



New York-Northern New Jersey-Long Island, NY-NJ-CT-PA CMSA

Regulatory Order/Family: Traditional/High-Density (New York portion)
Traditional/Basic Exclusion (New Jersey portion)

Summary

Metropolitan New York is a vast and complex region with as wide a range of jurisdictions as any in the U.S.¹ Over a third of its 19 million residents live on about four-fifths of its land area in 637 jurisdictions with populations below 50,000 residents. Low densities are the rule in these jurisdictions, enforced by exclusionary zoning and perpetuated by limited infrastructure. At the other end of the urban continuum, over 10 million people live in just 13 jurisdictions (including New York City) whose population exceeds 100,000 residents.

Growth management is practiced to a very limited extent in the metropolitan area, with fewer than half the jurisdictions using impact fees and only a small handful in New Jersey using adequate public facilities ordinances. Immigration from abroad increased the population of New York City and its inner suburbs in the 1980s and 1990s, bringing them back toward and even above their previous peak after several decades of decline. While density has increased at the core, however, it has fallen rapidly in the suburban periphery, especially in the New Jersey suburbs. While many jurisdictions in metropolitan New York have regulatory programs to encourage housing affordability, the underlying antipathy toward density limits the impact of such programs in the suburbs because residential development is so generally constrained.

Governance Framework and Growth Trends

The New York CMSA is the largest in the United States and one of the world's largest metropolitan regions. The parts of the metropolitan area in New York, New Jersey, and Pennsylvania included 19.4 million residents in 2000 (the metropolitan portion in Connecticut is considered separately in this study.) New York City alone accounted for over 8 million residents, but even without New York City the metropolitan area would exceed the population of metropolitan Chicago. New York City is only one of 669 units of local government in the CMSA (excluding those in Connecticut). Six cities and seven towns in the CMSA had over 100,000 residents in 2000. Another 10 cities and 17 towns or townships had between 50,000 and 100,000 residents. There were 231 jurisdictions with between 10,000 and 50,000 residents, and 398 with fewer than 10,000 residents. Over 1.6 million people live in these smallest jurisdictions—as many as inhabit the entire metropolitan areas of Milwaukee or Orlando.

The urbanized land area in the New York CMSA grew 29 percent between 1982 and 1997, a net addition of nearly 540,000 acres, while its population grew by 9 percent. Because it urbanized so much more rapidly than population growth, the density fell from 9.3 to 7.9 persons per urban acre. About 19 percent of the metro area's land is publicly owned, with 8 percent in state and 3 to 4

¹ For more on the region's governance, see: Robert Yaro, "Growing and Governing Smart: A Case Study of the New York Region," in *Reflections on Regionalism*, B. Katz, ed. (Washington, Brookings, 2000.)



percent each in municipal, county, and federal ownership. The geographic pattern of public land does little to contain urban growth, however; it tends to be scattered in small holdings.

Because of the enormous complexity and size of the metro area, we report separately here on New York City itself, the Long Island suburbs (Nassau and Suffolk Counties), the northern suburbs (Westchester, Putnam, Rockland, and Orange Counties in New York), and the northern New Jersey and Pennsylvania suburbs.

New York City

New York city's population grew in both the 1980s and the 1990s, adding almost 1 million residents in those 20 years alone after having lost over 800,000 inhabitants in the 1970s. Because it added population without developing new land, the city's density rose between 1982 and 1997 from 41.0 to 44.0 persons per urbanized acre (according to urban land estimates from the National Resources Inventory). The increase in population of the 1990s is partially a consequence of improvements in address files, which boosted the decennial census count. But it is also a result of concerted efforts by the city to build new residential neighborhoods and to rebuild established ones to accommodate a population that surged—and continues to surge—on the strength of huge population increases from abroad. New York spent more of its own funds for below market rate housing construction in the 1980s and 1990s than the next 15 largest cities combined.²

Regulations foster and intensify dense development in New York City. The City has no comprehensive plan to coordinate its zoning code, which allows and encourages very high density residential development in Manhattan, Brooklyn, and the Bronx, with lower densities in much of Queens and Staten Island. Even so, these most suburban of New York's boroughs are packed with housing at densities exceeding those of the densest parts of many other U.S. central cities.

Aside from zoning, New York City does not have any of the other tools that we included on our survey, but it does offer a series of regulatory incentives for affordable housing in addition to its massive spending program for affordable housing. This is not to say, of course, that development is unregulated by anything except zoning in New York; the city requires major development to proceed through a uniform land use review process (ULURP) that involves substantial public comment, and it has its own "mini-NEPA," the City Environmental Quality Review (CEQR) ordinance.

New York has also fostered high-density development by investing in public infrastructure. Its transit system is, of course, well known. But New York City also stands out for its park system, with about 36,000 acres of parks on one-fifth of its land area.³

The Long Island Suburbs

² Alex Schwartz, "New York City and Subsidized Housing: Impacts and Lessons of the City's \$5 Billion Capital Budget Housing Plan." *Housing Policy Debate* 10(4) (1999): 839–877.

³ Peter Harnik, "The Excellent City Park System: What Makes It Great And How to Get There," (Washington: Trust for Public Land, 2003). Available at http://www.tpl.org/content_documents/excellent_city_parks.pdf.



Together, Nassau and Suffolk counties account for about 2.7 million residents in 2000, up about 150,000 (5.6 percent) from 1990. The largest jurisdictions on Long Island are hypertrophied towns (townships) that began as suburban outposts beyond New York City. In all, there are 13 towns in New York's Long Island suburbs. Seven towns had over 100,000 residents outside village boundaries in 2000.⁴ One additional town had nearly 100,000 residents and together, these eight large jurisdictions accounted for just over three quarters of the 2.75 million residents. The largest jurisdiction on Long Island, the town of Hempstead, has about 750,000 residents—more than Boston or Seattle. Between 1940 and 1960, Hempstead (including its villages) grew by a half-million residents, thanks in part to the growth of such developments as Levittown. In Suffolk County, the towns of Brookhaven and Islip had over 400,000 and 300,000 residents, respectively, in 2000. Long Island has no incorporated cities, but it has 97 incorporated villages (only one of which has over 50,000 residents). Eighty had fewer than 10,000 residents, and of the other 16, nine had between 10,000 and 20,000 residents.

Urbanized land on Long Island grew by about 24 percent between 1982 and 1997, while population grew by only about 4 percent. Even so, the two counties began with a high enough density (7.1 persons per urban acre, about the same level as San Diego) that the 1997 density level (6.1 persons per urban acre) would have placed Long Island among the 10 densest metro areas in the U.S.

We received responses from five villages and seven towns on Long Island. These responses account for only 5 percent of the villages but 54 percent of the towns; their residents make up 52 percent of Long Island's population. Zoning is omnipresent among the jurisdictions on Long Island. Long Island differs from many other parts of the Northeast in that the townships (towns) are less likely to impose exclusionary zoning than the incorporated units (villages). About 20 percent of the towns, with only 2 percent of the town population and 14 percent of the area outside village limits, have low-density only zoning. An estimated 23 percent of the towns would bar our hypothetical apartment development. About half of the villages have low-density-only zoning and an estimated 30 percent would bar our hypothetical apartment development. But neither are the towns especially accommodating to very high density zoning; only 37 percent of them allow development to exceed 15 dwellings per acre, and none has a category allowing over 30 dwellings per acre as of right. This compares with 54 percent of the villages, of which 21 percent allow development to exceed 30 dwellings per acre.

Long Island communities lack the tools and perhaps the incentives to deal with growth prospectively. Only 68 percent of villages and 84 percent of towns have a plan. About half the towns and 15 to 20 percent of the villages imposed substantial residential development moratoria in the early 2000s. Half the towns and 35 percent of the villages use development impact fees; an estimated 18 percent of villages have a containment mechanism of some kind, largely related to the extension of public utilities.

In all, this regulatory framework adds up to two different patterns. First, there are a few very populous towns closer to the metropolitan center that have mostly reached "buildout" of their postwar

⁴ Villages in New York have their own land use regulations and are considered separately here from the towns in which they are located. However, village residents vote in town elections and pay town taxes, and thus can theoretically exercise indirect influence on towns' regulations.



infrastructure and zoning. Within these towns, many villages serve as protected enclaves for single-family home owners. Second, there are a handful of less-developed towns closer to the tip of Long Island that currently face intense growth pressure and that have used low-density zoning and moratoria to slow growth, reduce density, and restrict ultimate development capacity.

New York's Northern Suburbs

The New York State suburbs north of New York City account for 1.9 million residents, up a bit more than 100,000 people (7.6 percent) from 1990. The jurisdictional matrix in the northern suburbs contrasts substantially with that on Long Island. Four cities in Westchester County have over 50,000 residents (Yonkers, New Rochelle, Mount Vernon, and White Plains) and provide centers for development, but the towns are much less populous—and less accommodating to high residential density—than the suburban towns on Long Island. Of the 65 towns, only one had over 50,000 residents in 2000 and none over 100,000. Thirty-two had fewer than 10,000 inhabitants, 18 between 10,000 and 20,000, and 14 between 20,000 and 50,000. There were also 59 incorporated villages and cities with fewer than 10,000 residents, 10 between 10,000 and 20,000, and 8 between 20,000 and 50,000. The five counties that constitute this suburban region have long been the least dense part of the New York City metro area, with 4.9 people per urbanized acre in 1982 and 4.4 in 1997. Urbanized land grew 24 percent between 1982 and 1997 while population grew just under 10 percent.

Based on responses from 10 cities and villages and 23 towns, we estimate that all the jurisdictions in the northern suburbs have zoning. The towns tend to be very restrictive toward high-density development; two thirds have low-density-only zoning ordinances, and 56 percent would bar our hypothetical apartment development. Only four percent of the towns have a residential zone allowing density to exceed 15 dwellings per acre. The incorporated units are somewhat less exclusionary than the towns; just over 40 percent of the incorporated units limit density to fewer than 8 dwellings per acre, and 29 percent would not permit the prototype apartment development. Nearly 60 percent of the villages and cities, with 80 percent of the municipal population, have a residential zone allowing at least 15 dwellings per acre. Among the incorporated units, villages are much less accommodating to density than cities.

As on Long Island, the northern New York suburbs do not have a full slate of land use tools at their disposal. An estimated 30 percent of the municipalities lack comprehensive plans. Nearly all the towns (96 percent) have plans, but this has evidently not enabled them completely to anticipate growth, since 30 percent of the towns had imposed major residential development moratoria in the early 2000s, as had 16 percent of the incorporated units. Development impact fees are in place in over half the towns and about two-fifths of the incorporated units. There are no APFOs in New York State. About one in five of the incorporated units report some kind of boundary to growth, but this may simply reflect the difficulty of annexation in New York State; just 7 percent of towns reported a containment program.

About a third of the jurisdictions in the northern suburbs have a regulatory affordable housing program. Two-fifths of the incorporated jurisdictions, mainly the larger ones, have at least one



program, but fewer than a quarter of the towns have a program. Only a small handful of jurisdictions devote their own funds to affordable housing, however.

Northern New Jersey and Northeastern Pennsylvania

The final subregion of the New York metropolitan region includes 14 counties in New Jersey and one in Pennsylvania. With 6.7 million residents in 2000, this part of the metro area grew 9.8 percent (600,000 residents) in the 1990s, more rapidly than any other subregion or New York City itself. Its 410 jurisdictions include New Jersey's four largest cities; Newark and Jersey City each had between 250,000 and 300,000 residents in 2000, and Paterson and Elizabeth had between 100,000 and 150,000. Twenty-one municipalities have between 50,000 and 100,000 residents, 72 between 20,000 and 50,000, 89 between 10,000 and 20,000. A staggering 224 municipalities have fewer than 10,000 residents; these smallest municipalities accounted for nearly one million residents in 2000, over 200,000 more people than lived in the four largest cities combined.

As the New York CMSA stretched out toward and beyond the Delaware River, the density of the New Jersey-Pennsylvania portion of the metro area has dropped substantially. Between 1982 and 1997, population in this part of the region grew by just over ten percent, but its urbanized land base shot up by 38 percent. As a consequence, its density dropped from 6.1 persons per urban acre to 4.8 persons per urban acre. Density has fallen in spite of the return of population to the largest cities, which grew by a cumulative 3.8 percent in the 1990s after losing 5.3 percent of their population in the 1980s.

We received responses from 35 boroughs and cities and from 39 townships in the New Jersey-Pennsylvania suburbs. This was among the lower response rates in our survey, we received 12 responses from jurisdictions under 10,000 residents out of 27 sampled, and 62 of the 187 jurisdictions of 10,000 or more residents. We therefore feel that the survey results are reliable indicators of the overall status of regulation in the New Jersey suburbs.

Exclusionary zoning is pervasive in the New Jersey suburbs of New York. Over 60 percent of the municipalities restrict densities to fewer than 8 dwellings per acre, and 35 percent hold densities below 4 units per acre. Fully 62 percent would bar our hypothetical apartment development, despite over 30 years of jurisprudence under *Mount Laurel* and the passage of the 1985 Fair Housing Act that require local governments to plan to accommodate affordable housing.⁵ This is the highest level of exclusion of any of New York's four sub-regions, though the share of the land area (55 percent) and population (36 percent) within jurisdictions barring apartments is about equal to that in the northern New York suburbs. Only 15 percent of the jurisdictions have a residential zone exceeding 15 dwellings per acre, much lower than in the northern New York suburbs.⁶

Almost all New Jersey communities have comprehensive plans, thanks in large part to the state's growth management system. But beyond plans, other tools are uncommon in the New Jersey

⁵ Ellen Lovejoy, "Mount Laurel Scorecard: Evaluation of New Jersey's Fair Share Housing System," *Planning* 58 (1992): 10.

⁶ In New Jersey there is essentially no difference between cities, boroughs, and townships in the level of exclusion or permissiveness toward density.



suburbs of New York and tend to be limited to infrastructure management devices. New Jersey allows adequate public facility ordinances, but they are still uncommon, in place in about 20 percent of jurisdictions. About a quarter of the jurisdictions—mainly cities and larger towns—use impact fees, substantially less than in the New York suburbs. Only four or five percent of jurisdictions had substantial residential development moratoria in the early 2000s, a much lower level than in the New York suburbs. A small handful of communities report having urban containment tools, and none has a building permit cap.

In the affordable housing arena, the Mount Laurel cases and the Fair Housing Act have made a noticeable difference in the regulatory environment of New Jersey's suburbs compared with those in Long Island and north of New York City. Nearly half the New Jersey jurisdictions in the New York CMSA have an affordable housing regulatory or incentive program.