

Explanation: This resolution of the Township Committee of the Township of Springfield is committing to Fourth Round Present and Prospective Need Affordable Housing Obligations.

**TOWNSHIP OF SPRINGFIELD
RESOLUTION NO. 2025-59**

WHEREAS, the Township of Springfield (hereinafter the “Township” or Springfield”) has a demonstrated history of voluntary compliance as evidenced by its Third Round record; and

WHEREAS, pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (Mount Laurel IV), on July 7, 2015, the Township of Springfield filed a Declaratory Judgment Complaint in Superior Court, Law Division seeking, among other things, a judicial declaration that its Third Round Housing Element and Fair Share Plan, to be amended as necessary, satisfies its “fair share” of the regional need for low and moderate income housing pursuant to the “Mount Laurel doctrine,” and

WHEREAS, that culminated in a Court-approved Third Round Housing Element and Fair Share Plan and a Final Judgment of Compliance and Repose, which precludes all Mount Laurel lawsuits, including builder’s remedy lawsuits until July 1, 2025; and

WHEREAS, on March 20, 2024, Governor Murphy signed into law P.L. 2024, c.2, which amended the 1985 New Jersey Fair Housing Act (hereinafter the “Amended FHA”); and

WHEREAS, the Amended FHA required the Department of Community Affairs (“DCA”) to provide an estimate of the Fourth Round affordable housing obligations for all municipalities on or before October 20, 2024, based upon the criteria described in the Amended FHA; and

WHEREAS, the DCA issued a report on October 18, 2024 (“DCA Report”) wherein it reported its estimate of the Fourth Round affordable housing obligations for all municipalities based upon its interpretation of the standards in the Amended FHA; and

WHEREAS, the DCA Report calculates the Township’s Fourth Round (2025-2035) obligations as follows: a Present Need (Rehabilitation) Obligation of 53 and a Prospective Need (New Construction) Obligation of 284; and

WHEREAS, the Amended FHA further provides that, irrespective of the DCA’s calculations, municipalities have the ability to either accept, or provide alternate calculations for, the DCA’s “present and prospective fair share obligation(s)...by binding resolution no later than January 31, 2025”, a deadline which was later extended to February 3, 2025 by the Administrative Office of the Courts (“AOC”) via a directive issued on December 19, 2024; and

WHEREAS, the Township accepts the conclusions in the DCA Report, which includes accepting the DCA’s Fourth Round Present Need (Rehabilitation) calculation of 53, but does not accept the DCA’s calculations of the Township’s Income Capacity Factor and Land Capacity

Factor, which are factors that are part of the DCA's calculation of the Township's Fourth Round Prospective Need (New Construction) calculation of 284; and

WHEREAS, as to the Land Capacity Factor, the Township notes that the DCA belatedly provided the data it used to establish this factor, i.e., on or about November 25, 2024, instead of by October 20, 2024; and

WHEREAS, the Township further notes that the link to the DCA GIS data that the DCA belatedly made available to municipalities includes the following language: "The land areas identified in this dataset are based on ... the best available data using publicly available data enumerated in N.J.S.A. 52:27D-304.3c.(4) to estimate the area of developable land, within municipal and regional boundaries, that may accommodate development. It is important to note that the identified areas could be over or under inclusive depending on various conditions and that municipalities are permitted to provide more detailed mappings as part of their participation in the Affordable Housing Dispute Resolution Program."; and

WHEREAS, the Township maintains that the Income Capacity Allocation factor has to be adjusted and that the areas the DCA identified as developable are indeed overinclusive and, consequently, the Township's Affordable Housing Planner, has prepared an expert report, attached hereto as **Exhibit A**; and

WHEREAS, correcting the Income Capacity Factor and Land Capacity Allocation Factor results in the reduction of Springfield Township's Fourth Round Prospective Need (New Construction) Obligation from 284 to 239; and

WHEREAS, Section 3 of the Amended FHA provides that: "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 the Amended FHA; and

WHEREAS, the Township's acceptance of the Fourth Round obligations calculated by the DCA are entitled to a "presumption of validity" because it complies with Sections 6 and 7 of the Amended FHA; and

WHEREAS, in addition to the foregoing, the Township specifically reserves the right to adjust its fair share obligations in accordance with applicable Council on Affordable Housing ("COAH") regulations or other applicable law based on one or more of the foregoing adjustments if applicable: 1) a Structural Conditions Survey or similar exterior survey which accounts for a higher-resolution 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; and/or 4) an adjustment predicated upon regional planning entity formulas, inputs or considerations, including but not limited to, the Highlands Council Regional Master Plan and its build out, or the Pinelands Commission or Meadowlands Commission regulations and planning document; and

WHEREAS, in addition to the foregoing, the Township specifically reserves all rights to revoke or amend this resolution and commitment, as may be necessary, in the event of a

successful challenge to the Amended FHA in the context of the case The Borough of Montvale v. the State of New Jersey (MER-L-1778-24), any other such action challenging the Amended FHA, or any legislation adopted and signed into law by the Governor of New Jersey that alters the deadlines and/or requirements of the Amended FHA; and

WHEREAS, in addition to the foregoing, the Township reserves the right to take a position that its Fourth Round Present or Prospective Need Obligations are lower than described herein in the event that a third party challenges the calculations provided for in this Resolution (a reservation of all litigation rights and positions, without prejudice); and

WHEREAS, in addition to the foregoing, nothing in the Amended FHA 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 the Amended FHA is to establish unchallenged numbers by default on March 1, 2025; and

WHEREAS, in addition to the foregoing, the Acting Administrative Director of the AOC issued Directive #14-24 on December 19, 2024; and

WHEREAS, pursuant to Directive #14-24, a municipality seeking a Fourth Round Compliance Certification from the entity created by the Amended FHA known as the Affordable Housing Dispute Resolution Program (hereinafter "the Program"), shall file an action in the appropriate venue with the Program, in the form of a Declaratory Judgment Complaint within 48 hours after adoption of the municipal resolution accepting or challenging its Fourth Round fair share obligations, or by February 3, 2025, whichever is sooner; and

WHEREAS, nothing in this Resolution shall be interpreted as an acknowledgment of the legal validity of AOC Directive #14-24 and the Township reserves any and all rights and remedies in relation to the AOC Directive; and

WHEREAS, the Township seeks a Compliance Certification from the Program and, therefore, wishes to file a Declaratory Judgment Complaint in the appropriate venue with the Program, along with a copy of this Resolution, within 48 hours of the adoption of this Resolution; and

WHEREAS, in light of the above, the Mayor and Township Committee finds that it is in the best interest of the Township to declare its obligations in accordance with this Resolution; and

NOW, THEREFORE, BE IT RESOLVED on this 28th day of January of 2025, by the Committee of the Township of Springfield, Union County, State of New Jersey, as follows:

1. All of the Whereas Clauses are incorporated into the operative clauses of this Resolution as if set forth in full.

2. For the reasons set forth in this Resolution, the Mayor and Township Committee hereby commit to the DCA Fourth Round Present Need (Rehabilitation) Obligation of 53 and the Fourth Round Prospective Need (New Construction) Obligation of 239 as described in this Resolution, subject to all reservations of rights, which specifically include, without limitation, the following:

- a) The right to adjust the Township's fair share obligations based on a Structural Conditions survey or similar exterior survey, a Vacant Land Adjustment, a Durational Adjustment, and all other applicable adjustments, permitted in accordance with applicable COAH regulations or other applicable law; and
- b) The right to revoke or amend this Resolution in the event of a successful legal challenge, or legislative change, to the Amended FHA; and
- c) The right to take any contrary position, or adjust its fair share obligations, in the event of a third party challenge to the Township's fair share obligations.

3. Pursuant to the requirements of the FHA as amended, and the Administrator of the Court's (AOC) Directive #14-24 issued on December 19, 2024, the Township Committee hereby directs its Affordable Housing Counsel to file a Declaratory Judgment Complaint, along with this Resolution, a Case Information Statement (Civil CIS), and supporting expert report, in the appropriate venue with the Program or any other such entity as may be determined to be appropriate, to initiate an action within 48 hours of the adoption of this Resolution, so that the Township's Fourth Round Housing Element and Fair Share Plan can be reviewed and approved.

4. This resolution shall take effect immediately, according to law.

TOWNSHIP OF SPRINGFIELD

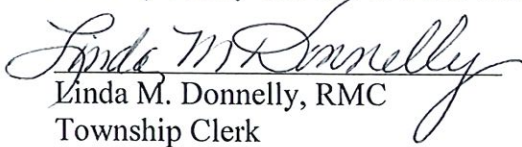
By: 

Richard Huber, Mayor

Adopted:

January 28, 2025

I hereby certify that this is a true and correct copy.


Linda M. Donnelly, RMC
Township Clerk

