



*Stone Harbor*

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# Housing Element and Fair Share Plan

**Adopted**

**Planning Board: May 10<sup>th</sup>, 2021**

**Borough Council: May 18<sup>th</sup>, 2021**

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## **INTRODUCTION**

Since 1975, New Jersey municipalities have had a constitutional obligation to provide opportunities for the creation of low- and moderate-income housing, due to the New Jersey Supreme Court's decision in what is now known as "Mount Laurel I." The Court's decision in Mount Laurel I led to legislation, state agency rule making, and a body of case law now known as the "Mount Laurel Doctrine." New Jersey municipalities have been assigned obligations that must be planned for so that the municipality can be deemed to have satisfied its constitutional obligation, also known as its affordable housing obligation. The purpose of this Housing Element and Fair Share Plan (hereinafter the "Plan") is to present how the Borough of Stone Harbor will satisfy its constitutional obligation.

In New Jersey, affordable housing is defined as housing units reserved for households having incomes of not more than eighty percent (80%) of the regional median household income. Each affordable unit, with limited exceptions, is required to remain reserved for very-low, low-, and moderate-income households for not less than thirty (30) years and is usually enforced through a deed restriction on the property. Each affordable unit is eligible for one "credit" against the obligation and certain units are eligible for "bonus credits." Municipalities must not only provide the number of units to satisfy its obligation, but it must also supply those units by providing a diverse type of units, both in income level (very low, low and moderate units), and in size (one-bedroom, two-bedroom, and three-bedroom units).

The Borough's Fair Share Plan for its Third-Round obligation (1999-2025) was prepared pursuant to a 2017 Settlement Agreement between the Borough and Fair Share Housing Center (hereinafter "FSHC") that set forth the Borough's affordable housing obligation and a preliminary plan for how it would be satisfied. FSHC is an interested party in the Borough's Declaratory Judgment action filed on June 30, 2015, as permitted by the March 10, 2015 New Jersey Supreme Court decision known as "Mount Laurel IV." This Supreme Court decision rendered COAH "moribund" and created a transitional process for municipalities to determine their affordable housing obligation and seek compliance in the State's trial courts, as opposed to the Council on Affordable Housing "COAH" performing that function.

The Borough's initial plan was adopted by the Planning Board on October 22, 2018 and endorsed by the Borough Council on November 6, 2018. Since the implementation of that Plan, circumstances have changed within the Borough, and this Amended Plan is now required based upon a 2021 Amendment to the Settlement Agreement with FSHC. This amended Plan implements the changes to the Borough's affordable housing obligation reflected in the 2021 amended Settlement Agreement. This amended Plan will serve as the foundation for the Borough's application to the Superior Court for approval, known as a Judgment of Compliance and Repose.

This Plan reflects an Amended Settlement Agreement between the Borough and FSHC. The Borough of Stone Harbor filed a Complaint for Declaratory Judgment in Superior Court on June 30, 2015, seeking a declaration of compliance with the Mount Laurel Doctrine and the Fair Housing Act of 1985. The Borough agreed to settle the litigation with FSHC in an effort to avoid delays and move forward with the construction of housing units for very-low-, low-, and moderate-income households. After much negotiation, the Borough entered into an agreement with FSHC that set forth the affordable housing obligations pursuant to Mount Laurel IV and determined the Third Round Obligation.

## **I. Housing Element**

Pursuant to N.J.S.A. 40:55D-28(b), the Housing Element is a required section of the Municipal Master Plan. The Housing Element must be designed to achieve the goal of access to affordable housing to meet existing and future housing needs, with special attention given to very low-, low-, and moderate-income households. The housing needs analysis must include demographic information on existing and projected housing stock and employment characteristics, a quantification of low- and moderate-income housing need, and a consideration of the lands within the municipality that are most appropriate to accommodate such housing. Stone Harbor's Housing Element includes sufficient information regarding housing stock, demographic and employment characteristics and population trends pursuant to N.J.S.A. 52:27D-310.

Under N.J.A.C. 5:97-2.1(b), the Housing Element must also set forth the municipality's affordable housing fair share obligation, which is the sum of the rehabilitation share, the prior round obligation, and the growth share.

### **A. Rehabilitation Share**

The rehabilitation share is the number of existing housing units within a municipality as of April 1, 2000, that are both deficient and occupied by households of low or moderate income. As indicated in Appendix B of N.J.A.C. 5:97, Stone Harbor has a rehabilitation share of three units.

### **B. Prior Round Obligation**

The prior round "new construction" obligation is the cumulative 1987-1999 new construction obligation provided in Appendix C of N.J.A.C. 5:97. Stone Harbor has a prior round obligation of 141.

**C. Third Round Gap + Prospective Need Obligation**

The Third Round obligation can be defined as the cumulative new construction affordable housing obligation from 1999 through 2025. This includes the “gap present need” from 1999 through 2015 and the “prospective need” from 2015 through 2025.

**D. Vacant Land Adjustment of Prior Round and Third Round Obligation**

The Borough’s Prior Round and Third Round new construction obligations of 141 and 102 respectively leaves Stone Harbor with a new construction obligation of 243. Due to those new construction obligations being outsized as compared to the availability of developable land in Stone Harbor, the Borough received an initial vacant land adjustment that reflects a realistic development potential (RDP) and an unmet need. That resulted in a RDP of zero and an unmet need of 243.

However, due to the recent and ongoing redevelopment of the Servants of the Immaculate Heart of Mary, Stone Harbor Retreat Center, Villa Maria by the Sea; located at 11101 1<sup>st</sup> Avenue, Stone Harbor; and the subsequent conversion of 2.2 acres of its parcel into thirteen (13) lots for single-family, detached units, Stone Harbor is recalculated its RDP to three units (3) and an unmet need of 240. The plan to satisfy this updated need can be found in Section II, Part B, Prior Round Obligation Parameters.

**Summary of Fair Share Obligation**

Rehabilitation Share	3
Prior Round Obligation	141
Third Round Gap + Prospective Need (1999-2025)	102
<b>Borough Obligation After Vacant Land Adjustment:</b>	
Realistic Development Potential for Prior Round and Third Round	3
Unmet Need	240

## **II. Fair Share Plan**

A Fair Share Plan, as required under N.J.A.C. 5:97-3.1, 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 and includes the draft ordinances necessary to implement that plan. Affordable housing must be provided in direct proportion to the growth share obligation generated by the actual growth.

Stone Harbor's Fair Share Plan, and the supporting documentation incorporated by reference therein, addresses the requirements of N.J.A.C. 5:97-3.1 as follows:

### **A. Plan to Address Rehabilitation Share**

#### **Rehabilitation Share Credits**

Stone Harbor's Housing Element and Fair Share Plan do not include any rehabilitation credits.

#### **Rehabilitation Program –**

To satisfy the Borough's rehabilitation share of three units, the Borough plans to continue participating in the Cape May County Rehabilitation Program.

### **B. Plan to Address Realistic Development Potential**

Stone Harbor has an updated RDP of 3 units, the Borough of Stone Harbor has implemented a plan to satisfy this need. The Borough purchased a triplex, located at 10206 Third Avenue (Block 102.03, Lots 115 & 116), that includes two two-bedroom units and one three-bedroom unit, which the Borough will convert into and deed restrict as three (3) affordable family, non-age-restricted rental units. The Borough will convert the three-bedroom unit into a low-income, family rental unit with a veteran's preference, which will comply with N.J.S.A. 52:27D-311j; one of the two-bedroom units into a very-low, family rental unit; and one two-bedroom unit into a moderate-income, family rental unit.

**Site Control:** The site is owned by the Borough of Stone Harbor.

**Administrative Entities:** The Borough is contracting with TRIAD, an experienced Administrative Agent, who will administer 30-year affordability controls and affirmative marketing of the units. TRIAD will income qualify applicants and will

provide long-term administration of the units in accordance with N.J.A.C. 5:93-9.2 and 11.1 and UHAC, N.J.A.C. 5:80-26.1.

**Site Suitability:** The site is available, approvable, developable, and suitable, and is appropriate for multi-family housing. The triplex is an existing building, which will be renovated by the Borough and brought up to code before TRIAD places tenants. The Triplex already has sewer and water access. The parcel does not contain environmental constraints.

The Borough will take all actions necessary to ensure that the three affordable family rental units are renovated, deed restricted, and occupied by very-low-, low, and moderate-income households by December 31, 2021. The Borough will notify FSHC and the court in writing on or before December 31, 2021, to confirm that the units have been occupied by very-low-, low-, and moderate-income households.

### **C. Plan to Address Prior Round Unmet Need**

#### **Prior Round Obligation Credits**

Stone Harbor's Housing Element and Fair Share Plan do not include any prior round obligation credits.

#### **Proposed Affordable Housing Mechanisms**

Stone Harbor proposes to address its unmet need of 243 units and it's with the following mechanism:

#### **Mandatory Set Aside**

As part of its December 31, 2008 Fair Share Plan, Stone Harbor proposed to utilize an inclusionary overlay zone to address its unmet need. The inclusionary zone overlays the "B" residential district, which is situated within the center of the Borough. The recent third round settlement agreement took the previous allowances a step further in an attempt to make them more economically viable. All new multi-family or single-family attached developments consisting of 5 units or more will be subject to a mandatory set aside for affordable housing; however, all of the land is primarily developed with the exception of a few cleared and/or vacant lots.

As currently proposed, all new multi-family or single-family attached residential developments of five or more units will be required to create affordable

housing units. If the Borough permits the construction of multi-family or single-family attached residential development that is “approvable” and “developable,” as defined by N.J.A.C 5:93-1.3, at a gross residential density of 6 units to the acre or more, the Borough’s ordinance requires that the appropriate percentage of the residential units be set aside for very-low-, low-, and moderate-income households. This requirement applies to any multi-family or single-family attached residential development, including the residential portion of a mixed-use project, which consists of five (5) or more new residential units. For inclusionary projects in which the very-low-, low-, and moderate-income units are to be offered for sale, the appropriate set-aside percentage is 20 percent; for projects in which the low- and moderate-income units are to be offered for rent, the appropriate set-aside percentage is 15 percent.

The residential ‘B’ zoning district is the most likely zone to yield low-income units. It is zoned for multi-family and includes approximately 80 acres of the Borough. Through redevelopment, the zone could support approximately 376 units at a presumptive density of six units per acre. The mandatory 20% set aside would yield 76 units of low-income housing. The Mandatory Set Aside Ordinance has been adopted by the Borough.

### **Affordable Housing Overlay District**

In addition to the Mandatory Set Aside, the Borough amended the previously created overlay zone in the Business District. In the Business District the Borough believes there is more of a realistic opportunity to create affordable housing. The Business District is along 96<sup>th</sup> Street, which is the main thoroughfare onto the island from Middle Township. Ocean Drive and Second Avenue also are in the Business District between 93<sup>rd</sup> and 99<sup>th</sup> Streets. Most of the lots are developed and no environmental constraints are present in the Business District. Stone Harbor is served by both public water and sewer and has adequate capacity.

The Borough amended the current overlay zone to permit an increase in density. The Borough will allow second and third story additions to the existing ground level retail buildings for apartment units provided they meet the required twenty percent set aside for all for-sale residential units and a fifteen percent set aside for all for-rent affordable units. The increased height and additional floor are also allowed with new construction where there are five residential units or more and the set aside requirement is being met. Stone Harbor estimates that there are 70 single-story structures in the Business District, and that each could accommodate one affordable unit; therefore, the Borough is estimating a maximum of 70 affordable housing units could be built to address the unmet need.

### Proposed Prior Round Affordable Housing Mechanisms

Type/Name of Affordable Housing Mechanism	Type of Affordable Unit	# Units/Bedrooms	Total Units/Bedrooms + Bonuses
Overlay Zone	Inclusionary	70	70
<b>TOTALS</b>		<b>70</b>	<b>70</b>

#### Accessory Apartment Program

Stone Harbor will utilize a 10-unit accessory apartment program to address 10 units of its actual growth share obligation. The Borough has sufficient existing accessory housing stock within its Business zoning district and Residential zoning districts to provide opportunities for accessory apartments. During a May 8, 2009 site visit, COAH staff confirmed the existence of several multi-story retail establishments in the commercial district and detached garages in the residential district that could be retrofitted to participate in the Borough’s accessory apartment program.

Stone Harbor has prepared an ordinance conditionally permitting accessory apartments, which may be located in the principal building or in an existing permitted accessory building, such as a barn or garage, and may include existing and/or expanded structure construction. The ordinance requires a minimum floor area of at least 600 square feet but no greater than 25% of the total floor area of the main structure. A limit of 10 accessory apartments is permitted by the ordinance, with five of them reserved as low-income units. Of the five low-income units, one will be deed restricted for a very low-income household.

Revenues collected from development fees will be used to fund the accessory apartment program. According to the Fair Share Plan, Stone Harbor is committed to bond a minimum of \$20,000 per unit for moderate income households and \$25,000 per unit for low-income household, and a \$35,000 subsidy per unit for a very-low household. All units will be served by public water and sewer. Stone Harbor has submitted a draft operating manual and marketing plan and has appointed an administrative agent.