

**BOROUGH OF STONE HARBOR**  
CAPE MAY COUNTY, NEW JERSEY



**Housing Element &  
Fair Share Plan**

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The original of this document was signed and sealed in accordance with N.J.A.C. 13:41-1.3 (b) and is on file with the Borough of Stone Harbor Planning Board.

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## **Executive Summary:**

As the Borough of Stone Harbor continues to satisfy its affordable housing obligations, this Fourth Round Housing Element and Fair Share Plan provides a housing policy framework with a variety of options to provide affordable housing opportunities.

Through this Fourth Round Housing Element and Fair Share Plan, the Borough promotes provision of a variety of housing types over a range of affordability, encourages the ongoing maintenance of the Borough's existing housing stock, and formally acknowledges its continuing constitutional obligation to provide a realistic opportunity for the provision of housing affordable to families of very-low, low-, and moderate-income.

The Fourth Round Housing Element and Fair Share Plan continues to rely on its existing, Court-approved Affordable Housing Ordinance, which provides three mechanisms for providing affordable housing in the Borough: (1) the Affordable Housing Overlay District allows residential development on the second and third floors in the Business District; (2) a mandatory set-aside for new construction of multifamily dwellings; and (3) accessory apartments, up to 10 units maximum, permitted outside of the Affordable Housing Overlay District.

This Fourth Round Housing Element and Fair Share Plan, once adopted, will be submitted to the Affordable Housing Dispute Resolution Program ("Program").

## **Introduction:**

The Borough has prepared this Fourth Round Housing Element and Fair Share Plan in accordance with the requirements set forth in the "Municipal Land Use Law" (N.J.S.A. 40:55D-28) ("MLUL"), the Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) ("FHA"), as amended by P.L. 2024 c.2, Administrative Directive #14-24, the Uniform Housing Affordability Controls (N.J.A.C. 5:80-26.1 et. seq.), and the rules of the now-abolished New Jersey Council on Affordable Housing (N.J.A.C.5:93 et seq.) ("COAH"). This plan is an update to the Borough of Stone Harbor's Court-approved 2021 Amended Housing Element and Fair Share Plan. Pursuant to the Amended FHA, this Fourth Round Housing Element and Fair Share Plan will be filed with the Program within 48 hours of the Planning Board's adoption.

New Jersey affordable housing law began with the New Jersey Supreme Court's (hereinafter the "Supreme Court") creation of the Mount Laurel doctrine in its landmark case, So. Burl. Cty. N.A.A.C.P. v. Tp. of Mt. Laurel, 67 N.J. 151 (1975) also known as "Mount Laurel I." In Mount Laurel I, the Supreme Court decided that under the State Constitution, each municipality "must, by its land use regulations, make realistically possible the opportunity for an appropriate variety and choice of housing for all categories of people who may desire to live there", including those of low and moderate income. Thus, the Supreme Court in Mount Laurel I decision ruled that municipalities should not use their zoning powers to prevent the potential for the development of affordable housing.

Displeased with progress under its earlier decision, in 1983, the Supreme Court decided So. Burlington Ct. N.A.A.C.P. v. Mount Laurel Tp., 92 N.J. 158 (1983) or “Mount Laurel I”. Because the Legislature had not yet acted to implement the holding in Mount Laurel I, the Court in Mount Laurel II fashioned a judicial remedy, now commonly referred to as a “Builder’s Remedy”. That remedy created a special process by which builders could file suit against a municipality for the opportunity to construct housing at much higher densities than a municipality otherwise would allow, creating affordable housing in the process. In essence, Builder’s Remedy lawsuits seek to force municipalities to meet their affordable housing obligations.

Responding to the chaos created by the implementation of the Supreme Court’s Mount Laurel decisions and the many Builder’s Remedy lawsuits that followed, the State Legislature passed the Fair Housing Act (hereinafter “FHA”) in 1985, which the Supreme Court upheld in (Hills Dev. Co. v. Bernards Twp., 103 N.J. 1 (1986) or “Mount Laurel III”), which created the Council on Affordable Housing (“COAH”) and authorized municipal Housing Elements and Fair Share Plan to be approved by COAH via the granting of Substantive Certification, which would protect municipalities from builder’s remedy lawsuits.

To implement the FHA requirements, COAH adopted a series of regulations. Round One regulations were enacted in 1987. Round 2 regulations were adopted by COAH in 1994. Round 3 regulations were supposed to be adopted in 1999 when the Round 2 rules were set to expire, but the first iteration of Round 3 regulations were not adopted by COAH until 2004. After those regulations were invalidated by the courts, COAH adopted a second iteration of Round 3 regulations in 2008. The second iteration of regulations were also invalidated by the Courts, and after COAH failed to adopt a third iteration of Round 3 regulations in 2014, the Supreme Court issued In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015) (Mount Laurel IV), in which it directed trial courts to assume COAH’s functions and ruled that municipalities would have to get their Third Round Housing Elements and Fair Share Plans approved in the courts via the granting a Judgment of Compliance and Repose (JOR), rather than getting the plans approved by COAH.

On March 20, 2024, this all changed once again when Governor Murphy signed into law, P.L. 2024, C.2, which substantially amended the FHA and created an entirely new affordable housing plan approval process. The amended FHA abolished COAH, and introduced a comprehensive structure for municipalities to meet their obligations before a new entity known as the Affordable Housing Dispute Resolution Program (hereinafter the “Program”), which consists of retired Mount Laurel judges and their Special Adjudicators, once known as Court Masters. The Program was created to approve Fourth Round Housing Elements and Fair Share Plans, along with the underlying local trial Court, and help municipalities mediate with objectors regarding their Fourth Round affordable housing obligations and the approval of the plans. The amended FHA also required the Department of Community Affairs (DCA) to take over the monitoring of affordable units in every municipality in the state, and to draft and release a report calculating non-binding Fourth Round municipal Present and Prospective Need obligation for every municipality in the

state. The DCA released its Fourth Round numbers report in October of 2024. The amended FHA also ordered the New Jersey Housing and Mortgage Finance Agency (NJHMFA) to adopt new UHAC regulations. The amended FHA also changed the way municipalities receive bonus credits amongst other things.

### **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 municipality's housing element shall be designed to achieve the goal of access to affordable housing to meet present and prospective housing needs, with particular attention to low- and moderate-income housing, and shall contain at least:

- a. An inventory of the municipality's housing stock by age, condition, purchase or rental value, occupancy characteristics, and type, including the number of units affordable to low- and moderate-income households and substandard housing capable of being rehabilitated, and in conducting this inventory the municipality shall have access, on a confidential basis for the sole purpose of conducting the inventory, to all necessary property tax assessment records and information in the assessor's office, including but not limited to the property record cards;
- b. A projection of the municipality's housing stock, including the probable future construction of low- and moderate-income housing, for the next ten years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development and probable residential development of lands;
- c. An analysis of the municipality's demographic characteristics, including but not necessarily limited to, household size, income level and age;
- d. An analysis of the existing and probable future employment characteristics of the municipality;

- e. A determination of the municipality's present and prospective fair share for low- and moderate-income housing and its capacity to accommodate its present and prospective housing needs, including its fair share for low- and moderate-income housing, as established pursuant to section 3 of P.L.2024, c.2 (C.52:27D-304.1);
- f. A consideration of the lands that are most appropriate for construction of low- and moderate-income housing and of the existing structures most appropriate for conversion to, or rehabilitation for low- and moderate-income housing, including a consideration of lands of developers who have expressed a commitment to provide low- and moderate-income housing.
- g. An analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, adopted pursuant to paragraph (1) of subsection f. of section 1 of P.L.2021, c.273 (C.52:27D-329.20);
- h. For a municipality located within the jurisdiction of the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), an analysis of compliance of the housing element with the Highlands Regional Master Plan of lands in the Highlands Preservation Area, and lands in the Highlands Planning Area for Highlands-conforming municipalities. This analysis shall include consideration of the municipality's most recent Highlands Municipal Build Out Report, consideration of opportunities for redevelopment of existing developed lands into inclusionary or 100 percent affordable housing, or both, and opportunities for 100 percent affordable housing in both the Highlands Planning Area and Highlands Preservation Area that are consistent with the Highlands regional master plan; and
- i. An analysis of consistency with the State Development and Redevelopment Plan, including water, wastewater, stormwater, and multi-modal transportation based on guidance and technical assistance from the State Planning Commission.

## **Demographic Characteristics**

As indicated above, the MLUL requires an analysis of housing and demographic data as part of any Housing Element. The 2020 Census and the US Census population estimates are the most recent available comprehensive database of this type of information for the Borough of Stone Harbor.

Table 1 below provides a comparison of population change in the Borough of Stone Harbor, Cape May County and the State of New Jersey. Population is decreasing in both the Borough and the County.

**Table 1**  
**Borough of Stone Harbor, Cape May County and New Jersey**  
**Population Changes: 1940-2020**

Year	Borough of Stone Harbor		Cape May County		New Jersey	
	Number	Change	Number	Change	Number	Change
1940	383	-----	28,919	-----	4,160,165	-----
1950	670	74.9%	37,131	28.4%	4,835,329	16.2%
1960	834	24.9%	48,555	30.8%	6,066,782	25.5%
1970	1,089	30.6%	59,554	22.7%	7,168,164	18.7%
1980	1,187	9.0%	82,266	38.1%	7,365,011	2.7%
1990	1,025	-14.6%	95,089	15.6%	7,730,188	5.0%
2000	1,128	10.0%	102,326	7.6%	8,414,350	8.9%
2010	866	-23.2%	97,265	-4.9%	8,791,894	3.2%
2020	796	-8.1%	95,263	-2.1%	9,288,994	5.7%
2023	853	7.2%	94,610	-0.6%	9,290,841	< 0.0%

*Source: US Census Bureau, Population Estimates Program  
2020 Census Data  
U.S. Census Bureau*

The age distribution within the Borough indicates a younger population than both Cape May County and the State. This can be attributed to the large increase in single family dwellings that have been constructed in the Borough that are occupied by younger families. Approximately 31.4% of the population was over 55 years of age in 2023. The distribution of ages of persons in the Borough is indicated in Table 2.

**Table 2**  
**Borough of Stone Harbor**  
**Population by Age Group: 2000-2023**

	2000		2010		2020		2023	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Total Population	1,128	100%	866	100%	796	100%	853	100%
Sex								
- Male	518	45.9%	410	47.3%	370	46.5%	400	46.9%
-Female	610	54.1%	456	52.7%	426	53.5%	453	53.1%
Age								
Under 5	27	2.4%	20	2.3%	25	3.1%	21	2.5%
5-9 Years	33	2.9%	26	3.0%	29	3.6%	7	0.8%
10-14 Years	46	4.1%	29	3.3%	18	2.3%	4	0.5%
15-19 Years	44	3.9%	30	3.5%	34	4.3%	48	5.6%
20-24 Years	23	2.0%	27	3.1%	44	5.5%	37	4.3%
25-34 Years	61	5.4%	47	5.4%	52	6.6%	42	4.9%
35-44 Years	101	9.0%	55	6.4%	45	5.7%	26	3.0%
45-54 Years	184	16.3%	101	11.7%	73	9.2%	62	7.3%
55-59 Years	90	8.0%	82	9.5%	67	8.4%	68	8.0%
60-64 Years	82	7.3%	89	10.3%	83	20.3%	99	11.6%
65-74 Years	208	18.4%	109	12.6%	182	22.8%	236	27.7%
75-84 Years	185	16.4%	125	14.4%	101	12.6%	150	17.6%
85+ Years	44	3.9%	57	6.6%	43	5.4%	53	6.2%

Source: U.S. Census Bureau, 2023 American Community Survey 5-Year Estimates  
2020 Census Data  
2010 Census Data  
2000 Census Data

Non-family households make up 44.1% of the households in the Borough of Stone Harbor. This is higher than the County rate of 36.5% and higher than the State average 32.2%. In 2023, the average household size in the Borough of Stone Harbor is 1.77 persons/dwelling unit, while the County average is 1.96 and the State average is 2.47, making the average household in the Borough of Stone Harbor less than that of the County and State.

### **Education:**

Within the Borough of Stone Harbor's adult population (25 and over) 99.0% have received a high school diploma and 69.6% received a bachelor's degree or higher making the Borough slightly better educated than the rest of Cape May County. When compared to the County, 94.6% of the adult population has received a high school diploma and 37.4% of the adult population has received a bachelor's degree or higher.

**Age of Housing:**

Table 3 depicts the number of new housing units constructed between 2000 and 2020 for the Borough, County and State.

**Table 3**  
**Borough of Stone Harbor, Cape May County and New Jersey**  
**Housing Units: 2000, 2010 & 2020**

<b>Jurisdiction</b>	<b>Housing Units 2000</b>	<b>Housing Units 2010</b>	<b>Housing Units 2020</b>	<b>Increase</b>	<b>% Increase from 2000-2020</b>
Stone Harbor	3,428	3,247	3,207	-221	-6.4%
Cape May County	91,047	98,309	99,606	8,559	9.4%
New Jersey	3,310,275	3,553,562	3,761,229	207,667	13.6%

*Source: 2020 Census Data  
2010 Census Data  
2000 Census Data*

As of 2023, approximately 47.9% of the Borough's current housing stock was constructed prior to 1980, with 6.9% constructed prior to 1940. The Borough therefore has what can be considered a newer housing stock, reflective of the recent population growth in the Borough. The age of housing stock can be used as a gauge of the overall condition of housing in the community. In the case of Stone Harbor, a large percentage of homes have been constructed in recent years due to damage suffered from Superstorm Sandy and other damaging storms, and therefore have not endured the "wear and tear" that typically takes place over years.

**Housing Tenure:**

The 2020 Census data indicates that 402 housing units (12.5%) in the Borough were occupied and 2,805 units (87.5%) were vacant. A total of 12,390 units (84.4%) of the occupied units are owner occupied with the additional 2,285 units (15.6%) occupied by renters. The Borough has 2,805 dwellings labeled as "seasonal, recreational use" since the Borough is a resort community and these "vacant" homes are second or vacation homes.

**Table 4  
Borough of Stone Harbor  
Housing Tenure: 2000, 2010 & 2020**

<b>Borough of Stone Harbor</b>	<b>2000 Units</b>	<b>2000 % of Total</b>	<b>2010 Units</b>	<b>2010 % of Total</b>	<b>2020 Units</b>	<b>2020 % of Total</b>
Total Housing Units	3,428	100%	3,247	100%	3,207	100%
Occupied Housing Units						
-Owner Occupied	499	83.7%	368	83.4%	341	84.8%
-Renter Occupied	97	16.3%	73	16.6%	61	15.2%
-Total	596	100%	441	100%	402	100%
Vacant Housing Units	2,832	82.6%	2,806	86.4%	2,805	87.5%
Seasonal, Recreational Use	2,549	74.4%	2,678	82.5%	2,568	80.1%
Rental Vacancy Rate	N/A	69.0%	N/A	38.4%	N/A	68.6%
Household Size						
-Owner Occupied	1.95	N/A	1.91	N/A	1.90	N/A
-Renter Occupied	1.55	N/A	1.29	N/A	1.56	N/A

Source: 2020 Census Data  
2010 Census Data  
2000 Census Data

**Physical Character of the Borough Housing Stock**

Table 5 provides an inventory of the age of the housing stock in the Borough of Stone Harbor.

**Table 5  
Borough of Stone Harbor  
Inventory of Housing Age: 2023**

<b>Year(s) Constructed</b>	<b>Number</b>	<b>Percent of Total</b>
2020 or later	20	0.6%
2010-2019	401	12.6%
2000-2009	444	14.0%
1990-1999	186	5.9%
1980-1989	427	13.4%
1970-1979	304	9.6%
1960-1969	348	11.0%
1950-1959	576	16.3%
1940-1949	105	3.3%
1939 or earlier	424	13.4%

Source: US Census Bureau, 2023 American Community Survey 5-Year Estimates

In 2023, the median value of the owner-occupied units in the Borough was \$1,898,800. The median home value has increased since the release of the 2020 Census, which was \$1,557,500. The Borough's average median home value is almost five times greater than that of the median home value in Cape May County, and it is slightly less than four and a half times higher the average value in New Jersey.

**Table 6**  
**Borough of Stone Harbor, Cape May County and New Jersey**  
**Median Home Values: 2000, 2010, 2020 & 2023**

<b>Median Home Value</b>	<b>2000</b>	<b>2010</b>	<b>2020</b>	<b>2023</b>	<b>Percent Increase</b>
Stone Harbor	\$445,300	\$1,000,000+	\$1,557,500	\$1,898,800	21.9%
Cape May County	\$137,600	\$337,300	\$306,300	\$395,000	28.9%
New Jersey	\$170,800	\$357,000	\$355,700	\$427,600	20.2%

*Source: US Census Bureau, 2023 American Community Survey 5-Year Estimates*  
 2020 Census Data  
 2010 Census Data  
 2000 Census Data

As noted in Table 7, the majority, 79.2% or 320 units, of owner-occupied units are valued greater than \$1,000,000. Of the 404 units reported in the 2023 American Community Survey, 13.6% were valued at less than \$750,000.

**Table 7**  
**Borough of Stone Harbor**  
**Home Value of Specified Owner-Occupied Units: 2023**

<b>Value of Specified Owner Occupied Units</b>	<b>Number of Units</b>	<b>Percent of Total</b>
Less than \$50,000	11	2.7%
\$50,000 - \$99,999	3	0.7%
\$100,000 - \$149,999	2	0.5%
\$150,000 - \$199,999	0	0%
\$200,000 - \$299,999	9	2.2%
\$300,000 - \$499,999	7	1.7%
\$500,000 - \$749,999	23	5.7%
\$750,000 - \$999,999	29	7.2%
\$1,000,000 - \$1,499,000	71	17.6%
\$1,500,000 - \$1,999,999	64	15.8%
\$2,000,000 or more	185	45.9%

*Source: US Census Bureau*  
 2023 American Community Survey 5-Year Estimates  
 2020 Census Data

As noted in Table 8, the majority of the gross rents charged were less than \$2,000 per month. Of the 74 rental units reported in the 2023 American Community Survey, 87.8% of the units were rented at less than \$2,000.

**Table 8**  
**Borough of Stone Harbor**  
**Gross Rent of Specified Renter Occupied Units: 2023**

<b>Value of Occupied Rental Specified Units</b>	<b>Number of Units</b>	<b>Percent of Total</b>
Less than \$500.00	0	0
\$500.00-\$999.00	0	0
\$1,000.00-\$1,499.00	31	41.9
\$1,500.00-\$1,999.00	34	45.9
\$2,000.00-\$2,499.00	2	2.7
\$2,500.00-\$2,999.00	7	9.5
\$3,000 or more	0	0
No cash rent	0	0

*Source: US Census Bureau  
 2023 American Community Survey 5-Year Estimates  
 2020 Census Data*

The median gross rent in the Borough of Stone Harbor was \$1,588.00 in 2023. The median rent is higher than that of the Cape May County average and lower than the New Jersey average.

**Table 9**  
**Borough of Stone Harbor, Cape May County and New Jersey**  
**Median Rents: 2000, 2010, 2020 & 2023**

<b>Median Rent</b>	<b>2000</b>	<b>2010</b>	<b>2020</b>	<b>2023</b>	<b>% Change 2020-2023</b>
Stone Harbor	\$669.00	\$1,086.00	\$1,294.00	\$1,588.00	22.7%
Cape May County	\$650.00	\$973.00	\$1,176.00	\$1,345.00	14.4%
New Jersey	\$751.00	\$1,092.00	\$1,368.00	\$1,667.00	21.9%

*Source: US Census Bureau, 2023 American Community Survey 5-Year Estimates  
 2020 Census Data  
 2010 Census Data  
 2000 Census Data*

Single family detached homes remain the dominant housing structure in the Borough, representing 70.6% of total housing units.

**Table 10**  
**Borough of Stone Harbor**  
**Types of Dwelling Units: 2023**

<b>Type of Unit</b>	<b>Number of Units</b>	<b>Percent of Total</b>
1- Unit; detached	2,241	70.6%
1- Unit; attached	546	17.2%
2 Units	205	6.5%
3 or 4 Units	46	1.4%
5 to 9 Units	17	0.5%
10 to 19 Units	29	0.9%
20 or more Units	90	2.8%
Mobile Homes	1	0%
Boat, RV, Van, etc.	0	0%
<b>Total</b>	<b>3,175</b>	<b>100%</b>

*Source: US Census Bureau  
2023 American Community Survey 5-Year Estimates*

Table 11 provides Census data regarding the condition of housing and whether units are overcrowded:

**Table 11**  
**Borough of Stone Harbor**  
**Condition of Housing: 2023**

<b>Characteristic</b>	<b>Number of Units</b>
Overcrowded (> 1 person per room)	0
Total Units lacking complete plumbing	3
Total Units lacking complete kitchen	3

*Source: US Census Bureau, 2023 American Community Survey 5-Year Estimates*

According to the 2023 American Community Survey, the 2023 median household income in The Borough of Stone Harbor was \$128,235.00. Additionally, 5% percent of the Borough's population identified as living below the poverty level.

### **Units Affordable to Low- and Moderate-Income Households**

Units are affordable to low and moderate-income households if the maximum sales price or rent is set within a specified formula as per UHAC regulations. A moderate-income household is a household whose gross family income is more than fifty percent (50%) of the median income, but less than eight percent (80%) of median income for households of the same size within the housing region. A low-income household is a household whose gross family income is equal to or less than fifty percent (50%) of median gross household income for a household and a very-low-income household is classified as earning less than

thirty percent (30%) of the median area income of the same size within the housing region for the Borough of Stone Harbor. The Borough is in Region 6, which encompasses Atlantic, Cape May, Cumberland and Salem counties. The median household income in the Borough of Stone Harbor in 2023 was \$128,235.00.

**Table 12**  
**2024 Affordable Housing Regional Income Limits**  
**By Household Size**

	<b>1 Person</b>	<b>1.5 Person</b>	<b>2 Person</b>	<b>3 Person</b>	<b>4 Person</b>
<b>Median</b>	\$68,852	\$73,770	\$78,688	\$88,524	\$98,360
<b>Moderate</b>	\$55,081	\$59,016	\$62,950	\$70,819	\$78,688
<b>Low</b>	\$34,426	\$36,885	\$39,344	\$44,262	\$49,180
<b>Very Low</b>	\$20,655	\$22,131	\$23,606	\$26,557	\$29,508

	<b>4.5 Person</b>	<b>5 Person</b>	<b>6 Person</b>	<b>7 Person</b>	<b>8 Person</b>
<b>Median</b>	\$102,294	\$106,228	\$114,097	\$121,966	\$129,835
<b>Moderate</b>	\$81,835	\$84,983	\$91,278	\$97,573	\$103,868
<b>Low</b>	\$51,147	\$53,114	\$57,049	\$60,983	\$64,917
<b>Very Low</b>	\$30,688	\$31,868	\$34,229	\$36,590	\$38,950

*Source: AHPNJ, April 12, 2024*

Based on the qualifying formula in N.J.A.C. 5:80-26, the monthly cost of shelter, which includes mortgage (principal and interest), taxes, insurance and homeowners or condominium association fees, may not exceed twenty-eight percent (28%) of gross monthly household income based on a five percent (5%) down payment. In addition, moderate-income sales units must be available for at least three different prices and low-income sales units available for at least two different prices. The maximum sales prices must now be affordable to households earning no more than seventy percent (70%) of median income. The sales prices must average fifty-five percent (55%) of median income.

Under UHAC regulations, rents including utilities may not exceed thirty percent (30%) of gross monthly income. The average rent must now be affordable to households earning fifty-two percent (52%) of median income. The maximum rents must be affordable to households earning no more than sixty percent (60%) of median income. In averaging fifty-two percent (52%), one rent may be established for a low-income unit and one rent for a moderate-income unit for each bedroom distribution. The utility allowance must be consistent with the utility allowance approved by HUD and utilized in New Jersey. In addition, thirteen percent (13%) of all restricted rental units must be affordable to households earning no more than thirty-percent (30%) of median income.

Based upon the average household size of 1.77 in the Borough of Stone Harbor in 2023 and the regional limits, the median income in Region 6 for the Borough in 2024 is \$78,688. At a minimum, 22 owner occupied units and 31 renter occupied units could be considered

affordable to two person very-low-, low- and moderate-income households as indicated in Table 13. Of the 404 owner occupied units, 8 units could be considered affordable to two person very low income and low income and 14 units could be considered affordable to a two-person low-income and moderate-income. Of the 72 renter occupied units, none of the units could be considered affordable to two person very-low-income and low-income and 31 units could be considered affordable to a two person low-income and moderate-income. Based upon these numbers approximately 13.3% of the 476 units in the Borough in 2023 are potentially affordable. Of these, a minimum of 736 units representing approximately 1.7% could be affordable to very low- and low-income households with the remaining 45 units representing approximately 9.5% could be affordable to low-income and moderate-income households. Although these figures are estimates and assumptions regarding household size have been made, it appears that the Borough has significant numbers of affordable units, some of which are naturally affordable, and some of which can be counted as affordable housing credits.

**Table 13**  
**Borough of Stone Harbor**  
**Estimate of 2023 Housing Units Affordable to Low & Moderate Income Households**  
**Information for Median Income, Mortgage and Rental Information**

<b>Income Level</b>	<b>Annual Income</b>	
Median Household Income	\$78,688	
Moderate Income	\$39,344 - \$62,650	
Low Income	\$23,606 - \$39,344	
Very Low Income	< \$23,606	
<b>Income Level</b>	<b>Affordable Monthly Rent</b>	<b>Affordable Monthly Mortgage</b>
Moderate Income	\$983.60 - \$1,566.25	\$918.09 - \$1,461.83
Low Income	\$590.15 - \$983.60	\$550.81 - \$918.03
Very Low Income	< \$590.15	< \$550.81
<b>Mortgage Status and Selected Owner Costs</b>	<b>Number of Units</b>	<b>Affordability</b>
<b>Owner Occupied Units with a Mortgage</b>		
Less than \$500.00	2	Very-Low Income
\$500.00-\$999.00	6	Some Very-Low and Low Income
\$1,000.00-\$1,499.00	14	Moderate Income
\$1,500.00-\$1,999.00	3	Not affordable
\$2,000.00-\$2,499.00	10	Not affordable
\$2,500.00-\$2,999.00	12	Not affordable
\$3,000.00 or more	138	Not affordable
Not Mortgaged	219	N/A
<b>Renter Occupied Housing Units</b>		<b>Affordability</b>
Less than \$500.00	0	N/A
\$500.00-\$999.00	0	N/A
\$1,000.00-\$1,499.00	31	Moderate
\$1,500.00-\$1,999.00	34	Some Moderate Income and Not affordable
\$2,000.00-\$2,499.00	2	Not affordable
\$2,500.00-\$2,999.00	7	Not affordable
\$3,000.00 or more	0	Not affordable
No Rent Paid	0	N/A

*Source: 2020 Census Data  
2023 American Community Survey 5-Year Estimates*

## Housing Stock, Population & Employment Projections

### Housing Unit Projections

The FHA requires that housing plans include a 10-year projection of new housing units based on the number of building permits, development applications approved, and probable developments, as well as other indicators deemed appropriate (N.J.S.A. 52:27D-310.b). Table 14 shows the balance of Certificates of Occupancy and Demolition Permits issued between 2013 and 2023. According to NJDCA permit data, 419 new units were certified, and 395 units were demolished. There is an annual average of 38 Certificates of Occupancy issued per year and 36 Demolition permits issued annually.

Older housing stock has either damaged in storms, or demolished to construct a new more efficient, larger dwellings. The Borough of Stone Harbor is a barrier island located in a flood hazard area. In order to mitigate and lessen potential flood damage, dwellings to have a finished first floor elevation above the base flood elevation. This was a result of the damage sustained after Superstorm Sandy and the new FEMA maps.

Due to the lack of vacant parcels in the Borough, there is a de minimum increase anticipated in the number of dwellings anticipated between 2025 and 2035.

**Table 14**  
**Borough of Stone Harbor**  
**Residential Construction Certificate of Occupancy**  
**and Demolition Permits Issued: 2013-2023**

Year	Certificates of Occupancy	Demolitions	Net New Dwellings
2013	29	38	-9
2014	44	32	12
2015	32	25	7
2016	28	44	-16
2017	51	47	4
2018	58	32	26
2019	41	45	-4
2020	38	39	-1
2021	37	29	8
2022	32	31	1
2023	28	33	-5
<b>Total</b>	<b>419</b>	<b>395</b>	<b>24</b>
Annual Average	38	36	2

*Source: New Jersey Department of Community Affairs, Division of Codes & Standards, Construction Reporter*

### Analysis of Existing Employment:

The 2023 American Community Survey data indicates that the civilian labor force (16 years and older) for the Borough of Stone Harbor and Cape May County in 2023 were 357 and 46,959 respectfully. The Borough of Stone Harbor's civilian labor force represents 1.0% of the County civilian labor force. In 2023, the percent of the persons age 16 and

over in the civilian labor force in the Borough was 43.6%. This average is lower than the County average of 58.4%. The Borough had a lower unemployment rate than the County, rates were 1.5% (12 persons) and 2.7% (2,211 persons) respectfully.

The Census data distribution of occupational positions in the Borough of Stone Harbor generally reflects that of Cape May County and the State. The largest difference, at the State level, comes in the sales and office occupations. Approximately 27.2% of the Borough’s labor force works in sales and office occupations compared to 19.0% of the State. This is primarily due to the tourism industry as well as the real estate industry in Cape May County.

**Table 15**  
**Borough of Stone Harbor and Cape May County**  
**Civilian Labor Force Characteristics: 2023**

	Borough of Stone Harbor		Cape May County	
	Number of Persons	Percent of Total	Number of Persons	Percent of Total
Labor Force	357	43.6%	46,959	58.4%
Employed	345	42.2%	44,748	55.6%
Unemployed	12	1.5%	2,211	2.7%

Source: US Census, 2023 American Community Survey 5-Year Estimates

**Table 16**  
**Borough of Stone Harbor, Cape May County and New Jersey**  
**Occupation Distribution: 2023**

Occupation	Borough of Stone Harbor	Cape May County	New Jersey
Management, business, science and arts occupations	48.4%	41.5%	47.4%
Service Occupations	16.2%	19.9%	15.5%
Sales and Office Occupations	27.2%	21.8%	19.0%
Natural resources, construction and maintenance occupations	4.1%	9.4%	6.9%
Production, transportation and material moving occupations	4.1%	7.4%	11.2%

Source: US Census, 2023 American Community Survey 5-Year Estimates

In 2023, the median household income in the Borough of Stone Harbor was \$128,235. However, there is a wide range of income levels, as 47.5% of the population make over \$100,000 and 6% make under \$25,000. The distribution of household income is indicated in Table 17.

**Table 17**  
**Borough of Stone Harbor**  
**Household Income: 2023**

<b>Household Income</b>	<b>Number</b>	<b>Percent</b>
Less than \$10,000	28	5.9%
\$10,000 - \$14,999	8	1.7%
\$15,000 - \$24,999	11	2.3%
\$25,000 - \$34,999	23	4.8%
\$35,000 - \$49,999	37	7.7%
\$50,000 - \$74,999	54	11.3%
\$75,000 - \$99,999	43	9.0%
\$100,000 - \$149,999	67	14.0%
\$150,000 - \$199,999	29	6.1%
\$200,000 or more	178	37.2%

*Source: US Census, 2023 American Community Survey 5-Year Estimates*

As mentioned in the 'Analysis of Existing Employment' section, data from the 2023 American Community Survey data indicates a civilian labor force (those in the population above the age of 16) of 357, of which 345 were employed. Classifications of workers by occupation distribution can be referenced in Table 17 which lists occupation by industry of workers in the Borough.

**Table 18**  
**Borough of Stone Harbor**  
**Employment Classification: 2023**

<b>Industry</b>	<b>Number of Employees</b>	<b>% of Total Employed</b>
Agriculture, forestry, fishing, hunting and mining	0	0%
Construction	7	2.0%
Manufacturing	28	8.1%
Wholesale Trade	9	2.6%
Retail Trade	50	14.5%
Transportation, warehousing and utilities	9	2.6%
Information	10	2.9%
Finance, Insurance, Real Estate and Rental/Leasing	58	16.8%
Professional, scientific, management, administrative and waste management services	22	6.4%
Educational services, health care and social assistance	59	17.1%
Arts entertainment, recreation, accommodation and food services	50	14.5%
Other services except public administration	29	8.4%
Public Administration	14	4.1%

*Source: US Census, 2017-2023 American Community Survey 5-Year Estimates*

**Population and Employment Projections**

The South Jersey Transportation Planning Organization (“SJTPO”) is the Metropolitan Planning Organization for the southern New Jersey region, which contains all municipalities in the Counties of Salem, Atlantic, Cape May, and Cumberland. The SJTPO publishes population and employment forecasts for each county and municipality in the region. Between 2020 and 2060, the SJTPO projects slight population increase and significant employment growth throughout the region. In the Borough of Stone Harbor, the SJTPO projects local employment decline of 72 jobs (-9.0%) and a decrease in jobs in Cape May County of 10.6%. As shown in Table 18, the Borough is expected to experience a population increase (+22.6%) less than what is projected to occur throughout the County (+24.8%).

**Table 19  
Borough of Stone Harbor and Cape May County  
Population and Employment Projections: 2020-2060**

Location	Population			Employment		
	Estimate 2020	Projected 2060	Percent Change	Estimate 2020	Projected 2060	Percent Change
Borough of Stone Harbor	796	724	-9.0%	1,403	1,720	+22.6%
Cape May County	95,263	85,149	-10.6%	58,229	72,676	+24.8%
SJTPO Region	588,786	557,050	- 5.4%	310,002	378,855	+ 22.2%

*Source: SJTPO Population and Employment Projections 2020-2060*

**Lands Most Appropriate for Affordable Housing**

In general, sites that are most appropriate for affordable housing are those that have the necessary infrastructure and are not encumbered by environmental constraints. The Borough of Stone Harbor is designated as PA5B, Environmental Sensitive Barrier Island and is located within a flood hazard area.

The Borough has given careful consideration to the environmental constraints when addressing the need for affordable housing and adopted its Court-approved Affordable Housing Ordinance in 2018 and amended it in 2021 (see Appendix C), which also was approved by the Court in the Borough’s Final JOR. Within the Borough’s Business District, adding second and third stories to existing structures to increase the number of housing units is encouraged and permitted by the Affordable Housing ordinance to help the Borough meet the unmet need obligation. The ordinance also includes accessory apartments permitted on existing developed sites not located within the Business District and Affordable Housing Overlay District.

The Borough uses its zoning code to meet affordable housing needs by requiring residential development within the area of the Borough to provide affordable housing as is required by the New Jersey Fair Housing Act.

## **Multigenerational Family Housing Continuity**

The FHA requires the Housing Element and Fair Share Plan to provide an analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, adopted pursuant to paragraph (1) of subsection f. of 23 section 1 of P.L.2021, c.273 (C.52:27D-329.20). To date, no recommendations have been published.

A review of the Borough's ordinance indicates that there are no ordinances that would specifically create a detraction from the Commission's meeting the goal of allowing senior citizens to reside at the homes of their extended families. The ordinances in the Borough of Stone Harbor do not detract from the multigenerational family continuity goal.

## **FAIR SHARE PLAN**

### **Affordable Housing and Fair Share Plan**

In 1975, in the case Southern Burlington County NAACP v. Township of Mt. Laurel (Hereinafter "Mt. Laurel I"), the New Jersey Supreme Court ruled that developing municipalities have a constitutional obligation to provide for the construction of low- and moderate-income housing. The Court's 1983 decision in Mt. Laurel II expanded the obligation in ruling that all municipalities share in this constitutional obligation to provide a realistic means for addressing a fair share of the regional present and prospective need for housing affordable to low- and moderate-income families provided that any portion of the municipality is located in a "growth area" as set forth in the State Development and Redevelopment Plan (SDRP). As such, through a municipality's zoning and land use regulations, it is to be realistically possible, through provision of a variety of housing choices, for all categories of people within Housing Region 6 (including Salem, Cumberland, Cape May and Atlantic counties) to live if they choose in the Borough of Stone Harbor.

### **Borough of Stone Harbor Fair Share Obligations**

In accordance with the Amended Fair Housing Act, this Fourth Round Housing Element and Fair Share Plan will set forth how the Borough has addressed prior obligations as well as how it intends to address its Fourth Round affordable housing obligations:

#### **A. Present Need (Rehabilitation) Obligation**

The Present Need Obligation, also known as the rehabilitation obligation, can be defined as an estimate of the number of substandard existing deficient housing units currently occupied by low- and moderate-income households. As indicated in the DCA calculations and the Court's Order entered on March 27, 2025, Stone Harbor has a rehabilitation share of 0 units (see Appendix B).

#### **B. Prior Round Obligation (1987-1999)**

Stone Harbor has a prior round obligation of 141.

#### **C. Third Round - Prospective Need Obligation (1999-2025)**

The Borough of Stone Harbor has a Third Round Prospective Need obligation of 102, as set forth in the Borough's 2021 Final Judgment of Compliance and Repose (see Appendix C).

#### **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 an RDP of zero and an unmet need of 243.

However, due to the subdivision 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 in the Third Round, Stone Harbor recalculated its RDP to three units (3) and an unmet need of 240 and secured Court approval for both its RDP and amended Housing Element and Fair Share Plan in 2021 via Final JOR. The Borough purchased a Triplex and has been renovating those units for rental to three households once completed. Due to regulations implemented based on the impact of Superstorm Sandy, the Triplex is being elevated to mitigate flooding issues in future storms. Once that process is complete, the Borough will affirmatively market the units and fill them with qualifying households per the requirements of the Borough's 2021 Final JOR.

#### **E. Fourth Round Prospective Obligation (2025-2035)**

The Borough of Stone Harbor has a Fourth Round Prospective Obligation of 26 units.

### **Housing Strategy:**

#### **I. Affordable Housing Caps and Requirements**

In accordance with the requirements set forth in the Amended FHA, the Borough of Stone Harbor will address the following:

- A. This plan requires that thirteen percent (13%) of all the affordable units required to be produced as part of the Fourth Round prospective need, with the exception of units constructed as of July 1, 2008, and units subject to preliminary or final site plan approval as of July 1, 2008, will be very low income units (defined as units affordable to households earning thirty percent (30%) or less of the regional median income by household size), with half of the very low income units being available to families.
- B. No more than 25% of a municipality's obligation can be satisfied with rental bonus credits.
- C. This plan will ensure that at least fifty percent (50%) of the units addressing the Fourth Round Prospective Need Obligation will be affordable to a combination of very-low-income and low-income households, while the remaining affordable units will be affordable to moderate-income households.

- D. This plan will ensure that a minimum of twenty-five percent of the Fourth Round Prospective Need Obligation, exclusive of rental bonus credits, will be met through rental units, including at least half in rental units available to families.
- E. This plan will ensure that at least half of the units, exclusive of any bonus credits, addressing the Borough's Fourth Round Prospective Need Obligation will be available to families.
- F. This plan complies with the Fourth Round age-restricted cap of thirty percent (30%), exclusive of rental bonus credits.

## **II. Addressing the Present Need Obligation:**

The purpose of a rehabilitation program is to rehabilitate substandard housing units occupied by low- and moderate-income households. A substandard housing unit is defined as a unit with health and safety violations that require the repair or replacement of a major system. A major system includes a roof, plumbing, heat, electricity, sanitary plumbing and/or a load bearing structural system. Upon rehabilitation, housing deficiencies are corrected and the unit is brought up to New Jersey Uniform Construction Code standards.

Based on the DCA's calculation for the municipality's present need, a rehabilitation component of zero (0) units was accepted by the Borough.

## **III. Addressing the Prior Round Obligation:**

The Borough has a Prior Round obligation of 141 units.

## **IV. Addressing the Third Round Obligation**

Per the 2021 Final Judgment of Compliance and Repose, Stone Harbor has an updated RDP of 3 units and 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 must 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.

The Borough continues to 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. The current tenant was ordered by the Court to vacate the premises so that the Triplex could be raised to mitigate future flooding risks. Due to regulations implemented based on the impact of Superstorm Sandy, the Triplex is being elevated to mitigate flooding issues in future storms. Once that process is complete, the

Borough will affirmatively market the units and fill them with qualifying households per the requirements of the Borough's 2021 Final JOR.

Stone Harbor shall ensure and require that all affordable units are subject to affordability controls of at least 30 years from the date of initial occupancy and affordable deed restrictions as provided for by UHAC, with the sole exception that very low income shall be defined as at or below 30 percent of median income pursuant to the Fair Housing Act, and the affordability controls shall remain unless and until the Borough, in its sole discretion, takes action to extend or release the unit from such controls.

#### **V. Addressing the Fourth Round Obligation**

Due to limited vacant and developable land that is within the Borough's land use jurisdiction, the Borough qualifies for a vacant land adjustment. The Borough performed a vacant land analysis and because the Realistic Development Potential associated with the qualifying vacant parcels is addressed in the Third Round Fair Share Plan, the Fourth Round RDP is zero (0). Based on an analysis of property tax records, approvals and aerial imagery, the Borough has determined that there have been no changed circumstances that would generate new realistic development potential since the vacant land analysis contained in the Court-approved 2018 Third Round Housing Element and Fair Share Plan and Court-approved 2021 Amended Housing Element and Fair Share Plan. The remaining obligation is known as the Fourth Round Unmet Need, which will be 26.

The Amended FHA requires a municipality that receives an adjustment of the prospective need to identify sufficient parcels that are likely to redevelop during the fourth round to address 25 percent of the "adjusted number" with realistic or meaningful zoning. While the plain reading of the Amended FHA could mean that the "adjusted number" is RDP then the Borough would have a zero (0) obligation toward this requirement because the Fourth Round RDP is zero (0). If, however, a Court determines that the "adjusted number" is unmet need, the Borough is complying through the compliance mechanisms already approved by the Court in accordance with the 2021 Final JOR.

#### **VI. Vacant Land Analysis**

The conditions remain unchanged from the vacant land analysis done for the Third Round. The vacant land analysis continues to support an RDP of zero (0) units.

The Borough's vacant land analysis resulted in a combined Prior Round, Third Round and Fourth Round RDP and unmet need as follows:

**Table 20**  
**Summary of Fair Share Obligation**

Rehabilitation Share	0
Prior Round Obligation	141
Third Round Obligation	102
Fourth Round Obligation	26
Borough Obligation After Vacant Land Adjustment	
Realistic Development Potential for Prior Round and Third Round	3
Realistic Development Potential for Fourth Round	0
Unmet Need	266

The Borough is implementing a comprehensive plan that provides for a mix of housing types including accessory apartments and inclusionary housing projects to address the unmet need obligation.

## **VII. Affordable Housing Mechanisms**

Stone Harbor proposes to address its unmet need of 266 units with the following mechanisms:

### **Mandatory Set Aside**

Pursuant to the Borough's Court-approved ordinance, 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 shall require that the appropriate percentage of the residential units be set aside for low and moderate income households. This requirement shall apply 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 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 and approved by the Court.

### **Affordable Housing Overlay District**

In addition to the Mandatory Set Aside, the Borough amended the previously created overlay zone in the Business District and received Court-approval for that ordinance in the Third Round. 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's Court-approved ordinance allows second and third story additions to the existing ground level retail buildings for apartment units provided they meet the required twenty percent (20%) set aside for all for-sale residential units and a fifteen percent (15%) set aside for all for-rent affordable units. The increased height and additional floor is 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.

### **Accessory Apartment Program**

Stone Harbor will continue to utilize its Court-approved, 10-unit accessory apartment program to address its unmet need obligation. The Borough has sufficient existing accessory housing stock within its Business zoning district and Residential zoning districts to provide opportunities for accessory apartments.

Stone Harbor's Court-approved, adopted ordinance conditionally permits 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. Stone Harbor is committed to a minimum subsidy of \$20,000 per unit for moderate income households and \$25,000 per unit for low-income household for a total subsidy of \$225,000 for the program. All units will be served by public water and sewer.

**Table 21**  
**Affordable Housing Mechanisms**

Type/Name of Affordable Housing Mechanism	Type of Affordable Unit	3 Units/Bedrooms	Total Units/Bedrooms + Bonuses
Accessory Apartments		10	10
Overlay Zone	Inclusionary	70	70
<b>TOTAL</b>		<b>80</b>	<b>80</b>

The Borough maintains, and will maintain in full effect for the duration of the forthcoming round, an affordable housing ordinance which includes provisions establishing a mandatory affordable housing set-aside requirement and has established multiple inclusionary zone districts and affordable housing overlay zone districts which require the development of additional low- and moderate-income housing opportunities.

### **Very Low-Income Units**

Pursuant to the amended FHA (P.L. 2008, c.46), the Borough must ensure that at least 13% of affordable housing units approved and constructed (or to be constructed) after July 17, 2008, are available to very low-income households. The Borough will exceed the requirement that 13% of units be available to very low-income households in both the Third Round and Fourth Round.

Per the more recently amended FHA (P.L. 2024, c.2) at N.J.S.A. 52:27D-329.1, at least half of very low-income units addressing the Fourth Round Prospective Need must be “available for families with children.” To meet this requirement, the Borough will continue to pursue affordable housing opportunities for family rental units.

### **Income and Bedroom Distribution**

The Borough will continue to follow the UHAC rules and regulations and ensure that the new affordable housing developments will comply with N.J.A.C. 5:93-7.2 through 7.3.

### **Affordable Housing Administration and Affirmative Marketing**

The Borough of Stone Harbor currently has a Court-approved Affordable Housing Ordinance, Section 560-48, in the Zoning Code of the Borough Code (see Appendix D). The Affordable Housing Ordinance governs the establishment and occupancy of the affordable units in the Borough, including, but not limited to, the phasing of affordable units, the mix of very-low-, low- and moderate-income units, bedroom distribution, occupancy standards, affordability controls, rents and sales prices, affirmative marketing, and income qualification. The Borough’s Court-approved Affordable Housing Development Fee Ordinance is contained in the Borough’s Code in Chapter 123 (see Appendix E).

The Borough will prepare an updated Affordable Housing Ordinance in accordance with the DCA's proposed new regulations (N.J.A.C. 5:99), and UHAC's new 2025 regulations, once the DCA and HMFA finalize their rule proposals.

The Borough shall adopt by resolution an updated Affirmative Marketing Plan. The Borough's Administrative Agent designated by the Borough of Stone Harbor, or any Administrative Agent appointed by a specific developer, shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.

The Borough has appointed a Municipal Housing Liaison by resolution (see Appendix F). The Borough will be contracting with a qualified Administrative Agent to conduct the administration and affirmative marketing of its affordable housing sites. The affirmative marketing plans are designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to the affordable units located in the Borough. Additionally, the affirmative marketing plan is intended to target those potentially eligible persons who are least likely to apply for affordable units and who reside in the Borough's housing region, Region 6, consisting of Atlantic, Cape May, Cumberland, and Salem counties.

The Affirmative Marketing Plan lays out the random-selection and income qualification procedure of the administrative agent, which is consistent with COAH's rules and N.J.A.C. 5:80-26.1. All newly created affordable units will comply with the minimum 30-year (or 40-year for rentals) affordability control required by UHAC, N.J.A.C. 5:80-26.1 *et seq.* This plan must be adhered to by all private, nonprofit or municipal developers of affordable housing units and must cover the period of deed restriction or affordability controls on each affordable unit.

## **State Development and Redevelopment Plan**

This Housing Element and Fair Share Plan is consistent with the 2001 State Development and Redevelopment Plan (SRDP) and the draft proposed SDRP as the proposed projects and zoning mechanisms will provide the opportunity for the construction of affordable housing.

The Borough of Stone Harbor is located in the PA-5B Environmentally Sensitive Barrier Island Planning Area. Per the SDRP, the intent for PA-5B is to:

- accommodate growth in Centers;
- protect and enhance the existing character of barrier island communities;
- minimize the risks from natural hazards;
- provide access to coastal resources for public use and enjoyment;
- maintain and improve coastal resource quality; and
- revitalize cities and towns.

The Borough continues to encourage the development of affordable housing in the Business district, and in areas where development exists. This is consistent with the overall SRDP goal to direct redevelopment and growth into areas where infrastructure can support the development and support services such as open space, retail shopping and public transportation are within walking distance.

In 2021, the Borough amended the zoning to create an affordable housing overlay district to allow the development of affordable housing within the Business District, and to allow accessory apartments in areas outside the Business District, and to require a mandatory set-aside for new construction for multifamily dwellings.

## **Cost Generation**

The Borough's Subdivision of Land and Site Plan Review and Zoning ordinances have been reviewed to eliminate unnecessary cost generating standards. The Borough will amend, if needed, the Planning Board rules for expediting the review of development applications for affordable housing projects, including, but not limited to, scheduling special monthly public hearings. All development applications containing affordable housing shall be reviewed for consistency with the Borough's ordinances, Residential Site Improvement Standards (N.J.A.C. 5:21-1 et seq.) and the FHA regarding unnecessary cost-generating requirements. The Borough will comply with COAH's requirements for unnecessary cost-generating requirements, N.J.A.C. 5:93-10.1, procedures for development applications containing affordable housing, N.J.A.C. 5:93-10.4, and requirements for special studies and escrow accounts where an application contains affordable housing, N.J.A.C.5:93-10.3.

Once the DCA and HMFA finalize their rule proposes, the Borough will revise its Subdivision of Land and Site Plan Review and Zoning ordinances, if needed, in accordance with the DCA's proposed new regulations (N.J.A.C. 5:99), and UHAC's new 2025 regulations in order to comply with the new requirements to address cost-generative issues.

## **Spending Plan**

The Borough has prepared a Fourth Round Spending Plan which discusses anticipated revenues, collection of revenues, and the use of revenues, in accordance with N.J.A.C. 5:93-5.1(c). All collected revenues are placed in the Borough's Affordable Housing Trust Fund and will be dispensed for the use of affordable housing activities as indicated in the Fourth Round Spending Plan. Once DCA and HMFA finalize their rule proposals (anticipated after June 30, 2025), the Borough will prepare an updated spending plan in accordance with DCA's proposed new regulations at N.J.A.C. 5:99, UHAC's new 2025 regulations that are anticipated to be released shortly, any remaining relevant COAH rules, not superseded by either the proposed 2025 DCA regulations or the upcoming 2025 revised UHAC rules as well as to address any terms of the court-approved Third Round JOR.

The Borough may, in the future, seek to amend its Spending Plan and obtain court approval to use its affordable housing trust funds for the following additional permitted affordable housing activities, including new, emergent affordable housing activities, subject to applicable limitations and minimum expenditures. N.J.S.A. 52:27D-329.2 permits the use of revenues generated by a development fee ordinance for activities that address the municipal fair share obligation including, but not limited to, rehabilitation, new construction, improvement to land, roads and infrastructure for affordable housing, assistance to render units more affordable, and administrative costs of housing plan implementation.

A minimum of 30% of the collected development fees must be used to provide affordability assistance to low- and moderate-income households in affordable housing units included in the Borough's Fair Share Plan. A minimum of one-third (1/3) of the affordability assistance must be utilized for very-low-income units.

No more than 20% of the revenues collected each year from development fees shall be spent on administrative fees, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a rehabilitation program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program.

The adoption of the Borough's Spending Plan will constitute a commitment for expenditure pursuant to N.J.S.A. 52:27D-329.2. The four-year deadline to commit and expend collected fees for emerging compliance mechanisms shall commence upon the entry of the Superior Court's Fourth Round Judgment of Compliance and Repose and/or Compliance Certification.

## **Summary**

Through the proposed mechanisms addressed in this Housing Element and Fair Share Plan, the Borough will be able to satisfy its Rehabilitation, Prior Round, Third Round and Fourth Round Prospective Need affordable housing obligations by 2035 providing for a realistic opportunity for the production of very low-, low- and moderate-income units within the Borough.

**APPENDIX A – Fourth Round Declaratory Judgment Complaint with Borough Resolution committing to Fourth Round obligations**



**SURENIAN, EDWARDS, BUZAK & NOLAN LLC**

311 Broadway, Suite A

Point Pleasant Beach, NJ 08742

(732) 612-3100

By: Nancy L. Holm, Esq. (Attorney ID: 013442006)

*Attorneys for Declaratory Plaintiff, Borough of Stone Harbor*

**IN THE MATTER OF THE  
APPLICATION OF THE BOROUGH OF  
STONE HARBOR, COUNTY OF CAPE  
MAY, STATE OF NEW JERSEY**

**SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: CAPE MAY COUNTY**

DOCKET NO.: CPM-L-\_\_\_\_\_

CIVIL ACTION  
AFFORDABLE HOUSING DISPUTE  
RESOLUTION PROGRAM  
PER DIRECTIVE # 14-24

**COMPLAINT FOR DECLARATORY  
RELIEF PURSUANT TO AOC  
DIRECTIVE # 14-24**

Declaratory Plaintiff, the Borough of Stone Harbor, County of Cape May, State of New Jersey (hereinafter, “Stone Harbor” or the “Borough”), a municipal corporation of the State of New Jersey, with principal offices located at 9508 Second Avenue, Stone Harbor, New Jersey 08247, by way of this Declaratory Judgment Action (“DJ Action”) as authorized under Directive # 14-24 of the Administrative Office of the Courts (“AOC”) alleges and says:

***Background***

1. The Borough of Stone Harbor is a municipal corporation of the State of New Jersey.
2. The Planning Board of the Borough of Stone Harbor (hereinafter, “Planning Board”) is a municipal agency created and organized under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et. seq., (“MLUL”), and, among other duties and obligations, is responsible for adopting the Fourth Round Housing Element and Fair Share Plan (“HEFSP”) of Stone Harbor’s Master Plan.

3. Through this DJ Action, Stone Harbor seeks the following relief in relation to its Fourth Round (2025-2035) affordable housing obligation: (a) to secure the jurisdiction of the Affordable Housing Alternative Dispute Resolution Program (the “Program”) pursuant to P.L. 2024, c.2 (hereinafter, the “Act”) and the Court, pursuant to AOC Directive # 14-24; (b) to have the Program and the Court approve the Borough of Stone Harbor’s Present and Prospective affordable housing obligations as set forth in the binding resolution adopted by the Borough, attached hereto as **Exhibit 1**; (c) to have the Program and the Court approve the Borough’s HEFSP to be adopted by the Planning Board and endorsed by the Borough Council and issue a conditional or unconditional “Compliance Certification” pursuant to the Act or other similar declaration; (d) to the extent it is not automatically granted pursuant to the Act, through the filing of this DJ Action and binding resolution, to have the Program and the Court confirm Stone Harbor’s immunity from all exclusionary zoning litigation, including builder’s remedy lawsuits, during the pendency of the process outlined in the Act and for the duration of the Fourth Round, i.e., through June 30, 2035; and (e) to have the Program and the Court take such other actions and grant such other relief as may be appropriate to ensure that the Borough receives and obtains all protections as afforded to it in complying with the requirements of the Act, including, without limitation, all immunities and presumptions of validity necessary to satisfy its affordable housing obligations voluntarily without having to endure the expense and burdens of unnecessary third party litigation.

### **COUNT I**

#### **ESTABLISHMENT OF JURISDICTION UNDER P.L.2024, C. 2**

4. The Borough of Stone Harbor repeats and realleges each and every allegation as set forth in the previous paragraphs of this DJ Action as if set forth herein in full.

5. The Act represents a major revision of the Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et. seq.

6. Among other things, the Act abolished the Council on Affordable Housing (hereinafter, “COAH”), and replaced it with seven retired, on recall judges designated as the Program. Among other things, the Act authorized the Director of the AOC (hereinafter, “Director”) to create a framework to process applications for a compliance certification.

7. On or about December 19, 2024, the Director issued Directive #14-24, which among other things, required municipalities seeking compliance certification to file an action in the form of a Declaratory Judgment Complaint and Civil Case Information Statement in the County in which the municipality is located within 48 hours after the municipality’s adoption of a binding resolution as authorized under the Act and attach a copy of said binding resolution to the DJ Action.

8. The Borough adopted a binding resolution establishing its present and prospective affordable housing obligations within the statutory window of time set forth in the Act and in accordance with the methodology and formula set forth in the Act, a certified copy of which resolution is attached to this DJ Action as Exhibit 1.

9. Based on the foregoing, the Borough has established the jurisdiction of the Program and the Court in regard to this DJ Action for a Compliance Certification as set forth hereinafter.

**WHEREFORE**, the Borough of Stone Harbor seeks a declaratory judgment for the following relief:

- a. Declaring that the Borough has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing needs as set

forth in the binding resolution attached as **Exhibit 1** to this DJ Action or to adjust such determination consistent with the Act;

- b. Declaring the present and prospective affordable housing obligations of the Borough under the Act;
- c. Declaring the approval of the Borough's HEFSP subsequent to its adoption by the Planning Board and its endorsement by the Council, including, as appropriate and applicable, (i) a windshield survey or similar survey which accounts for a more accurate estimate of present need; (ii) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; (iii) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); (iv) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (v) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; (vi) an adjustment based upon any ruling in litigation involving affordable housing obligations; and/or (vii) any other applicable adjustment permitted in accordance with the Act and/or applicable COAH regulations;
- d. Declaring that the Borough continues to have immunity from all exclusionary zoning litigation and all litigation related to its affordable housing obligations as established by the Act;
- e. Declaring and issuing a Compliance Certification and continuing immunity from exclusionary zoning litigation in accordance with the Act and Directive #

14-24 to the Borough of Stone Harbor for the period beginning July 1, 2025 and ending June 30, 2035; and

- f. Declaring such other relief that the Program and Court deems just and proper within the parameters of the Act and all applicable regulations related to affordable housing within the State of New Jersey.

**COUNT II**

**DETERMINATION OF THE PRESENT AND PROSPECTIVE NEED OF THE BOROUGH OF STONE HARBOR**

10. Stone Harbor repeats and realleges each and every allegation set forth in the previous paragraphs of this DJ Action as if set forth herein in full.

11. The Act adopted the methodology to calculate every municipality’s present and prospective need affordable housing obligation for the Fourth Round (2025-2035) and beyond.

12. The Act directed the Department of Community Affairs (“DCA”) to apply the methodology and to render a non-binding calculation of each municipality’s present and prospective affordable housing obligations to be contained in a report to be issued no later than October 20, 2024.

13. The DCA issued its report on October 18, 2024.

14. Pursuant to the October 18, 2024 report, the DCA calculated Stone Harbor’s present and prospective affordable housing obligations as follows:

<b>FOURTH ROUND PRESENT NEED (REHABILITATION) OBLIGATION</b>	<b>FOURTH ROUND PROSPECTIVE NEED OBLIGATION (2025-2035)</b>
0	26

**15.** Pursuant to the Act, a municipality desiring to participate in the Program is obligated to adopt a “binding resolution” determining its present and prospective affordable housing obligations to which it will commit based upon the methodology set forth in the Act.

**16.** Stone Harbor adopted a binding resolution, a copy of which resolution is attached hereto and made a part hereof as **Exhibit 1** to this DJ Action.

**17.** The binding resolution maintains that Stone Harbor’s Round 4 (2025-2035) Present Need (Rehabilitation) Obligation is 0 and its Prospective Need (“New Construction”) Obligation is 26.

**18.** Stone Harbor seeks the approval of, and confirmation by, the Program and the Court of the Round 4 (2025-2035) Present and Prospective affordable housing obligations as set forth in the binding resolution attached hereto and made a part hereof as **Exhibit 1**, or the adjustment of those obligations consistent with the Act and all applicable regulations.

**19.** Pursuant to the binding resolution, the Borough of Stone Harbor reserves all rights to amend its affordable housing obligations in the event of a successful legal challenge, or legislative change, to the Act.

**20.** Pursuant to the binding resolution, Stone Harbor specifically reserves the right to seek and obtain 1) a windshield survey or similar survey which accounts for a more accurate estimate of present need; 2) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; 3) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); 4) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; 5) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; 6) an adjustment based upon any ruling in litigation involving affordable housing obligations; and 7)

any other applicable adjustment permitted in accordance with the Act and/or applicable COAH regulations.

**WHEREFORE**, the Borough of Stone Harbor seeks a declaratory judgment for the following relief:

- a. Declaring that the Borough has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing needs as set forth in the binding resolution attached as **Exhibit 1** to this DJ Action or to adjust such determination consistent with the Act;
- b. Declaring the present and prospective affordable housing obligations of the Borough under the Act;
- c. Declaring the approval of the Borough's HEFSP subsequent to its adoption by the Planning Board and its endorsement by the Council, including, as appropriate and applicable, (i) a windshield survey or similar survey which accounts for a more accurate estimate of present need; (ii) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; (iii) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); (iv) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (v) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; (vi) an adjustment based upon any ruling in litigation involving affordable housing obligations; and/or (vii) any other applicable adjustment permitted in accordance with the Act and/or all applicable regulations;

- d. Declaring that the Borough continues to have immunity from all exclusionary zoning litigation and all litigation related to its affordable housing obligations as established by the Act;
- e. Declaring and issuing a Compliance Certification and continuing immunity from exclusionary zoning litigation in accordance with the Act and Directive # 14-24 to the Borough of Stone Harbor for the period beginning July 1, 2025 and ending June 30, 2035; and
- f. Declaring such other relief that the Program and Court deems just and proper within the parameters of the Act and all applicable regulations related to affordable housing within the State of New Jersey.

### **COUNT III**

#### **APPROVAL OF BOROUGH'S HOUSING ELEMENT AND FAIR SHARE PLAN**

**21.** The Borough of Stone Harbor repeats and realleges each and every allegation set forth in the previous paragraphs of this DJ Action as if set forth herein in full.

**22.** Pursuant to the Act, a Housing Element and Fair Share Plan (hereinafter, "HEFSP") must be prepared, adopted by the Planning Board and endorsed by the municipality by June 30, 2025.

**23.** Stone Harbor hereby commits for its professionals to prepare the appropriate HEFSP to address its affordable housing obligations, as determined by the Program and the Court which HEFSP shall apply as appropriate, any applicable adjustments, including, without limitation, 1) a windshield survey or similar survey which accounts for a more accurate estimate of present need; 2) a Vacant Land Adjustment predicated upon a lack of vacant, developable and

suitable land; 3) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); 4) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; 5) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; 6) an adjustment based upon any ruling in litigation involving affordable housing obligations; and 7) any other applicable adjustment permitted in accordance with the Act and/or applicable regulations.

**WHEREFORE**, the Borough of Stone Harbor seeks a declaratory judgment for the following relief:

- a. Declaring that the Borough has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing needs as set forth in the binding resolution attached as **Exhibit 1** to this DJ Action or to adjust such determination consistent with the Act;
- b. Declaring the present and prospective affordable housing obligations of the Borough under the Act;
- c. Declaring the approval of the Borough's HEFSP subsequent to its adoption by the Planning Board and its endorsement by the Council, including, as appropriate and applicable, (i) a windshield survey or similar survey which accounts for a more accurate estimate of present need; (ii) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; (iii) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); (iv) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (v) an adjustment based on any future legislation that may be adopted that allows an adjustment of the

affordable housing obligations; (vi) an adjustment based upon any ruling in litigation involving affordable housing obligations; and/or (vii) any other applicable adjustment permitted in accordance with the Act and/or all applicable regulations;

- d. Declaring that the Borough continues to have immunity from all exclusionary zoning litigation and all litigation related to its affordable housing obligations as established under the Program;
- e. Declaring and issuing a Compliance Certification and immunity from exclusionary zoning litigation in accordance with the Act and Directive # 14-24 to the Borough of Stone Harbor for the period beginning July 1, 2025 and ending June 30, 2035; and
- f. Declaring such other relief that the program and Court deems just and proper within the parameters of the Act and all applicable regulations related to affordable housing within the State of New Jersey.

**COUNT IV**

**CONFIRMATION OF IMMUNITY**

**24.** The Borough of Stone Harbor repeats and realleges each and every allegation set forth in the previous paragraphs of this declaratory judgment complaint as if set forth herein in full.

**25.** Pursuant to the Act, a municipality that complies with the deadlines in the Act for both determining present and prospective affordable housing obligations and for adopting an appropriate HEFSP shall have immunity from exclusionary zoning litigation.

**26.** The Borough of Stone Harbor has met the deadline for the adoption and filing of its binding resolution not later than January 31, 2025, and the filing of this DJ Action in accordance with AOC Directive #14-24 not later than February 3, 2025, by adopting the binding resolution attached to this DJ Action as **Exhibit 1**, and has also committed to the adoption of its HEFSP by June 30, 2025.

**WHEREFORE**, the Borough of Stone Harbor seeks a declaratory judgment for the following relief:

- a.** Declaring that the Borough has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing needs as set forth in the binding resolution attached as **Exhibit 1** to this DJ Action or to adjust such determination consistent with the Act;
- b.** Declaring the present and prospective affordable housing obligations of the Borough under the Act;
- c.** Declaring the approval of the Borough's HEFSP subsequent to its adoption by the Planning Board and its endorsement by the Council, including, as appropriate and applicable, (i) a windshield survey or similar survey which accounts for a more accurate estimate of present need; (ii) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; (iii) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); (iv) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (v) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; (vi) an adjustment based upon any ruling in

litigation involving affordable housing obligations; and (vii) any other applicable adjustment permitted in accordance with the Act and/or all applicable regulations;

- d. Declaring that the Borough continues to have immunity from all exclusionary zoning litigation and all litigation related to its affordable housing obligations as established by the Act;
- e. Declaring and issuing a Compliance Certification and immunity from exclusionary zoning litigation in accordance with the Act and Directive # 14-24 to the Borough of Stone Harbor for the period beginning July 1, 2025 and ending June 30, 2035; and
- f. Declaring such other relief that the Program and Court deems just and proper within the parameters of the Act and all applicable regulations related to affordable housing within the State of New Jersey.

**SURENIAN EDWARDS BUZAK & NOLAN LLC**  
Attorneys for Declaratory Plaintiff, Borough of Stone Harbor

By: \_\_\_\_\_

Nancy L. Holm, Esq.

Dated: January 22, 2025

**CERTIFICATION PURSUANT TO R. 4:5-1**

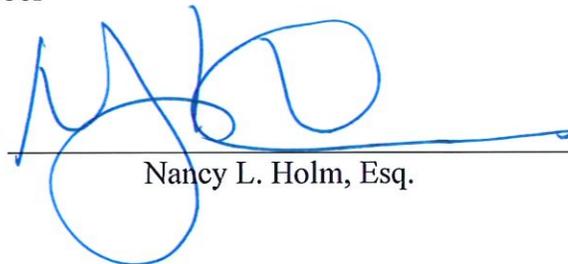
Nancy L. Holm, Esq., of full age, hereby certifies as follows:

1. I am an associate of the Firm of Surenian, Edwards, Buzak & Nolan LLC, attorneys for declaratory plaintiff, Borough of Stone Harbor.
2. To the best of my knowledge, there is no other action pending in any court or any pending arbitration proceeding of which the matter in controversy herein is the subject and no such other action or arbitration proceeding is contemplated. To the best of my knowledge, there are no other parties who should be joined in this action.
3. The within Complaint was filed and served within the time prescribed by the Rules of Court.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

**SURENIAN EDWARDS BUZAK & NOLAN LLC**  
Attorneys for Declaratory Plaintiff, Borough of Stone Harbor

By:



Nancy L. Holm, Esq.

Dated: January 22, 2025

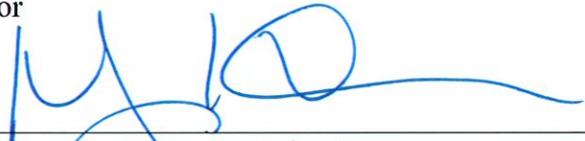
**CERTIFICATION PURSUANT TO R. 1:38-7(b)**

Nancy L. Holm, Esq., of full age, hereby certifies as follows:

1. I am an associate of the firm of Surenian, Edwards, Buzak & Nolan LLC, attorneys for Declaratory Plaintiff, Borough of Stone Harbor.
2. I certify that confidential personal identifiers have been redacted from documents now submitted to the Court and will be redacted from all documents submitted in the future in accordance with R. 1:38-7(b).

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

**SURENIAN EDWARDS BUZAK & NOLAN LLC**  
Attorneys for Declaratory Plaintiff, Borough of Stone Harbor

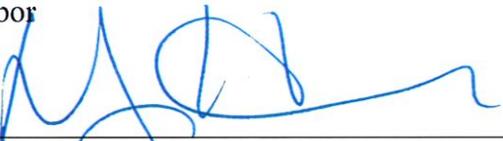
By:   
\_\_\_\_\_  
Nancy L. Holm, Esq.

Dated: January 22, 2025

**DESIGNATION OF TRIAL COUNSEL**

Pursuant to R. 4:25-4, notice is hereby given that Nancy L. Holm, Esq., attorney for the Declaratory Plaintiff, Borough of Stone Harbor is designated as trial counsel in the above captioned matter.

**SURENIAN EDWARDS BUZAK & NOLAN LLC**  
Attorneys for Declaratory Plaintiff, Borough of Stone Harbor

By:   
\_\_\_\_\_  
Nancy L. Holm, Esq.

Dated: January 22, 2025

# EXHIBIT 1

## BOROUGH OF STONE HARBOR

Cape May County, New Jersey

### RESOLUTION

2025-S-40

#### RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF STONE HARBOR COMMITTING TO FOURTH ROUND PRESENT AND PROSPECTIVE NEED AFFORDABLE HOUSING OBLIGATIONS

**WHEREAS**, the Borough of Stone Harbor (hereinafter the “Borough” or “Stone Harbor”) has a demonstrated history of voluntary compliance as evidenced by its Third Round record; and

**WHEREAS**, pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (Mount Laurel IV), on April 2, 2019, the Borough of Stone Harbor filed a Declaratory Judgment Complaint in Superior Court, Law Division seeking, among other things, a judicial declaration that its Third Round Housing Element and Fair Share Plan, to be amended as necessary, satisfied its “fair share” of the regional need for low and moderate income housing pursuant to the “Mount Laurel doctrine,” and

**WHEREAS**, that culminated in a Court-approved Third Round Housing Element and Fair Share Plan and a Final Judgment of Compliance and Repose, which precludes all Mount Laurel lawsuits, including builder’s remedy lawsuits, until July 1, 2025; and

**WHEREAS**, on March 20, 2024, Governor Murphy signed into law P.L. 2024, c.2, which amended the 1985 New Jersey Fair Housing Act (hereinafter the “Amended FHA”); and

**WHEREAS**, the Amended FHA required the Department of Community Affairs (“DCA”) to provide an estimate of the Fourth Round affordable housing obligations for all municipalities on or before October 20, 2024, based upon the criteria described in the Amended FHA; and

**WHEREAS**, the DCA issued a report on October 18, 2024 (“DCA Report”) wherein it reported its estimate of the Fourth Round affordable housing obligations for all municipalities based upon its interpretation of the standards in the Amended FHA; and

**WHEREAS**, the DCA Report calculates the Borough’s Fourth Round (2025-2035) obligations as follows: a Present Need (Rehabilitation) Obligation of Zero (0) and a Prospective Need (New Construction) Obligation of 26; and

**WHEREAS**, the Amended FHA further provides that, irrespective of the DCA’s calculations, municipalities have the ability to either accept, or provide alternate calculations for, the DCA’s “present and prospective fair share obligation(s)...by binding resolution no later than

January 31, 2025”, a deadline which was later extended to February 3, 2025 by the Administrative Office of the Courts (“AOC”) via a directive issued on December 19, 2024; and

**WHEREAS**, this Resolution satisfies the requirements of the Amended FHA by accepting the DCA’s estimate of the Borough’s Present and Prospective Need for Round 4 (2025-2035), as described in the DCA Report; and

**WHEREAS**, Section 3 of the Amended FHA provides that: “the municipality’s determination of its fair share obligation shall have a presumption of validity, if established in accordance with sections 6 and 7” of the Amended FHA; and

**WHEREAS**, the Borough’s acceptance of the Fourth Round obligations calculated by the DCA are entitled to a “presumption of validity” because it complies with Sections 6 and 7 of the Amended FHA; and

**WHEREAS**, in addition to the foregoing, the Borough specifically reserves the right to adjust its fair share obligations in accordance with applicable Council on Affordable Housing (“COAH”) regulations or other applicable law based on one or more of the foregoing adjustments if applicable: 1) a windshield survey or similar survey which accounts for a higher-resolution estimate of present need; 2) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; 3) a Durational Adjustment, whether predicated upon lack of sewer or lack of water; and/or 4) an adjustment predicated upon regional planning entity formulas, inputs or considerations, including but not limited to, the Highlands Council Regional Master Plan and its build out, or the Pinelands Commission or Meadowlands Commission regulations and planning documents; and

**WHEREAS**, in addition to the foregoing, the Borough specifically reserves all rights to revoke or amend this Resolution and commitment, as may be necessary, in the event of a successful challenge to the Amended FHA in the context of the case The Borough of Montvale v. the State of New Jersey (MER-L-1778-24), any other such action challenging the Amended FHA, or any legislation adopted and signed into law by the Governor of New Jersey that alters the deadlines and/or requirements of the Amended FHA; and

**WHEREAS**, in addition to the foregoing, the Borough reserves the right to take a position that its Fourth Round Present or Prospective Need Obligations are lower than described herein in the event that a third party challenges the calculations provided for in this Resolution (a reservation of all litigation rights and positions, without prejudice); and

**WHEREAS**, in addition to the foregoing, nothing in the Amended FHA requires or can require an increase in the Borough’s Fourth Round Present or Prospective Need Obligations based on a successful downward challenge of any other municipality in the region since the plain language and clear intent of the Amended FHA is to establish unchallenged numbers by default on March 1, 2025; and

**WHEREAS**, in addition to the foregoing, the Acting Administrative Director of the AOC issued Directive #14-24 (hereinafter “AOC Directive”) on December 19, 2024; and

**WHEREAS**, pursuant to AOC Directive #14-24, a municipality seeking a Fourth Round Compliance Certification from the entity created by the Amended FHA known as the Affordable Housing Dispute Resolution Program (hereinafter “the Program”), shall file an action in the appropriate venue with the Program, in the form of a Declaratory Judgment Complaint within 48 hours after adoption of the municipal resolution accepting or challenging its Fourth Round fair share obligations, or by February 3, 2025, whichever is sooner; and

**WHEREAS**, nothing in this Resolution shall be interpreted as an acknowledgment of the legal validity of the AOC Directive and the Borough reserves any and all rights and remedies in relation to the AOC Directive; and

**WHEREAS**, the Borough seeks a Compliance Certification from the Program and, therefore, wishes to file a Declaratory Judgment Complaint in the appropriate venue with the Program, along with a copy of this Resolution, within 48 hours of the adoption of this Resolution; and

**WHEREAS**, in light of the above, the Mayor and Borough Council finds that it is in the best interest of the Borough to declare its obligations in accordance with this binding Resolution and in accordance with the Amended FHA; and

**NOW, THEREFORE, BE IT RESOLVED** on this 21<sup>st</sup> day of January of 2025, by the Borough Council of the Borough of Stone Harbor, Cape May County, State of New Jersey, as follows:

1. All of the Whereas Clauses are incorporated into the operative clauses of this Resolution as if set forth in full.

2. For the reasons set forth in this Resolution, the Mayor and Borough Council hereby commit to the DCA Fourth Round Present Need (Rehabilitation) Obligation of Zero (0) and the DCA Fourth Round Prospective Need (New Construction) Obligation of 26 as described in this Resolution, subject to all reservations of rights, which specifically include, without limitation, the following:

a) The right to adjust the Borough’s fair share obligations based on a windshield survey or similar survey, a Vacant Land Adjustment, a Durational Adjustment, and all other applicable adjustments, permitted in accordance with applicable COAH regulations or other applicable law; and

b) The right to revoke or amend this Resolution in the event of a successful legal challenge, or legislative change, to the Amended FHA; and

c) The right to take any contrary position, or adjust its fair share obligations, in the event of a third party challenge to the Borough’s fair share obligations.

3. Pursuant to the requirements of the FHA as amended, and the AOC Directive #14-24 issued on December 19, 2024, the Borough hereby directs its Affordable Housing Counsel to

file a Declaratory Judgment Complaint, along with this Resolution and a Case Information Statement (Civil CIS), in the appropriate venue with the Program or any other such entity as may be determined to be appropriate, to initiate an action within 48 hours of the adoption of this Resolution, so that the Borough's Fourth Round Housing Element and Fair Share Plan can be reviewed and approved.

4. This Resolution shall take effect immediately, according to law.

**I HEREBY CERTIFY THAT** the foregoing resolution was duly adopted by the Borough Council of the Borough of Stone Harbor, New Jersey at the Regular Meeting held on January 21, 2025, with the voting record as indicated below.

	<u>MOTION</u>	<u>SECOND</u>	<u>AYE</u>	<u>NAY</u>	<u>RECUSE</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Councilmember Dallahan			X				
Councilmember Foschini	X		X				
Councilmember Parzych			X				
Councilmember Casper		X	X				
Councilmember Gensemer			X				
Councilmember Biddick			X				

  
 \_\_\_\_\_  
 Emily Dillon, Borough Clerk

  
 \_\_\_\_\_  
 Timothy J. Carney, Mayor

**BOROUGH OF STONE HARBOR**

Cape May County, New Jersey

**RESOLUTION**

**2025-S-40**

**RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF STONE HARBOR COMMITTING TO FOURTH ROUND PRESENT AND PROSPECTIVE NEED AFFORDABLE HOUSING OBLIGATIONS**

**WHEREAS**, the Borough of Stone Harbor (hereinafter the “Borough” or “Stone Harbor”) has a demonstrated history of voluntary compliance as evidenced by its Third Round record; and

**WHEREAS**, pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (Mount Laurel IV), on April 2, 2019, the Borough of Stone Harbor filed a Declaratory Judgment Complaint in Superior Court, Law Division seeking, among other things, a judicial declaration that its Third Round Housing Element and Fair Share Plan, to be amended as necessary, satisfied its “fair share” of the regional need for low and moderate income housing pursuant to the “Mount Laurel doctrine,” and

**WHEREAS**, that culminated in a Court-approved Third Round Housing Element and Fair Share Plan and a Final Judgment of Compliance and Repose, which precludes all Mount Laurel lawsuits, including builder’s remedy lawsuits, until July 1, 2025; and

**WHEREAS**, on March 20, 2024, Governor Murphy signed into law P.L. 2024, c.2, which amended the 1985 New Jersey Fair Housing Act (hereinafter the “Amended FHA”); and

**WHEREAS**, the Amended FHA required the Department of Community Affairs (“DCA”) to provide an estimate of the Fourth Round affordable housing obligations for all municipalities on or before October 20, 2024, based upon the criteria described in the Amended FHA; and

**WHEREAS**, the DCA issued a report on October 18, 2024 (“DCA Report”) wherein it reported its estimate of the Fourth Round affordable housing obligations for all municipalities based upon its interpretation of the standards in the Amended FHA; and

**WHEREAS**, the DCA Report calculates the Borough’s Fourth Round (2025-2035) obligations as follows: a Present Need (Rehabilitation) Obligation of Zero (0) and a Prospective Need (New Construction) Obligation of 26; and

**WHEREAS**, the Amended FHA further provides that, irrespective of the DCA’s calculations, municipalities have the ability to either accept, or provide alternate calculations for, the DCA’s “present and prospective fair share obligation(s)...by binding resolution no later than

January 31, 2025”, a deadline which was later extended to February 3, 2025 by the Administrative Office of the Courts (“AOC”) via a directive issued on December 19, 2024; and

**WHEREAS**, this Resolution satisfies the requirements of the Amended FHA by accepting the DCA’s estimate of the Borough’s Present and Prospective Need for Round 4 (2025-2035), as described in the DCA Report; and

**WHEREAS**, Section 3 of the Amended FHA provides that: “the municipality’s determination of its fair share obligation shall have a presumption of validity, if established in accordance with sections 6 and 7” of the Amended FHA; and

**WHEREAS**, the Borough’s acceptance of the Fourth Round obligations calculated by the DCA are entitled to a “presumption of validity” because it complies with Sections 6 and 7 of the Amended FHA; and

**WHEREAS**, in addition to the foregoing, the Borough specifically reserves the right to adjust its fair share obligations in accordance with applicable Council on Affordable Housing (“COAH”) regulations or other applicable law based on one or more of the foregoing adjustments if applicable: 1) a windshield survey or similar survey which accounts for a higher-resolution estimate of present need; 2) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; 3) a Durational Adjustment, whether predicated upon lack of sewer or lack of water; and/or 4) an adjustment predicated upon regional planning entity formulas, inputs or considerations, including but not limited to, the Highlands Council Regional Master Plan and its build out, or the Pinelands Commission or Meadowlands Commission regulations and planning documents; and

**WHEREAS**, in addition to the foregoing, the Borough specifically reserves all rights to revoke or amend this Resolution and commitment, as may be necessary, in the event of a successful challenge to the Amended FHA in the context of the case The Borough of Montvale v. the State of New Jersey (MER-L-1778-24), any other such action challenging the Amended FHA, or any legislation adopted and signed into law by the Governor of New Jersey that alters the deadlines and/or requirements of the Amended FHA; and

**WHEREAS**, in addition to the foregoing, the Borough reserves the right to take a position that its Fourth Round Present or Prospective Need Obligations are lower than described herein in the event that a third party challenges the calculations provided for in this Resolution (a reservation of all litigation rights and positions, without prejudice); and

**WHEREAS**, in addition to the foregoing, nothing in the Amended FHA requires or can require an increase in the Borough’s Fourth Round Present or Prospective Need Obligations based on a successful downward challenge of any other municipality in the region since the plain language and clear intent of the Amended FHA is to establish unchallenged numbers by default on March 1, 2025; and

**WHEREAS**, in addition to the foregoing, the Acting Administrative Director of the AOC issued Directive #14-24 (hereinafter “AOC Directive”) on December 19, 2024; and

**WHEREAS**, pursuant to AOC Directive #14-24, a municipality seeking a Fourth Round Compliance Certification from the entity created by the Amended FHA known as the Affordable Housing Dispute Resolution Program (hereinafter “the Program”), shall file an action in the appropriate venue with the Program, in the form of a Declaratory Judgment Complaint within 48 hours after adoption of the municipal resolution accepting or challenging its Fourth Round fair share obligations, or by February 3, 2025, whichever is sooner; and

**WHEREAS**, nothing in this Resolution shall be interpreted as an acknowledgment of the legal validity of the AOC Directive and the Borough reserves any and all rights and remedies in relation to the AOC Directive; and

**WHEREAS**, the Borough seeks a Compliance Certification from the Program and, therefore, wishes to file a Declaratory Judgment Complaint in the appropriate venue with the Program, along with a copy of this Resolution, within 48 hours of the adoption of this Resolution; and

**WHEREAS**, in light of the above, the Mayor and Borough Council finds that it is in the best interest of the Borough to declare its obligations in accordance with this binding Resolution and in accordance with the Amended FHA; and

**NOW, THEREFORE, BE IT RESOLVED** on this 21<sup>st</sup> day of January of 2025, by the Borough Council of the Borough of Stone Harbor, Cape May County, State of New Jersey, as follows:

1. All of the Whereas Clauses are incorporated into the operative clauses of this Resolution as if set forth in full.

2. For the reasons set forth in this Resolution, the Mayor and Borough Council hereby commit to the DCA Fourth Round Present Need (Rehabilitation) Obligation of Zero (0) and the DCA Fourth Round Prospective Need (New Construction) Obligation of 26 as described in this Resolution, subject to all reservations of rights, which specifically include, without limitation, the following:

a) The right to adjust the Borough’s fair share obligations based on a windshield survey or similar survey, a Vacant Land Adjustment, a Durational Adjustment, and all other applicable adjustments, permitted in accordance with applicable COAH regulations or other applicable law; and

b) The right to revoke or amend this Resolution in the event of a successful legal challenge, or legislative change, to the Amended FHA; and

c) The right to take any contrary position, or adjust its fair share obligations, in the event of a third party challenge to the Borough’s fair share obligations.

3. Pursuant to the requirements of the FHA as amended, and the AOC Directive #14-24 issued on December 19, 2024, the Borough hereby directs its Affordable Housing Counsel to

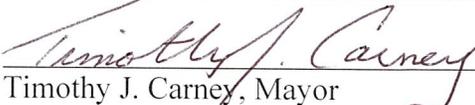
file a Declaratory Judgment Complaint, along with this Resolution and a Case Information Statement (Civil CIS), in the appropriate venue with the Program or any other such entity as may be determined to be appropriate, to initiate an action within 48 hours of the adoption of this Resolution, so that the Borough's Fourth Round Housing Element and Fair Share Plan can be reviewed and approved.

4. This Resolution shall take effect immediately, according to law.

**I HEREBY CERTIFY THAT** the foregoing resolution was duly adopted by the Borough Council of the Borough of Stone Harbor, New Jersey at the Regular Meeting held on January 21, 2025, with the voting record as indicated below.

	<u>MOTION</u>	<u>SECOND</u>	<u>AYE</u>	<u>NAY</u>	<u>RECUSE</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Councilmember Dallahan			X				
Councilmember Foschini	X		X				
Councilmember Parzych			X				
Councilmember Casper		X	X				
Councilmember Gensemer			X				
Councilmember Biddick			X				

  
 \_\_\_\_\_  
 Emily Dillon, Borough Clerk

  
 \_\_\_\_\_  
 Timothy J. Carney, Mayor

# Civil Case Information Statement

**Case Details: CAPE MAY | Civil Part Docket# L-000031-25**

**Case Caption:** IN THE MATTER OF STONE HARBOR BORO

**Case Type:** AFFORDABLE HOUSING

**Case Initiation Date:** 01/22/2025

**Document Type:** Complaint

**Attorney Name:** NANCY L HOLM

**Jury Demand:** NONE

**Firm Name:** SURENIAN, EDWARDS, BUZAK & NOLAN LLC

**Is this a professional malpractice case?** NO

**Address:** 311 BROADWAY STE A

**Related cases pending:** NO

POINT PLEASANT BEACH NJ 08742

**If yes, list docket numbers:**

**Phone:** 7326123100

**Do you anticipate adding any parties (arising out of same transaction or occurrence)?** NO

**Name of Party:** PLAINTIFF : Borough of Stone Harbor

**Does this case involve claims related to COVID-19?** NO

**Name of Defendant's Primary Insurance Company**

**Are sexual abuse claims alleged by: Borough of Stone Harbor?** NO

(if known): None

**THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE**

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

**Do parties have a current, past, or recurrent relationship?** NO

**If yes, is that relationship:**

**Does the statute governing this case provide for payment of fees by the losing party?** NO

**Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:**

**Do you or your client need any disability accommodations?** NO

**If yes, please identify the requested accommodation:**

**Will an interpreter be needed?** NO

**If yes, for what language:**

**Please check off each applicable category: Putative Class Action?** NO **Title 59?** NO **Consumer Fraud?** NO **Medical Debt Claim?** NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*

01/22/2025  
Dated

/s/ NANCY L HOLM  
Signed



**APPENDIX B – Court Order setting the Borough’s Fourth Round obligations**

**PREPARED BY THE COURT:**

**IN THE MATTER OF THE  
DECLARATORY JUDGMENT  
ACTION OF THE BOROUGH  
OF STONE HARBOR, CAPE  
MAY COUNTY PURSUANT TO  
P.L. 2024, CHAPTER 2**

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION – CIVIL PART  
CAPE MAY COUNTY  
DOCKET NO. CPM-L-31-25

Civil Action

**ORDER FIXING MUNICIPAL  
OBLIGATIONS FOR “PRESENT NEED”  
AND “PROSPECTIVE NEED” FOR THE  
FOURTH ROUND HOUSING CYCLE**

**THIS MATTER**, having come before the Court on its own motion, *sua sponte*, on the Complaint for Declaratory Judgment filed on January 22, 2025 (“DJ Complaint”) by the Petitioner, **BOROUGH OF STONE HARBOR** (“Petitioner” or “Municipality”), pursuant to N.J.S.A. 52:27D-304.2, -304.3, and -304.1(f)(1)(c) of the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, et seq. (collectively, the “FHA”), and in accordance with Section II.A of Administrative Directive #14-24 (“Directive #14-24”) of the Affordable Housing Dispute Resolution Program (the “Program”), seeking a certification of compliance with the FHA;

**AND IT APPEARING**, that on October 18, 2024, pursuant to the FHA (as amended), the New Jersey Department of Community Affairs (“DCA”) issued its report entitled *Affordable Housing Obligations for 2025-2035 (Fourth Round)*,<sup>1</sup> therein setting forth the present need and prospective need obligations of all New Jersey municipalities for the Fourth Round housing cycle (the “DCA’s Fourth Round Report”);

<sup>1</sup> See [https://nj.gov/dca/dlps/pdf/FourthRoundCalculation\\_Methodology.pdf](https://nj.gov/dca/dlps/pdf/FourthRoundCalculation_Methodology.pdf)

**AND IT APPEARING** that, pursuant to the DCA's Fourth Round Report, the **present need** obligation of the Petitioner has been calculated and reported as **0** affordable units, and its **prospective need** obligation of the Petitioner has been calculated and reported as **26** affordable units, and which calculations have been deemed presumptively valid for purposes of the FHA;

**AND THE COURT**, having determined that no interested party has filed a challenge to the Petitioner's DJ Complaint by way of an Answer thereto as provided for and in accordance with Section II.B of Directive #14-24 of the Program;

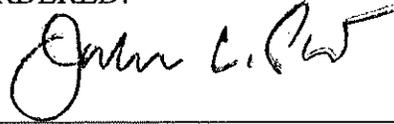
**AND THE COURT**, having found and determined, therefore, that the present need and prospective need affordable housing obligations of the Petitioner for the Fourth Round housing cycle as calculated and reported in the DCA's Fourth Round Report have been committed to by the Petitioner and are uncontested, and for good cause having otherwise been shown:

**IT IS, THEREFORE**, on this 27<sup>th</sup> day of **MARCH 2025 ORDERED AND ADJUDGED** as follows:

1. That the present need obligation of the Municipality, be, and hereby is fixed as **0** affordable units for the Fourth Round housing cycle.
2. That the prospective need obligation of the Municipality, be, and hereby is fixed as **26** affordable units for the Fourth Round Housing cycle; and
3. That the Petitioner is hereby authorized to proceed with preparation and adoption of its proposed Housing Element and Fair Share Plan for the Fourth Round, incorporating therein the present need and prospective need allocations aforesaid (and which plan shall include the elements set forth in the "Addendum" attached to Directive #14-24), by or before June 30, 2025, as provided for and in accordance with Section III.A of Directive #14-24, and without further delay.

**IT IS FURTHER ORDERED**, that a copy of this Order shall be deemed served on the Petitioner and Petitioner's counsel.

SO ORDERED:

A handwritten signature in black ink, appearing to read "John C. Porto", written over a horizontal line.

**Hon. John C. Porto, P.J.Cv.**

Uncontested.

**APPENDIX C -**  
**2021 Order Finalizing the Borough's Judgment of Compliance and Repose**  
**2021 Order of Conditional Judgment of Compliance and Repose**  
**2018 Order of Fairness and Compliance**



**SURENIAN, EDWARDS & NOLAN, LLC**

311 Broadway, Suite A  
Point Pleasant Beach, NJ 08742  
(732) 612-3100

Attorneys for Declaratory Plaintiff, Borough of Stone Harbor

By: Jeffrey R. Surenian (Attorney ID: 024231983)

Nancy L. Holm (Attorney ID: 013442006)

**FILED**

SEP 15 2021

**JOHN C. PORTO, J.S.C.**

**IN THE MATTER OF THE  
APPLICATION OF THE BOROUGH OF  
STONE HARBOR, COUNTY OF CAPE  
MAY**

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: CAPE MAY COUNTY

DOCKET NO.: CPM-L-351-15

CIVIL ACTION – *MOUNT LAUREL*

**ORDER FINALIZING THE BOROUGH'S  
JUDGMENT OF COMPLIANCE AND  
REPOSE**

**THIS MATTER** having been opened to the Court by Surenian, Edwards & Nolan, LLC, on behalf of declaratory Plaintiff, Borough of Stone Harbor (hereinafter “the Borough” or “Stone Harbor”) via a Declaratory Judgment Complaint filed on April 2, 2019 to approve the Borough’s Housing Element and Fair Share Plan (hereinafter “Fair Share Plan”) in response to In re N.J.A.C. 5:96 & N.J.A.C. 5:97, 221 N.J. 1 (2015)(“Mount Laurel IV”); and the Court having held a properly noticed Compliance Hearing on June 23, 2021; and the Court having entered a Conditional Judgment of Compliance and Repose Order on July 19, 2021 (hereinafter “JOR Order”), which approved the Borough’s Fair Share Plan, subject to the satisfaction of certain conditions set forth in Paragraph 10 of the JOR Order; and the Borough having since satisfied all of the conditions, which has been confirmed by the Court Master and Fair Share Housing Center (“FSHC”), with a certification, dated August 30, 2021, demonstrating satisfaction; and good cause having been shown;

It is hereby ordered on this 15<sup>th</sup> day of September, 2021, as follows:

1. All of the conditions in Paragraph 10 of the Borough's JOR Order have been fully satisfied, and the Borough's JOR Order is now a Final Judgment of Compliance and Repose, with no conditions remaining.

2. While the JOR Order as modified by this Order is now a Final Judgment, the Court will retain jurisdiction for the limited purpose of (a) allowing FSHC and the Borough the ability to enforce rights under the Settlement Agreement entered into between the Borough and FSHC on December 6, 2017, and amended on March 3, 2021, and (b) subject to the consent of FSHC, allowing the Borough to have the future ability to seek an amendment or amendments to its Housing Element and Fair Share Plan and/or the JOR Order should that be necessary.

3. All of the other terms and conditions set forth in the JOR Order remain in full force and effect, including the provision in Paragraph 2 of the JOR Order, that the Borough has immunity from all Mount Laurel lawsuits until July 2, 2025; other than actions brought to enforce the terms of the settlement agreement between FSHC and the Borough, or actions brought to enforce the Court's orders.

4. Counsel for the Borough shall provide copies of this Order to all relevant parties within seven (7) days of hereof per the Rules of Court.

  
\_\_\_\_\_  
HONORABLE JOHN C. PORTO, J.S.C.

**SURENIAN, EDWARDS & NOLAN, LLC**

311 Broadway, Suite A

Point Pleasant Beach, NJ 08742

(732) 612-3100

Attorneys for Declaratory Plaintiff, Borough of Stone Harbor

By: Jeffrey R. Surenian (Attorney ID: 024231983)

Nancy L. Holm (Attorney ID: 013442006)

**FILED**

JUL 19 2021

**JOHN C. PORTO, J.S.C.**

**IN THE MATTER OF THE  
APPLICATION OF THE BOROUGH OF  
STONE HARBOR, COUNTY OF CAPE  
MAY**

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION  
CAPE MAY COUNTY

DOCKET NO.: CPM-L-351-15

CIVIL ACTION – *MOUNT LAUREL*

**ORDER OF CONDITIONAL JUDGMENT  
OF COMPLIANCE AND REPOSE**

**THIS MATTER** having been opened to the Court by Surenian, Edwards & Nolan, LLC, on behalf of declaratory plaintiff, Borough of Stone Harbor (hereinafter “the Borough” or “Stone Harbor”) via a Declaratory Judgment Complaint filed on June 30, 2015, to approve the Borough’s Housing Element and Fair Share Plan (hereinafter “Fair Share Plan”) in response to In Re Adoption of N.J.A.C. 5:96, 221 N.J. 1 (2015) (“Mount Laurel IV”); and the Court having granted the Borough temporary immunity from Mount Laurel lawsuits from the time of the filing of the Borough’s Declaratory Judgment action (hereinafter “DJ Action”); and FSHC having participated in the Borough’s DJ Action as an “interested party”; and the Borough and FSHC having entered into a Settlement Agreement on December 6, 2017 (hereinafter the “FSHC Settlement Agreement”); and said FSHC Settlement Agreement having granted FSHC Intervenor status and set agreed upon fair share obligations and how the Borough would satisfy same; and the FSHC Settlement Agreement having been approved during a Fairness Hearing held on January 3, 2018, which was memorialized by an Order entered by the Court on January 23, 2018; and the Borough and FSHC having subsequently prepared and entered into an amendment to the

FSHC Settlement Agreement (Exhibit P-4) and same being fully executed on March 3, 2021 (“First Amendment”); and the Borough having subsequently prepared a May 18, 2021 Housing Element and Fair Share Plan (hereinafter “Fair Share Plan”) (Exhibit P-1), and supporting documentation in accordance with the FSHC Settlement Agreement and the First Amendment; and a Joint Fairness and Compliance Hearing having been scheduled for June 23, 2021, to review the Borough’s Fair Share Plan and the First Amendment; and said Fair Share Plan and First Amendment having been put on file for public review at Borough Hall more than 30 days prior to the scheduled Joint Fairness and Compliance Hearing date of June 23, 2021; and counsel for the Borough having prepared a Notice Certification (Exhibit P-23), to document that proper 30-day notice of the Joint Fairness and Compliance Hearing had been given; and the Fair Share Plan, as well as other additional documents, resolutions, and ordinances having been submitted to the Court Master and FSHC for review; and the Borough having received no objections to the Amended FSHC Settlement Agreement or the Fair Share Plan; and the Joint Fairness and Compliance Hearing having been held on June 23, 2021, during which Exhibits P-1 to P-23, with the exception of P-22, were marked into evidence; and the Court having heard testimony from Paul Kates, PE, PP, CME, CFM, regarding whether the First Amendment was fair and reasonable to low- and moderate-income households; and, in light of no objections, Fair Share Housing Center and the Borough having agreed that no testimony was needed to determine that the Borough’s Housing Element and Fair Share Plan creates a realistic opportunity for the construction of low- and moderate-income housing; and the Court having considered the testimony, exhibits, recommendations of the Court Master, and the arguments of counsel; and the Court having reviewed all of the documents submitted into evidence prior to and during the Joint Fairness and Compliance Hearing; and for good cause having been shown;

It is hereby ordered on this 19<sup>th</sup> day of July, 2021, as follows:

1. The Court finds the First Amendment entered into between the Borough and FSHC on March 3, 2021, fair, and that it reasonably protects the interests of the low- and moderate-income protected class in accordance with the criteria set forth in Morris County Fair Housing Council v. Boonton Twp., 197 N.J. Super. 359 (Law Div. 1984), aff'd o.b. 209 N.J. Super. 108 (App. Div. 1986), and East/West Venture v. Boro. of Fort Lee, 286 N.J. Super. 311 (App. Div. 1996).

2. Subject to the satisfaction of the Conditions in Paragraph 10 of this Order, the Borough of Stone Harbor's First Amendment (Exhibit P-4), as well as the Fair Share Plan (Exhibit P-1), is hereby approved and the Borough is granted a Conditional Judgment of Compliance and Repose as to its Rehabilitation Share, its Prior Round Obligation (1987-1999), and its Third Round Obligation (the last comprised of both the Gap (1999-2015) and the Prospective (2015-2025) Needs), pursuant to the First Amendment entered into between the Borough and FSHC on March 3, 2021, the Fair Housing Act (N.J.S.A. 52:27D-301, et. seq.) ("FHA"), the Uniform Housing Affordability Controls (N.J.A.C. 5:80-26.1, et seq.) ("UHAC"), applicable Council on Affordable Housing (hereinafter "COAH") substantive rules, and Mount Laurel case law, including the New Jersey Supreme Court's Mount Laurel IV decision.

3. The Borough's Judgment of Compliance and Repose shall remain in effect for ten (10) years beginning on July 2, 2015 and ending on July 2, 2025, and during this ten (10) year period, the Borough shall have repose from all Mount Laurel lawsuits, including, but not limited to, Builder's Remedy lawsuits, except for actions brought to enforce the terms of this Order or the FSHC Settlement Agreement and First Amendment.

4. As per the Court approved FSHC Settlement Agreement and First Amendment between the Borough and FSHC, and as established in the Borough's Fair Share Plan, the Borough's Rehabilitation Obligation is 3, the Borough's Prior Round Obligation (1987-1999) is

141, and the Borough's Third Round Obligation (Gap (1999-2015) plus Prospective (2015-2025) Needs) is 102.

5. The Borough will address its 3-unit Rehabilitation Obligation by participating in the Administration of an Owner Occupied and Rental Rehabilitation Program, administered by TRIAD Associates (Exhibit P-20).

6. Due to its lack of vacant, developable land, the Borough's affordable housing planner initially performed a vacant land analysis and determined that the Borough has a combined Prior Round (1987-1999) and Gap + Prospective Need (1999-2025) Realistic Development Potential ("RDP") of zero, which left an "unmet need" of 243 units. The Borough's RDP of zero was approved at the January 3, 2018 Fairness Hearing in this matter (Exhibit P-14). However, in 2020, the Sisters, Servants of the Immaculate Heart of Mary, brought a subdivision application to the Borough's Zoning Board of Adjustment regarding its retreat center, Villa Maria by the Sea, which included an application to rebuild the retreat center and convert 2.2 acres of its parcel into thirteen (13) lots for single-family, detached housing, which created a recalculated RDP of three (3) units, leaving an "unmet need" of 240 units.

7. Satisfaction of RDP: the Borough has purchased a Triplex located at 10206 Third Avenue, Block 102.30, Lots 115, 116 and will be converting the property into three affordable family rental units as follows:

- a. A three-bedroom unit will be converted and deed restricted as a low-income family non-age-restricted rental unit with a veteran's preference that shall be in accordance N.J.S.A. 52:27D-311j.
- b. One two-bedroom unit will be converted and deed restricted as a moderate-income family non-age-restricted rental, and the other two-bedroom unit will be converted and deed restricted as a very-low-income family non-age-restricted rental.
- c. The units will be subject to an at least thirty-year deed restriction, in accordance with UHAC, N.J.A.C. 5:80-26.11, which shall not expire and may be extended by the Borough at its sole discretion after at least thirty years.

Stone Harbor shall provide FSHC with a copy of the recorded deed restrictions for the units by December 31, 2021.

- d. One of the two-bedroom units is occupied by an existing tenant who may be low- or moderate-income. The at least thirty-year period of affordability will not begin to run for said unit until the existing tenant exits the unit currently being rented and a new income-eligible household is selected and occupies the unit after affirmative marketing in accordance with UHAC and Stone Harbor's affirmative marketing plan (Exhibit P-10). If the current tenant is deemed by Stone Harbor's administrative agent to qualify as a low or moderate-income household, she can also qualify for moving/security deposit/rental assistance under the Borough's affordability assistance program to assist her in moving to a new residence.

8. Satisfaction of "unmet need": The Borough will address its combined remaining Prior Round, Gap + Prospective Need (1999-2025) "unmet need" of 240 units through the following mechanisms, which have been adopted by the Borough:

- a. The affordable housing overlay of the BD zone remains in place, with additional language changes set forth in the Borough's Affordable Housing Ordinance, allowing for two stories of residential development over commercial in the district with a 20% set-aside (Exhibit P-7).
- b. A Mandatory Set-Aside Ordinance ("MSO"), which requires for all new residential or mixed-use developments producing five (5) or more residential units to provide a twenty percent (20%) affordable housing set-aside for for-sale units and a fifteen percent (15%) set-aside for rental units. This language is included in the Borough's Affordable Housing Ordinance (Exhibit P-7).
- c. A Development Fee Ordinance which the Council on Affordable Housing approved on October 31, 2008. It states that the Development Fee Ordinance ("DFO") for the Borough is approved by Resolution and that the Borough may not expend any funds until a Spending Plan has been adopted and approved (Exhibit P-9).
- d. A 10-unit accessory apartment program that shall be administered in accordance with the FSHC Settlement Agreement and the Accessory Apartment Policies and Procedures Manual (Exhibit P-15).

9. The Borough's adopted Affordable Housing Ordinance (Exhibit P-7) and the Draft Amendment to the Affordable Housing Ordinance (Exhibit P-8), are hereby approved by the Court, subject to the condition set forth in Paragraph 10(b).