

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

WHEREAS, on October 1, 2003, North Brunswick Township, Middlesex County received second round certification of a Housing Element and Fair Share Plan from COAH, valid through October 1, 2009; 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 July 10, 2006, North Brunswick 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 "[m]unicipalities 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 petition 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, North Brunswick Township submitted a letter requesting a waiver of N.J.A.C. 5:95-15.3; and

WHEREAS, North Brunswick's waiver request dated May 11, 2007 states that to require the Township to submit a cumulative Housing Element and Fair Share Plan under the third-round rules which are still subject to review and possible revision would result in an unnecessary financial burden for the Township.; and

WHEREAS, North Brunswick Township submitted additional information on July 3, 2007, including a statement of progress regarding the Township's third round preliminary planning efforts, namely, that during the preliminary planning process the Township retained a consultant planner in 2006 to prepare projections of its residential

and non-residential growth for the third round period to determine its growth share obligation and prepared a growth share ordinance that has been adopted by the Township; and

WHEREAS, a COAH Task Force met on September 4, 2007 to consider North Brunswick's waiver request and the Task Force recommends that the Township'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, North Brunswick 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, North Brunswick has shown a good faith effort in devising a Housing Element and Fair Share Plan to comply with the third round rules, as demonstrated through the submissions in support of this waiver request; and

BE IT FINALLY RESOLVED, the Township'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 North Brunswick 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 NJ. 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
September 12, 2007.



Renee Reiss, Secretary
Council on Affordable Housing