

**RESOLUTION OF THE TOWNSHIP OF PLAINSBORO COMMITTING TO
MODIFIED CALCULATIONS FOR ITS FOURTH ROUND AFFORDABLE
HOUSING OBLIGATIONS PURSUANT TO P.L. 2024, c. 2 AND THE FAIR
SHARE HOUSING ACT, N.J.S.A. 52:27D-302**

WHEREAS, on March 20, 2024, Governor Murphy signed *P.L. 2024, c. 2*, into law, amending the Fair Housing Act (hereinafter “Amended FHA”) and establishing a new framework for determining and enforcing municipalities’ affordable housing obligations under the New Jersey Supreme Court’s Mount Laurel doctrine; and

WHEREAS, the Amended FHA requires that the New Jersey Department of Community Affairs (“DCA”) perform a calculation of regional need, and municipal present and prospective affordable housing needs, in accordance with the formulas established in the law; and

WHEREAS, on October 18, 2024, the DCA released its “Affordable Housing Obligations For 2025-2035 (Fourth Round)” report (“DCA Report”), establishing the Fourth Round (2025-2035) fair share methodology and estimating non-binding calculations of low- and moderate-income housing obligations for New Jersey’s 564 municipalities; and

WHEREAS, the Amended FHA provides that the DCA Report is non-binding, thereby inviting municipalities to demonstrate that the Amended FHA would support a lower fair share calculation; and

WHEREAS, per *P.L. 2024, c. 2*, in order for Plainsboro Township to maintain immunity from exclusionary zoning litigation, it must determine its municipal present and prospective obligations in accordance with the formulas established in sections 6 and 7 of the law by binding resolution no later than January 31, 2025; and

WHEREAS, *P.L. 2024, c. 2* permits Plainsboro Township to diverge from the DCA’s calculations in determining its obligations, in case local factors exist that make the calculations unreasonable, so long as Plainsboro Township adheres to the methodology set forth in *P.L. 2024, c. 2*; and

WHEREAS, Plainsboro may take into consideration the calculations in the DCA Report to determine its obligations; and

WHEREAS, the present and prospective fair share obligations of Plainsboro Township were identified by DCA as follows:

- Present Need: 53 units
- Prospective Need: 309 units

WHEREAS, based on a review of the DCA Report and findings made by Jennifer Beahm, P.P. , the Township Affordable Housing Planner, it is recommended that the Township Committee adopt a binding resolution accepting the **Present Need obligation of 53 units**; and

WHEREAS, the Township’s Planner possesses actual knowledge of present conditions in Plainsboro which were not known to the DCA officials that evaluated

Plainsboro through raw data sets and land use/land cover data reflecting land uses and coverages in 2020; and

WHEREAS, such present day conditions, history and knowledge could not be known to DCA officials that were evaluating every municipality in the State of New Jersey; and

WHEREAS, the Township Planner evaluated DCA's land capacity factor analysis and identified land in Plainsboro that should not be included as vacant or developable; and

WHEREAS, the Planner tabulated these areas and confirmed that the developable land in Plainsboro is reduced from approximately 379 acres to 142 acres; and

WHEREAS, the Township Planner has determined that the Land Capacity Factor must be adjusted from 3.67% of the region's developable land to 1.36% of the region's developable land. The land capacity factor was adjusted by removing the following land which was improperly included as developable land in the DCA's calculation:

- (1) Areas or portions of areas <25' wide;
- (2) Areas within the regulatory floodway;
- (3) Open space/parkland properties with deed restrictions and/or on the Recreation and Open Space Inventory ("ROSI");
- (4) Properties under construction or recently developed;
- (5) Sites with site plan approvals for development and/or permits issued for development;
- (6) Public utility parcels, NJDOT/NJ Turnpike Authority parcels, DRPA parcels, railroad properties, rights-of-way, and stormwater management areas, etc.;
- (7) Properties with easements restricting development within developable area;
- (8) Properties that are within PA4 or PA5 Zones; and
- (9) Properties located outside of the approved Wastewater Management Area.

WHEREAS, developable land capacity is one of three allocation factors to be considered; and

WHEREAS, the three allocation factors (land capacity factor, nonresidential valuation factor, income capacity factor) are averaged to find the "average allocation factor", which is multiplied by the regional prospective need to get the Township's obligation; and

WHEREAS, using the DCA's land capacity factor analysis, Plainsboro's average allocation factor was 2.66% and with the new land capacity factor of 1.36%, the average allocation factor is 1.89%; and

WHEREAS, this reduces the Township's Round 4 prospective need obligation from 309 to 219 units.

WHEREAS, 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 Act; and

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

WHEREAS, within 48 hours of adoption of this resolution, the Municipal Clerk of Plainsboro shall file this resolution on its official website and with the Affordable Housing Dispute Resolution Program.

WHEREAS, pursuant to the Directive #14-24, a municipality seeking a certification in compliance with the Amended FHA shall file an action in the form of a declaratory judgment complaint in the county in which the municipality is located within 48 hours after the adoption of the municipal resolution of the fair share obligations, or by February 3, 2025, whichever is sooner; and

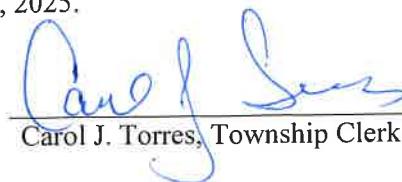
WHEREAS, the Township of Plainsboro seeks a certification of compliance with the Amended FHA and, therefore, directs its affordable housing counsel to file a declaratory relief action within 48 hours of the adoption of this resolution in Middlesex County.

NOW, THEREFORE, BE IT RESOLVED on this 22nd day of January, 2025, by the Township Committee of Township of Plainsboro, in the County of Middlesex, and the State of New Jersey that, pursuant to *P.L. 2024, c.2*:

1. All of the Whereas Clauses set forth above are incorporated into the operative clauses of this resolution.
2. This resolution rescinds and replaces any prior resolutions concerning Fourth Round obligations.
3. The Township Committee of the Township of Plainsboro hereby accepts a Present Need obligation of 53 and a Prospective Need obligation of 219 as its Fourth Round (2025-2035) affordable housing obligation pursuant to P.L. 2024 c.2 and the Fair Housing Act, N.J.S.A. 52:27D-302 et. seq. These findings are to be documented in the Township's housing element and fair share plan.
4. The Township Committee hereby directs its Affordable Housing Counsel to file a declaratory judgment attaching this resolution in Middlesex County within 48 hours after adopting this resolution.
5. The Township reserves its right to adjust its Fourth Round Affordable Housing obligation subject to any vacant land adjustments and other amendments as may be provided for by law.
6. This resolution shall be posted on the Township's official website and with the Affordable Housing Dispute Resolution Program within 48 hours of adoption.
7. This resolution shall take effect immediately, according to law.

Adopted: January 22, 2025

I certify the above to be a true copy of a Resolution adopted by the Township Committee of the Township of Plainsboro at a meeting held on January 22, 2025.



Carol J. Torres, Township Clerk