

**RESOLUTION GRANTING VOORHEES TOWNSHIP A WAIVER OF N.J.A.C. 5:95-15.3 PURSUANT TO N.J.A.C. 5:95-14.1**

**WHEREAS**, on March 3, 2004, Voorhees Township received second round certification of a Housing Element and Fair Share Plan from COAH, valid through March 2, 2010; and

**WHEREAS**, on May 15, 2006, COAH's rules were amended, N.J.A.C. 5:95-15.3, to state that in order to remain under the jurisdiction of the Council for the third round fair share obligation, a municipality shall either file a newly adopted Housing Element and Fair Share Plan addressing the third round obligation with the Council or petition for third round substantive certification by the earlier of the expiration date of its second round substantive certification or May 15, 2007; and

**WHEREAS**, on June 26, 2006, Voorhees Township adopted a resolution committing to adhere to N.J.A.C. 5:95-15.3; and

**WHEREAS**, on January 25, 2007, the Appellate Division issued a decision on COAH's third round rules that directed COAH to make certain changes to its third round growth share approach; and

**WHEREAS**, as part of its ruling, the Court stayed the grant of substantive certification pending the process of amending COAH's regulations, stating that "[municipalities that have acted in good faith in devising Fair Share Plans to comply with the existing third round rules should not be subjected to an exclusionary zoning lawsuit."; and

**WHEREAS**, COAH issued correspondence on March 28, 2007 advising municipalities required to submit by May 15, 2007, as per N.J.A.C. 5:95-15.3, that they may submit a Housing Element and Fair Share Plan by the prescribed date, or in the alternative, that they may submit a request for a waiver pursuant to N.J.A.C. 5:95-14.1; and

**WHEREAS**, Voorhees Township submitted a letter requesting a waiver of N.J.A.C. 5:95-15.3; and

**WHEREAS**, Voorhees's waiver request dated April 19, 2007 notes that the determinations made by the court regarding COAH's third round rules have "raised considerable confusion for municipalities" but that Voorhees has continued to move forward with the preparation of a third round plan as evidenced by the Township's hiring of a consultant to prepare the plan and the adoption of a Master Plan Re-Examination Report that recommends the adoption of a development fee ordinance to "allow a build-up of funds to purchase RCA's in order to accommodate future growth.;" and

**WHEREAS**, Voorhees indicated that a waiver from N.J.A.C. 5:95-15.3 will allow the Township to foster the production of affordable housing and provide a mix of housing options in a more "comprehensive and meaningful manner" in that the Township's plan will be able to follow anticipated new rules from COAH; and

**WHEREAS**, Voorhees submitted supplementary information on May 22, 2007 stating that Township has applied for "Extraordinary Aid" as a result of fiscal difficulties that have arisen from a county-mandated tax revaluation and that given these existing budgetary constraints an unnecessary financial hardship would occur if a waiver were not granted; and

**WHEREAS**, no opposition was received in response to Voorhees' motion; and

**WHEREAS**, a COAH Task Force met on July 12, 2007 to consider Voorhees' waiver request and recommends that the Borough's request for a waiver of NJ.A.C. 5:95-15.3, pursuant to NJ.A.C. 5:95-14.1, be granted.

**NOW, THEREFORE BE IT RESOLVED**, Voorhees Township has met the waiver requirement of NJ.A.C. 5:95-14.1(b) by demonstrating that strict application of NJ.A.C. 5:95-15.3 would create an unnecessary financial, environmental or other hardship for the Township; and

**BE IT FURTHER RESOLVED**, Voorhees has shown a good faith effort in continuing to work toward devising a Housing Element and Fair Share Plan; and

**BE IT FURTHER RESOLVED**, the Borough's request for a waiver of NJ.A.C. 5:95-15.3, pursuant to NJ.A.C. 5:95-14.1, is hereby granted with the condition that Voorhees must, within 45 days of the date of this resolution, adopt a resolution committing to petition COAH with a third round Housing Element and Fair Share Plan in accordance with COAH's new third round rules to be adopted in accordance with the Appellate Court's decision of January 25, 2007, In Re Adoption of NJ.A.C. 5:94, 390 N.J. Super. 1 (App. Div. 2007) or by the date of the expiration of its second round certification, whichever is earlier.

I hereby certify that this resolution was duly adopted by the Council on Affordable Housing at its meeting on *onQxu3jj^2>.f2,00q*



Retiee Reiss, Secretary  
Council Secretary