

TOWNSHIP OF HARDYSTON

RESOLUTION #40-26

A RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX, AND STATE OF NEW JERSEY, ADOPTING THE TOWNSHIP'S AMENDED FOURTH ROUND SPENDING PLAN

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 Township of Hardyston ("Township") timely filed a declaratory judgment action with the Program on January 21, 2025, which is entitled In re Township of Hardyston, Docket No.: SSX-L-00054-25 (Township's "2025 Action"); and

WHEREAS, the Township has at all times participated in good faith in the Program process; and

WHEREAS, the Township has an approved Development Fee Ordinance which sets forth standards for the collection, maintenance, and expenditure of development fees; and

WHEREAS, the Development Fee Ordinance established an Affordable Housing Trust Fund that includes development fees, payments from developers in lieu of constructing affordable units on-site, barrier free escrow funds, rental income, repayments for affordable housing program loans, recapture funds, proceeds from the sale of affordable units, and/or funds collected in connection with the Township's affordable housing program; and

WHEREAS, the Township's current Affordable Housing Trust Fund Spending Plan was approved by the Court in 2016 as part of the Township's Third Round Affordable Housing declaratory judgment action entitled: In the Matter of the Application of the Township of Hardyston, under Docket No.: SSX-L-431-15 (the "2015 Action"); and

WHEREAS, on December 15, 2025 the New Jersey Housing and Mortgage Finance Agency adopted amendments to the Uniform Housing Affordability Controls at N.J.A.C. 5:80-26.1 et seq. ("UHAC") and the DLPS adopted the Fair Housing Act Rules at N.J.A.C. 5:99-1 et seq., which set forth certain requirements governing municipal affordable housing spending plans; and

WHEREAS, on February 26, 2026 the Honorable Janine M. Allen, J.S.C. issued an Order in the Township's 2025 Action approving the Township's Housing Element and Fair Share Plan, subject to certain amendments, and which directs the Township to adopt all amendments and all implementing ordinances and resolutions and file same in the Township's 2025 Action on or before March 16, 2026 in order to secure a Certification of Compliance and Repose; and

WHEREAS, pursuant to the FHA-2, the issuance of a Certification of Compliance and Repose from the County Mount Laurel Judge entitles a compliant municipality to continued immunity from exclusionary zoning and builder's remedy litigation for the remaining 10-year Fourth Round; and

WHEREAS, the Township has adopted a Fourth Round Housing Element and Fair Share Plan in accordance with the FHA-2, which was recently amended through the adoption of the "Amended Fourth Round Housing Element and Fair Share Plan" by the Township Joint Land Use Board on March 9, 2026 ("Amended Fourth Round HEFSP" or "Amended HEFSP"); and

WHEREAS, as a result of the adoption of the DLPS's Fair Housing Act Rules and the amendments to the UHAC and the Township's Amended HEFSP, the Township Planner has since prepared an updated Fourth Round Spending Plan to be approved by the Township Council; and

WHEREAS, in order to protect the interests of the Township and maintain compliance with P.L. 2024, c.2, the Township Council must adopt all updated affordable housing implementing ordinances and resolutions by March 16, 2026; and

WHEREAS, the Township Council has since reviewed the proposed updated Fourth Round Spending Plan prepared by the Township Planner and now desires to approve and adopt same.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Hardyston, in the County of Sussex, and State of New Jersey, as follows:

1. The Township of Hardyston does hereby approve the proposed updates and amendments to the Township's Fourth Round Spending Plan and does hereby adopt same as the Township's Fourth Round Spending Plan.
2. The Township's Municipal Attorney is hereby directed to file the Township's updated Fourth Round Spending Plan, as amended, and this Resolution in the Township's 2025 Action.
3. The Township Municipal Attorney, Township Planner, and all other appropriate Township officials, employees and other professionals of the Township are hereby authorized and directed to take any and all steps necessary to effectuate the purposes of this Resolution such that the Township secures a Certification of Compliance and Repose and maintains its immunity from exclusionary zoning and builder's remedy.
4. A certified copy of this Resolution and the Township's Fourth Round Spending Plan shall remain on file with the Township Municipal Clerk's Office for the purpose of public inspection and shall be uploaded to the Township's website by the Township's Municipal Clerk in accordance with the requirements of the FHA-2 and Directive #14-24.
5. The Township further reserves the right to amend the Township's Fourth Round Spending Plan should such further amendments be required or necessary.

6. Notice of this action shall be published electronically and in the official newspapers for the Township Hardyston in accordance with law.
7. This Resolution shall take effect immediately.

Adopted: March 25, 2026

Jane Bakalarczyk, RMC, Municipal Clerk

Stanley J. Kula, Mayor

CERTIFICATION

I, Jane Bakalarczyk, Township Clerk of the Township of Hardyston hereby certify the foregoing to be a true copy of a Resolution adopted by the Township Council of the Township of Hardyston at a duly convened meeting held on March 25, 2026.

Jane Bakalarczyk, RMC, Municipal Clerk