

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE BOROUGH OF MOUNT ARLINGTON, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY ENDORSING A HOUSING ELEMENT AND FAIR SHARE PLAN AS ADOPTED BY THE PLANNING BOARD**

**WHEREAS**, the Mayor and Council of the Borough of Mount Arlington (the “Borough”) has participated in the New Jersey Council on Affordable Housing (“COAH”) process since it was created in 1985 and has satisfied all of its housing obligations pursuant to the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, et seq., and COAH’s rules and regulations; and

**WHEREAS**, several iterations of COAH’s 3<sup>rd</sup> round rules first adopted in 2004 have been challenged and overturned by the courts; and

**WHEREAS**, on March 10, 2015, the New Jersey Supreme Court, in response to a motion filed by the Fair Share Housing Center, found that the COAH administrative process had become non-functioning and as a result returned primary jurisdiction over affordable housing matters to the trial courts (In the matter of the adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. (2015); and

**WHEREAS**, in doing so, the Supreme Court established a transitional process for municipalities that participated in the administrative process before COAH to file a declaratory judgment action with the trial court seeking to declare their housing elements and fair share plans as being constitutionally compliant and seeking similar protection to those that municipalities would have received if they had continued to proceed before COAH; and

**WHEREAS**, the Borough filed a Declaratory Judgement action, captioned entitled IMO the Application of the Borough of Mount Arlington, bearing Docket No. MRS-L-1657-15, Morris County Superior Court, Chancery Division (the “Declaratory Judgement Action”); and

**WHEREAS**, N.J.A.C. 5:97-2.1(a) requires the adoption of the Housing Element by the Planning Board and endorsement thereof by the Governing Body; and

**WHEREAS**, N.J.A.C. 5:97-3.1(a) requires the preparation of a Fair Share Plan to address the total affordable housing obligation of the Borough of Mount Arlington; and

**WHEREAS**, N.J.A.C. 5:97-3.1(b) requires the adoption of the Fair Share Plan by the Planning Board and endorsement thereof by the Governing Body; and

**WHEREAS**, the Borough and Fair Share Housing Center entered into a settlement agreement which is being finalized at the Final Fairness and Compliance Hearing (“Settlement Agreement”), scheduled for February 8, 2019; and

**WHEREAS**, the Settlement Agreement provided that the Borough would adopt an updated Housing Element and Fair Share Plan consistent with this Agreement which will be submitted to the Court for review and approval, and shall propose and adopt any new or modified ordinances required to implement this

Agreement, within one hundred twenty (120) days of the entry of an order by the Court approving this Agreement, unless a longer time period is otherwise agreed; and

**WHEREAS**, upon notice duly provided pursuant to N.J.S.A. 40:55D-13, the Borough Planning Board held a public hearing on the Housing Element and the Fair Share Plan on November 28, 2018 and supports the within Resolution; and

**WHEREAS**, the Planning Board determined that the Housing Element and Fair Share Plan are consistent with the goals and objectives of the Borough's Master Plan and that adoption and implementation of the Housing Element and Fair Share Plan are in the public interest and protect public health and safety and promote the general welfare; and

**WHEREAS**, members of the public participated in the Planning Board hearing and provided their comments; and

**WHEREAS**, the Board made the following findings of fact:

1. The Housing Element and Fair Share Plan satisfied the Court-approved affordable housing obligations that resulted from the Settlement Agreement between Mount Arlington Borough and the Fair Share Housing Center.

2. The Housing Element addresses Mount Arlington Borough's cumulative housing obligations and complies with the mandatory requirements for a housing element set forth in the New Jersey Fair Housing Act, N.J.S.A. 52:27D-310, et seq.

3. With respect to the Fair Share Plan, the Planning Board has concluded that the Fair Share Plan is consistent with the Court-approved affordable housing obligation for Mount Arlington Borough.

4. Based on the Board Planner's testimony and documentary evidence as well as the Borough's review of site suitability of the inclusionary sites, the Planning Board concluded that each of the compliant sites is suitable for inclusionary housing.

**WHEREAS**, the Borough Planning Board, by Resolution adopted on November 28, 2018 adopted the Housing Element prepared by the Borough Planner, Jessica Caldwell, of J. Caldwell & Associates LLC dated November 28, 2018, a copy of which is incorporated herein as if set forth at length; and

**WHEREAS**, the Settlement Agreement provides in Paragraph 14 that the Borough as part of its HEFSP shall adopt and/or update appropriate implementing ordinances in conformance with standard ordinances and guidelines developed by COAH; and

**WHEREAS**, in accordance with the requirements of paragraph 14 of the Settlement Agreement, the Borough introduced such ordinances on November 7, 2018.

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

1. The Mayor and Council of the Borough of Mount Arlington hereby endorses the Housing

Element and Fair Share Plan as adopted by the Borough Planning Board.

2. The Borough Attorney and/or Borough Planner is hereby authorized and directed to file this Housing Element and Fair Share Plan with the Court and Special Master, along with a certified copy of this Resolution and the Planning Board's Resolution.

**BE IT FURTHER RESOLVED** that a copy of the Housing Element and Fair Share Plan is on file with the Borough Clerk's Office.

This Resolution shall take effect immediately.

**I HEREBY CERTIFY** this to be a true and correct Resolution of the Borough Council of the Borough of Mount Arlington and adopted on December 18, 2018.

Approved:

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Michael Stanzilis, Mayor

Attest:

  
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Linda DeSantis, RMC, Borough Clerk