

City of Englewood Housing Plan – Public Hearing: April 27, 2023



What is a municipality's affordable housing requirement?

Every municipality in the State of New Jersey has a constitutional obligation to provide for its “fair share” of affordable housing units. This obligation however, specifically exempts “urban aid communities.” (Jersey City, Newark, etc.)

This obligation is based on a calculation of statewide needs that is then distributed to regions, which is then...

Distributed to individual municipalities within the region.

Where does the constitutional obligation come from?

Major NJ Supreme Court Decisions

1975:
Mount
Laurel I

1983:
Mount
Laurel II

1986:
Mount
Laurel III

2015:
Mount
Laurel IV

- Every **developing** municipality has an affordable housing obligation

- **Every** municipality has an obligation
- Those in growth areas have a greater obligation than those in non-growth areas

- Affirms validity of Fair Housing Act (adopted in 1985)

- COAH dysfunctional
- Courts take over certification process

What is the Fair Housing Act (FHA): N.J.S.A.52:27D-301 et seq.

- Adopted in 1985 as a legislative response to the Supreme Court's Mount Laurel decisions.
- Designed to remove the courts from the affordable housing process.
- Created the Council on Affordable Housing (COAH) which was delegated the authority to determine municipal affordable housing obligations and create a process for implementing state affordable housing policies under the FHA.

Before the Fair Housing Act

Municipal affordable housing obligations under Mount Laurel I and II were determined by lawsuits brought by developers to Court.

Resulted in "Builder Remedies" where developers were awarded density bonuses in return for building affordable housing units. A "Builder Remedy" results in a 20% set aside for affordable units leaving the developer with 80% of the project as market rate.

What's Wrong with Builder Remedy Suits?

- Developers get large increases in density in order to produce affordable housing at an 80/20 ratio of market to affordable units.
 - ex: in order to produce 20 affordable units a builder is entitled to build a total of 100 units.
- No control over location. If a property owner or developer proposed a viable project, it was generally approved by the Court. Can lead to incompatible land uses.
 - ex: high density/tall multi-storied structures in low density neighborhoods.
 - ex: loss of open space and particularly farmland.
- Extremely difficult and costly for municipalities to contest in court.

Where do the numbers come from?

The numbers are derived from U.S. Census data that is then projected into the future.

They take into consideration such factors as population growth (household generation), income, employment and the availability of land as related to a municipality's region.

Englewood is located in Region 1 which is Bergen, Hudson and Passaic Counties.

So what is considered affordable? Depends on the region in which the municipality is located in.

What Is Considered Affordable: 2022 Regional Income Limits-Region 1

Income Level	1 Person	2 Person	3 Person	4 Person	5 Person
Median	\$80,954	\$92,519	\$104,084	\$115,649	\$124,901
Moderate	\$64,764	\$74,016	\$83,267	\$96,220	\$99,921
Low	\$40,477	\$46,260	\$52,042	\$57,825	\$62,451
Very-Low	\$24,286	\$27,756	\$31,225	\$34,695	\$37,470



What time period is covered?

There have been two previous affordable housing rounds since the adoption of the Fair Housing Act in 1995 that covered the time between 1987 to 1999.

We are now in the Third Round which covers the time period between 1999 to 2025.



How is the obligation described?

Under this Third Round there are three components to a municipality's affordable housing obligation:

- Prior Round Obligation 1987-1999
- Rehabilitation or Present Need
- Prospective Need (new units required between 1999-2025 which includes the GAP period)



What is the GAP?

This is as a result of the NJ Supreme Court's decision, also known as Mount Laurel V, where the Court determined that municipalities had incurred an affordable housing obligation that was generated between 1999 and 2015 as a result of COAH's lack of action.



Affordable Housing Obligation for the Third Round

- Under Mount Laurel IV, the Supreme Court created 13 vicinages (or courts) to hear petitions for certification of municipal housing plans.
- The City filed its declaratory judgment action and then
- Engaged with the Court appointed “Special Master” and the Fair Share Housing Center (FSHC) to arrive at a negotiated settlement of the Borough’s affordable housing obligation.

Who is the Court Special Master and FSHC?

The Court Special Master is someone appointed by the Court to assist the Court in reviewing housing plans.

FSHC is an affordable housing advocacy group that has been granted special status by the New Jersey Supreme Court to intervene in affordable housing matters.

Both provide important input and recommendations to the Court in evaluating whether to approve municipal affordable housing plans.

Fair Share Housing Center

The Fair Share Housing Center is the primary affordable housing advocacy group in the state:

- They successfully challenged and had COAH's Third Round Growth share rules invalidated by the N.J. Supreme Court.
- Was granted special status to review all affordable housing plans submitted to the Court.
- Can challenge and demand a trial if they feel a municipal plan does not go far enough to further affordable housing.
- Holds major influence with the Courts in deciding affordable housing obligations.

Affordable Housing Obligation

Obligation

Rehabilitation (Present Need)	380
Prior Round Obligation (1987-1999)	152
Prospective Need (incl. GAP) 1999-2025	819



Prior Round Obligation

Prior Round Obligation of 152 units has been satisfied by the Borough therefore, there is no remaining prior round requirement.

Name of Development	# of AH units	# of bonus credits	Total AH credits	Comments/Status
Westmoor Gardens	64		64	Prior Cycle family rental credits; Completed in 1984
Shepard House	12	12	24	Supportive housing; completed in 1998
Independence Hall	8	1	9	Supportive housing; completed in 1998
J-ADD (UJC) Group Home	4		4	Supportive housing; completed in 1988
PSCH-Phelps Avenue	4		4	Supportive housing; completed in 1999
PSCH-Knickerbocker Road	4		4	Supportive housing; completed in 2002
167-169 Morse	4		4	Family rental; Completed in 1993
Garrett Apartments	34		34	Prior Cycle Family Rental; Completed in 1982
First Baptist Church	5		5	Supportive housing; completed in 2009
Total	139	13	152	

Mechanisms to Address - Present Need or Rehabilitation Obligation – 380 Units

The City was permitted to conduct a structural conditions survey to determine its rehabilitation obligation. The survey is ongoing and is intended to establish a more accurate number for the present need obligation.

Additionally, the City is entitled to a rehabilitation credit of 152 units in recognition of the rehabilitation taking place at the Vincent K. Tibbs Senior Housing located at 111 West Street reducing the obligation to 228 units.



Mechanisms to Address - Present Need or Rehabilitation Obligation – 380 Units

The City will establish a housing rehabilitation program to address Present Need as well as partner with various housing agencies including participating in the Bergen County Housing Rehabilitation Program.



Prospective Need: 819 Units

Prospective need is the affordable housing obligation for the time period projected to June 30, 2025.

The total prospective need is 819 units which has two components: Realistic Development Potential (RDP) and Unmet need.



Realistic Development Potential-RDP: 76 Units

The City is entitled to a credit of 95 units from the 2015 Court Judgement of compliance and repose for the following:

Table 21

Development	AH Units	Comment/Status
Westmoor Gardens	64	Prior Cycle rental with extended controls
Habitat for Humanity	4	Family for sale completed in 2008
Foti	3	
Vantage Health	3	Supportive Housing completed in 2011
Englewood Avenue Senior Housing	6	Completed
Flatrock Square (ERA South)	14	Completed
Bristol	1	Completed in 2018
Total	95	

Calculation of the City's RDP

Table 22 of Housing Plan

Development	Realistic Development Potential
City's VLA	23
15 S. Dean Street	18
Hotel Pad Site	33
West Englewood Avenue	2
Total	76



Satisfaction of the City's RDP

Table 24

Development	Realistic Development Potential
ERA-Hotel Pad Site	33
Bristol Assisted Living	19*
202 First Street	4
Vivian (ERA South)	1
Rental Bonuses	19**

*The Bristol is limited to 19 credits due to the age-restriction cap.

**The City is entitled to a rental bonus credit of 25% of the total number of rental units.



Unmet Need – 640 Units

Because the City has limited vacant land the Borough is entitled to a Vacant Land Adjustment (VLA) of its total Third Round Prospective need of 819 units. The Borough's RDP is subtracted from the total and results in what we call "unmet need" resulting in an unmet need of 724 units. However, there are further reductions to this number:

Prospective Need (819 units) less Prior Judgement Credit (95 units)=724

Adjusted Prospective Need (724 units) - RDP (76 units) = 648 affordable units.

Unmet Need 648 less 8-unit credit from the Bristol Senior Assisted Living=

Final Unmet Need of 640 units.



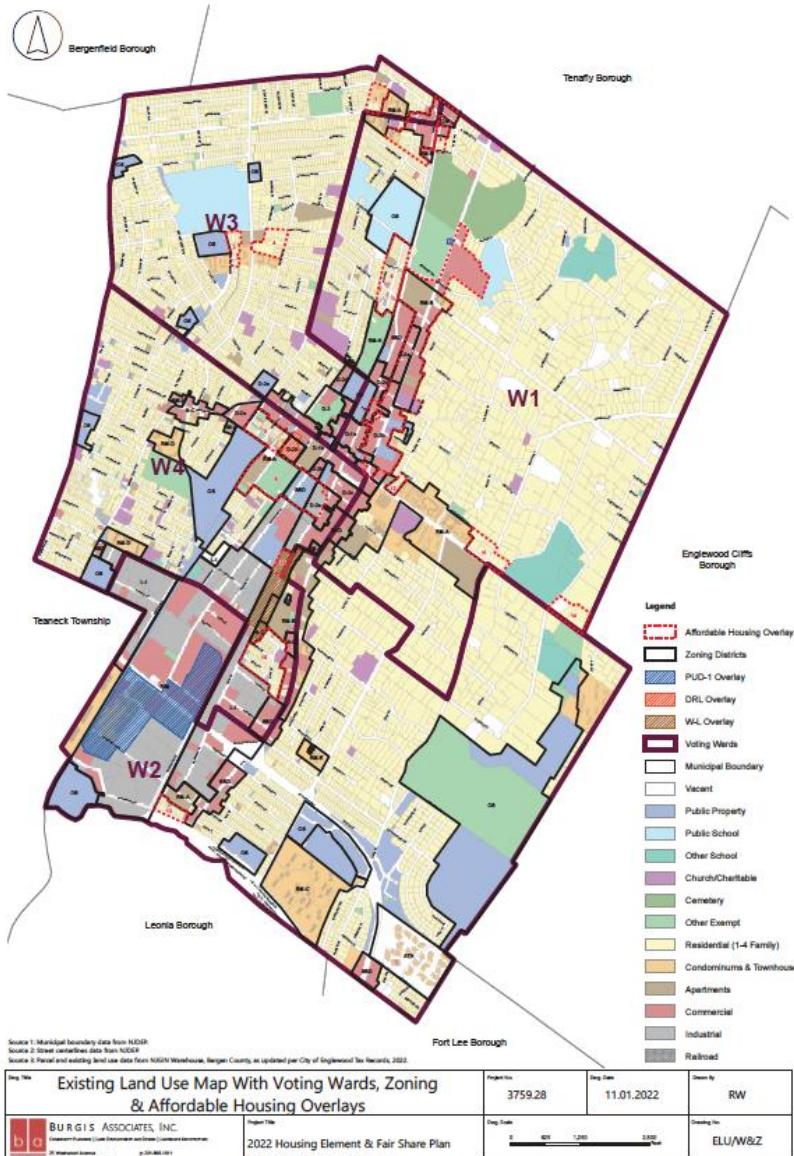
Components Addressing Unmet Need

1. The City will create overlay zones permitting inclusionary multifamily residential development requiring a 20% setaside for affordable units pursuant to the settlement agreement for the following areas:

Site Id	Density per Acre
First Student Charter Bus site (BI 2407, Lot 7; BI 2801, Lot 1)	35
Areas 1,2,3,4,6,8,10,11,12,13 and 14	15
Area 5	50
Area 7	35
Area 9	35



Map of Housing Sites



Components Addressing Unmet Need

2. The City will create a program to assist non-profit affordable housing organizations with the goal of providing 25 additional homes for families by July 1, 2025;
 - The City will fund the program in part through its spending plan and in part through the cooperation in obtaining other public subsidies.
 - The City will hold an annual meeting in which local and regional non-profits are invited to participate in sharing ideas and making proposals.
 - Other than its affordable housing trust fund, the City is under no financial obligation to fund the development of 25 units.



Components Addressing Unmet Need

3. The City will amend its Mandatory Set Aside Ordinance to require a 20% set aside for affordable units for all new multifamily residential development of five (5) or more units.

