

**RESOLUTION
BOROUGH OF NETCONG
PLANNING BOARD
HOUSING ELEMENT AND FAIR SHARE PLAN
2025 (FOURTH ROUND)
DECIDED ON JUNE 23, 2025
MEMORIALIZED ON JUNE 23, 2025**

WHEREAS, in a landmark decision in Southern Burlington County N.A.A.C.P. v. Mount Laurel Tp., 67 NJ 151 (1975) (Mount Laurel I), the New Jersey Supreme Court ruled that developing municipalities have a constitutional obligation to provide a variety in choice of housing types affordable to low- and moderate-income households; and

WHEREAS, in Southern Burlington County N.A.A.C.P. v. Mount Laurel Tp., 92 NJ 158 (1983) (Mount Laurel II), the New Jersey Supreme Court extended the regional fair share obligation to all municipalities with any growth area as designated in the New Jersey State Development Guide Plan ("NJDC 1978") and determined that each municipality would have to establish its fair share obligation and provide zoning strategies to create a realistic opportunity for fulfillment of the fair share obligation; and

WHEREAS, in 1985 the New Jersey legislature enacted the Fair Housing Act in response to Mount Laurel II. The Fair Housing Act created the Council on Affordable Housing ("COAH") as an administrative alternative to compliance in a court proceeding. Under the enabling legislation, COAH had primary jurisdiction over affordable housing in New Jersey. COAH created a process for the review and approval of appropriate Housing Elements and Fair Share Plans. Approval of a municipal Housing Element and Fair Share Plan by COAH was referred to as substantive certification and it provided protection from builder's remedy litigation during the period within which it was addressed by the Housing Element and Fair Share Plan; and

WHEREAS, the New Jersey Supreme Court issued a Decision and Order on March 10, 2015, In Re Adoption of N.J.A.C. 5:96 & 5:97 by the Council on Affordable Housing, 221 N.J. 1 (2015) (Mount Laurel IV), wherein the Court held that because COAH failed to adopt amended Third Round Rules, constitutional compliance cannot be evaluated under COAH's jurisdiction which thereby rendered the FHA's exhaustion of administration remedies futile; and

WHEREAS, the New Jersey Supreme Court in Mount Laurel IV ordered that the Courts may resume their role as the forum of first instance for evaluating compliance with Mount Laurel obligations; and

WHEREAS, municipalities were required to apply to the Superior Court with a Declaratory Judgment action if a municipality wished to be protected from exclusionary zoning litigation, including builders' remedy lawsuits. The trial judges, with the assistance of an appointed Special Adjudicator to the Court, reviewed municipal housing plans much in the same manner as COAH previously did; and

WHEREAS, in accordance with Mount Laurel IV, the Borough of Netcong ("Borough" or "Netcong") filed a Declaratory Judgment action with the Court on July 2, 2015 seeking immunity from builders' remedy litigation and a Judgment of Compliance and Repose; and

WHEREAS, on September 29, 2016, the Honorable Stephen L. Hansbury, P.J. Ch. issued an Order granting Third Round Substantive Certification to Netcong; and

WHEREAS, in 2024 the New Jersey Legislature amended the New Jersey Fair Housing Act ("FHA"), N.J.S.A. 52:27D-301 et seq. through the adoption of P.L. 2024, c.2 ("FHA"); and

WHEREAS, P.L. 2024, c. 2 abolished COAH, created the Affordable Housing Dispute Resolution Program (Program) and established new procedures and deadlines for municipalities to come into compliance with the FHA and the *Mount Laurel* doctrine for each future ten-year

affordable housing round beginning with the Fourth Round, which starts on July 1, 2025 and ends on June 30, 2035; and

WHEREAS, in December 2024 the Administrative Office of the Courts issued Directive #14-24, which sets forth additional procedures all municipalities must follow to be in compliance with the FHA in order to maintain immunity from exclusionary zoning and builder's remedy litigation through the Program process set forth in P.L. 2024, c.2; and

WHEREAS, Directive #14-24 and P.L. 2024, c. 2, requires each municipality to adopt a binding resolution setting forth its Fourth-Round present and prospective need obligations and to file a Declaratory Judgment action with the Program through the New Jersey e-courts system by no later than February 3, 2025, and thereafter each municipality must adopt a Fourth Round Housing Element and Fair Share Plan and file same with the Program on or before June 30, 2025; and

WHEREAS, in compliance with P.L. 2024, c. 2 and Directive #14-24, the Borough of Netcong on January 30, 2025, adopted Resolution Number 2025-25 setting forth the Borough's affordable housing obligations for the Fourth Round with a present need of 24 units and a prospective need of 47 units. Netcong filed the Resolution and a declaratory judgment action with the Superior Court, which is entitled In the Matter of Netcong Borough, Docket No.: MRS-L-000312-25 (Borough's "2025 Action"); and

WHEREAS, Netcong's Fourth Round obligation as stated in the Resolution was a correction to the calculation of the prospective need of 50 units as set forth by the New Jersey Department of Community Affairs ("DCA") in Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background released on or about October 18, 2024 (hereinafter the "DCA Report"); and

WHEREAS, Netcong's submission received objections from the New Jersey Builders' Association ("NJBA"). Thereafter, mediation and a settlement conference among Netcong and NJBA as well as the Honorable Stephen C. Hansbury, J.S.C. (Ret.) was held on March 27, 2025. Netcong and NJBA settled the Borough's prospective need Fourth Round obligation at 48 affordable units and Fair Share Housing Center ("FSHC") did not object to the settlement. The Honorable Stephen C. Hansbury, J.S.C., (Ret.) entered a Court Order on March 27, 2025; and

WHEREAS, on May 2, 2025 Morris County Mount Laurel Judge, the Honorable Janine M. Allen, J.S.C., issued an Order in the Borough's 2025 Action fixing the Borough's Fourth Round Present Need Obligation at 24 affordable units and the Prospective Need Obligation at 48 affordable units and which Order directs the Borough to adopt its Fourth Round Housing Element and Fair Share Plan and upload same to the Program on or before June 30, 2025; and

NOW, THEREFORE, the Borough of Netcong Planning Board (the "Planning Board") does make the following findings of fact and conclusions of law:

1. A Fourth Round Housing Plan Element and Fair Share Plan titled "Fourth Round Housing Element and Fair Share Plan, Borough of Netcong, New Jersey" was prepared by Elizabeth C. Leheny, P.P., Phillips Preiss Grygiel Leheny Keller, LLC.

2. The Planning Board in accordance with the Municipal Land Use Law (MLUL) pursuant to N.J.S.A. 40:55D-13 and N.J.S.A. 40:55D-28 upon notice to the public conducted a public hearing on June 23, 2025 in regard to the HEFSP and the HEFSP was presented to the Planning Board and to the public by the Board Planner, Elizabeth C. Leheny, P.P.

3. On September 29, 2009, COAH issued a compliance report recommending Netcong's Petition for Third Round Substantive Certification. Netcong filed a declaratory judgment action in the Superior Court under Docket Number MRS-L-1766-15. On September 20,

2016, the Honorable Stephen C. Hansbury, P.J.Ch. entered an Order granting Third Round Substantive Certification to the Borough of Netcong.

4. The DCA calculated a municipal Fourth Round Affordable Housing Obligation for 2025-2035 (fourth round) Methodology and Background, released on or about October 18, 2024. This DCA Report calculated a Fourth Round present need obligation of 24 units for Netcong and a prospective need obligation of 50 affordable units. Netcong submitted a corrected prospective need obligation of 47 units with its January 30, 2025 Resolution committing to an obligation and submission of a housing plan. Subsequent to mediation and a settlement conference, Netcong settled with NJBA on the Fourth Round obligation. Netcong's Fourth Round obligation, also referred to as the prospective need is 48 units. This obligation is defined as the new construction obligation for 2025-2035. The Special Adjudicator has recommended acceptance of the settlement. The settlement was approved on March 27, 2025 by the Honorable Stephen C. Hansbury, J.S.C. (Ret.) via an Order establishing the Fourth Round prospective need obligation of 48 units.

5. The Honorable Janine M. Allen, J.S.C. entered an Order on May 2, 2025 setting the present need obligation at twenty-four (24) units and the prospective need obligation was fixed at forty-eight (48) affordable units in the Fourth Round.

6. The Planning Board also incorporates by reference and makes a part hereof the 2025 Fourth Round Housing Element and Fair Share Plan for the Borough of Netcong and prepared by Elizabeth Leheny, P.P. of Phillips Preiss Grygiel Leheny Keller, LLC.

7. **NOW, THEREFORE, BE IT RESOLVED** that the Planning Board of the Borough of Netcong has reviewed the 2025 Fourth Round Housing Element and Fair Share Plan for the Borough of Netcong Borough, Morris County, New Jersey and prepared by Elizabeth Leheny, P.P. of Phillips Preiss Grygiel Leheny Keller, LLC, and has determined that the HEFSP is

consistent with the goals and objectives of the Borough of Netcong's Master Plan. The Planning Board finds that the present need and prospective need calculation for the number of affordable housing units as proposed serves the interest of low- and moderate-income households in accordance with the Mount Laurel Doctrine and the Fair Housing Act. The Planning Board also incorporates by reference and makes a part hereof the 2025 Fourth Round Housing Element and Fair Share Plan. The Planning Board hereby adopts the 2025 Fourth Round Housing Element and Fair Share Plan as an amendment to the Borough of Netcong's Master Plan and as a part of a Master Plan approval process in accordance with the requirements of the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-13 and N.J.S.A. 40:55D-28 and in accordance with the Fair Housing Act, N.J.S.A. 52:27D-310.

NOW, THEREFORE, BE IT FURTHER RESOLVED, by the Planning Board of the Borough of Netcong on this 23th day of June, 2025 that the action of the Planning Board taken on June 23, 2025 in adopting the 2025 Housing Element and Fair Share Plan prepared by Elizabeth Leheny, P.P. of Phillips Preiss Grygiel Leheny Keller, LLC which HESP is incorporated herein by reference and made a part hereof and pursuant to the MLUL under N.J.S.A. 40:55D-13 and N.J.S.A. 40:55D-28 and pursuant to N.J.S.A. 40:55D-10(g) the Resolution is hereby memorialized.

**Motion to Adopt and Approve Housing Element and Fair Share Plan
As An Amendment to The Borough of Netcong Master Plan
And Memorialization of the Resolution
June 23, 2025**

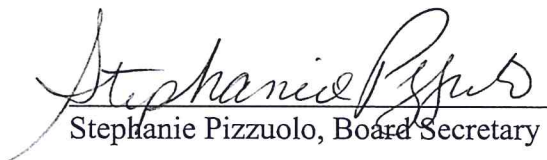
Motion Introduced By:

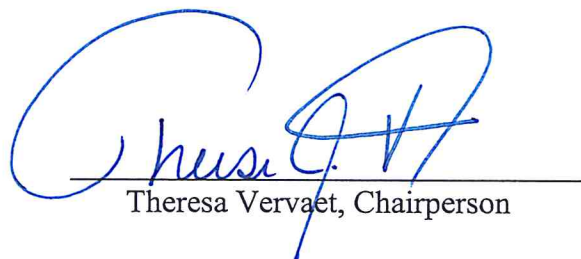
Motion Seconded By:

In Favor:

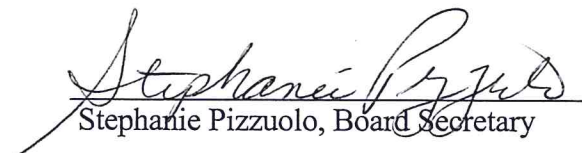
Opposed:

Borough of Netcong Planning Board


Stephanie Pizzuolo, Board Secretary


Theresa Vervae, Chairperson

The undersigned secretary certifies that the within Resolution was adopted by the Borough of Netcong Planning Board on June 23, 2025 and memorialized herein pursuant to N.J.S.A 40:55D-10(g) on June 23, 2025.


Stephanie Pizzuolo, Board Secretary

