

NJHOMES

Groundwork and Planning

Land use and zoning for your Fourth Round
affordable housing responsibilities and beyond



NJ Department of Community Affairs

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What we will cover

1

Brief history. Fifty years of fair share, what changed in 2024, and two words worth changing.

2

Setting and understanding the numbers. The three statutory factors, and what each one suggests.

3

What works, where. Zoning, infill, market to affordable, redevelopment, infrastructure, ADUs.

4

Implementation. Monitoring, trust funds, and the expiring controls nobody has budgeted for.

5

Considerations & takeaway. Technical assistance, a checklist, and what to carry out of the room.

PART ONE

1 • Where we are

Understanding how we got here helps inform how you plan for what comes next.

Mount Laurel to the Fourth Round • What changed in March 2024 • Obligation or responsibility

Fifty years in the making

1975 & 1983	Mount Laurel I and II. Zoning practices excluded lower-income housing opportunities.
1985	The Fair Housing Act. The Legislature responds and creates COAH to administer fair share planning.
1987–1999	Rounds one and two. Set-asides, bonus credits, RCAs and UHAC harden into standard practice. 1999 to 2015 becomes known as the “gap” period
2015–2024	The courts take over. COAH inactive; monitoring gets murky and many municipalities stop reporting.
March 2024	New legislation. DCA calculates; municipalities adopt and file with the court. AHMS replaces the CTM system.

Southern Burlington County NAACP v. Mount Laurel (1975, 1983); Fair Housing Act, N.J.S.A. 52:27D-301 et seq.; P.L. 2024, c.2.

HERE WE ARE

The Fourth Round: what actually changed

Who administers it

COAH review of Fair Share Plans was replaced by the AHDRP. DCA publishes the numbers; municipalities adopt and file with the court.

Need Determination

Present and prospective need come from a statutory formula, not established by DCA.

Monitoring, rebuilt

The CTM system became AHMS. Every record ever collected was migrated into it.

The timing problem

Municipalities have already filed. So this is groundwork for implementation and future planning.

The methodology is pre-determined. What you do about it is not.

While this discussion may have helped before Fourth Round plans were filed, the new law accelerated the process aggressively and plans have been established. So, focus now on implementation and planning for the future.

Two words worth changing

Obligation → Responsibility

An obligation is imposed on you from outside. It invites resistance, and it is the word every objector at your meetings already uses.

A responsibility is something you take care of. Caring for your residents, and to the people who work in your community but cannot afford to live there.

Same legal requirement. Different conversation.

Feedback → Feed forward

Feedback looks backward and grades what happened. It is where most plan reviews stop.

Feed forward takes what your plans actually produced — and what they zoned for and never produced — into the next plan.

That is why the monitoring data matters.

Neither of these is about spin. Both are about being accurate.

A plan framed as a responsibility and informed by what has actually worked is a better plan, not just a better-sounding one.

PART TWO

2 • Your number, and what drove it

Three statutory factors produced municipal responsibilities. Align contributing factors with implementation strategies.

Non-residential ratables • Income vs. region • Available land, refined

How the numbers were calculated (prospective need)

1. Non-residential ratables

The change in your non-residential ratable base since the end of the Second Round.

Two decades of warehouse or commercial growth pushes the number up — whether or not you have land available for housing.

2. Income vs. your region

Municipal income measured against the incomes of the region your community sits in.

It is relative, not absolute. A modest municipality can rank high inside a lower-income region.

3. Available land, refined

Land capacity, then narrowed by where that land sits.

Refined by State Plan planning area, environmental constraints, and sewer service area. Significant amounts of vacant land are not counted.

“Present need” is calculated separately to determined units that are in need of rehab

Fourth Round methodology per P.L. 2024, c.2; see also N.J.A.C. 5:99 – 1 *et seq.*

Read your municipal conditions

Before designing a plan, know what your own data says about the municipality

- Demographics
- Housing conditions and costs
- Infrastructure availability
- Parcel and land details

Align affordable housing production plans with community needs and available resources

Five steps

1

Baseline demographics. Who lives here now, in what kind of household, and which way the population is moving.

2

Cost and condition. What the stock is, what condition it is in, and who is housing-cost-burdened.

3

Land Capacity verification. Ground-truth land capacity component of the methodology

4

Infrastructure capacity. What water and sewer can sustain cumulatively — not per application.

5

Plan alignment. Tie the fair share plan back to the analysis, name the gaps, link housing to jobs.

Align affordable housing production plans with community needs and available resources.

Who actually lives here

Population

Direction, not a snapshot. A municipality losing population plans differently than one absorbing it — and both can need affordable housing.

Household type

Family, non-family, single-person, multigenerational. Household formation drives unit demand; population alone does not.

Age distribution

A thick 55-plus cohort against a thin 25-to-34 cohort is a forecast: seniors ageing in place, adult children who cannot stay.

Household size

Decreasing household size means more units for the same number of people. The quietest source of need in most municipalities.

Tenure and turnover

The owner-renter split, and how long people stay. Low turnover in a high-cost market indicates that seniors are locked in, young families are locked out, and housing becomes a static asset.

Income distribution

Where current residents fall within regional median income levels. Many members of the community may reluctantly be looking at relocation due to cost burdens.

American Community Survey five-year estimates and Decennial Census, via the DCA Data Hub municipal profile. Label estimates as estimates every time.

What housing costs, and how it gets paid for

Cost burden, both tenures

Spending more than 30% of income on housing, renters and owners counted separately. The single most persuasive number you can bring to a public meeting.

Housing conditions

Age of stock, plumbing and kitchen deficiencies, overcrowding. This is what a rehabilitation need is actually measuring.

Assessed against market value

Assessed values are available on the Data Hub. Market values only exist locally. Only the second answers “what will this do to property values?”

The disconnect to look for

Low values and high cost burden together is not something zoning fixes. It is an income problem, and rehabilitation and preservation are valuable tools.

Run the before-and-after on local sales yourself. A statewide average answers nothing locally.

Verify the parcels on the ground

Verify the vacancy count

Data Hub vacancy counts are ACS-derived. One municipality with a 37-unit need showed 74 vacant owner units and 46 vacant rentals. Some are real. Some are not.

Ground-truth the parcels

Fully investigate the characteristics of all tax parcel information used to establish land capacity. Data used to inform tax assessment records may not always reflect actual ground conditions.

Identify every constraint

Wetlands, easements, deed restrictions, steep slopes, contamination, and ownership that will never sell. Each one is a finding, and each one needs a source.

Document everything that is checked

The value of this step is evidentiary. A constraint you did not record cannot be argued later — not in a hearing, and not in Round Five.

Statewide data may be generalized. Local information may be more accurate and realistic.

What infrastructure can actually carry

A sewer service area is not capacity

An SSA line on a map is a planning designation. Ask the treatment authority for committed flow against permitted flow.

Cumulative water impact

Ask your engineer not only whether a septic system can be permitted on this lot, but what happens to the system at full build-out.

Septic and package plants

A package treatment plant is viable at scale. If the density increase funds the plant, that is set-aside math — not a constraint.

Get everyone to one table

Plan endorsement is the most direct route to having DEP, transportation and other State agencies in one conversation.

For many municipalities water, not land, is the binding constraint, and nobody has documented it.

Tie the plan back to the analysis

- 1 Design a plan that answers the data.** Every mechanism in the fair share plan should trace to something the first four steps found. If it does not, explain why it is there.
- 2 Identify gaps for future planning.** Where the data was thin, stale or wrong, write that down. It becomes the agenda for the next reexamination report.
- 3 Link housing to economic development.** Where the jobs are, what they pay, and whether the people filling them can live here. That is the ratable side of your own number.
- 4 Carry it into the reexamination.** The reexamination report holds your own prior findings, already adopted. Most housing work never picks them up.

Master plan reexamination: N.J.S.A. 40:55D-89. Housing element and fair share plan: N.J.S.A. 52:27D-310. Confirm current adopted text before relying on either.

Where to find the data you need

DCA Data Hub

Municipal profiles, housing and vacancy counts, assessed values, and a PILOT calculator. Start here. Do not stop here.

Census and ACS

Decennial figures are counts. American Community Survey figures are estimates with margins of error. Label which one you are using, every time.

AHMS

Your own production record — every unit, its dates, its bedrooms, the tier it was priced to. Everything in the old CTM system was migrated in.

Local sources

MOD-IV, your assessor, your construction office, local sales. Market value, condition and turnover only exist locally.

Know which of your numbers are counts and which are estimates before either goes into a plan.

PART THREE

3 • What works and where

The same responsibility, three very different toolkits — rural, suburban, urban.

Infill • Vacant units • Redevelopment • Off-tract • Infrastructure • ADUs

What works where

Rural

- Market to affordable on existing stock
- ADUs, where farm or seasonal workers live locally
- Illegal units into compliance
- Package treatment for small clusters
- Plan endorsement, to get DEP to the table

Suburban

- Inclusionary zoning with a calculated set-aside
- Extension of expiring controls
- Rehabilitation for income-eligible owners
- Faith-based and institutional land
- Codified off-tract contributions

Urban

- Infill on brownfields and greyfields
- Adaptive reuse of vacant buildings
- Preserving the stock you have
- Affordable homeownership
- A transparent monitoring system

Where the growth actually is

Since roughly 1999, most growth in New Jersey has come through infill and redevelopment, not greenfield.

Brownfields

Contaminated or formerly industrial sites — often already served by infrastructure.

Greyfields

Dying strip centres, oversized parking, vacant big-box. Already disturbed, already served.

Low-density commercial

Corridors zoned for one story of retail that could carry housing above it.

Legacy and remnant sites

Odd parcels and irregular ownership no conventional development will touch.

“No available land” almost always means “no available greenfield.”

Market to affordable, and single to duplex

Market to affordable

Subsidize the difference between the market and affordable prices, make sure it's up to code.

Single to duplex

Subsidize the conversion of a market-rate unit into two affordable units.

Bring a nonprofit in

A nonprofit can bring state and outside funding the municipality cannot access alone.

What it costs

At least \$100,000 per unit where this has worked. Easier in a lower-cost market.

Bringing illegal units into compliance

How it works

- A rental accessory to an owner-occupied home.
- The credit requires a deed restriction.
- An illegal unit becomes legal, and allows the unit to continue as an affordable unit.
- Usually already affordable, so a rent cap rarely kills it.
- Works best in rural areas with a steady local workforce.

Where it goes wrong

- You cannot simply put a person of your choice in it.
- Market regionally..
- Regional preference is fine. Local and family are not.
- The list gets randomized.
- May ease a housing crisis without solving your number.

Expect anti-Airbnb pushback. Write the one-year minimum lease into the ordinance — without it, no credit.

The vacant units you already have

1 Look them up first. One municipality with a 37-unit responsibility had 74 vacant owner units and 46 vacant rentals on the Data Hub.

2 Then verify them. Census-derived counts carry error — one municipality identified a cemetery in its parcel data. Go and look.

3 Compare the two costs. Rehabbing an existing building against extending infrastructure to a new site. Rehab often wins.

4 Budget for rehabilitation. A unit is vacant for a reason, and somebody carries the cost of making it habitable.

Vacancy counts from the DCA Data Hub (ACS-derived). Verify unit-by-unit before relying on them in a plan.

The power of zoning

Exclusionary zoning created the problem. Inclusionary zoning provides a solution — and is the one instrument under municipal control.

The 20% misconception • What a zoning change is worth • Negotiating • Singles and doubles

Zoning for the public benefit

1

Establish your starting point. What does the zoning permit today, and what is a lot worth under it?

2

Establish your ending point. What will it permit after the change, and what is the cash flow from that?

3

Identify the value you created. The difference is the density bonus you granted. It came from a public act, not from the applicant.

4

Then ask the only question. Are we capturing what we could and should of that value — or taking a minimum by default?

Zoning for the general welfare: N.J.S.A. 40:55D-2; Mount Laurel II (1983).

Twenty percent is not a rule

“If we have to produce 20 affordable units, we will have to build a hundred total.”

It is not a statute

Twenty percent settled into practice over forty years. At some point it simply became the standard.

It came from litigation

The early precedents were driven by developers and by builder's remedy litigation, not by the Legislature and not by scrutinizing financial feasibility.

So it is arbitrary

An arbitrary number is as likely to shortchange your municipality as it is to overburden a developer.

This is the objection you will hear at every hearing. It is based on a number nobody has fully analyzed.

Negotiating with developers

Ask for a higher set-aside

A developer says that 30 units to the acre is needed. If that fits, can it come with a 30% set-aside? Sometimes yes.

Or accept a lower one

If the density increase pays for a package plant, 12% may be honest. A decision based on analysis, not a default.

Trade for something else

Fewer units for jobs in a mixed-use project can be right — if you made the call deliberately.

Every amendment reopens negotiations

Amend a redevelopment agreement and the whole agreement opens.

Know what they receive

Tax credits, PILOTs and other subsidies are leverage — usually buried in the minutiae.

Fund your own expertise

Require the developer to cover the costs of the municipality's professionals as part of the approval process.

Singles and doubles

Not every project has to be a grand slam home run — and games can be won with singles and doubles every day of the week.

For developers

With land this scarce, expecting a home run on every site is part of what stalls projects.

For municipalities

Two units this year and three next is progress. A plan waiting on one perfect site is not.

For compliance

Programs on the books and progress to show means you are doing what you can.

Where singles come from

Market to affordable. ADUs. Duplex conversions. Extension of controls. Rehabilitation.

Capture more value for the public — and stop treating every project as all-or-nothing.

Three acres, two different ordinances

1

home

Under a 3-acre minimum lot. Sells for \$800,000, with roughly \$160,000 of profit in it.

24

units

At 8 units to the acre on the same three acres, at substantially lower prices each. \$2.8 million in sales with a \$560,000 profit.

?

set-aside

What can that construction cost and cash flow reasonably carry? Capture the value created.

It is a result you can calculate, not one you have to accept.

The infrastructure to support that density is a separate conversation — and for many municipalities a binding one.

The seat nobody fills at the table



Attorney

Process, findings, exposure



Planner

Master plan and zoning consistency



Board members

Weigh it and vote



Financial analyst

Almost never present

You can have the applicant pay for it.

You adopt ordinances that put affordable housing mechanisms into play, and when the site plan arrives nobody at the table can run an economic feasibility analysis. A redevelopment agreement can require the developer to compensate the municipality for the professionals it needs.

PART FOUR

4 • Implementation

Zoning for units is not producing units. What you record now is what Round Five is built on.

AHMS • What to record • Trust funds • Extension of controls

Zoning for units is not producing units

1 One system, all the history. Every piece of data collected in the CTM system was integrated into AHMS.

2 Your own production record. What you zoned for, what you programmed, and what actually was built — in your town, not in general.

3 The Third Round gap. When responsibility for monitoring got murky, many municipalities stopped reporting.

4 Stay current anyway. Municipalities with complete records are the ones with options when controls expire and Round Five arrives.

Affordable Housing Monitoring System (AHMS), NJ DCA. Successor to the COAH tracking and monitoring system.

What to record in the system, and why

Be obsessive about

- Certificate of occupancy dates
- Control period start and expiration dates
- Bedroom counts, by unit
- The original pricing tier — the share of median income each unit was priced to (47%, 52%, whatever it was)
- Tenure, program type, and how the unit was created

What it buys you

- Expiring controls are a calendar you cannot reconstruct. Miss a date and that unit goes to market.
- Your low/moderate split for Round Five depends on how each existing unit was priced.
- Bedroom distribution tells you what you still need, not just how many.
- Complete records make preservation possible rather than theoretical.

Those pricing percentages may seem trivial — but it is hard to recover them later and you will likely need them.

Where the money comes from, and goes

Development fees

Fees replenish the fund — so the towns with least room to develop have least money coming in.

Not every municipality has one

A trust fund had to be authorized, by COAH or a Third-Round judgment. Ensure that there is also an approved Spending Plan.

RCA accounts stay separate until they are complete

Recaptured funds from RCA units belong in that receiving account, kept apart from other funds.

Watch the 20% admin cap

The new rules are more administration-heavy and the cap has not been increased.

Program vs. admin expense

Running a home improvement program is arguably a program expense, not administrative. If flagged, ask.

Heads Up

Round 4 affordable units are not affordable in perpetuity. At the end of a 30-year control period, extending a unit means paying its owner.

What you pay

The difference between the market price and the affordable price at that time.

Multiplied by a percentage set by how long the owner has held the unit — a minimum of 5%, scaling up to 30%.

When it lands

The UHAC appendices came into use in 2004–2005. Thirty years puts the first wave around 2035.

That is Round Five. The funding strategy has to exist before the deadline does.

Uniform Housing Affordability Controls, N.J.A.C. 5:80–26. Confirm the current adopted text before relying on these figures.

What it means for your municipality

1 It bites where you least expect. A municipality with no development left has no fees coming in. Planning to extend controls on 40 units with only \$150,000 in the Trust Fund is not workable.

2 First refusal survives. You still have it on the older units, you'll have to pay for it on new units in 30 years.

3 Budget shapes your split. Moderate units are cheaper to save, so plan to rework the low/moderate split for Round Five.

4 Buying units is a last resort. An administrative burden for municipality and agent alike — though it does hand you full control.

CDBG rehabilitation, resold at the maximum restricted price, is one route where those funds are available.

Getting a unit inspected before you extend

Use the rehab subcode

The State adopted a rehabilitation subcode years ago. It is the right standard for an existing unit.

Or health and safety

Some municipalities handle extension inspections as a health-and-safety review, not a code inspection.

Check the systems

Roof, windows, hot water, mechanicals. Confirm they work before committing money.

Repairs come out of it

Where the municipality offers a fixed amount to extend, needed repairs may need to be paid from that amount.

Access requires consent

A code official cannot just show up. Make the inspection a condition of the agreement.

Note every red flag

If the roof is about to fail, the municipality needs to know. In a condominium, note who is responsible.

Rehabilitation Subcode, N.J.A.C. 5:23-6; Uniform Construction Code, N.J.A.C. 5:23.

PART FIVE

5 • Considerations & takeaway

What to ask us for, what to check before you plan, and what to carry out of the room.

Technical assistance • A checklist • Going deeper • Takeaway

This is groundwork, not a redo

1

Your plans are filed. Nothing here suggests that you reopen them. The focus now should be on sound implementation and documenting what you have.

2

Round Five starts now. Units created early under the 2004 UHAC appendices reach 30 years around 2035; planning now will be its own reward in the not-too-distant future.

3

Feed forward. What this round produces will be the evidence base for the next one. Memorialize the successes and capture the details while the people making it work are still here.

4

Use each other. You have boots-on-the-ground experience we don't. Group similar communities and trade what worked.

What to look for as you plan

Plan endorsement

One process, every agency at the table — infrastructure, sewer service and transit in one conversation.

Reexamination report

Your own prior findings, already adopted. Your housing work may never have picked them up.

Off-tract contributions

Funding infrastructure without renegotiating it every time. The cheapest ordinance change here.

Newspaper subscription lots

Deeded 50-by-100 lots given away with subscriptions in Ocean, Atlantic and Gloucester counties.

Housing tax credits

HMFA tests the need with a pro forma; the planning review is largely density bonus, yes or no.

PILOTS

There is a calculator on the Data Hub. Developers want a predictable tax number, not always a smaller one.

What LPS can help you with

What we can take on

- Master plans and elements
- Housing elements and fair share plans
- Land use and zoning ordinances
- Reexamination reports
- Redevelopment planning

You likely qualify if

- You are an Urban Aid municipality
- You receive NJ Redevelopment Authority funding
- You have a designated Main Street
- You were hit by a storm or disaster

How to start

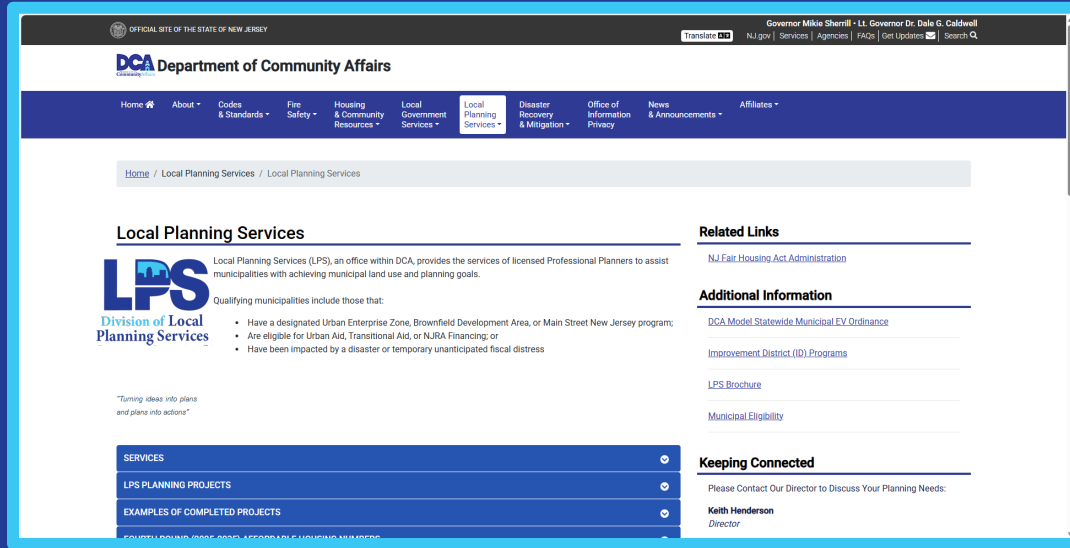
- Apply through the LPS pages on the DCA website
- Or talk to us and we will walk you through it

One municipality is working with us on a master plan untouched since the 1960s — including land use rules so affordable housing can be built at all, rather than zoned out by a single-family-only ordinance.

For more information



<https://www.nj.gov/dca/dlps>



Assistance
Application

