

RESOLUTION NO. 25-09
TOWNSHIP OF PENNSVILLE PLANNING BOARD
RESOLUTION OF THE PLANNING BOARD OF THE TOWNSHIP OF PENNSVILLE,
SALEM COUNTY, NEW JERSEY MEMORIALIZING THE ADOPTION OF THE
FOURTH ROUND HOUSING ELEMENT AND FAIR SHARE PLAN OF THE
TOWNSHIP OF PENNSVILLE MASTER PLAN

WHEREAS, the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. (the “MLUL”) authorizes the Municipal Planning Board to adopt and subsequently amend the municipalities Master Plan by following the procedures set forth in the MLUL; and,

WHEREAS, one component of the Master Plan is the Housing Element and Fair Share Plan (“HEFSP”); and,

WHEREAS, the Planning Board of the Township of Pennsville, Salem County, previously adopted a Third Round HEFSP on July 10, 2017 pursuant to the MLUL, the Fair Housing Act (“FHA”) at N.J.S.A. 52:27D-310 and the court-upheld Council on Affordable Housing (“COAH”) regulations at N.J.A.C. 5:93 et seq.; and,

WHEREAS, pursuant to the NJ Supreme Court’s March 10, 2015 decision 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”) and pursuant to N.J.S.A. 52:27D-313, the Township filed a Third Round Declaratory Judgment (“DJ”) action seeking to have its Third Round HEFSP found constitutionally compliant; and,

WHEREAS, the New Jersey Superior Court approved the Township’s 2017 Third Round HEFSP and issued a Third Round Judgment of Compliance and Repose (“JOR”), dated December 19, 2017, which provided Pennsville Township Third Round immunity from builder remedy lawsuits through July 1, 2025; and,

WHEREAS, in March of 2024, an amendment to the New Jersey’s Fair Housing Act, P.L. 2024,c2 was signed into law (hereafter the “Amended FHA”); and,

WHEREAS, in addition to the Amended FHA, the Acting Administrative Director of the Administrative Office of the Courts issued Directive #14-24, dated December 13, 2024 (“Administrative Directive #14-24”); and,

WHEREAS, the Amended FHA and the Administrative Directive #14-24 establishes a procedure by which municipalities can secure approval of a HEFSP; and,

WHEREAS, that procedure contemplated that the municipality would adopt a resolution by January 31, 2025 committing to a Fourth Round fair share number and filing a declaratory relief action within forty-eight (48) hours of adoption of said resolution, and then file a Fourth Round HEFSP by June 30, 2025; and,

WHEREAS, the Township adopted a resolution by January 31, 2025 committing to a fair share number and the Township thereafter filed a declaratory relief action with the Affordable Housing Dispute Resolution Program ("Program") and in Superior Court of New Jersey within forty-eight (48) hours from adoption of resolution, seeking protection and repose against exclusionary zoning litigation for a ten (10) year period (July 1, 2025 to June 30, 2035); and,

WHEREAS, no objections were filed challenging the Township's calculations provided for in the Township's adopted January 16, 2025 binding resolution; and,

WHEREAS, pursuant to Administrative Directive #14-24, "After the entry of an order determining present and prospective fair share obligations, the municipality must file with the Program its adopted housing element and fair share plan ... within 48 hours after adoption or by June 30, 2025, whichever is sooner."; and,

WHEREAS, a Superior Court Order, dated April 28, 2025, was issued which determined the Township's Fourth Round Present Need or Rehabilitation Obligation of 69 and the Township's Fourth Round Prospective Need Obligation of 46; and,

WHEREAS, the Amended FHA provides that "All parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by COAH unless those regulations are contradicted by statute, including P.L. 2024, c.2, or binding court decisions" (N.J.S.A. 52:27D-311(m)); and,

WHEREAS, it is now the Township of Pennsville Planning Board's statutory obligation to review and adopt a Fourth Round HEFSP which can be filed with the New Jersey Superior Court of New Jersey and Program; and,

WHEREAS, accordingly the Township of Pennsville Affordable Housing Planning Consultant, Mary Beth Lonergan, P.P., A.I.C.P, of Clarke, Caton and Hintz, has prepared a Fourth Round HEFSP, dated May 29, 2025, to address the Township of Pennsville's Affordable Housing obligation under the Amended FHA (the "Fourth Round HEFSP"); and,

WHEREAS, according to the provisions of N.J.S.A. 40:55D-13 of the MLUL, the Township of Pennsville Planning Board scheduled a public hearing for the review and adoption of the Fourth Round HEFSP for June 9, 2025 at 6:30 p.m. at the Township of Pennsville Municipal Building; and,

WHEREAS, in accordance with provisions of N.J.S.A. 40:55D-13 of the MLUL, the Township of Pennsville Planning Board published a notice of this public hearing in the Township's official newspaper at least ten (10) days before the scheduled date of the public hearing and served a copy of said notice upon the clerks of all municipalities adjoining the Township and upon the Clerk of the County Planning Board and upon the New Jersey Office of Planning Advocacy; and,

WHEREAS, a copy of the Fourth Round HEFSP was placed on file with the Township of Pennsville Planning Board Secretary and Township of Pennsville Clerk and was available for public review at least ten (10) days before to the scheduled date of the public hearing; and,

WHEREAS, the Township of Pennsville Planning Board held a public hearing on the Fourth Round HEFSP on June 9, 2025; and,

WHEREAS, at the public hearing, Mary Beth Lonergan provided professional planning testimony regarding the Fourth Round HEFSP and members of the public were provided with an opportunity to ask questions and to provide comments about the HEFSP; and,

WHEREAS, the Township of Pennsville Planning Board, after carefully considering the evidence presented at the hearing, makes the following factual findings and conclusions of law:

- a. The Township of Pennsville Planning Board is empowered under the MLUL to adopt and/or amend the Township's Master Plan.

- b. A HEFSP is a component of the Township of Pennsville's Master Plan.
- c. The adoption of a HEFSP is a way for the Township of Pennsville to plan to address its affordable housing obligations under the Amended FHA and applicable case law.
- d. The Amended FHA establishes a procedure in which municipalities can secure approval of their HEFSP.
- e. In accordance with the procedures established by the Amended FHA, the Township of Pennsville adopted a resolution committing to an obligation before the January 31, 2025 deadline established by the Amended FHA and filed a declaratory relief action within 48 hours of the resolution seeking continued immunity and the opportunity to pursue approval of a Fourth Round HEFSP.
- f. The Township of Pennsville's affordable housing consultant, Mary Beth Lonergan, P.P., A.I.C.P., of Clarke, Caton and Hintz, has prepared the Township's Fourth Round HEFSP.
- g. The Township of Pennsville Planning Board scheduled a public hearing on the proposed Fourth Round HEFSP for June 9, 2025.
- h. The Township's Fourth Round HEFSP was placed on file with the Planning Board at least 10 days in advance of the public hearing and was available for public review.
- i. Notice of the June 9, 2025 public hearing was published in the Township of Pennsville's official newspaper at least 10 days in advance of the public hearing and a copy of this notice was served upon the clerks of the municipalities adjoining the Township of Pennsville, the clerk of the County Planning Board, and upon the New Jersey Office of Planning Advocacy.
- j. At the public hearing, testimony regarding the Township's Fourth Round HEFSP was provided by the Township of Pennsville's Professional Planner, Mary Beth Lonergan, who provided an outline of the State's affordable housing process and provided testimony,

both orally and through the Township's Fourth Round HEFSP, as to the Township of Pennsville's court-approved fair share Fourth Round obligation, its Court-approved durational adjustment due to limited public water and sewer system capacities, the existing Court-approved inclusionary sites within the Township of Pennsville, and proposed modifications to existing inclusionary sites that the Township of Pennsville is proposing to use to satisfy its affordable housing obligations.

- k. At the public hearing, the public was provided an opportunity to comment on the Township's Fourth Round HEFSP.
- l. The Township of Pennsville Planning Board finds that the Township's Fourth Round HEFSP is consistent with the goals and objectives of the Township of Pennsville Master Plan, that it will guide the use of the lands in the municipality in a manner which protects public health and safety and promotes the general welfare in accordance with N.J.S.A. 40:55D-28 of the MLUL, and that its adoption will achieve access to affordable housing to meet present and prospective housing needs in accordance with N.J.S.A. 52:27D-3:10 of the Amended FHA.
- m. The Township of Pennsville Planning Board also finds that the Township's Fourth Round HEFSP provides appropriate planning strategies in order to satisfy the Township of Pennsville's affordable housing obligations.
- n. The Township of Pennsville further recognizes that the adoption of the Township's Fourth Round HEFSP to address the Township of Pennsville's obligations on or before June 30, 2025 is necessary in order to comply with the Amended FHA and secure the benefits that accompany such compliance.

NOW, THEREFORE, BE IT RESOLVED, on this 9 day of June 2025, that the Planning Board of the Township of Pennsville hereby approves and adopts the Township's Fourth Round HEFSP which is attached hereto and incorporated herein; and,

BE IT FURTHER RESOLVED, that the Township's Fourth Round HEFSP supersedes and replaces any prior HEFSP; and,

BE IT FURTHER RESOLVED, that the Planning Board of the Township of Pennsville hereby directs its Board Attorney and Board Secretary to assist the Township of Pennsville Attorney to file this adopted resolution and this adopted Fourth Round HEFSP as part of the Township's Fourth Round Declaratory Judgment Action, Docket #SLM-L-13-25, in Salem County Superior Court and with the Program within 48 hours after adoption of this Fourth Round HEFSP via E-courts per Directive #14-24; and,

BE IT FURTHER RESOLVED, that this resolution and Township's Fourth Round HEFSP shall be forwarded to the Township of Pennsville Township Committee for endorsement by the Township; and,

BE IT FURTHER RESOLVED, that the Township of Pennsville Committee is authorized to pursue approval of the Township's Fourth Round HEFSP and submit such additional documents that may be necessary or desirable in an effort to secure such approval.

BE IT FINALLY RESOLVED, that a copy of this resolution with the adopted Township's Fourth Round HEFSP is to be forwarded to the Salem County Planning Board, and the New Jersey Office of Planning Advocacy, per the MLUL at N.J.S.A. 40:55D-13.

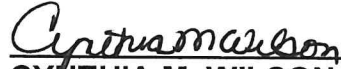
The undersigned, Chairperson of the Township of Pennsville Planning Board, does hereby certify that the above is a true copy of a Resolution adopted by the Board on June 9, 2025, to memorialize its action taken on said date.

Township of Pennsville Planning Board

BY: _____


SCOTT HOURIGAN, Chairperson

ATTEST:



CYNTHIA M. WILSON, Secretary

z:\my documents\client files - pennsville planning board\fair share housing\resolution to approve final.docq