

**RESOLUTION 2025-062**

**RESOLUTION OF THE TOWNSHIP OF CHATHAM ESTABLISHING THE  
TOWNSHIP'S FOURTH ROUND PRESENT AND PROSPECTIVE AFFORDABLE  
HOUSING OBLIGATIONS**

**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 (“**3rd 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; 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 2, 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 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 ("**Present Need**") Obligation of 30 and a Prospective Need or New Construction Obligation ("**Prospective Need**") of 156; and

**WHEREAS**, the Township has determined to accept its Present Need Obligation of 30; and

**WHEREAS**, the Township's Affordable Housing Planner, Kendra Lelie, PP, AICP, LLA of Kyle + McManus Associates (the "**Affordable Housing Planner**") has reviewed the DCA Report, specifically the data utilized by the DCA to determine the Township's calculated share of the land capacity with regard to the determination of the Township's Prospective Need;

**WHEREAS**, the Affordable Housing Planner determined the DCA mapping was overinclusive and included properties in the calculation of the land capacity factor which are not developable, including properties located inside floodways and properties not suitable for development due to these parcels containing gas main easements, open space restrictions, wetlands, being not accessible or being already developed; and

**WHEREAS**, when these properties were removed from Township's weighted land area, the amount of developable space in the Township was adjusted from 12.2 acres to .26 acres, resulting in an adjustment of the Township's calculated share of the region's land capacity from .76% to .69%; and

**WHEREAS**, when this correction is made, the Township's Prospective Need Obligation is adjusted to 141 units; and

**WHEREAS**, upon the advice of its Affordable Housing Planner and other professionals, the Township accepts a Prospective Need Obligation of 141 units; and

**WHEREAS**, the Affordable Housing Planner produced a report summarizing her findings, which is attached hereto as Exhibit A; and

**WHEREAS**, Section 3 of A4 provides "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 A4; and

**WHEREAS**, the Affordable Housing Planner utilized the formulas established in Sections 6 and 7 of A4, and provided in the DCA published worksheet, to recalculate the Township's Fourth Round Prospective Need Obligation to 141 units; and

**WHEREAS**, A4 provides that a municipality shall adopt a binding resolution determining the present and prospective fair share obligation no later than January 31, 2025; and

**WHEREAS**, the Township's calculation of need is entitled to a "presumption of validity" as it complies with Sections 6 and 7 of A4; and

**WHEREAS**, the Township specifically reserves the right to adjust the Fourth Round Obligation based the following adjustments or others identified during the process of promulgating a Fourth Round Housing Element and Fair Share Plan ("**4th Round HEFSP**"): 1) a "windshield survey" or similar survey which accounts for a lower 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 or both); 4) an

adjustment to the Land Capacity factor; and/or 5) an adjustment predicated upon regional planning entity formulas, inputs, or considerations, including, but not limited to the County and State Regional Master Plan; and

**WHEREAS**, in addition to the foregoing, the Township specifically reserves all rights and positions, without prejudice, to revoke this resolution and commitment in the event of a successful challenge to A4 in the context of Township of Montvale, et al. v. State of New Jersey, Docket No. MER-L-1778-24 or any other such action challenging A4 or calculations of Fourth Round Present or Prospective Obligations, or any legislation adopted and signed into law by the Governor of New Jersey altering the deadlines and/or requirements of A4; and

**WHEREAS**, in addition to the foregoing, nothing in A4 requires or can require an increase in the Township'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 A4 is to establish, for example, unchallenged numbers by default on March 1, 2025; and

**WHEREAS**, pursuant to the Administrative Directive #14-24, dated December 13, 2024 (the "**Directive**"), implementing the Affordable Housing Dispute Resolution Program (the "**Program**"), a municipality seeking certification with the Act, shall file an action in the form of a declaratory judgment complaint in the county in which the municipality is located; and

**WHEREAS**, the Township authorizes the filing of a declaratory judgment action pursuant to the Directive within forty-eight hours after the adoption of this resolution to seek compliance with the Act; and

**WHEREAS**, the Township further authorizes its professionals to prepare the 4th Round HEFSP and present the same for adoption prior to June 30, 2025; and

**WHEREAS**, in light of the above, the Township finds it is in the best interest of the Township to declare its Fourth Round Present and Prospective Need Obligations, authorize the filing of a declaratory judgment action pursuant to the Directive, and direct its professionals to prepare a 4th Round HEFSP, all in accordance with A4,

**NOW THEREFORE BE IT RESOLVED** by the Township Committee of the Township of Chatham, in the County of Morris, New Jersey, as follows:

**Section 1.** The foregoing recitals are hereby incorporated by reference as if fully set forth herein.

**Section 2.** The Township's Fourth Round obligation is adopted as follows: a Present Need or Rehabilitation Obligation of 30 and a Prospective Need or New Construction Obligation of 141, as described above, and subject to all reservations of rights, including but not limited to:

- A. The right to adjust the number based on one or any of the following: a windshield survey, vacant land assessment, durational adjustments, variations in the Land Capacity Factor, and/or regional planning inputs; and
- B. The right to revoke this resolution in the event of a successful legal challenge to A4 or the Act, any legislative changes to A4 and signed into law by the Governor, or to the calculations of Fourth Round Present or Prospective Obligations.

**Section 3.** The Township authorizes its professionals to file a declaratory judgment action within forty-eight hours after the adoption of this resolution in order to comply with the Directive.

**Section 4.** The Township further authorizes its professionals to prepare the 4th Round HEFSP and present the same for adoption prior to June 30, 2025.

**Section 5.** This resolution shall take effect immediately.

Adopted: January 28, 2025

TOWNSHIP OF CHATHAM IN  
THE COUNTY OF MORRIS

Attest:

  
\_\_\_\_\_  
Gregory J. LaCoste, Clerk

By   
\_\_\_\_\_  
Michael Choi, Mayor



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**To:** Chatham Township Council  
**From:** Kendra Lelie, PP, AICP, LLA  
**Re:** Chatham Township Fourth Round Prospective Need  
**Date:** January 13, 2025

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The methodology used by the Department of Community Affairs yields a fourth-round obligation of 156 units. The DCA released additional data related to the Land Capacity Factor component that is one of three metrics used to determine a municipal Fourth-Round obligation in accordance with the 2024 Fair Housing Act (FHA). The Land Capacity Factor data was released on November 27, 2024, which was a month after the FHA deadline for the issuance of the non-binding obligation.

In releasing the data, the DCA recognized in the release of the Land Capacity Factor (LCF) information that the identified areas could be over or under inclusive depending on various conditions and a municipality may provide more detailed analysis and mapping to support a different LCF value. The DCA noted that any disputes could be resolved in the Affordable Housing Dispute Resolution process.

In response to this invitation, Kyle + McManus Associates examined the DCA parcel data for the Township which includes land areas identified as developable and found that the DCA was overinclusive. Kyle + McManus Associates further found that when the land allocation factor was corrected, it resulted in a Fourth Round Prospective Need of units.

Broadly speaking, there are 6 steps to determine the obligation for each municipality. Each step and commentary regarding the potential for alteration of the data input follows:

1. Identify the housing region. Chatham Township has been and continues to be, as per the FHA, in Region 2. This region includes Morris, Essex, Union and Warren Counties.
2. Determine the regional (affordable housing) need. The FHA sets forth that the regional need for the 10-year round (2025-2035) shall be based on the household change experienced in the region between the most recent federal decennial census, and the second-most recent federal decennial census. The resulting change in households is divided by 2.5. The affordable housing need in Region 2 is determined to be 20,506 dwelling units.



3. Determine the regional and each municipal equalized nonresidential valuation factor. This step requires that the changes in nonresidential property valuations in the municipality, since the beginning of the round preceding the round being calculated, shall be divided by the regional total change in nonresidential valuation. The FHA states the data input shall be that which is published by the Division of Local Government Services. The division annually publishes a summary of municipal tax data, including a *Non-Residential Summary of Non-Residential Value*. This data addresses the value of all commercial, industrial, and apartment properties in the municipality. However, the value of the apartment properties is not included in the nonresidential valuation factor.
4. Determine the municipal and regional income capacity factor. This step is an average of 1) the municipal share of the regional sum of the differences between the median municipal household income and an income floor of \$100 below the lowest median household income in the region and 2) the municipal share of the regional sum of the differences between the median municipal household incomes and an income floor of \$100 below the lowest median household income in the region, weighted by the number of the households in the municipality. The FHA states the data input shall be American Community Survey (“ACS”) five-year estimates. The ACS publishes municipal median household incomes as part of its five-year estimates.
5. Determine the municipality’s land capacity factor. Estimate municipal developable land using the most recent land use land cover data and weighing such land based on the planning area type in which such land is located. The FHA sets forth one of three weighting factors for a variety of planning areas across the state. Developed areas of the State, such as Planning Areas 1 and 2, Centers, etc. have a weight of 1.0. Rural and environmentally sensitive planning areas have a weight of zero; the remaining areas have a weight of 0.5.

The parcels identified as developable in the DCA’s calculation of the LCF for Chatham is overinclusive.

Accordingly, I believe the developable land should be adjusted from 12.2 acres to 0.26 acres. The following criteria were utilized to exclude parcels as developable:

- Areas or portions of areas <25’ wide (because DCA’s methodology report states that a 25’ by 100’ area was their minimum threshold for developability).
- Areas within the regulatory floodway.
- Open space/parkland properties with deed restrictions and/or on ROSI.
- Properties under construction or recently developed.
- Sites with site plan approvals for development and/or permits issued for development.
- Public utility parcels, NJDOT/NJ Turnpike Authority parcels, DRPA parcels, railroad properties, rights-of-way, stormwater management, etc.
- Properties with easements restricting development within developable area.
- Properties that are within PA4 or PA5.

It is important to note that the LCF analysis is different from the analysis to determine a municipality’s



entitlement to a vacant land adjustment. While the analysis to correct the LCF focuses on developable land, the vacant land analysis focuses on developable land suitable for inclusionary development. Therefore, just because a parcel may not be removed for purposes of calculating the LCF has no bearing on whether it should be removed for purposes of calculating a vacant land adjustment.

Below is the developable land analysis for Chatham Township that supports the revised LCF value:

Acres	Block	Lot	Property Location	Not Developable Criteria
0.32	33	1	87 LONG VIEW AVE	Developed with SF home
0.06	43	7	HARDING AVE	Open Space and In PA5
0.33	48	65.07	MAPLE RD	Open Space and in PA5 (2/3) and wetlands
0.08	17	81.12	KARLIN DR	0 developable acres
0.40	48	220	BRITTEN RD REAR	PA5, wetlands, not accessible
0.00	48.14	106	GEOFFREY CT REAR	Not accessible, stream and wetlands
0.10	48.14	113.23	JAY RD	Developed with SF home
0.00	48	114	JAY RD REAR	Not accessible
0.26	115	29	JAY RD	Vacant - any approvals or permits
0.46	115	1	GATES & MITCHELL	Gas main easement
0.12	113	1	MITCHELL AVE	Gas main easement
0.14	113	1	MITCHELL AVE	Gas main easement
0.00	48	219	BRITTEN RD REAR	Open space in PA8
0.02	48	189.02	BRITTEN RD REAR	Open space in PA8
0.07	113	115.19	MITCHELL AVE REAR	Not accessible
<b>0.26</b>	<b>Developable Acres</b>			

6. Determine the municipal obligation. The three factors (nonresidential value, income, and land capacity) are averaged and then applied to the regional need to determine how the need shall be allocated to each municipality.



**Chatham Township Fourth Round Obligation  
Methodology Summary**

	DCA	KMA
Household Change (Region 2)	51,264	51,264
Low & Mod Home Estimate (Region 2)	20,506	20,506
Nonresidential Valuation Factor	0.28%	0.28%
Regional Income Capacity Factor	1.77%	1.77%
Land Capacity Factor	0.23%	0.004%
Average Factor	0.76%	0.69%
<b><i>Gross Prospective Need</i></b>	<b>156</b>	<b>141</b>