

**RESOLUTION  
BOROUGH OF NETCONG  
PLANNING BOARD  
AMENDED FOURTH ROUND HOUSING ELEMENT  
AND FAIR SHARE PLAN  
DECIDED ON MARCH 11, 2026  
MEMORIALIZED ON MARCH 11, 2026**

**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

**WHEREAS**, the Borough's 2025 HEFSP was then challenged by Fair Share Housing Center ("FSHC") on August 31, 2025 pursuant to N.J.S.A. 52:27D-304.1 (f)(2)(b). The Borough and FSHC in December 2025 then agreed to settle the litigation and to present an agreement to the Program and the Court. The Borough executed a Settlement Agreement with FSHC on December 18, 2025.

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

1. An Amended Fourth Round Housing Element and Fair Share Plan titled “Amended 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 and dated March 2026.

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 March 11, 2026, in regard to the Amended HEFSP and the Amended 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 Borough's 2025 HEFSP was then challenged by Fair Share Housing Center ("FSHC") on August 31, 2025, pursuant to N.J.S.A. 52:27D-304.1 (f)(2)(b). The Borough and FSHC in December 2025 then agreed to settle the litigation and to present an agreement to the Program and the Court with jurisdiction over this matter to review, recognizing that the settlement of Mount Laurel litigation is favored because it ends delays and the expense of trial and results more quickly in the construction of homes for very-low-, low-and moderate-income households. The Borough executed a Settlement Agreement with FSHC on December 18, 2025. That Settlement Agreement established the Borough's affordable housing obligation and mechanisms to satisfy the obligation, which notably included a vacant land adjustment. As such, this Amended HEFSP has been prepared to be consistent with the Settlement Agreement reached with FSHC dated December 15, 2025, and to set forth the Borough's plans to address its 2025-2035 obligation to provide its fair share of the regional need for affordable housing.

7. Ms. Leheny testified that the Borough's Present Need or Rehabilitation Obligation is 24, the Borough's Prior Round Obligation (1987-1999) is 0, the Borough's Third Round Obligation (1999-2025) is 36 units, the Borough's Fourth Round Prospective Need (2025-2035) is 48 units.

8. Ms. Leheny represented that the Borough will address its Fourt Round Present Need of 24 units via participation in the Morris County Rehabilitation Program and will provide funds from the Borough's Affordable Housing Trust Fund if deemed necessary to supplement the County Program funds.

9. The Borough's Third Round Obligation is 36 which shall be addressed with the following mechanism:

Project	Tenancy	Total Affordable Units	THIRD ROUND		Status
			Affordable Units to Meet Third Round	Bonus Credits to Meet Third Round	
Crown Walk/2 Flanders	Family Rentals	8	8	8	Complete
Crown Point/34 Bank	Family Rentals	13	9	1	Complete
Allen Hill Manor	Family Rental	1	1	-	Approved
St. Michael's/ Mountain View at Netcong	Senior Rental	12	9 <sup>1</sup>	-	Approved
			27	9 <sup>2</sup>	
			38 Credits to Third Round Obligation of 36 Units		

<sup>1</sup>Number of age-restricted units to address Third Round is limited to 25 percent of obligation (i.e., 25% of 36 or 9).

<sup>2</sup>Limited to 25 percent of obligation.

10. The Borough's Fourth Round Prospective Need Obligation is 48 units, but the Borough claimed a Vacant Land Adjustment ("VLA"), yielding a Fourth Round RDP of 10 units and a Fourth Round Unmet Need of 38 units.

11. Ms. Leheny testified that the Borough would satisfy its Fourth Round RDP of 10 units with the following mechanisms:

Project	Tenancy	Total Affordable Units	FOURTH ROUND		Status
			Affordable Units to Meet Fourth Round	Bonus Credits to Meet Fourth Round	
Crown Point/34 Bank	Family Rentals	13	4	2 <sup>1</sup>	Complete
St. Michael's/	Senior Rental	12	3		Approved

Mountain View at Netcong					
Block 15 Redevelopment	Family Rental	8	8	0.5 <sup>1</sup>	Approved
			15	2.5 <sup>2</sup>	
		Total	17.5 Credits to Fourth Round RDP of 10 Units		

<sup>1</sup>Each unit is eligible for a 0.5 bonus credit because the project is within a half mile of a NJ Transit railroad station.

<sup>2</sup>Limited to 25 percent of obligation

12. Ms. Leheny testified that the Borough's Fourth Round RDP of 10 units results in a Round Unmet Need of 38 units. The Borough proposes to address its Unmet Need obligation with the following mechanisms:

a. The Borough has an unmet need of 38 units and the Borough will address 25 percent of the 38-unit unmet need or 9.5 units through projects that are likely to redevelop the Fourth Round. The Borough will apply 7.5 credits in excess of its 10-unit RDP towards unmet need obligation.

b. The Borough will address the remainder of its unmet need through amending the Station Area Redevelopment Plan to allow for greater density and provide affordable units in excess of the 2 credits needed to address the Borough's remaining unmet need.

13. The Planning Board therefore finds the Amended Fourth Round Housing Element and Fair Share Plan recognizes the need to encourage development and redevelopment on the limited developable land in the Borough, while also prioritizing the protection of its natural resources and maintaining the character of the area. The Planning Board finds the Amended HEFSP promotes strategic and smart planning for compact forms of housing and mixed-use development in appropriate locations served by existing infrastructure and proximate to transit, stores and services, and is therefore consistent with the State Plan.

14. The Planning Board also incorporates by reference and makes a part hereof the Amended 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 dated March 2026.

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Board of the Borough of Netcong has reviewed the Amended 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 dated March 2026, 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 Amended Fourth Round Housing Element and Fair Share Plan. The Planning Board hereby adopts the Amended Fourth Round Housing Element and Fair Share Plan as an amendment to the Borough of Netcong's Master Plan and as a part of the 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 11<sup>th</sup> day of March 2026, that the action of the Planning Board taken on March 11, 2026 in adopting the Amended Fourth Round Housing Element and Fair Share Plan prepared by Elizabeth Leheny, P.P. of Phillips Preiss Grygiel Leheny Keller, LLC dated March 2026 which Amended 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 The Amended Fourth Round  
Housing Element and Fair Share Plan As An Amendment  
to The Borough of Netcong Master Plan  
And Memorialization of the Resolution  
March 11, 2026**

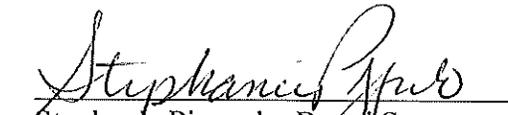
Motion Introduced By: Kelly Stephens.

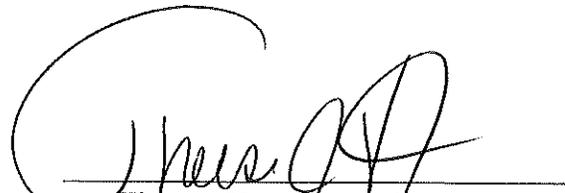
Motion Seconded By: Mayor Elmer Still.

In Favor: Mayor Elmer Still, Wayne Anthony, Joseph Nametko, Kelly Stephens, Brett Conrads,  
Kate Koeberl-Trackim, Theresa Vervaet.

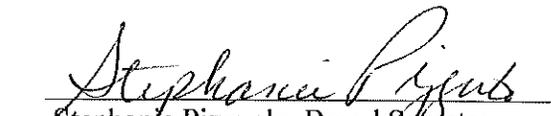
Opposed: None.

Borough of Netcong Planning Board

  
Stephanie Pizzuolo, Board Secretary

  
Theresa Vervaet, Chairperson

The undersigned secretary certifies that the within Resolution was adopted by the Borough of Netcong Planning Board on March 11, 2026, and memorialized herein pursuant to N.J.S.A 40:55D-10(g) on March 11, 2026.

  
Stephanie Pizzuolo, Board Secretary