohibited "advisory opinion," it is allowed to nip controversies in the bud.

"Deficient housing unit" means a housing unit with health and safety code violations that requires 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.

"Developer" means any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land included in a proposed development including the holder of an option to contract to 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 fee" means money paid by a developer for the improvement of property as permitted in *N.J.A.C. 5:93-8.8*.

"Equalized assessed value" means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L.1973, c.123 (C.54:1-35a through C.54:1-35c).

“Exclusionary Zoning” means a residential zoning plan whose requirements, such as minimum lot size and house size, have the effect of excluding low-income residents.

“Fair Share Housing Center” or “FSHC” is a housing advocacy group which advocates for the development of affordable housing on a State-wide basis. Under the March 2015 Supreme Court decision, FSHC has “a seat at the table” to comment on every affordable housing plan in every municipality in the State.

“Fair Share Plan” means that plan or proposal, which is in a form that may readily be converted into an ordinance, by which a municipality proposed to satisfy its obligation to create a realistic opportunity to meet its fair share of low and moderate income housing needs of its region and which details the affirmative measures the municipality proposes to undertake to achieve its fair share of low and moderate income housing, as provided in sections 9 and 14 of the Act, addresses the development regulations necessary to implement the housing element, and addresses the requirements of N.J.A.C. 5:93-7 through 11.

“Fair Share Obligation” means the City’s obligation to provide affordable housing. There are three (3) components to a municipality’s affordable housing obligation: the Rehabilitation Share, the Prior Round obligation, and the Third Round obligation.

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

“Housing Element” means that portion of a municipality’s master plan consisting of reports, statements, proposals, maps, diagrams and text designed to meet the municipality’s fair share of its region’s present and prospective housing needs, particularly with regard to low and moderate income housing and which contains at least those items identified in section 10 of the Act.

“Immunity” means the protection or exemption from exclusionary zoning litigation, including claims for a builder’s remedy.

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

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

“Low-income household” means a household with a total gross annual household income equal to 50 percent or less of the regional median household income by household size.

“Low-income unit” means a restricted unit that is affordable to a low-income household.

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

“Median income” means the median income by household size for the applicable housing region, as adopted annually by the City pursuant to this ordinance, by COAH or a successor entity approved by the Court.

“Moderate-income household” means a household with a total gross annual household income in excess of 50 percent but less than 80 percent of the regional median household income by household size.

“Moderate-income unit” means a restricted unit that is affordable to a moderate-income household.

“Overlay zone” means a zoned area of a municipality in which low and moderate income housing may be built as a matter of right in addition to another use. In approving such a 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 or a development fee.

“Prior Round Obligation” is the cumulative 1987 through 1999 new construction affordable housing obligation. This time period corresponds to the First and Second Rounds of affordable housing.

“Realistic Development Potential” or “RDP” means the municipal obligation as calculated pursuant to N.J.A.C. 5:93-4.2(f) .

“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 Obligation” is an estimate of the number of deteriorated housing units existing in the City of Lambertville that are occupied by low- and moderate-income households.

“Rent” means the gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

“Restricted unit” means a dwelling unit, whether a rental unit or an ownership unit, that is subject to the affordability controls of *N.J.A.C. 5:80-26.1*, as amended and supplemented, but does not include a market-rate unit financed under UHORP or MONI.

“Special Master” is generally a subordinate official appointed by a judge to make sure that judicial orders are actually followed, or in the alternative, to hear evidence on behalf of the judge and make recommendations to the judge as to the disposition of a matter.

“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 and the rules and criteria as set forth in this chapter. A grant of substantive certification shall be valid for a period of six years in accordance with the terms and conditions contained therein, in accordance with N.J.S.A. 52:27D-322.

“Third Round Obligation” or “Prospective Need” means the future demand for affordable housing includes the portion of the Third Round (1999- 2015) that has already passed, as well as a 10-year projection into the future (2015-2025). The 10-year period is derived from the Fair Housing Act that, when amended in 2001, set the projection for this length of time (N.J.S.A. 52:27D-310).

“UHAC” means the Uniform Housing Affordability Controls set forth in *N.J.A.C. 5:80-26.1, et seq.*

“Unmet Need” is the difference between the RDP and the Third Round obligation.

“Vacant Land Analysis” demonstrates that there is an insufficiency of vacant and developable land in the municipality and allows the municipality to adjust its obligation resulting in a realistic development potential and unmet need (N.J.S.A. 52:27D-307(c)(2)).

“Very low-income household” means a household with a total gross annual household income equal to 30 percent or less of the regional median household income by household size.

“Very low-income unit” means a restricted unit that is affordable to a very low-income household.