

**TOWNSHIP OF CHATHAM PLANNING BOARD
RESOLUTION NO. PB 25-12**

**RESOLUTION OF THE TOWNSHIP OF CHATHAM PLANNING BOARD
ADOPTING THE TOWNSHIP'S FOURTH ROUND HOUSING ELEMENT AND FAIR
SHARE PLAN**

WHEREAS, the New Jersey Supreme Court declared that the discriminatory use of zoning powers was illegal and provided, as a matter of constitutional law, that each developing 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, of course including those of low and moderate income,” In Re Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1, 6 (2015) (“**Mount Laurel IV**”), citing S. Burlington County NAACP v. Township of Mount Laurel (“**Mount Laurel I**”), 67 N.J. 151, 179, 187, appeal dismissed and cert. denied, 423 U.S. 808, 96 S. Ct. 18, 46 L. Ed. 2d 28 (1975), and that this constitutional obligation requires that towns must provide “a realistic opportunity for the construction of [their] fair share of the present and prospective regional need for low and moderate income housing,” Id., citing S. Burlington County NAACP v. Township of Mount Laurel (“**Mount Laurel II**”), 92 N.J. 158, 205 (1983), (together with Mount Laurel I, the “**Mount Laurel Doctrine**”); and

WHEREAS, pursuant to Mount Laurel IV, the Township of Chatham (the “**Township**”) filed a declaratory judgment action on July 6, 2015, entitled “In the Matter of the Application of the Township of Chatham” Docket No. MRS-L-1659-15, seeking a judicial declaration that its Housing Element and Fair Share Plan (“**Third Round HEFSP**”) satisfied the “fair share” of the regional need for very low - low- and moderate-income housing, pursuant to the Mount Laurel Doctrine; and

WHEREAS, that culminated in an amended settlement agreement with Fair Share Housing Center (“**FSHC**”) on July 23, 2020 (incorporating prior Settlements between FSHC and the Township, dated December 13, 2018 and January 10, 2019); and

WHEREAS, on October 25, 2021, the Court entered a Final Judgment of Compliance and Repose, granting the Township immunity from Builder’s Remedy lawsuits until July 1, 2025; and

WHEREAS, on March 20, 2024, Governor Murphy signed P.L.2024, c.2. (hereinafter “**A4**”) into law, amending the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 to -329 (the “**Act**”) and establishing a new framework for determining and enforcing municipalities’ affordable housing obligations under the Mount Laurel doctrine for the years 2025 – 2035 (the “**Fourth Round**”); and

WHEREAS, A4 required the New Jersey Department of Community Affairs (the “**DCA**”) to produce non-binding estimates of need for present and prospective need for very low-, low- and moderate- income housing in each municipality for the Fourth Round on or before October 20, 2024; and

WHEREAS, on October 18, 2024, in furtherance of such requirement, the DCA issued a report entitled "Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background" (the "**DCA Report**") which report established the final calculation and obligations for each municipality in New Jersey, including the Township; and

WHEREAS, the DCA Report calculated the Township's Fourth Round obligation as follows: a Present Need or Rehabilitation Obligation of 30 and a Prospective Need or New Construction Obligation of 156; and

WHEREAS, on January 28, 2025, the Townships Council adopted Resolution No. 2025-062 (the "**Binding Resolution**"), accepting the "present need" but seeking a downward deviation from "prospective need" obligation as set forth in the DCA Report to a "prospective need" of 141 units based on the Township's planners' recommendation; and

WHEREAS, pursuant to the Administrative Directive #14-24, dated December 13, 2024 (the "**Directive**"), implementing the Affordable Housing Dispute Resolution Program (the "**Program**") on January 30, 2025, the Township filed a declaratory judgment action in the Superior Court of Morris County, bearing Docket No. MRS-L-275-25 (the "**Declaratory Judgment Action**"); and

WHEREAS, the filing of the Declaratory Judgment Action, in accordance with the Act and the Directive, gave the Township continued immunity from Builder's Remedy lawsuits, which continues to be in full force and effect; and

WHEREAS, The New Jersey Builders Association filed a challenge to the Declaratory Judgment Action as an interested party, disputing the Township's calculation of its prospective need; and

WHEREAS, on May 15, 2025, the Honorable Janine M. Allen, J.S.C., the designated Mount Laurel Judge for the Morris Vicinage, entered an order setting the Township's Present Need Obligation as 30 and the Prospective Need Obligation as 141, as set forth in the Binding Resolution; and

WHEREAS, the Township engaged Kendra Lelie, PP/AICP, LLA of Kyle + McManus Associates (the "**Township Planner**") to prepare a Housing Element and Fair Share Plan for the Fourth Round (the "**Fourth Round HEFSP**") consistent with the obligation set forth in the Binding Resolution; and

WHEREAS, in accordance with the Act and the Binding Resolution, the Township Planner has prepared the Fourth Round HEFSP, dated June, 2025, attached hereto, which addresses the Township's Present Need and Prospective Need Obligations for the Fourth Round; and

WHEREAS, pursuant to N.J.S.A. 40:55D-28, the Township of Chatham Planning Board is charged with the preparation and adoption of the Township's Master Plan, which includes the HEFSP; and

WHEREAS, on June 16, 2025, after providing notice in accordance with the Municipal Land Use Law, specifically N.J.S.A. 40:55D-13, the Township of Chatham Planning Board held a public hearing to review the Fourth Round HEFSP prepared by the Township Planner; and

WHEREAS, after review and consideration of the Fourth Round HEFSP and presentation by the Township Planner, the Township of Chatham Planning Board has determined it is consistent with the goals and objectives of the Township's current Master Plan, and further determined adoption of the same is in the best interest of the Township; and

WHEREAS, upon adoption of the Fourth Round HEFSP, the Township of Chatham Planning Board Secretary is hereby directed to transmit the same to the Clerk of the Township for consideration of endorsement by the Township Council.

NOW THEREFORE BE IT RESOLVED the Township of Chatham Planning Board, in the County of Morris, State of New Jersey, hereby adopts the Fourth Round Housing Element and Fair Share Plan, dated June, 2025, and attached hereto as Exhibit A.

I certify that the foregoing Resolution was duly adopted by the Township of Chatham Planning Board on June 16, 2025.



Secretary, Township of Chatham Planning Board