

RESOLUTION NO. #087-2026

RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY ENDORSING THE 2026 AMENDED HOUSING ELEMENT AND FAIR SHARE PLAN ADOPTED BY THE BOROUGH OF MENDHAM JOINT LAND USE BOARD ON MARCH 3, 2026.

WHEREAS, in 2024 the New Jersey Legislature amended the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq. (“FHA”) through the adoption of P.L. 2024, c.2 (“FHA-2”), which governs how municipalities must comply with their affordable housing obligations for the Fourth Round (2025-2035); and

WHEREAS, amongst other things, P.L. 2024, c.2 abolished the Council on Affordable Housing (COAH), created the Affordable Housing Dispute Resolution Program (“Program”) and established new procedures and deadlines for municipalities to come into compliance with the FHA-2 and the *Mount Laurel* doctrine for each future ten-year affordable housing round beginning with the Fourth Round, which began on July 1, 2025 and ends on June 30, 2035; and

WHEREAS, in December 2024 the Administrative Office of the Courts issued Directive #14-24, which sets forth additional procedures all municipalities must follow to come into compliance with the FHA-2 in order to maintain immunity from exclusionary zoning and builder’s remedy litigation through the Program process set forth in P.L. 2024, c.2; and

WHEREAS, in compliance with P.L. 2024, c. 2 and Directive #14-24, the Borough of Mendham (“Borough”) timely filed a declaratory judgment action with the Program on January 29, 2025, which is entitled In re Borough of Mendham, Docket No.: MRS-L-254-25 (Borough’s “2025 Action”); and

WHEREAS, on May 2, 2025 Morris/Sussex County Mount Laurel Judge, the Honorable Janine M. Allen, J.S.C., issued an Order in the Borough’s 2025 Action fixing the Borough’s Fourth Round pre-credited/unadjusted Present Need Obligation at “0” and gross Prospective Need Obligation at “124” and which such Order directed the Borough to adopt its Fourth Round Housing Element and Fair Share Plan and upload same to the Program on or before June 30, 2025; and

WHEREAS, in accordance with the requirements of Directive #14-24 and P.L. 2024, c.2, and the Order issued by Judge Allen, the Borough’s Planner prepared the Borough’s Fourth Round Housing Element and Fair Share Plan (“2025 HEFSP”); and

WHEREAS, on timely prior notice to the public, on June 17, 2025, the Borough of Mendham Joint Land Use Board adopted the Borough’s 2025 Housing Element and Fair Share Plan following a public hearing thereon in accordance with all applicable laws, and on June 26, 2025 the Mayor and Borough Committee adopted a resolution endorsing the 2025 HEFSP; and

WHEREAS, the Borough timely filed the 2025 HEFSP with the Program prior to June 30, 2025 in accordance with the requirements and deadlines set forth within the FHA-2; and

WHEREAS, thereafter Fair Share Housing Center (FSHC) and Accordia Realty Venture, LLC (“Accordia”), (collectively “Challengers”) filed a timely challenge to the Borough’s 2025 HEFSP; and

WHEREAS, the Borough subsequently participated in good faith in the Program process established under FHA-2 to address the various challenges to the Borough’s 2025 HEFSP, including settlement conferences before Program Judge the Honorable Stephan C. Hansbury, J.S.C. (Ret.) on October 17, 2025 and November 14, 2025, which did not result in a settlement of the challenges; and

WHEREAS, a session hearing was held before Program Judge Hansbury on December 17, 2025 with respect to the challenges; and

WHEREAS, on December 19, 2025, Judge Hansbury issued a Program Decision Recommendation wherein Judge Hansbury recommended an Order be issued by Judge Allen finding the Borough’s 2025 HEFSP be deemed not in compliance with the FHA-2 and the Mount Laurel doctrine, the Challenges be upheld, and which revoked the Borough’s immunity from exclusionary zoning and further directed the Borough to immediately agree to remove any requirement for senior rentals and a conservation easement with respect to Accordia’s proposed project before January 1, 2026 in order for the Borough’s immunity to be restored, and further directed the Borough to timely amend its 2025 HEFSP to reflect such changes and if the Borough should otherwise fail to do so, recommended the Court revoke the Borough’s immunity from exclusionary zoning litigation; and

WHEREAS, in accordance with the Judge Hansbury’s directions and on prior authorization from Borough Council, on December 24, 2025 the Borough’s Attorney submitted correspondence to the Program advising that the Borough was in agreement to remove the age restriction and conservation easement conditions associated with the Accordia’s project; and

WHEREAS, on January 6, 2026, Program Judge Hansbury issued an Amended Program Decision Recommendation wherein Judge Hansbury authorized the reinstatement of the Borough’s temporary immunity from exclusionary zoning, and directed the Borough to timely amend its 2025 HEFSP to reflect such changes and which further recommended that Judge Allen allow the parties to resolve any remaining issues and enter into an agreement, if the Borough and the Challengers’ remaining issues could not be resolved, Judge Hansbury recommended the Court revoke the Borough’s immunity from exclusionary zoning litigation; and

WHEREAS, on March 3, 2026 the Honorable Janine M. Allen, J.S.C. held a case management conference with counsel of record for the Borough and the Challengers, and thereafter issued an Order in the Borough’s 2025 Action extending the deadline for the Borough to adopt its amended Housing Element and Fair Share Plan and all implementing ordinances and resolutions to April 30, 2026 in order for ongoing settlement discussions to take place; and

WHEREAS, the Borough’s Planner has since prepared an updated/amended Fourth Round Housing Element and Fair Share Plan; and

WHEREAS, on timely prior notice to the public, on March 3, 2026, the Borough of Mendham Joint Land Use Board adopted the Borough’s “2026 Amended Housing Element and Fair Share Plan” (“Amended Fourth Round HEFSP” or “Amended HEFSP”) following a public hearing thereon, all in accordance with the requirements of the New Jersey Open Public Meetings Act, N.J.S.A. 10:4-6 et seq., N.J.S.A. 40:49-2.1 of the Home Rule Act and the applicable provisions of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., and the Fair Housing Act, N.J.S.A. 52:27D-301 et seq.; and

WHEREAS, the Borough Council has since reviewed the Amended Fourth Round HEFSP, and now desire to endorse the Borough’s Amended HEFSP, as previously adopted by the Borough of Mendham Joint Land Use Board on March 3, 2026.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Mendham, in the County of Morris, and State of New Jersey, as follows:

1. The Borough Committee does hereby approve and endorse the Amended Fourth Round Housing Element and Fair Share Plan adopted by the Borough of Mendham Joint Land Use Board on March 3, 2026.
2. The Borough’s Municipal Attorney and Borough Planner are hereby directed to file the Borough’s Amended Fourth Round Housing Element and Fair Share Plan, this Resolution and all relevant supporting documentation and exhibits with the Court in the Borough’s 2025 Action in accordance with the requirements of Directive #14-24 and P.L. 2024, c.2.
3. The Borough Municipal Attorney, the Borough Planner and all other appropriate Borough officials, employees and other professionals of the Borough are hereby authorized and directed to take any and all steps necessary to effectuate the purposes of this Resolution such that the Borough secures a Certification of Compliance and Repose and maintains its immunity from exclusionary zoning and builder’s remedy.
4. Should any objection to the Borough’s Amended Fourth Round Housing Element and Fair Share Plan be filed, the Borough Municipal Attorney, Affordable Housing Planner and Borough Planner are hereby directed to defend the Borough against such objection(s) and take all necessary steps to secure a Certification of Compliance and Repose.
5. A certified copy of this Resolution and the Borough’s Amended Fourth Round Housing Element and Fair Share Plan shall remain on file with the Borough Municipal Clerk’s Office for the purpose of public inspection, and shall be uploaded to the Borough’s website by the Borough Municipal Clerk in accordance with the requirements of the FHA-2 and Directive #14-24.

6. The Borough further reserves the right to amend the Amended Housing Element and Fair Share Plan, should such further amendments be required or necessary.
7. Notice of this action shall be published electronically and in the official newspapers for the Borough of Mendham in accordance with law.
8. This Resolution shall take effect immediately.

DATED: April 15, 2026

ATTEST:

BOROUGH OF MENDHAM

Lauren McBride, Borough Clerk

James Kelly, Mayor

CERTIFICATION

I, Lauren McBride, Borough Clerk of the Borough of Mendham in the County of Morris and State of New Jersey, do hereby certify the foregoing to be a true copy of a resolution adopted by the Borough Council of said Borough on the 15th day of April 2026, at a meeting, duly convened, of said Body.

Lauren McBride, Borough Clerk