

# **FOURTH ROUND**

## **HOUSING ELEMENT AND FAIR SHARE PLAN**

### **BOROUGH OF NETCONG, NEW JERSEY**

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The original copy of this document was signed and sealed in accordance with N.J.S.A. 45:14 A-1 et seq.




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## **ACKNOWLEDGMENTS**

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# 1 INTRODUCTION

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This Fourth Round Housing Element and Fair Share Plan has been prepared on behalf of the Borough of Netcong, New Jersey (the “Borough”), in accordance with the New Jersey Municipal Land Use Law (N.J.S.A. 40:55D-28b(3)), the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 (2024)) as amended, applicable rules established by the Council on Affordable Housing (“COAH”), and the Administrative Office of the Courts Directive #14-24. This document addresses the Borough’s plans to address its 2025-2035 obligation to provide its fair share of the regional need for affordable housing.

The Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq., requires that a municipal master plan include a Housing Element in order for the municipality to exercise the power to zone and regulate land use. The Housing Element and Fair Share Plan is adopted by the Borough Planning Board and endorsed by the governing body. It is intended to achieve the goal of meeting the Borough’s obligations to plan and regulate land use to provide for a fair share of the regional need for affordable housing.

Netcong remains committed to meeting its constitutional obligation to provide, through its land use regulations, a realistic opportunity for a fair share of the region’s present and prospective needs for housing for low- and moderate-income families. This Fourth Round Housing Element and Fair Share Plan document outlines how the Borough will address its affordable housing obligations.

## 2 Affordable Housing In New Jersey and Borough of Netcong

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### 2.1 Mount Laurel I and Mount Laurel II

In 1975 the Supreme Court of New Jersey in South Burlington County N.A.A.C.P. v. Township of Mount Laurel, 67 N.J. 151 (1975), commonly referred to as Mount Laurel I, ruled that the developing municipalities in the State of New Jersey exercising their zoning power, in general, had a constitutional obligation to provide a realistic opportunity for the construction of their fair share of the region's low- and moderate-income housing needs.

In 1983, the Supreme Court refined that constitutional obligation in South Burlington County N.A.A.C.P. v. Township of Mount Laurel, 92 N.J. 158 (1983), commonly referred to as Mount Laurel II, to apply to those municipalities having any portion of their boundaries within the growth area as shown on the State Development Guide Plan.

### 2.2 Fair Housing Act (1985) and COAH Rounds One and Two

In 1985, the New Jersey Legislature adopted, and the Governor signed, the Fair Housing Act N.J.S.A. 52:2D-301, et seq. ("FHA") which transformed the judicial doctrine that became known as the "Mount Laurel doctrine" into a statutory one and provided an alternative administrative process in which municipalities could elect to participate in order to establish a Housing Element and Fair Share Plan ("HEFSP") that would satisfy its constitutional obligation by creating an administrative agency known as the Council on Affordable Housing ("COAH") to develop regulations to define the obligation and implement it. COAH proceeded to adopt regulations in 1986 for the First Round applicable from 1987-1994. In 1994, COAH adopted regulations for the Second Round that created a cumulative obligation from 1987 to 1999.

### 2.3 COAH Round Three

COAH first proposed Third Round substantive and procedural rules in 2003, but due to multiple legal challenges, these rules were not adopted until 2008. However, the Third Round rules adopted in 2008 were challenged in an appeal entitled In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 416 N.J. Super. 462 (App. Div. 2010) (the "2010 Case"). In October 2010, the Appellate Division determined, among other things, that the methodology in the rules adopted in 2008 was invalid and that COAH should adopt regulations utilizing methodologies similar to the ones utilized in the First and Second Rounds, i.e. 1987-1999.

In 2013, the Supreme Court of New Jersey affirmed the Appellate Division's invalidation of the third iteration of the Third Round regulations, sustained their determination that the growth share methodology was invalid, and directed COAH to adopt new regulations based upon the methodology utilized in the First and Second Rounds, In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 215 N.J. 578 (2013) (the "2013 Case"). COAH proceeded to propose such regulations in accordance with the schedule established by the New Jersey Supreme Court in the 2013 Case. On October 20, 2014, COAH deadlocked with a 3-3 vote and failed to adopt the revised

Third Round regulations.

Due to COAH's failure to adopt the revised regulations and subsequent inaction, Fair Share Housing Center ("FSHC"), a party in the 2010 Case and the 2013 Case, filed a motion with the New Jersey Supreme Court to enforce litigant's rights.

On March 10, 2015, the New Jersey Supreme Court issued its decision on FSHC's motion. The Supreme Court 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. 1 (2015) (the "2015 Case"), also referred to as Mount Laurel IV. In doing so, the Supreme Court established a transitional process for municipalities to file a declaratory judgment action with the trial courts seeking to declare their HEFSPs as being constitutionally compliant and seeking protection and repose against exclusionary zoning litigation.

## 2.4 Amended Fair Housing Act (2024) and Fourth Round (2025-2035)

On March 20, 2024, Governor Murphy signed into law P.L. 2024, c.2, an Amendment to the 1985 Fair Housing Act (hereinafter "Amended FHA" or "Act"). The Amended FHA eliminated COAH, and it set forth standards by which the fair share of municipalities must be established for the Fourth Round covering the period July 1, 2025, through June 30, 2035, and for subsequent rounds. It also created the Affordable Housing Dispute Resolution Program (the "Program") to oversee disputes and provide for mediation.

The Amended FHA also established a timeline by which government entities and municipalities are required to act including the following:

- **October 20, 2024:** Per the Amended FHA, the New Jersey Department of Community Affairs ("DCA") was required to determine the obligation of all municipalities based upon the standards in the Amended FHA and to issue a non-binding report no later than October 20, 2024, setting forth its estimates of each municipality's non-binding obligation based upon those standards. DCA issued their report setting forth their estimates of each municipality's non-binding obligation on October 18, 2024.
- **January 31, 2025:** The Amended FHA permits municipalities the choice to either accept the DCA determination of their obligation described above, or to provide their own determination based upon the standards in the Amended FHA. Municipalities were required to adopt a binding resolution of its Fourth Round obligation by January 31, 2025. If the municipality met this January 31 deadline, then the municipality's determination of its obligation would be established by default and would bear a presumption of validity beginning on March 1, 2025, as the municipality's obligation for the fourth round, unless challenged by an interested party on or before February 28, 2025.
- **February 28, 2025:** The deadline for an interested party to file a challenge with the Program regarding a municipality's determination of its Fourth Round obligation was February 28, 2025. Any

challenge was required to state with particularity how the municipal calculation failed to comply with the Amended FHA and include the challenger's own calculation of the fair share obligations.

- **March 31, 2025:** The Program was required to consider a challenge and resolve a dispute initiated by an interested party no later than March 31, 2025.
- **June 30, 2025:** A municipality is required to adopt a housing element and fair share plan and propose drafts of the appropriate zoning and other ordinances and resolutions to implement its present and prospective obligations. The plan must be filed with the Program. Any municipality that does not adopt a housing element and fair share plan by June 30, 2025, shall lose its immunity from builders' remedy lawsuits.
- **August 31, 2025:** An interested party may file a challenge with the Program on or before August 31, 2025, alleging that the municipality's fair share plan and housing element are not in compliance with the Amended FHA or the Mount Laurel doctrine. Any interested party that files a challenge shall specify with particularity which sites or elements of the municipal fair share plan do not comply with the Amended FHA or the Mount Laurel doctrine, and the basis for alleging such noncompliance. If a municipality's fair share plan and housing element is not challenged on or before August 31, 2025, then the program shall apply an objective standard to conduct a limited review of the fair share plan and housing element for consistency and to determine whether it enables the municipality to satisfy the fair share obligation, applies compliant mechanisms, meets the threshold requirements for rental and family units, does not exceed limits on other unit or category types, and is compliant with the Amended FHA and the Mount Laurel doctrine.
- **December 31, 2025:** The program shall facilitate communication between the municipality and any interested parties for a challenge and provide the municipality until December 31, 2025 to commit to revising its fair share plan and housing element in compliance with the changes requested in the challenge, or provide an explanation as to why it will not make all of the requested changes, or both. Upon resolution of a challenge, the program shall issue compliance certification, conditioned on the municipality's commitment, as necessary, to revise its fair share plan and housing element in accordance with the resolution of the challenge. The program may also terminate immunity if it finds that the municipality is not determined to come into constitutional compliance at any point in the process.
- **March 15, 2026:** The requirement to adopt all implementing ordinances to effectuate the HEFSP as set forth in and incorporating any changes from the program, shall be adopted on or before March 15, 2026. Failure to meet the March 15 deadline shall result in the municipality losing immunity from exclusionary zoning litigation.

This Housing Element and Fair Share Plan pursuant to applicable law and regulations and addresses Netcong's affordable housing obligation through the Fourth Round.

## 2.5 Netcong's Affordable Housing History



### 2.5.1 2008 Third Round HEFSP

On December 30, 2008, Netcong petitioned COAH for substantive certification of a Housing Element and Fair Share Plan addressing its total 1987-2018 affordable housing obligation. This was the first time the Borough petitioned COAH for substantive certification. Netcong's obligation was as follows:

- Present Need (Rehabilitation) Obligation: 10 units
- Prior Round Obligation (1987-1999): 0 units
- Prospective Need Obligation (1999-2018): 26 units

Per the 2008 HEFSP, the Borough proposed to address its 10-unit Rehabilitation Obligation with 7 credits resulting from participation in the Morris County Community Development Block Grant Housing Rehabilitation Program and three surplus new construction family for-sale units resulting from the Station Area Redevelopment. The Borough proposed to address its 26-unit Prospective Need obligation with two proposed redevelopment areas anticipated to yield 49 affordable units (including 3-units intended to address the Borough's Rehabilitation Obligation), resulting in a 22-unit surplus.

On September 29, 2009, COAH issued a Compliance Report recommending approval of Netcong Borough's petition for third round substantive certification; and after a 14-day period to submit comments on the Compliance Report during which no comments were received, COAH granted third round substantive certification to Netcong on October 14, 2009 which was to remain in effect until December 30, 2018.

### 2.5.2 Third Round Declaratory Judgment Action

Pursuant to 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) (the "2015 Case"), the Supreme Court established a transitional process for municipalities, like Netcong Borough, that participated in the administrative process before COAH, to file a declaratory judgment action with the trial courts seeking to declare their Housing Element and Fair Share Plans as being constitutionally compliant and seeking similar protections to those that the participating municipalities would have received if they had continued to proceed before COAH.

On July 2, 2015, Netcong filed a Declaratory Judgment action under Docket No. MRS-L-1766-15 seeking a declaration of its compliance with the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 53:27D-301 et seq. in accordance with In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015). The Borough Planning Board subsequently adopted a Housing Element and Fair Share Plan March 28, 2016. A fairness hearing was held on July 20, 2016. On September 29, 2016, the Court entered an order granting Third Round substantive certification to the Borough. See **Appendix A**.

### 3 HOUSING ELEMENT/ FAIR SHARE PLAN REQUIREMENTS

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In accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1, et seq.), a municipal Master Plan must include a housing element as the foundation for the municipal zoning ordinance. Pursuant to the Fair Housing Act, a municipality's housing element must be designed to provide access to affordable housing to meet present and prospective housing needs, with particular attention to low- and moderate-income housing. The housing element must contain at least the following, as per the Amended FHA at N.J.S.A. 52:27D-310.

- a. An inventory of the municipality's housing stock by age, condition, purchase or rental value, occupancy characteristics, and type, including the number of units affordable to low- and moderate-income households and substandard housing capable of being rehabilitated;
- b. A projection of the municipality's housing stock, including the probable future construction of low- and moderate-income housing, for the next ten years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development, and probable residential development of lands;
- c. An analysis of the municipality's demographic characteristics, including, but not necessarily limited to, household size, income level, and age;
- d. An analysis of the existing and probable future employment characteristics of the municipality;
- e. A determination of the municipality's present and prospective fair share of low- and moderate- income housing and its capacity to accommodate its present and prospective housing needs, including its fair share of low- and moderate-income housing; and
- f. A consideration of the lands most appropriate for construction of low- and moderate-income housing and of the existing structures most appropriate for conversion to, or rehabilitation for, low- and moderate-income housing, including a consideration of lands of developers who have expressed a commitment to provide low- and moderate-income housing; and
- g. An analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, pursuant to N.J.S.A. 52:27D-329.20f.(1);
- h. For a municipality located within the jurisdiction of the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), an analysis of compliance of the housing element with the Highlands Regional Master Plan of lands in the Highlands Preservation Area, and lands in the Highlands Planning Area for

Highlands-conforming municipalities. This analysis shall include consideration of the municipality's most recent Highlands Municipal Build Out Report, consideration of opportunities for redevelopment of existing developed lands into inclusionary or 100 percent affordable housing, or both, and opportunities for 100 percent affordable housing in both the Highlands Planning Area and Highlands Preservation Area that are consistent with the Highlands regional master plan; and

- i. An analysis of consistency with the State Development and Redevelopment Plan, including water, wastewater, stormwater, and multi-modal transportation based on guidance and technical assistance from the State Planning Commission.

The Administrative Office of the Courts issued Administrative Directive #14-24 on December 13, 2024 establishing guidelines implementing the Affordable Housing Alternative Dispute Resolution Program (“the Program”) established pursuant to section 5 of P.L.2024, c.2 (N.J.S.A. 52:27D-313.2). The Directive imposed additional requirements not included in the Amended FHA. Included in the Directive is the requirement to include a Spending Plan, Affirmative Marketing Plan, Affordable Housing Ordinance, and Mandatory Set-Aside Ordinance in the Housing Element and Fair Share Plan.

## 4 HOUSING STOCK AND DEMOGRAPHIC ANALYSIS

### 4.1 Housing Stock Inventory

In 2023, there were 1,973 housing units in Netcong Borough, of which 152, or 8 percent, were vacant. Of the 1,821 occupied units, 53 percent were owner-occupied and 47 percent were renter occupied. Table 1, [Housing Units by Occupancy Status, 2023](#), illustrates this occupancy status.

**Table 1. Housing Units by Occupancy Status, 2023**

	Housing Units	Owner-occupied	Renter Occupied
<b>Occupied</b>	1,821	963	858
<b>Vacant</b>	152	-	-
<b>Total</b>	1,973	-	-

Source: American Community Survey 5-Year Estimates Data Profiles, 2019-2023 (Table DP04 Selected Housing Characteristics)

Approximately 65 percent of the total housing stock consists of single-family detached units. Structures with three or more units make up approximately 24 percent of the total housing stock. See Table 2, [Housing Units by Number of Units in Structure, 2023](#), for a detailed explanation of the Borough's housing units.

**TABLE 2. HOUSING UNITS BY NUMBER OF UNITS IN STRUCTURE, 2023**

Number of Units	Total	Percent
<b>1, Detached</b>	1,288	65.3%
<b>1, Attached</b>	81	4.1%
<b>2</b>	131	6.6%
<b>3 or 4</b>	70	3.5%
<b>5 to 9</b>	51	2.6%
<b>10 to 19</b>	289	14.6%
<b>20+</b>	63	3.2%
<b>Mobile Home</b>	0	0.0%
<b>Other</b>	0	0.0%
<b>Total</b>	1,973	100.0%

Source: American Community Survey 5-Year Estimates Data Profiles, 2019-2023 (Table DP04 Selected Housing Characteristics)

Table 3, [Housing Units by Age, 2023](#), illustrates the age of the Borough's housing stock. Only 4 percent of the Borough's housing was built since 2000 and about 23 percent of the Borough's housing stock was constructed prior to 1940. Close to 28 percent of the extant housing stock was constructed between 1970 and 1980.

**TABLE 3      HOUSING UNITS BY AGE, 2023**

Year Built	Total Units	Percent
2020 or later	7	0.4%
2010-2019	66	3.3%
2000-2009	0	0.0%
1990-1999	64	3.2%
1980-1989	103	5.2%
1970-1979	542	27.5%
1960-1969	77	3.9%
1950-1959	303	15.4%
1940-1949	292	14.8%
Before 1940	519	26.3%

Source: American Community Survey 5-Year Estimates Data Profiles, 2019-2023 (Table DP04 Selected Housing Characteristics)

Table 4, Comparison of Housing Units by Number of Rooms for Netcong Borough and Morris County, 2023, illustrates that approximately 7 percent of housing units in Netcong Borough have between one and three rooms; 25 percent of housing units have between four and six rooms; and 68 percent have seven or more rooms. In Morris County, approximately 13 percent of housing units have between one and three rooms; 36 percent have between four and six rooms; and 52 percent have seven or more rooms. The median number of rooms per unit in the Borough is 8, which indicates that the housing stock in Netcong is, on average, larger in size as compared to the median number of rooms for Morris County, which is 6.6.

**TABLE 4.      HOUSING UNITS BY NUMBER OF ROOMS FOR NETCONG BOROUGH AND MORRIS COUNTY, 2023**

Rooms	Number of Units in Netcong	Percent of Units in Netcong	Number of Units in Morris County	Percent of Units in Morris County
1	34	1.7%	3,231	1.6%
2	151	7.7%	4,927	2.5%
3	367	18.6%	17,467	8.8%
4	234	11.9%	23,012	11.6%
5	200	10.1%	22,577	11.4%
6	423	21.4%	24,978	12.6%
7	231	11.7%	26,090	13.1%
8	159	8.1%	27,717	14.0%
9+	174	8.8%	48,612	24.5%
Total	1,973	100.0%	198,611	100.0%
Median Rooms per Unit	5.5		6.6	

Source: American Community Survey 5-Year Estimates Data Profiles, 2019-2023 (Table DP04 Selected Housing Characteristics)

Tables 5 and 6, Housing Values, Owner-occupied, 2013 and 2023, respectively, illustrate that the median housing values of owner-occupied housing in Netcong increased by 21 percent between 2013 and 2023. During this time, the median value in Morris County increased by 30 percent. In 2013, the median value of owner-occupied housing units in Netcong (\$283,500) was 51 percent less than that of Morris County (\$428,900). In 2023, Netcong's median housing value of \$344,300 was 62 percent less than that of Morris County (\$557,000).

**TABLE 5. HOUSING VALUES, OWNER-OCCUPIED, 2013**

Housing Value	Number in Netcong	Percent in Netcong	Number in Morris County	Percent in Morris County
Less than \$50,000	40	5.9%	2,083	1.5%
\$50,000 to \$99,999	0	0.0%	1,406	1.0%
\$100,000 to \$149,999	0	0.0%	1,311	1.0%
\$150,000 to \$199,999	63	9.2%	3,346	2.5%
\$200,000 to \$299,999	329	48.2%	18,812	13.8%
\$300,000 to \$499,999	240	35.1%	58,230	42.7%
\$500,000 to \$999,999	11	1.6%	43,837	32.2%
\$1,000,000 or more	0	0.0%	7,271	5.3%
<b>Total</b>	<b>683</b>	<b>100.0%</b>	<b>136,296</b>	<b>100.0%</b>
<b>2016 Median Value</b>	<b>\$283,500</b>		<b>\$428,900</b>	

Source: American Community Survey 5-Year Estimates Data Profiles, 2009-2013 (Table DP04 Selected Housing Characteristics)

**TABLE 6. HOUSING VALUES, OWNER-OCCUPIED, 2023**

Housing Value	Number in Netcong	Percent in Netcong	Number in Morris County	Percent in Morris County
Less than \$50,000	25	2.6%	1,404	1.0%
\$50,000 to \$99,999	0	0.0%	1,480	1.0%
\$100,000 to \$149,999	0	0.0%	878	0.6%
\$150,000 to \$199,999	6	0.6%	1,472	1.0%
\$200,000 to \$299,999	188	19.5%	9,969	7.0%
\$300,000 to \$499,999	711	73.8%	44,816	31.6%
\$500,000 to \$999,999	33	3.4%	67,465	47.6%
\$1,000,000 or more	0	0.0%	14,287	10.1%
<b>Total</b>	<b>963</b>	<b>100.0%</b>	<b>141,771</b>	<b>100.0%</b>
<b>2023 Median Value</b>	<b>\$344,300</b>		<b>\$557,000</b>	

Source: American Community Survey 5-Year Estimates Data Profiles, 2019-2023 (Table DP04 Selected Housing Characteristics)

Monthly rental costs in Netcong Borough are slightly lower than monthly rental costs for the rest of Morris County, wherein about 30 percent of renters pay \$1,500 or more per month in rent; in Morris County, 72 percent of renters pay \$1,500 or more. The largest percentage of Morris County renters, 29.9 percent, pay \$1,500 to \$1,999 in rent. See Table 7, Comparison of Netcong Borough and Morris County, Monthly Rental Cost, 2023, for additional details.

**TABLE 7. COMPARISON OF NETCONG BOROUGH AND MORRIS COUNTY, MONTHLY RENTAL COST – OCCUPIED RENTAL UNITS, 2023**

Monthly Rent	Number in Netcong	Percent in Netcong	Number in Morris County	Percent in Morris County
Less than \$500	10	1.2%	2,209	4.6%
\$500 - \$999	34	4.0%	1,930	4.0%
\$1,000 - \$1,499	561	65.4%	9,666	20.0%
\$1,500 - \$1,999	157	18.3%	14,466	29.9%
\$2,000 - \$2,499	60	7.0%	8,520	17.6%
\$2,500 - \$2,999	36	4.2%	5,679	11.7%
\$3,000 or more	0	0.0%	5,970	12.3%
<b>Total</b>	<b>858</b>	<b>100.0%</b>	<b>48,440</b>	<b>100.0%</b>
<b>Median Rent</b>	<b>\$1,396</b>		<b>\$1,860</b>	

Source: American Community Survey 5-Year Estimates Data Profiles, 2019-2023 (Table DP04 Selected Housing Characteristics)

In 2023, 25 percent of Netcong Borough owner-occupied households contributed 30 percent or more of their income towards monthly housing costs, whereas approximately 40 percent contributed less than 20 percent of their income towards monthly housing costs. See Table 8, Monthly Housing Costs as a Percentage of Household Income in the Past 12 Months – Owner-occupied Housing Units, 2023, for further information.

**TABLE 8. MONTHLY HOUSING COSTS AS A PERCENTAGE OF HOUSEHOLD INCOME IN THE PAST 12 MONTHS – OWNER-OCCUPIED HOUSING UNITS, 2023**

Household Income	Less than 20 percent	20 to 29 percent	30 percent or more
Less than \$20,000	0.0%	0.0%	0.8%
\$20,000 - \$34,999	0.0%	0.0%	4.7%
\$35,000 - \$49,999	0.0%	0.0%	3.7%
\$50,000 - \$74,999	3.4%	6.1%	7.0%
\$75,000 or more	36.8%	28.8%	8.7%
<b>Zero or Negative Income<sup>1</sup></b>	<b>0.0%</b>		

Source: American Community Survey, 2019-2023 (Table S2503 Financial Characteristics)

In 2023, close to 53 percent of Netcong Borough renter occupied households contributed 30 percent or more of their income towards monthly rental costs, whereas approximately 31 percent contributed less

<sup>1</sup> Negative income constitutes business or investment losses larger than other income.

than 20 percent of their income towards monthly rental costs. See Table 9, Monthly Housing Costs as a Percentage of Household Income in the Past 12 Months – Renter Occupied Housing Units, 2023, for further information.

**TABLE 9. MONTHLY HOUSING COSTS AS A PERCENTAGE OF HOUSEHOLD INCOME IN THE PAST 12 MONTHS – RENTER OCCUPIED HOUSING UNITS, 2023**

Household Income	Less than 20 percent	20 to 29 percent	30 percent or more
<b>Less than \$20,000</b>	0.0%	1.2%	25.3%
<b>\$20,000 - \$34,999</b>	0.0%	0.0%	9%
<b>\$35,000 - \$49,999</b>	0.0%	0.0%	12.1%
<b>\$50,000 - \$74,999</b>	0.0%	10.4%	2.4%
<b>\$75,000 or more</b>	31.2%	4.1%	4.3%
<b>Zero or Negative Income</b>	0.0%		
<b>No Cash Rent Units<sup>2</sup></b>	0.0%		

Source: American Community Survey 5-Year Estimates Data Profiles, 2019-2023 (Table S2503 Selected Housing Characteristics)

According to American Community Survey data, Netcong has 0 housing units that lack complete plumbing facilities and 0 units that are considered overcrowded (defined as having 1.01 or more persons per room). The Borough also has 0 units that have no telephone service available and 0 units that lack complete kitchen facilities. See Table 10, Selected Quality Indicators, Occupied Housing Stock, 2023, for additional details.

**TABLE 10. SELECTED QUALITY INDICATORS, OCCUPIED HOUSING STOCK, 2023**

	Overcrowded	No Telephone Service Available	Lacking Complete Plumbing Facilities	Lacking Complete Kitchen Facilities
<b>No. Units</b>	0	0	0	0

Source: American Community Survey 5-Year Estimates Data Profiles, 2019-2023 (Table DP04 Selected Housing Characteristics)

## 4.2 General Population Characteristics

The population of Netcong Borough decreased from 3,311 persons in 1990 to 2,580 persons in 2020. The largest growth in population occurred between 2000 and 2010, with an increase of approximately 25 percent; during this same time period, the County grew close to 5 percent. See Table 11, Population Growth, 1990-2020 for more information.

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<sup>2</sup> Such units are generally provided for free by friends or relatives or in exchange for services such as resident manager, caretaker, minister, or tenant farmer.



**TABLE 11. POPULATION GROWTH, 1990-2020**

	1990	2000	Percent Change (1990-2000)	2010	Percent Change (2000-2010)	2020	Percent Change (2010-2020)
<b>Netcong</b>	3,311	2,580	-22.1%	3,232	25.3%	3,375	4.4%
<b>Morris County</b>	421,353	470,212	10.4%	492,279	4.7%	509,285	3.5%

Source: 1990, 2000, 2010, and 2020 U.S. Census

From 2010 through 2020, there were shifts in Netcong' age distribution. The age group of 65-74 years old experienced the greatest positive percent change (i.e., 51 percent). The 55-64 year old age group also increased (i.e., 34 percent). Three age groups, 15-24 years old, 35-44 years old, and 45-54 years old experienced negative percent change (i.e., -6 percent, -18 percent and -15 percent, respectively). The data suggest that the population in Netcong is aging which may have an impact on housing preferences. For example, residents whose children have left home but would like to remain in Netcong Borough may wish to downsize to smaller single-family detached homes or seek other types of housing such as townhomes or apartment living. See Table 12, Comparison of Age Distribution, 2010- 2020, for additional details.

**TABLE 12. COMPARISON OF AGE DISTRIBUTION, 2010 - 2020**

Age Group	2010	2020	Percent Change (2010-2020)
Under 5	166	176	6.0%
5-14	324	331	2.2%
15-24	401	378	-5.7%
25-34	499	549	10.0%
35-44	466	384	-17.6%
45-54	546	462	-15.4%
55-64	390	522	33.8%
65-74	218	329	50.9%
75+	222	244	9.9%
Total	3,232	3,375	-

Source: 2010 and 2020 U.S. Census

### 4.3 Household Characteristics

A household is defined by the U.S. Census Bureau as those persons who occupy a single room or group of rooms constituting a housing unit; however these persons may or may not be related. As a subset of households, a family is identified as a group of person including a householder and one or more persons related by blood, marriage, or adoption, all living in the same household. In 2023, there were 1,821 households in Netcong Borough, with an average of 1.94 persons per household. Approximately 36 percent of the households are comprised of married couples with or without children. Approximately 49 percent of the Netcong Borough households are non-family households, which includes individuals (Source: American Community Survey, 2023 (Table S1101).

### 4.4 Income Characteristics

Persons residing in Netcong Borough have, on average, lower incomes than that of Morris County. Annual median income for Netcong households in 2023 was \$92,596, whereas annual median income for households in the County was \$134,929. The most notable difference with regard to income between Netcong Borough and Morris County is the percentage of households earning \$150,000 or more (i.e., 24 percent and 45 percent, respectively). Table 13, Household and Family Income by Income Brackets for Netcong and Morris County, 2023, further illustrates these findings.

**TABLE 13. HOUSEHOLD AND FAMILY INCOME BY INCOME BRACKETS FOR NETCONG AND MORRIS COUNTY, 2023**

	Netcong		Morris County	
	Households	Percent	Household	Percent
<b>Less than \$5,000</b>	14	0.8%	3,659	1.9%
<b>\$5,000 - \$9,999</b>	0	0.0%	1,630	0.8%
<b>\$10,000 - \$14,999</b>	201	11.0%	2,711	1.4%
<b>\$15,000 - \$19,999</b>	20	1.1%	2,423	1.3%
<b>\$20,000 - \$24,999</b>	5	0.3%	2,975	1.6%
<b>\$25,000 - \$34,999</b>	117	6.4%	7,383	3.8%
<b>\$35,000 - \$49,999</b>	140	7.7%	10,491	5.5%
<b>\$50,000 - \$74,999</b>	269	14.8%	19,409	10.1%
<b>\$75,000 - \$99,999</b>	167	9.2%	19,283	10.1%
<b>\$100,000 - \$149,999</b>	451	24.8%	35,184	18.3%
<b>\$150,000 or more</b>	437	24.0%	86,692	45.2%
<b>Total</b>	1,821	100.0%	191,840	100.0%
<b>Median Income</b>	\$92,596		\$134,929	

Source: American Community Survey 5-Year Estimates Data Profiles, 2019-2023 (Table S2503 Financial Characteristics)

## 4.5 Employment Characteristics

Table 14, Employment Status, indicates the number of Borough residents 16 years and over who are in the labor force, the type of labor force (i.e., civilian or armed forces) and employment status. Approximately 69 percent of Netcong residents 16 and over are in the labor force. Of the residents in the civilian labor force, approximately 98 percent are employed and approximately 2 percent are unemployed.

**TABLE 14. EMPLOYMENT STATUS**

	Number in Netcong	Percent in Netcong
<b>Population 16 years and over</b>	3,092	-
<b>In Labor Force</b>	2,135	69.0%
<b>Civilian Labor Force</b>	2,135	69.0%
<i>Employed</i>	2,092	67.7%
<i>Unemployed</i>	43	1.4%
<b>Armed Forces</b>	0	0.0%
<b>Not in Labor Force</b>	957	31.0%

Source: American Community Survey 5-Year Estimates Data Profiles, 2019-2023 (Table DP03 Selected Economic Characteristics)

Table 15, Employment by Occupation, Netcong, 2023, identifies the occupation of employed persons. While Netcong Borough residents work in a variety of job sectors, approximately 38 percent of employed residents work in Management, Business, Science and Arts-related occupations; and approximately 27 percent of employed residents work in Service occupations. The Natural Resources, Construction and Maintenance sector, Sales and Office sector, and the Production, Transportation and Moving sector have fewer employed residents (7 percent, 17 percent, and 11 percent, respectively).

**TABLE 15. EMPLOYMENT BY OCCUPATION, NETCONG, 2023**

Sector Jobs	Number	Percent
Management, Business, Science, and Arts Occupations	799	38.2%
Service	559	26.7%
Sales and Office	362	17.3%
Natural Resources, Construction, and Maintenance	152	7.3%
Production, Transportation, and Moving	220	10.5%
<b>Total</b>	2,092	100.0%

Source: American Community Survey 5-Year Estimates Data Profiles, 2019-2023 (Table DP03 Selected Economic Characteristics)

Table 16, Distribution of Employment by Industry, Borough Residents, 2023, shows the distribution of

employment by industry for employed Netcong Borough residents. The four industries to capture the largest segment of the population were the Educational, Health and Social Services industry (21 percent); the Financing, Insurance, Real Estate, Renting, and Leasing industry (15 percent), the Arts, Entertainment, Recreation, Accommodation and Food services industry (13 percent), and the Manufacturing industry (13 percent).

**TABLE 16. DISTRIBUTION OF EMPLOYMENT BY INDUSTRY, BOROUGH RESIDENTS, 2023**

<b>Job Sectors</b>	<b>Number</b>	<b>Percent</b>
<b>Agriculture, Forestry, Fishing and Hunting, and Mining</b>	0	0.0%
<b>Construction</b>	105	5.0%
<b>Manufacturing</b>	263	12.6%
<b>Wholesale Trade</b>	57	2.7%
<b>Retail Trade</b>	230	11.0%
<b>Transportation and Warehousing, and Utilities</b>	94	4.5%
<b>Information</b>	54	2.6%
<b>Financing, Insurance, Real Estate, Renting, and Leasing</b>	306	14.6%
<b>Professional, Scientific, Management, Administrative, and Waste Management Services</b>	197	9.4%
<b>Educational, Health and Social services</b>	430	20.6%
<b>Arts, Entertainment, Recreation, Accommodation and Food services</b>	272	13.0%
<b>Public Administration</b>	50	2.4%
<b>Other</b>	34	1.6%
<b>Total</b>	2,092	100.0%

Source: American Community Survey 5-Year Estimates Data Profiles, 2019-2023 (Table DP03 Selected Economic Characteristics)

Of the employed Netcong residents, approximately 85 percent are private wage and salary workers; 12 percent are government workers; and 3 percent are self-employed. See Table 17, [Distribution by Class of Worker, 2023](#), for additional details.

**TABLE 17. DISTRIBUTION BY CLASS OF WORKER, 2023**

	<b>Number in Netcong</b>	<b>Percent in Netcong</b>
<b>Private Wage and Salary Workers</b>	1,776	84.9%
<b>Government Workers</b>	251	12.0%
<b>Self-employed in own not incorporated business workers</b>	65	3.1%
<b>Unpaid family workers</b>	0	0.0%
<b>Total</b>	2,092	100.0%

Source: American Community Survey 5-Year Estimates Data Profiles, 2019-2023 (Table DP03 Selected Economic Characteristics)

## 4.6 Multigenerational Housing Continuity

Multigenerational housing is becoming a desired housing option in the State due to rising housing costs and an aging population. Housing for multigenerational families is necessary to offer a diverse housing stock and to account for population trends. Multigenerational housing can provide an opportunity for

residents to age in place, save on costs associated with housing, and provide in-house care for an older adult or persons with disabilities. Additionally, multigenerational housing is a more sustainable approach to meeting housing obligations as there is no need for the construction of new homes in order to provide housing for additional individuals.

On November 8, 2021, the Senate and General Assembly of the State of New Jersey adopted C.52:27D-329.209, which established the Multigenerational Family Housing Continuity Commission. The commission is allocated within the Department of Community Affairs. The duties of the commission include: preparing and adopting recommendations on how State government, local government, community organizations, private entities, and community members may most effectively advance the goal of enabling senior citizens to reside at the homes of their extended families, thereby preserving and enhancing multigenerational family continuity, through the modification of State and local laws and policies in the areas of housing, land use planning, parking and streetscape planning, and other relevant areas.

The bill requires that a municipality's housing element shall be designed to achieve the goal of access to affordable housing to meet present and prospective housing needs, with particular attention to low- and moderate-income housing, and shall contain, among other requirements:

*An analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission).*

This language is included in the Amended FHA at N.J.S.A. 52:27D-310. It should be noted that at the time of the preparation of this Housing Element and Fair Share Plan, the commission has made no recommendations. That said, Netcong Borough is committed to promoting multigenerational family continuity through the provision of a variety of housing options offered to a variety of income levels in a manner consistent with the regulations. In recent years, Netcong Borough has increased the diversity of its housing stock with the construction of multifamily housing offering one-level living.

The Borough is committed to supporting inclusive housing opportunities that meet the needs of residents at every stage of life, actively prioritizing thoughtful planning and following population trends.

## 4.7 Growth Trends and Projections

### 4.7.1 Residential Trends and Projections

According to the New Jersey Construction Reporter, between 2013 and 2023, Netcong issued 137 certificates of occupancy; of which, 92 percent were multifamily units and 8 percent were one- and two-family dwelling units. Approximately 96 percent of these residential certificates of occupancy were issued between 2020 and 2021. See Table 18, Residential Certificates of Occupancy, 2013-2023, for additional details.

**TABLE 18. RESIDENTIAL CERTIFICATES OF OCCUPANCY, 2013-2023**

	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	Total
<b>1 &amp; 2 Family</b>	0	1	0	0	0	1	3	5	0	0	1	<b>11</b>
<b>Multifamily</b>	0	0	0	0	0	0	0	35	91	0	0	<b>126</b>
<b>Mixed-Use</b>	0	0	0	0	0	0	0	0	0	0	0	<b>0</b>
<b>Total</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>3</b>	<b>40</b>	<b>91</b>	<b>0</b>	<b>1</b>	<b>137</b>

Source: New Jersey Construction Reporter

#### 4.7.2 Non-residential Trends and Projections

According to the New Jersey Construction Reporter, between 2013 and 2023, Netcong issued certificates of occupancy for a total of ±228,150 square feet of non-residential building space. See Table 19, Non-Residential Certificates of Occupancy, 2013-2023, for additional details. The majority of the non-residential growth can be attributed to:

- 181,335 square feet of multifamily/dormitories space, for which certificates of occupancy were issued in 2018, 2020, and 2021;
- 36,547 square feet of office space, for which certificates of occupancy were issued in 2014 and 2021;
- 5,040 square feet of storage space, for which certificates of occupancy were issued in 2023 only.

**TABLE 19. NON-RESIDENTIAL CERTIFICATES OF OCCUPANCY, 2013-2023**

	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	Total
<b>Office</b>	0	14,885	0	0	0	0	0	0	21,662	0	0	3,6547
<b>Retail</b>	0	0	0	0	0	0	0	0	0	0	0	0
<b>A-1</b>	0	0	0	0	0	0	0	0	0	0	0	0
<b>A-2</b>	0	0	0	0	0	0	0	0	0	0	0	0
<b>A-3</b>	0	0	0	0	0	0	0	0	0	0	0	0
<b>A-4</b>	0	0	0	0	0	0	0	0	0	0	0	0
<b>A-5</b>	0	0	0	0	0	0	0	0	0	0	0	0
<b>Multifamily / Dormitories</b>	0	0	0	0	0	48	0	49,523	131,764	0	0	181,335
<b>Hotel/Motel</b>	0	0	0	0	0	0	0	0	0	0	0	0
<b>Education</b>	0	0	0	0	0	0	0	0	0	0	0	0
<b>Industrial</b>	0	0	0	0	0	0	5,000	0	0	0	0	5,000
<b>Hazardous</b>	0	0	0	0	0	0	0	0	0	0	0	0
<b>Institutional</b>	0	0	0	0	0	0	0	0	0	0	0	0
<b>Storage</b>	0	0	0	0	0	0	0	0	0	0	5,040	5,040
<b>Signs, Fences, Utility and Misc.</b>	0	0	0	228	0	0	0	0	0	0	0	228
<b>TOTAL</b>	<b>0</b>	<b>14,885</b>	<b>0</b>	<b>228</b>	<b>0</b>	<b>48</b>	<b>5,000</b>	<b>49,523</b>	<b>153,426</b>	<b>0</b>	<b>5,040</b>	<b>228,150</b>

Source: New Jersey Construction Reporter

## 4.8 Capacity for Growth

The Borough has seen the construction of predominantly multi-family dwelling units over the last decade. However, due in part to lack of vacant land, and environmental constraints on the remaining undeveloped tracts zoned for residential use. Most development anticipated to occur will be the redevelopment of already improved sites. As is detailed further in Chapter 5, the Borough anticipates the construction of several recently approved developments. The Borough has encouraged the development of these projects in efforts to provide its fair share of affordable housing. Aside from these projects, the Borough anticipates little additional residential or non-residential development.

## 5 BOROUGH OF NETCONG AFFORDABLE HOUSING PLAN

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### 5.1 Prior Round Affordable Housing Obligations (1987-2025)

Per the Amended FHA ( N.J.S.A. 52:27D-304.1.3.a(f)(2)(a)), as part of its housing element and fair share plan, the municipality shall include an assessment of the degree to which it has met its fair share obligation from the prior rounds of affordable housing obligations as established by prior court approval, or approval by COAH, and determine to what extent this obligation is unfulfilled or whether the municipality has credits in excess of its prior round obligations.

#### 5.1.1 Prior Round Obligation (i.e., 1987-1999)= 0 units

As detailed in Chapter 2, in September 2016 the court entered a Judgment of Compliance and Repose for Netcong for the 1987-2025 compliance periods. The Judgment of Compliance and Repose refers to the January 2016 Housing Element and Fair Share Plan which indicated that the Borough's Prior Round obligation as established in N.J.A.C. 5:93 was **0 units**.

#### 5.1.2 Third Round Prospective Need Obligation (i.e., 1999-2025)= 36 units

In 2008, COAH assigned Netcong a Prospective obligation of **26 units** which Netcong addressed in its COAH certified 2008 Plan. However, N.J.A.C. 5:97 was invalidated by the Court which in its 2015 Decision declined to adopt a specific methodology or formula to calculate the Prospective obligation. At the time of the Judgment of Compliance and Repose, Netcong's Third Round obligation was still being debated on a State level by various experts who each issued reports offering their respective Prospective Need estimates for each municipality. A summary of the obligations which existed as of September 2016 included the following:

- **Burchell Numbers:** COAH in June 2014 (i.e., N.J.A.C. 5:99) issued numbers prepared by Rutgers University Center for Urban Policy Research, under the direction of Robert W. Burchell, Ph.D; (referred to herein as the "Burchell Numbers"). Burchell Numbers indicated that Netcong had a Prospective Need obligation of **4 units**.
- **Kinsey Numbers:** David N. Kinsey, Ph.D., FAICP, PP has issued three sets of Third Round municipal obligation numbers over the 18 months dated July 2014, April 2015, and July 2015, respectively (referred to herein as the "Kinsey Numbers"). The Kinsey Numbers indicated that Netcong had a Prospective Need obligation of **29 units**.
- **Econsult Solutions:** Econsult Solutions issued a report *New Jersey Affordable Housing Need and Obligations* dated December 30, 2015 (the "Econsult Report"). Econsult indicated that Netcong had a Prospective Need obligation of **9 units**.

None of the above estimates were ever sanctioned by the Court. The 2016 HEFSP and Judgment of Compliance and Repose anticipated that Netcong would produce affordable housing units far in excess of any of the obligations calculated by the above experts. However, neither the 2016 HEFSP and Judgment



of Compliance and Repose indicate a specific number constituting Netcong’s Third Round Prospective Need obligation.

However, subsequent to the 2016 HEFSP and Judgment of Compliance and Repose, In a 2018 unpublished decision, the Honorable Mary C. Jacobson, A.J.S.C., in (the “Jacobson Decision”) in the consolidated declaratory judgment proceedings: In the Matter of the Municipality of Princeton, Docket No. MER-L-1550-15 and in the Matter of West Windsor Township, Docket No. MER-L01561-15, Superior Court of New Jersey, established a methodology for calculating Prospective Need obligations which multiple experts went on to use to calculate Third Round Fair Share Obligations.

Per the Jacobson Decision, Netcong had a 1999-2025 obligation to provide **36 affordable housing units**. Although not bound by the Jacobson Decision, given the ambiguity surrounding the Borough’s Third Round Prospective Need, in this Housing Element and Fair Share Plan Netcong elects to use the Jacobson Decision numbers since the numbers were the only set of expert numbers generally presumed to be valid.

## 5.2 Satisfaction of Prior Round Affordable Housing Obligations (1987-2025)

### 5.2.1 The 2016 HESFP

The 2016 HEFSP and subsequent Judgment of Compliance and Repose anticipated the following projects would yield 65 affordable housing units.

#### **THE STATION AREA REDEVELOPMENT PLAN**

In 2004, the Mayor and Council designated a Redevelopment Area pursuant to the LHRL. The Redevelopment Area was bounded by Flanders Road, Furnace Pond, Bank Street, Main Street, and Route 46 and included the entirety of Block 19, as well as Block 16, Lots 24, 25, and 25.01. The Station Area Redevelopment Plan was first adopted in 2005 for a 12.8-acre subset of the redevelopment area on Block 19, Lots 20, 21.01, 22, 28, 28.01, 29, 30, 34.02, 35, 36, 37, 38, and 39. Adjacent to downtown Netcong and the New Jersey Transit train station, the Redevelopment Plan envisioned a mixed use redevelopment that would yield 108 market-rate residential units **and 25 affordable units** (14 for-sale and 11 rental, including very low-income rental units), as well as office and/or retail developments. Residential development would include a mix of multi-family, townhouses, and semi-attached housing.

#### **THE STOLL/ALLEN STREET REDEVELOPMENT PLAN**

In 2005, the Borough designated the Stoll/Allen Street Redevelopment Area which included Block 8, Lots 15, 16, 17, 23.01, 24, 24.02, 24.03, 27, 28, 29, 30, 31, and 32. The Redevelopment Area is divided into three “sectors,” including an older industrial complex on the western half, automotive uses on the eastern half, and a small residential/commercial enclave on the north-central section. The Stoll/Allen Street Redevelopment Plan permits townhouse and multifamily development at a density not to exceed 12 units per acre. The Borough anticipated 103 stacked multi-family condominium units including **21 affordable housing units**.

### **THE OLD POCKETBOOK FACTORY**

In 2013, the Planning Board adopted a Redevelopment Plan for a subsection of the Station Area Redevelopment Area. The plan focused on Block 19, Lot 14 on Flanders Road between Route 46/Main Street and the rail right-of-way. The Plan permitted 72 multifamily units, ten percent of which will be affordable housing units (i.e., **7 affordable units**).

### **THE QUIRK SITE**

In 2016, the Planning Board adopted a Redevelopment Plan for another subsection of the State Area Redevelopment Area. The plan focused on Block 16.01, Lots 24 and 25.01 for the former Quirk Industrial property known as the Quirk Site. This plan anticipated the development of 120 residential units including **12 affordable units**.

## **5.3 Status of Projects in 2016 HEFSP**

### **THE STATION AREA REDEVELOPMENT PLAN**

An amendment to the phase one redevelopment of the Station Area was prepared in August 2016, titled Phase 1 Amendment to the Station Area Redevelopment Plan. This plan discusses the lack of traction to implement the original 2005 Plan as related to issues with diverse ownership and difficulties in assembling properties to carry out the redevelopment scheme. In addition, a weakening condominium market, recession, growth of online retail, and legal changes to the use of eminent domain in securing land. The amended 2016 Plan allowed for a phased approach to implementation of the Station Area Redevelopment Plan, focusing on redevelopment of the NJ Transit property, which includes Block 19, Lots 35, 36, 38, 39, and a portion of Lot 37, as the first phase. Uses permitted in the Phase 1 Area include multifamily residential dwellings, either for sale or for rent, required ground-floor retail, offices, and surface/structured parking. The maximum density is 32 units per acre, which may be increased to 40 units per acre if structured parking is provided. Building heights are permitted to the lesser of four stories or 50 feet. The Amended Plan also removed the public realm requirements that were part of the original Plan but encouraged creative and innovative approaches to modifying the street grid and open space plan.

Since the Plan's adoption in 2005 and amendment in 2016, no redevelopment activity has occurred, apart from subsections of the original Redevelopment Area described below, despite the Borough's facilitation efforts. The Station Area Redevelopment Plan Area continues to hold potential to become a vibrant mixed-use district. The 2022 Reexamination Report recommended that the Borough re-visit the Plan to formulate a viable redevelopment scheme. At this time, the 25 affordable units contemplated in the 2016 HEFSP have not been completed.

### **THE STOLL/ALLEN STREET REDEVELOPMENT PLAN**

Since its last amendment in 2009, no redevelopment activity has occurred, and the prospective redeveloper seeking to assemble properties within the Redevelopment Area has stepped away from

the project. Consequently, the Plan Area requires a fresh look to determine whether existing constraints, which include possible environmental contamination and diverse ownership, can be overcome either in whole or in part to facilitate redevelopment. At this time, the 21 affordable units contemplated in the 2016 HEFSP have not been completed.

#### **THE OLD POCKETBOOK FACTORY/CROWN WALK APARTMENTS**

The 2013 Redevelopment Plan was amended in February 2019. The Plan permits multi-family residential development with a maximum residential yield of 80 units and a ten-percent set-aside of affordable units. Building heights are permitted to be five stories, 48 feet to the highest eave, and 58 feet to the roof ridgeline. The Planning Board approved a residential project that is generally consistent with the amended Redevelopment Plan. The CrownWalk Apartments (i.e., 2 Flanders Road) are complete and include **8 rental affordable housing units**, one more unit than anticipated in the 2016 HEFSP.

The family rental units are administered by CPG&H. They include 2 one-bedroom, 4 two-bedroom units; and 2 three-bedroom units. Seven of the 13 units are available to low-income households (i.e., 54 percent) including two very-low-income units (i.e., 15 percent). At least half of each unit type are available to low-income households.

#### **THE QUIRK SITE/CROWN POINT NETCONG**

The Planning Board approved a site plan application for “Crown Point Netcong” in 2017 on the Quirk Site, consisting of a four-building multi-family residential project that was generally consistent with the Redevelopment Plan. The development is now constructed and located across Bank Street from the unrealized area of the Station Area Redevelopment Plan. Crown Point Netcong (i.e., 34 Bank Street) is complete and includes **13 rental affordable housing units**, one more unit than anticipated in the 2016 HEFSP.

The family rental units are administered by CPG&H. They include 2 one-bedroom units; 8 two-bedroom units; and 3 three-bedroom units. Four of the 8 units are available to low-income households and four are available to moderate-income households. At least half of each unit type is available to low-income households.

### **5.4 Affordable Housing Units Constructed and/or Planned Since 2016**

- 5.4.1 Since the 2016 HEFSP and Judgment of Compliance and Repose, additional projects with affordable housing units have been proposed and/or completed in Netcong including the following:

#### **ALLEN HILL MANOR**

In 2024, the Planning Board granted Preliminary Site Plan approval to demolish existing structures on Block 11, Lot 6 (i.e., 39 Ledgewood Avenue/Route 183) to build a 2-story residential apartment building with 8 dwelling units including **1 one-bedroom family rental affordable housing unit**.

## **ST. MICHAEL’S/ MOUNTAIN VIEW AT NETCONG**

In 2022, the Borough Council designated Block 26, Lot 6 and a portion of Lot 10 as a non-condemnation area in need of redevelopment. The Planning Board subsequently adopted a Redevelopment Plan in August 2023. The properties consist primarily of surface parking lots associated with an unbuilt early childcare learning center and St. Michael’s Church, as well as undeveloped land on an oversized residential lot. The Plan permits 64 3½-story market-rate townhouses and 12 three-story affordable senior multi-unit dwellings.

In 2024, the Planning Board granted approval to the project which will produce **12 senior rental affordable housing units**.

## **BLOCK 15 REDEVELOPMENT**

In 2023, the Borough Council designated five contiguous properties (i.e., Block 15, Lots 29, 30, 31, 32, & 33) on the east side of Main Street and the north side of Maple Avenue as a “rehabilitation area” consistent with the LRHL at N.J.S.A. 40A:12A-14. Thereafter, the Borough adopted a “Redevelopment Plan for Block 15, Lots 29, 30, 31, 32, & 33.” The Plan permits a variety of commercial uses on the ground floor and multifamily residential dwellings above. A maximum of 50 residential units and a minimum of 6,000 square feet of commercial area is required. The Plan also requires a 15% set-aside of affordable units. The Block 15 Rehabilitation Area is located within the official ½-mile Transit Village area.

In 2024, the Planning Board granted approval to the project which will produce **8 family rental affordable housing units**.

## **5.5 Calculation of Fourth Round Obligation (2025-2035)**

### **5.5.1 Introduction**

The Fourth Round affordable housing obligation is comprised of two components: a Present Need (or Rehabilitation) obligation; and a Prospective Need obligation.

The Present Need obligation is defined as the number of substandard existing deficient housing units in the municipality currently occupied by low- and moderate-income (LMI) households.

The Prospective Need is a projection of the need for low- and moderate-housing based on development and growth which is reasonably likely to occur in a region or a municipality.

### **5.5.2 DCA Estimates of Borough’s Fourth Round Obligations**

The Amended FHA required the New Jersey Department of Community Affairs (“DCA”) to provide an estimate of the fair share affordable housing obligations of all municipalities on or before October 20, 2024 based upon the criteria of the Amended FHA.

DCA issued a report on October 18, 2024 (the “DCA Report”) wherein it reported its estimate of the fair share affordable housing obligation for all municipalities based upon its interpretation of the standards

in the Act.

The DCA Report calculates Netcong's Round 4 (2025-2035) fair share affordable housing obligations as follows: a Present Need (Rehabilitation) Obligation of 24 units and a Prospective Need (New Construction) Obligation of 50 units.

The Amended FHA states that the DCA Report is non-binding and permits municipalities to demonstrate that the Amended FHA would support revised calculations of Round 4 fair share affordable housing obligations; and provides municipalities the opportunity to propose a different fair share affordable housing obligation from those reported by the DCA Report. The Amended FHA requires municipalities to adopt a binding resolution no later than January 31, 2025, as to its obligations.

Prior to adopting the binding resolution setting forth the Borough's obligations, Netcong exercised its right to analyze the data reported by DCA in the October 18, 2024 Report.

Pursuant to the Amended FHA, on January 30, 2025, the Mayor and Council adopted a binding resolution (Resolution Number (2025-25) of participation with the Affordable Housing Dispute Resolution Program (the "Program") in accordance with the requirements of the Amended FHA. The Borough's resolution to set the Borough's affordable housing obligations for the Fourth Round as follows: a Present Need of 24 units; and a Prospective Need of 47 units.

The Borough subsequently filed the resolution and a declaratory judgment (Docket No. DOCKET NO.: MRS-L-312-25) within 48 hours of adoption with the Superior Court.

#### 5.5.3 Challenge and Settlement of Fourth Round Obligation

In accordance with the timeframes set forth in the Amended FHA, the New Jersey Builders Association ("NJBA") filed objections to the Borough's resolution contending that the Borough had improperly calculated its Prospective Need obligation.

The Borough engaged in settlement conferences with NJBA before reaching a settlement on March 27, 2025 that the Borough's Prospective Need obligation for the Fourth Round is 48 units. The Program recommended the obligation to the Mt. Laurel vicinage judge. See **Appendix B**.

In short, the Borough's Fourth Round obligation is as follows in Table 20, Fourth Round Obligation.

**TABLE 20. FOURTH ROUND OBLIGATION**

<b>Present Need (Rehabilitation) Obligation</b>	<b>24 Units</b>
<b>Prospective Need Obligation</b>	<b>48 Units</b>

#### 5.5.4 Highlands Build Out Analysis and Vacant Land Adjustment

There is limited land in the Borough that is vacant or otherwise developable for affordable and/or inclusionary housing. This is largely due to the Borough being mostly built-out with many of the undeveloped parcels being environmentally constrained (i.e., wetlands, steep slopes, water bodies, and/or flood hazard areas). As a result, the Borough is seeking a Vacant Land Adjustment (“VLA”) analysis undertaken on behalf of the Borough of Netcong pursuant to the Amended FHA.

Netcong remains committed to meeting its constitutional obligation to provide, through its land use regulations, a realistic opportunity for a fair share of the region’s present and prospective needs for housing for low- and moderate-income families. The Borough is in the process of becoming Highlands-conforming municipality and being designated a Highlands Center. The Highlands has indicated to the Borough that it is entitled to the statutory benefits associated with Highlands Plan Conformance.

Pursuant to the 2024 Highlands Affordable Housing RMP Amendment, conforming municipalities shall implement both the resource protection requirements of the Highlands Regional Master Plan (“RMP”) and provide for a realistic opportunity for a fair share of its region’s needs for housing for low- and moderate-income households. Proposed affordable housing developments in conforming municipalities must therefore be consistent with the RMP Land Use Capability Zone designations while providing for the protection of individual Highlands region resources. As such, the Highlands Council created a Highlands Build-Out Analysis (BOA), to determine parcels eligible for development. This analysis applied a series of conditional determination rules to each parcel, determining, per Highlands standards, if the parcel is developable. The Borough’s VLA conforms to both the standards of the Amended FHA and the Highlands RMP. See **Appendix C** for an explanation of the VLA methodology. **Appendix D** provides an inventory of each parcel analyzed and an explanation for why it was excluded. Appendix D also includes maps showing the locations of the parcels inventoried and maps of their respective constraints.

Based on the Highlands Build-Out Analysis and the provisions of the Amended FHA, Netcong’s VLA indicates that approximately ±3.1-acres exist within the Borough that are suitable for inclusionary multifamily residential development. Assuming a density of 15 dwelling units per acre, the Borough has a **RDP of 10 units (rounded up)**. See Table 21, Developable Acreage.

**TABLE 21. DEVELOPABLE ACREAGE**

Block	Lot	Property Class	Property Location	Owner Name	Zone	Lot Acreage	Total Environmentally Constrained Acreage	Remaining Acreage	Notes
19	29	1	FLANDERS RD	ROSEWOOD NETCONG HOLDINGS, LLC	B-C	1.078	0.064	1.014	Sleep slopes present; remaining developable acreage > 0.83 acres.
22	4	1	TERRACE ST	ST MICHAELS ROMAN CATHOLIC CHURCH	R-3A	13.710	12.534	1.176	Steep slopes, wetlands, & waterbody present; developable acreage > 0.83 acres.
23	5	1	37-2 CENTER ST	MONTELLA, FELICE/ANNA C	R-3A	1.078	0.188	0.890	Sleep slopes present; remaining developable acreage > 0.83 acres.
Total Developable Acreage								<b>3.1 acres</b>	

## 5.6 Plan to Address Fourth Round Obligation (2025-2035)

### 5.6.1 Present Need (24 Units)

The Borough will continue to participate in The Morris County Housing Rehabilitation Program which provides funds to income eligible homeowners to address major system failures in their primary residence.

### 5.6.2 Plan to Address its Fourth Round RDP of 10 Units and Third Round Obligation of 36 Units

In order to address to its 10 unit RDP and the 36 unit Third Round Obligation, the Borough proposes the following compliance mechanisms. Table 22, Third and Fourth Round Affordable Housing Plan.

**TABLE 22. AFFORDABLE HOUSING PLAN FOR THIRD AND FOURTH ROUNDS**

Project	Tenancy	Total Affordable Units	THIRD ROUND		FOURTH ROUND		Status
			Affordable Units to Meet Third Round	Bonus Credits to Meet Third Round	Affordable Units to Meet Fourth Round	Bonus Credits to Meet Fourth Round	
<b>Crown Walk/2 Flanders</b>	Family Rentals	8	8	8 <sup>1</sup>	---	---	<b>Complete</b>
<b>Crown Point/ 34 Bank</b>	Family Rentals	13	9	1 <sup>1</sup>	4	2 <sup>3</sup>	<b>Complete</b>
<b>Allen Hill Manor</b>	Family Rental	1	1	---	---	---	<b>Approved</b>
<b>St. Michael's/ Mountain View At Netcong</b>	Senior Rental	12	9 <sup>2</sup>	---	3		<b>Approved</b>
<b>Block 15 Redevelopment</b>	Family Rental	8	---	---	8	0.5 <sup>3</sup>	<b>Approved</b>
			<b>27</b>	<b>9<sup>4</sup></b>	<b>15</b>	<b>2.5<sup>4</sup></b>	
			<b>36 Credits to Third Round Obligation of 36 Units</b>		<b>17.5 Credits to Fourth Round RDP of 10 Units</b>		

<sup>1</sup>Third Round rental bonus credits.

<sup>2</sup> Number of age-restricted units to address Third Round is limited to 25 percent of obligation (i.e., 25% of 36 or 9).

<sup>3</sup> Each unit is eligible for a 0.5 bonus credit because the project is within a half-mile of a NJ Transit railroad station.

<sup>4</sup> Limited to 25 percent of obligation.

### **5.3.4 Zoning to Address Twenty-Five Percent of RDP Likely to Redevelop**

As part of addressing its Fourth Round affordable housing obligation through the utilization of a vacant land adjustment, the Borough is required to identify properties which represent at least 25 percent of its RDP which are likely to redevelop during the Fourth Round. The Borough must then accordingly adopt realistic zoning which permits affordable housing development at such locations.

The Borough has a RDP of 10 units and 25 percent of 10 is 3 units (rounded up). The Borough has 5 Fourth Round surplus units which will address the 25 percent requirement.

Additionally, the Borough intends to amend the Station Area Redevelopment Plan to formulate a viable redevelopment scheme that will provide additional opportunities for affordable housing development.



## 5.7 Other Requirements

The Borough will comply with the following requirements pursuant to the Amended FHA:

### **VERY LOW-INCOME OBLIGATION**

Per the Amended FHA, the Borough will require that 13% of all units created in this plan, except those units that were constructed or granted preliminary or final site plan approval prior to July 1, 2008, to be very low-income units, with half of the very low-income units being available to families.

Specifically, of the 42 units included in this plan, at least 6 units will be available to very low-income households. Two of the units at Crown Point are very low-income. Two of the units at Mountain View at Netcong will be very low-income. Two of the units at the Block 15 Redevelopment will be very low-income.

### **LOW INCOME OBLIGATION**

Per the Amended FHA, the Borough will require that at least 50 percent of the units created to address both the Third and Fourth Round Prospective Need obligations will be affordable to very low-income and low-income households, with the remainder affordable to moderate-income households.

### **MINIMUM RENTAL OBLIGATION**

Per the Amended FHA, a municipality shall satisfy a minimum of 25 percent of the actual affordable housing units created, exclusive of any bonus credits, to address its prospective need affordable housing obligation, through rental housing, including at least half of that number available to families with children.

All 42 units included in this plan will be rental units and 30 units (i.e., 71 percent) will be family rental units.

### **MINIMUM FAMILY OBLIGATION**

Per the Amended FHA, a municipality shall satisfy a minimum of 50 percent of the actual affordable housing units, exclusive of any bonus credits, created to address its prospective need affordable housing obligation through the creation of housing available to families with children.

Of the 42 units included in this plan, 30 units (i.e., 71 percent) will be family rental units.

### **MAXIMUM PERMITTED AGE-RESTRICTED UNITS**

The Amended FHA limits the amount of age-restricted units a municipality can use to address its obligation to 30 percent (up from 25 percent in the Third Round).

This plan includes 9 age-restricted units to address the 36-unit Third Round obligation (i.e., 25 percent) and 3 age-restricted units to address the 10-unit Fourth Round RDP (i.e., 30 percent).

### **REQUIRED BEDROOM DISTRIBUTION**

All units shall include the required bedroom distribution, and be governed by controls on affordability

and affirmatively marketed in conformance with the Uniform Housing Affordability Controls N.J.A.C. 5:80-26.1 et seq. or any successor regulation.

## 5.8 Spending Plan

The Borough's Fourth Round Spending Plan is included in **Appendix E**.

## 6 Consistency with Housing Element of Highlands Regional Master Plan

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The vacant land adjustment (the “VLA”) for Netcong is consistent with the housing element of the Highlands Regional Master Plan (“RMP”) for lands in the Highlands Planning Area. The VLA includes consideration of the municipality's most recent Highlands Municipal Build Out Report, consideration of opportunities for redevelopment of existing developed lands into inclusionary or 100 percent affordable housing, or both.

The Borough is in the process of updating its ordinances, including its Affordable Housing Ordinance, to be consistent with the RMP.

## 7 Consistency with the State Development and Redevelopment Plan

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The New Jersey State Development and Redevelopment Plan (SDRP) was originally adopted in 1992. The purpose of the SDRP according to the State Planning Act at N.J.S.A. 52:18A-200(f) is to:

*Coordinate planning activities and establish Statewide planning objectives in the following areas: land use, housing, economic development, transportation, natural resource conservation, agriculture and farmland retention, recreation, urban and suburban redevelopment, historic preservation, public facilities and services, and intergovernmental coordination.*

The State Plan is not a regulation, but a policy guide, and is meant to coordinate planning activities and development throughout the state. At the municipal level, master plans are required to be evaluated and, if necessary, modified to reflect policies of the State Plan. The State Plan is also important when the State makes infrastructural and other investment decisions, i.e., in determining where available State funds should be expended.

A revised version of the plan was adopted by the State Planning Commission in 2001. While required by the State Planning Act to be revised and re-adopted every three years, the SDRP has only been readopted once during the 32 years since its original adoption. A new State Strategic Plan (SSP) was proposed in 2011 as the revision to the 2001 SDRP, but it has not been advanced in recent years. The State Office of Planning Advocacy started the process of preparing a new State Plan in 2023 and the State Planning Commission has been engaging with stakeholders. As part of the update process, the State Planning Commission approved the Preliminary State Development and Redevelopment Plan on December 4, 2024, and is now undertaking the Cross-Acceptance process (i.e. review of the plan at the county level).

Spatially, the last adopted State Plan utilizes planning areas, centers, and environs as a framework for implementing Statewide goals and policies. The State Plan Map indicates that the majority of Netcong is located within the Suburban Planning Area (PA2) with small portions in the southern part of the Borough in the Environmentally Sensitive Planning Area (PA5).

In the Suburban Planning Area, the intention of the State Plan is to:

1. Provide for a portion of the state's future growth in compact development and redevelopment in Centers and other appropriate areas;
2. Promote walkability and multi-modal transportation options;
3. Protect and enhance the character of existing stable communities;
4. Protect and enhance natural resources and promote increased biodiversity, reforestation and habitat restoration;
5. Redesign auto-oriented areas and promote traffic calming and other forms of pedestrian counter measures;

6. Reverse any further sprawl development, including warehouse sprawl; and
7. Revitalize and enhance towns and other traditional settlements.

In the Environmentally Sensitive Planning Area, the intent of the State Plan is to:

1. Protect environmental resources; ② protect both large and small contiguous areas of land;
2. Promote restoring habitats and bio-diversity; ② accommodate growth only in Centers;
3. Confining programmed sewers and public water services to Centers;
4. Revitalize cities, towns, and older traditional settlements; and
5. Protect, enhance, and diversify the existing character of stable communities.

The Netcong Housing Element and Fair Share Plan recognizes the need to encourage development and redevelopment on the limited developable land in the Borough, while also prioritizing the protection of its natural resources and maintaining the character of the area. This Housing Plan promotes strategic and smart planning for compact forms of housing and mixed-use development in appropriate locations served by existing infrastructure and proximate to transit, stores and services, and is therefore consistent with the State Plan.

## 8 Appendixes

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- Appendix A** 2017 Third Round Settlement Agreements with Fair Share Housing Center
- Appendix B** Program Recommendation for Municipal Obligations for “Present Need” and “Prospective Need” for the Fourth Round
- Appendix C** Highlands Build-Out Analysis & Vacant Land Adjustment Methodology
- Appendix D** Inventory and Maps of Parcels Investigated in Build-Out Analysis and Vacant Land Adjustment
- Appendix E** Spending Plan
- Appendix F** Adopted Affordable Housing Ordinance
- Appendix G** Adopted Development Fee Ordinance
- Appendix H** Resolution Appointing Municipal Housing Liaison

## Appendix A. 2016 Judgment of Compliance and Repose

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FILED  
SEP 20 2016  
JUL 10 14  
JUL 10 14

FILED

SEP 20 2016

CLERK OF SUPERIOR COURT

MURPHY McKEON, P.C.  
51 Route 23 South, P.O. Box 70  
Riverdale, New Jersey 07457  
(973) 835-0100  
Attorneys for Borough of Netcong, Plaintiff/Petitioner  
By: Robert H. Oostdyk, Jr. [021961989]

IN THE MATTER OF THE APPLICATION  
OF THE BOROUGH OF NETCONG, a  
municipal corporation of the State of New Jersey,

Plaintiff/Petitioner.

: SUPERIOR COURT OF NEW JERSEY  
: LAW DIVISION : MORRIS COUNTY

: DOCKET NO. MRS-L-1766-15

: Civil Action

: ORDER GRANTING THIRD ROUND  
: SUBSTANTIVE CERTIFICATION TO  
: THE BOROUGH OF NETCONG

This matter having been presented to the Court by Robert Oostdyk, Esq., Murphy McKeon, PC, by way of declaratory judgment action filed on behalf of the Borough of Netcong, and the court having considered the municipality's request for a declaratory judgment through a hearing on July 20, 2016, for the purpose of determining Netcong's compliance with its affordable housing obligation pursuant to the Mount Laurel doctrine and the Fair Housing Act; and

IT APPEARING that Netcong filed the above-captioned matter on July 2, 2015 seeking a declaration of its compliance with the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 53:27D-301 et seq. in accordance with In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015); and,

IT FURTHER APPEARING that a case management order was entered on April 19, 2016 that scheduled the fairness hearing to July 20, 2016 at 9:30 a.m.; and,

IT FURTHER APPEARING that a Notice of this hearing was previously provided to all parties on the service list identified on the Declaratory Judgment for this matter, including Fair Share Housing Center, and that the court received into the record evidence of said notice having been provided; and,

IT FURTHER APPEARING that the Housing Element and Fair Share Plan and related documents have been made available to the public for inspection at the Borough Clerk's Office; and,



IT FURTHER APPEARING that no written objections or opposition have been filed in regard to the Borough's proposed Housing Element and Fair Share Plan; and,

IT FURTHER APPEARING that the Court has heard testimony from Paul A. Philips, PP, AICP regarding Borough of Netcong's Housing Element and Fair Share Plan.

NOW THEREFORE, IT IS on this 29<sup>th</sup> day of September, 2016, ORDERED as follows:

1. The Court hereby, without objection from any party, finds that the Fair Share Plan and Housing Element dated January 2016 as adopted by the Borough of Netcong Planning Board on March 28, 2016 and accepted by the Borough Council of the Borough of Netcong on April 14, 2016 to be fair and reasonable.

2. The court further finds that the Fair Share Plan adopted by the Borough meets its constitutional obligations under Mount Laurel and the Fair Housing Act.

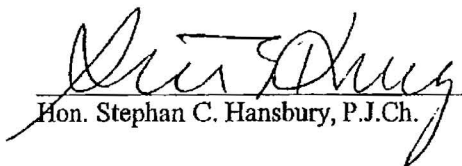
3. The Borough shall comply with all provisions of the Fair Housing Act during the ten year period of repose granted by the Council. The Fair Housing Act includes two provisions regarding action to be taken by the Borough during the ten-year period of protection provided in this Judgment. The Borough shall comply with those provisions as follows:

- a. For the midpoint realistic opportunity review due on July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Borough will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether any mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the municipality, with a copy to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether any mechanisms to meet unmet need should be revised or supplemented.
- b. For the review of very low income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of the third anniversary of this agreement, and every third year thereafter, the Borough will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its satisfaction of its very low income requirements, including the family very low income requirements referenced herein. Such posting shall invite any interested party to submit comments to the municipality and Fair Share Housing Center on the issue

of whether the municipality has complied with its very low income housing obligation under the Fair Share Plan.

4. The Court hereby grants the Borough the judicial equivalent of substantive certification and accompanying protection as provided under the Fair Housing Act and in accordance with In re N.J.A.C. 5:96 & 5:97, 221 N.J. 1, 36 (2015). The accompanying protection shall remain in effect through July 20, 2025.

5. A copy of this order shall be served on all counsel of record, and all interested parties within 5 days of receipt of it by counsel for the Borough of Netcong.

  
Hon. Stephan C. Hansbury, P.J.Ch.

*Signed pursuant to  
the 5 day rule  
without objection*

Appendix B. Program Recommendation for Municipal Obligations for  
“Present Need” and “Prospective Need” for the Fourth Round

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**PREPARED BY THE AFFORDABLE HOUSING PROGRAM:**

**In the Matter of  
Netcong Borough**

Superior Court of New Jersey  
Law Division, Civil Part

Docket No. MRS-L-312-25

**Program Settlement Recommendation  
Present Need and Prospective Need**

THIS MATTER, having come before the Affordable Housing Program, pursuant to the Complaint for Declaratory Judgment filed on February 2, 2025 ("DJ Complaint") by **Netcong Borough** ("Petitioner" or "Municipality"), pursuant to N.J.S.A. 52:27D-304.2, -304.3, and -304.1(f)(1)(c) of the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, et seq. (collectively, the "FHA"), and in accordance with Section II.A of Administrative Directive #14-24 ("Directive #14-24") of the Affordable Housing Dispute Resolution Program (the "Program"), seeking a certification of compliance with the FHA;

AND IT APPEARING that, on October 18, 2024, pursuant to the FHA (as amended), the **New Jersey Department of Community Affairs ("DCA")** issued its report entitled "Affordable Housing Obligations for 2025-2035 (Fourth Round)", therein setting forth the "present need" and "prospective need" obligations of all

New Jersey municipalities for the Fourth-Round housing cycle (the “DCA’s Fourth Round Report”);

AND IT APPEARING that, pursuant to the DCA’s Fourth Round Report, the “prospective need” obligation of the Petitioner has been calculated and reported as 50 affordable units, and which calculations have been deemed “presumptively valid” for purposes of the FHA;

AND IT APPEARING THAT The Amended FHA Act requires municipalities that wish to receive immunity for the Fourth Round via participation in the Program to file a “binding resolution no later than January 31, 2025” which contains the Township’s calculation of its Fourth-Round fair share obligations and to “file an action regarding the resolution with the Program.” N.J.S.A. 52:27D-304.1(f)(1)(b),

AND IT APPEARING that the Municipality represented by Robert Oostdyk timely adopted **resolution 2025-25 on January 31, 2025** seeking deviation from DCA numbers based on their planners recommendation for 47 units for prospective need affordable housing obligation;

AND IT APPEARING that challenges to the Municipal calculations were timely and properly filed by

the **New Jersey Builders Association** represented by Thomas Carroll, Esq. challenger disputing the town proposed obligations for present and prospective need, and supporting DCA present and prospective need obligations, each challenge supported by their own expert reports,

AND IT APPEARING; The Administrative Office of the Courts and the Program appointed and assigned the case to program member **Judge Stephan C. Hansbury, Retired on Recall** to manage the proceedings, host settlement conferences and make recommendations to the Mount Laurel Judge in accordance with the FHA statute and the AOC Directive,

AND IT APPEARING THAT the appointed program member has fully considered all the submissions of counsel for all parties, the various planners reports, the DCA report, and the program member having a conducted **settlement conference on March 27, 2025**, in accordance with Directive and the statutory framework.

AND IT APPEARING THAT, the AOC appointed an independent special adjudicator affordable housing expert to work with, make recommendations and assist the program, working closely with the program member, and **James Kyle** appointed as special adjudicator in this case,

AND IT APPEARING THAT, the March 27 settlement conference was conducted on notice to all parties and the participation including attorneys, and planners for the Builders Association, everyone with the goal of reaching a resolution,

AND IT APPEARING THAT, the parties have engaged in extensive settlement negotiations before, during and after the settlement conferences, with the guidance and assistance of the program member assigned to the case and the special adjudicator,

AND IT APPEARING THAT the municipality and Fair Housing have reached a resolution, the settlement was placed on the record,

AND IT APPEARING that the special adjudicator recommends accepting the settlement to the program, and that the terms of the **settlement are as follows: 48** units of affordable housing for prospective need obligation, and that parties will now move on to the compliance phase to address the remaining issues pursuant to FHA and the AOC Directive,

For all those reasons, The program member hereby recommends for consideration and review that an ORDER be entered by the County Mount Laurel Judge as follows:

Accepting the proposed settlement and establishing that the Municipal Affordable Housing that the “prospective need” obligation of the Municipality, be, and hereby is fixed as 48 affordable units for the Fourth Round Housing cycle.

And the program also recommending an order be entered that the Municipality is hereby authorized to proceed with preparation and adoption of its proposed Housing Element and Fair Share Plan for the Fourth Round, incorporating therein the “present need” and “prospective need” allocations aforesaid (and which plan shall include the elements set forth in the “Addendum” attached to Directive #14-24), by or before June 30, 2025, as provided for and in accordance with Section III.A of Directive #14-24, and without further delay.

And the Program recommending for an order that any and all “challenges” to the Petitioner’s housing element and fair share plan as adopted pursuant to Paragraph 3 above must be filed by August 31, 2025, by way of Answer/Objection filed in the

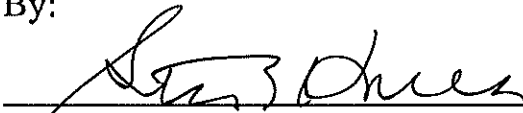


eCourts and as provided for and in accordance with Section III.B of Directive #14-24;

And the program also recommending that a copy of the Order shall be deemed served on the Petitioner, Petitioner's counsel and the Program Chair upon its posting by the Court to the eCourts case jacket for this matter pursuant to R. 1:5-1(a) and R. 1:32-2A.

**Respectfully submitted by The Program:**

By:

  
 Hon. Stephan C. Hansbury, J.S.C. (Ret.)

Dated: March 27, 2025

**Mount Laurel Judge:**

The Program's decision is ☐ accepted for the reasons set forth by the Program, ☐ accepted for the reasons set forth below, ☐ rejected, ☐ accepted/rejected in part.

**Findings of fact and conclusions of law (Rule 1:7-4(a)):**

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By:

Hon. \_\_\_\_\_, J.S.C.

Dated: \_\_\_\_\_

## Appendix C. Highlands Build-Out Analysis & Vacant Land Adjustment Methodology

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# Highlands Build-Out Analysis & Vacant Land Adjustment Analysis Methodology

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## 8.1 Introduction

The Borough of Netcong seeks an adjustment of its prospective need obligation for the Fourth Round based on a lack of vacant land. Per P.L.2024, c.2 (C.52:27D-310.1), when computing a municipal adjustment regarding available land resources as part of the determination of a municipality's fair share of affordable housing, the municipality, may exclude the following vacant land:

- (a) any land that is owned by a local government entity that as of January 1, 1997, has adopted, prior to the institution of a lawsuit seeking a builder's remedy or prior to the filing of a petition for substantive certification of a housing element and fair share plan, a resolution authorizing an execution of agreement that the land be utilized for a public purpose other than housing;
- (b) any land listed on a master plan of a municipality as being dedicated, by easement or otherwise, for purposes of conservation, park lands or open space and which is owned, leased, licensed, or in any manner operated by a county, municipality or tax-exempt, nonprofit organization including a local board of education, or by more than one municipality by joint agreement pursuant to P.L.1964, c.185 (C.40:61-35.1 et seq.), for so long as the entity maintains such ownership, lease, license, or operational control of such land;
- (c) any vacant contiguous parcels of land in private ownership of a size which would accommodate fewer than five housing units based on appropriate standards pertaining to housing density;
- (d) historic and architecturally important sites listed on the State Register of Historic Places or National Register of Historic Places prior to the date of filing a housing element and fair share plan pursuant to section 3 of P.L.2024, c.2 (C.52:27D-304.1) or initiation of an action pursuant to section 13 of P.L.1985, c.222 (C.52:27D-313);
- (e) agricultural lands when the development rights to these lands have been purchased or restricted by covenant;
- (f) sites designated for active recreation that are designated for recreational purposes in the municipal master plan; and
- (g) environmentally sensitive lands where development is prohibited by any State or federal agency, including, but not limited to, the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), for lands in the Highlands Preservation Area, and lands in the Highlands Planning Area for Highlands -conforming municipalities.

No municipality shall be required to utilize for affordable housing purposes land that is excluded from being designated as vacant land.

The Borough is seeking an adjustment of its prospective need obligations for the Fourth Round based

on a lack of vacant land pursuant to P.L.2024, c.2 (C.52:27D-304.1) including P.L.2024, c.2 (C.52:27D-304.1(g)).

The Borough of Netcong is entitled to the statutory benefits associated with Highlands Plan Conformance as detailed in the Highlands Act, the Regional Master Plan (“RMP”), and the Plan Conformance Procedures in Addendum 2019-2. On April 18, 2024, the Highlands Council adopted an amendment to the RMP entitled Highlands Affordable Housing RMP Amendment. The amendment provides standards based on the RMP and the Fair Housing Act as to where it is appropriate to locate affordable housing based on the Goals, Policies and Objectives of the RMP. Policy 607 of the RMP requires that conforming municipalities implement both the resource protection requirements of the RMP and provide for a realistic opportunity for a fair share of its region’s needs for housing for low- and moderate-income households. Proposed affordable housing developments in conforming municipalities must therefore be consistent with the RMP Land Use Capability Zone (“LUCZ”) designations while providing for the protection of individual Highlands region resources. As such, the Highlands Council created a Highlands Build-Out Analysis (BOA), to determine parcels eligible for development. This analysis applied a series of conditional determination rules to each parcel, determining, per Highlands’ standards, if the parcel is developable. These rules reflect the policies and standards in the 2024 Highlands Affordable Housing RMP Amendment.

The Highlands Council conducted a Build-Out Analysis for Netcong which was reviewed by the Borough and used as a basis for the Borough to seek a Vacant Land Adjustment pursuant to P.L.2024, c.2 (C.52:27D-304.1). The Highlands Build-Out Analysis steps are summarized below as are the steps used by the Borough to conduct a Vacant Land Adjustment.

## 8.2 Highlands Build-Out Analysis

### METHODOLOGY

**Step 1.** The Highlands Build-Out analysis update process begins with the inclusion of all parcels within the municipality, using the 2024 statewide parcel data layer. Any missing data was flagged and the Borough subsequently provided the data to the Highlands Council.

**Step 2.** The Highlands identified developable parcels. This involved including all of the following parcels identified as being vacant, underdeveloped, and eligible for development, specifically:

- Parcels with MODIV property class code 1 and 3B; or
- Parcels with a public or other MODIV property class code 15C or 15F where 0.83 acres or greater is available for development after the existing building footprint area (Microsoft, 2018) is subtracted from the maximum building coverage (based on the maximum building coverage percentage permitted by local zoning); or
- Parcel with a public or other MODIV property class code 15C or 15F where 0.83 acres or greater is available for development after the existing impervious surface area is subtracted from the maximum impervious surface lot coverage (based on the impervious lot coverage percentage permitted by local zoning).

**Step 3.** Next, the Highlands identified non-developable parcels. This involved excluding all parcels that met the following criteria:

- Any parcels identified as developable above but were subsequently determined to be developed, not vacant, or otherwise ineligible for development;
- Parcels with over 95% open water; or
- Parcels over 0.83 acre in area which are 95% preserved; or
- Parcels 95% in the Preservation Area; or
- Parcels with MODIV property class 2 or 3A and 3b combined; or
- Parcels with MODIV property class codes 4A, 4B, 4C, 15A, 15B, 15D, 15E; or
- Parcels with a public or other MODIV property class code 15C or 15F where 0.83 acres or less is available for development after the existing building footprint area (Microsoft, 2018) is subtracted from the maximum building coverage (based on the maximum building coverage percentage permitted by local zoning); or
- Parcel with a public or other MODIV property class code 15C or 15F where 0.83 acres or less is available for development after the existing impervious surface area is subtracted from the maximum impervious surface lot coverage (based on the impervious lot coverage percentage permitted by local zoning).

**Step 4.** Next, the Highlands assigned a septic density to each parcel. Where developable lots are not assigned a septic density, they were assumed to be able to be serviced by public wastewater. The following criteria were used:

- Sewer: Where a parcel was more than 5% or has more than 2,500 sq. ft. in a sewer service area, it is identified as being sewer eligible.
- Septic: Where a parcel is outside a sewer service area (less than 5% or 2,500 sq. ft. in a sewer service area) or the parcel contains any amount of Conservation and/or Protection Zone (based on the 2024 LUCZ).
- Additionally, the Highlands BOA eliminated parcels with a combined septic density greater than 0 units, but less than 5 units.

**Step 5.** Next, the Highlands identified Highlands resource constraints and overlayed them on each parcel. Where the overlayed resources left less than 0.83 acres developable area on a parcel, the parcel was considered not developable. The constraints used were based on the Highlands Affordable Housing RMP Amendment (2024) and include the following:

- Highlands Open Water and associated Highlands Open Water Buffers;
- Prime Groundwater Recharge Areas (or Municipally Important Groundwater Recharge Areas, as adopted);
- Severe Steep Slopes (20%+ slopes);
- Critical Habitat;
- Vernal Pools and associated 300-meter buffer;
- Natural Heritage Priority Sites; and/or

- Special Environmental Zone.

**Step 6.** The final output of the build-out update includes a dataset of 2024 parcels (Parcels and MOD-IV Composite of NJ downloaded from NJ-Office of Information Technology) with all the input information used by the Highlands Council to determine the eligibility for development, as well as a related table of the rules, constraints, and determinations used to identify the development status of each parcel. Parcels that meet the conditions of a rule are assigned a related rule record in the Build-Out Rules table. See Appendix A Table 1. Highlands Build-Out Analysis Rules for a list of the rules applied to exclude parcels in Netcong. ExclusionParcels can have multiple rules applied. A final determination of a parcel's eligibility for development is made using the full set of related determination rules.

The NJ Highlands Resource Protection Standards are measured and applied to their intersecting parcels using a geometric union to estimate the total combined acreage of constrained and developable lands. Parcels where the combined acreage of constrained resources leaves less than 0.83 acres of unconstrained land were considered totally constrained and excluded using rule (607) TOTALLY CONSTRAINED.

A final development determination is made after all the determination rules have been checked for and applied to every qualifying parcel. The final determination is made parcel-by-parcel, using the following criteria:

- **YES** Parcels with at least one INCLUDE rule (and no EXCLUDE or MISSING rules) are considered potentially non-vacant or underdeveloped and therefore eligible for further development.
- **NO** Parcels with a single EXCLUDE rule are considered non-vacant, developed, or ineligible for development.

Netcong then reviewed the Build-Out Analysis data, and provided any input to the Highlands Council who then returned to the Borough a spreadsheet and GIS data to aid in the completion of the Build-Out Analysis report. The spreadsheet indicates the following:

- Parcels that can support development of 5 units or more and have a net developable acreage of 0.83 acres or greater.
- Parcels that can be serviced by public wastewater or via on-site septic systems.
- A maximum residential unit septic density for parcels identified as developable that are to be serviced by one-site septic systems.
- Where parcels are to be serviced by public wastewater, the municipality determines the supportable density for each parcel. A minimum presumptive density of 6 units per acre based on developable acreage is assumed, which may be adjusted based on surrounding land uses. The presumptive density shall not exceed the available net water availability for the

The Build-Out Analysis determined that approximately 3.1 acres in Netcong met the above criteria.

### 8.2.1 Appendix C Table 1. Highlands Build-Out Analysis Rules for Exclusion

Code	Rule	Description
401	OPEN WATER	Parcels that are over 95% Open Water
402	PRESERVED	Parcels that are larger than 1 acre and are over 95% preserved
403	PRESERVATION AREA	Parcels that are 95% within the NJ Highlands Preservation Area
404	RESIDENTIAL DEVELOPED	Parcels where the following is a MODIV property class of: <ul style="list-style-type: none"> <li>• 2- Residential; or</li> <li>• 3A- Farm (Regular)</li> </ul>
405	EXCLUDE RAILROAD (5A, 5B)	Parcels with one of the following MODIV property classes: <ul style="list-style-type: none"> <li>• 5A- Class I Railroad Property</li> <li>• 5B- Class II Railroad Property</li> </ul>
406	PUBLIC EXCLUDE (15A, 15B, 15D, 15E)	Parcels with one of the following MODIV property classes: <ul style="list-style-type: none"> <li>• 15A- Public School Property</li> <li>• 15B- Other School Property</li> <li>• 15D- Church and Charitable Property</li> <li>• 15D- Cemeteries and Graveyards</li> </ul>
407	PUBLIC DEVELOPED BLD COV	Parcels with all of the following: <ul style="list-style-type: none"> <li>• A MODIV property class of: <ul style="list-style-type: none"> <li>○ 15C- Public Property; or</li> <li>○ 15F- Other Exempt</li> </ul> </li> <li>• A ZONE_BLDG_COVERAGE acreage, minus 0.83 acres reserved as available for development less than the acreage of all existing buildings detected on the parcel using Microsoft Building Footprints</li> </ul>
408	PUBLIC DEVELOPED LOT/IS COV	Parcels with all of the following: <ul style="list-style-type: none"> <li>• A MODIV property class of: <ul style="list-style-type: none"> <li>○ 15C- Public Property; or</li> <li>○ 15F- Other Exempt</li> </ul> </li> <li>• A ONE_BLDG_COVERAGE acreage, minus 0.83 acres reserved as available for development less than the acreage of all existing impervious coverage surfaces detected on the parcel using Highlands Impervious Surfaces</li> </ul>
504	INSUFFICIENT SEPTIC DENSITY THRESHOLD (<5 UNITS)	Parcels with both the following: <ul style="list-style-type: none"> <li>• <b>Combined Septic Density</b> is greater than zero (&gt;0 units)</li> <li>• <b>Combined Septic Density</b> is less than five (&lt;5 units)</li> </ul>
607	TOTALLY CONSTRAINED	Parcels where resource constraints cover the entire parcel, leaving less than 0.83 acres of developable land.

Source: Highlands Municipal Build-Out Update Prepared by the Highlands Water Protection and Planning Council in support of the Highlands Regional Master Plan; November 1, 2024.

### 8.3 Vacant Land Analysis

The Build-Out Analysis formed the basis of the Borough’s Vacant Land Adjustment (“VLA”) analysis undertaken pursuant to P.L.2024, c.2 (C.52:27D-304.1). The VLA augments the results of the Build-Out analysis with additional parcel specific information used to substantiate the exclusion of parcels based on the Amended FHA. Specifically, C.52:27D-304.1:

(b) any land listed on a master plan of a municipality as being dedicated, by easement or otherwise, for purposes of conservation, park lands or open space and which is owned, leased, licensed, or in any manner operated by a county, municipality or tax-exempt, nonprofit organization including a local board of education, or by more than one municipality by joint agreement pursuant to P.L.1964, c.185 (C.40:61-35.1 et seq.), for so long as the entity maintains



such ownership, lease, license, or operational control of such land;

(d) historic and architecturally important sites listed on the State Register of Historic Places or National Register of Historic Places prior to the date of filing a housing element and fair share plan pursuant to section 3 of P.L.2024, c.2 (C.52:27D-304.1) or initiation of an action pursuant to section 13 of P.L.1985, c.222 (C.52:27D-313);

(f) sites designated for active recreation that are designated for recreational purposes in the municipal master plan; and

#### 8.4 Summary of Build-Out Analysis and Vacant Land Adjustment

Based on both the Build-Out analysis and the Vacant Land Adjustment analysis, Netcong currently has approximately 3.1-acres within its boundaries suitable for development of affordable housing. See **Appendix B** for a list of all properties inventoried and maps showing their locations and environmental and/or Highlands' area constraints.

## **Appendix D:** Inventory and Maps of Parcels Investigated in Build-Out Analysis and Vacant Land Adjustment

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# Inventory of All Developable Parcels

Block	Lot	Property Class	Property Location	Owner Name	Zone	Lot Acreage	Total Environmentally Constrained Acreage	Remaining Acreage	Percent within Sewer Service Area	LUCZ Existing Community Zone Acreage	Highlands Designated Developable Acreage	Highlands Developable Designation	Highlands Exclusion Determination	Other Rational/VLA Final Determinations
19	29	1	FLANDERS RD	ROSEWOOD NETCONG HOLDINGS, LLC	B-C	1.078	0.064	1.014	100	1.078	1.014	YES	n/a; lot is developable	Sleep slopes present; remaining developable acreage > 0.83 acres.
22	4	1	TERRACE ST	ST MICHAELS ROMAN CATHOLIC CHURCH	R-3A	13.710	12.534	1.176	99	3.340	1.176	YES	n/a; lot is developable	Steep slopes, wetlands, & waterbody present; developable acreage > 0.83 acres.
23	5	1	37-2 CENTER ST	MONTELLA, FELICE/ANNA C	R-3A	1.078	0.188	0.890	100	1.078	0.890	YES	n/a; lot is developable	Sleep slopes present; remaining developable acreage > 0.83 acres.
											Final Total Developable Acreage			
											3.080			

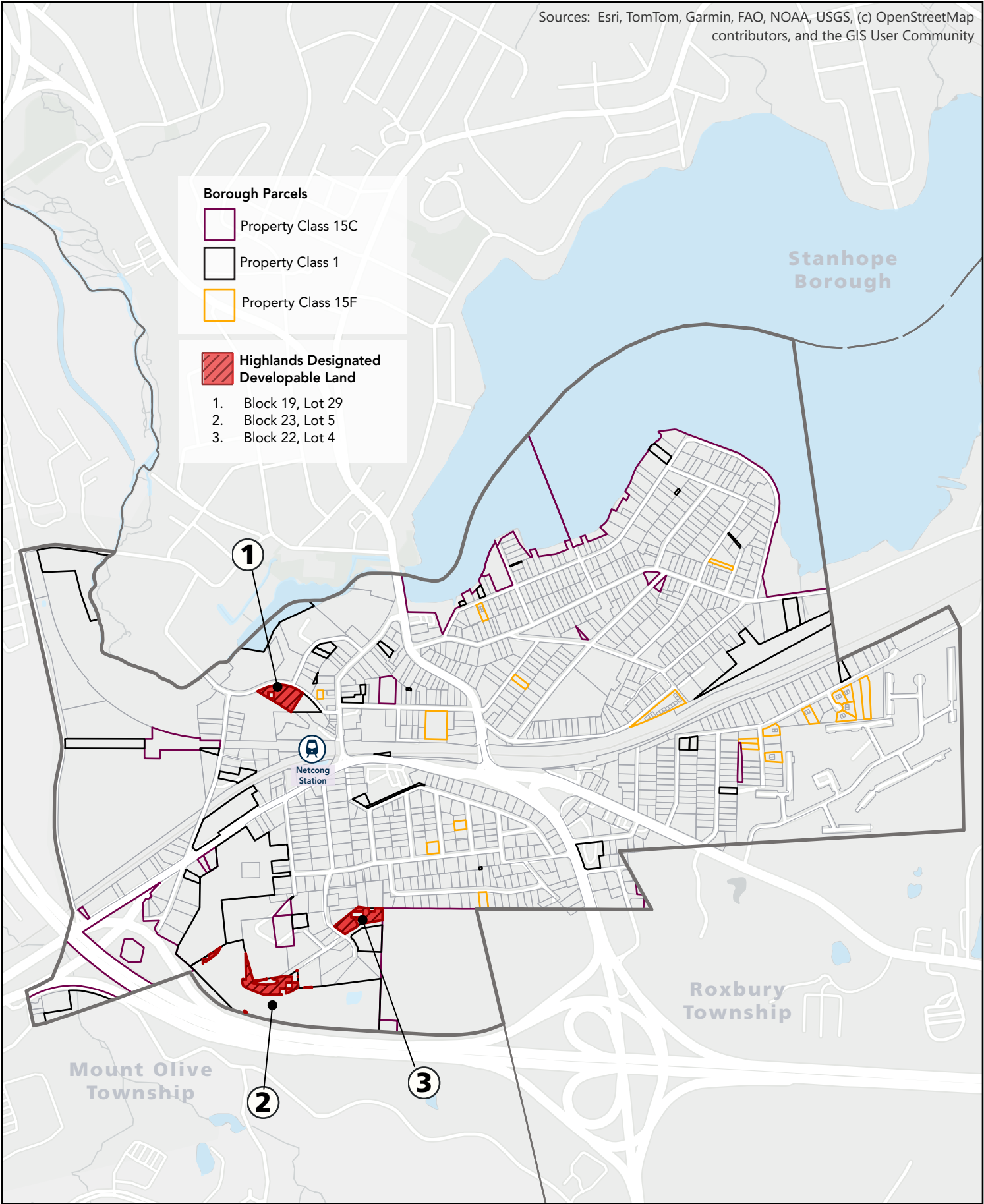
# Inventory of All Parcels Investigated

Block	Lot	Property Class	Property Location	Owner Name	Zone	Lot Acreage	Total Environmentally Constrained Acreage	Remaining Acreage	Percent within Sewer Service Area	LUCZ Existing Community Zone Acreage	Highlands Designated Developable Acreage	Highlands Developable Designation	Highlands Exclusion Determination	Other Rational/VLA Final Determinations
1	16.01	1	KOCLAS DR	MASTERS, ADELIA/MICHELE	R-2	0.330	0.330	0.000	100	0.000	0.000	NO	(607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
1	17	15C	KOCLAS DR	N J STATE OF	R-2	64.759	64.751	0.008	6	0.000	0.000	NO	(402) PRESERVED (607) TOTALLY CONSTRAINED	Lake Musconetcong Access, as designated on the NJDEP ROSI; almost entire lot is within open water; entire lot is within open water protection area
2	23	15F	7 BURTT ST	BRUCE, RASHLEIGH	R-2	0.141	0.036	0.105	100	0.000	0.000	NO	(409) PUBLIC DEVELOPED LOT/IS COV (607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
2	99	1	HILLSIDE AVE	UNKNOWN OWNER	R-2	0.052	0.038	0.015	100	0.000	0.000	NO	(607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
4	37	1	KOCLAS REAR	UNKNOWN OWNER	R-2	0.026	0.008	0.018	100	0.000	0.000	NO	(607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
5	17	15C	ALLEN ST	BOROUGH OF NETCONG	R-2	0.181	0.000	0.181	100	0.000	0.000	NO	(409) PUBLIC DEVELOPED LOT/IS COV (607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
5	25	15C	PROSPECT ST	BOROUGH OF NETCONG	R-2	0.062	0.015	0.047	100	0.000	0.000	NO	(409) PUBLIC DEVELOPED LOT/IS COV (607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
6	24	15C	54 COLLEGE RD	BOROUGH OF NETCONG	R-2	0.110	0.000	0.110	100	0.000	0.000	NO	(409) PUBLIC DEVELOPED LOT/IS COV (607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
8	14	15F	STOLL ST	CONDOMINIUM COMMON ELEMENT	I-3	0.873	0.073	0.800	100	0.873	0.000	NO	(409) PUBLIC DEVELOPED LOT/IS COV (607) TOTALLY CONSTRAINED	Lot developed with condominium complex & associated elements
8	29	1	128 ALLEN ST	FIZ PROPERTIES LLC	I-3	0.687	0.687	0.000	100	0.000	0.000	NO	(607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
8	32	1	PORT MORRIS RD	NRR LLC	I-3	3.728	3.728	0.000	100	0.000	0.000	NO	(607) TOTALLY CONSTRAINED	Entire lot within open water protection area; partially within vernal pool 300m buffer; steep slopes and wetlands present throughout lot; remaining developable acreage < 0.83 acres
8	36.01	1	55 RAILROAD AVE	55 RAILROAD AVENUE HOMEOWNER ASSOC	R-1A	0.240	0.240	0.000	100	0.000	0.000	NO	(607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
10	21	15F	12 ALLEN TER	APATANO, NAOMI	R-2	0.169	0.104	0.065	100	0.000	0.000	NO	(409) PUBLIC DEVELOPED LOT/IS COV (607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
12	17	15F	DELL AVENUE	CONDOMINIUM COMMON ELEMENT	R-2	0.172	0.172	0.000	100	0.000	0.000	NO	(409) PUBLIC DEVELOPED LOT/IS COV (607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
14	9	15C	3 WATER ST	BOROUGH OF NETCONG	R-2	1.190	1.190	0.000	99	0.000	0.000	NO	(409) PUBLIC DEVELOPED LOT/IS COV (607) TOTALLY CONSTRAINED	Joeseeph Direnzo Memorial Park, as designated on the NJDEP ROSI; entire lot falls within open water protection area; steep slopes present
14	12	1	9 DELL AVE	WHEELER, LYNNE TRUSTEE	R-2	0.105	0.105	0.000	100	0.000	0.000	NO	(607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
14	14.01	1	3 DELL AVE	STEPHENS, DONALD & YULI	R-2	0.040	0.040	0.000	100	0.000	0.000	NO	(607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
14	15	15C	LAKE MUSCONETCONG	STATE OF NEW JERSEY	R-2	16.791	16.791	0.000	8	0.000	0.000	NO	(402) PRESERVED (607) TOTALLY CONSTRAINED	Preserved State Open Spacee (Lake Musconectcong Park) per Highlands Region Environmental Resource Inventory; almost entirely within open water and entirely within open water protection area
14	19	1	WATER ST	UNKNOWN OWNER	B-C	0.018	0.018	0.000	100	0.000	0.000	NO	(607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
15	25	15C	23 MAPLE AVE	BOROUGH OF NETCONG	B-C	0.713	0.106	0.608	100	0.000	0.000	NO	(409) PUBLIC DEVELOPED LOT/IS COV (607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
15	29	1	48 MAIN ST	RSB NETCONG LLC	B-C	0.210	0.000	0.210	100	0.210	0.000	NO	(409) PUBLIC DEVELOPED LOT/IS COV (607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres; lot partially developed with parking lot
15	39	1	10 MAIN ST	PIETZ, RICHARD/VON HAGEN, LEIGH ANN	B-C	0.166	0.000	0.166	100	0.000	0.000	NO	(607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
15	42	1	MAPLE AVE REAR	UNKNOWN OWNER	B-C	0.016	0.000	0.016	100	0.000	0.000	NO	(607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
16	17	15F	BANK ST	VETERANS OF FOREIGN WARS	B-C	0.082	0.000	0.082	100	0.082	0.000	NO	(409) PUBLIC DEVELOPED LOT/IS COV (607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
16	22	1	JENNY LIND ST	REPP, BARBARA MC ELROY/MC ELROY ROB	B-C	0.147	0.019	0.127	100	0.000	0.000	NO	(607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
16	23.01	1	22 JENNY LIND ST	SEMPER DEVELOPMENT GROUP, LLC.	B-C	0.230	0.024	0.206	100	0.000	0.000	NO	(607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
16	24	1	MAIN ST REAR	UNKNOWN OWNER	B-C	0.024	0.000	0.024	100	0.024	0.000	NO	(607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
16.01	5	1	FURNACE POND SHORE	UNKNOWN OWNER	I-1	1.615	1.615	0.000	16	0.000	0.000	NO	(401) OPEN WATER (607) TOTALLY CONSTRAINED	Entirely within open water and the open water protection area; remaining developable acreage < 0.83 acres

17	6	15C	23 FLANDERS RD	BOROUGH OF NETCONG	I-1	1.860	1.860	0.000	100	1.860	0.000	NO	(409) PUBLIC DEVELOPED LOT/IS COV (607) TOTALLY CONSTRAINED	Entirely within open water protection area; wetlands and steep slopes present; remaining developable acreage < 0.83 acres
17	7	1	LOVE LN	NJ FORGEIN TRADE ZONE VENTURE	I-2	1.232	0.534	0.698	100	1.232	0.000	NO	(607) TOTALLY CONSTRAINED	Partially within open water protection area; steep slopes present; remaining developable acreage < 0.83 acres
17	10	1	WATERLOO RD	STORE MASTER FUNDING XXXIII LLC	I-1	3.161	3.006	0.155	100	0.000	0.000	NO	(607) TOTALLY CONSTRAINED	Almost entirely within open water protection area; steep slopes and wetlands present; remaining developable acreage > 0.83 acres
18	1	1	FLANDERS RD	NJ FOREIGN TRADE ZONE VENTURE	R-3	0.129	0.129	0.000	100	0.129	0.000	NO	(607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
18	15	15C	MAIN ST	N J STATE OF	B	0.084	0.084	0.000	100	0.084	0.000	NO	(409) PUBLIC DEVELOPED LOT/IS COV (607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
19	14	1	2 FLANDERS RD	CROWN WALK URBAN RENEWAL LLC % TOP	B	2.372	2.087	0.286	100	2.372	0.000	NO	(607) TOTALLY CONSTRAINED	Almost entirely within open water protection area; steep slopes present; remaining developable acreage > 0.83 acres
19	16	1	16 FLANDERS RD	14 FLANDERS LLC	B	0.467	0.304	0.163	100	0.467	0.000	NO	(607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
19	28.01	1	BANK ST	ROSEWOOD NETCONG HOLDINGS LLC	B-C	0.501	0.000	0.501	100	0.501	0.000	NO	(607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
19	29	1	FLANDERS RD	ROSEWOOD NETCONG HOLDINGS, LLC	B-C	1.078	0.064	1.014	100	1.078	1.014	YES	n/a; lot is developable	Sleep slopes present; remaining developable acreage > 0.83 acres.
20	6	1	BUDD LAKE RD	AIG BAKER MT. OLIVE L.L.C.	B	1.270	1.270	0.000	100	1.270	0.000	NO	(607) TOTALLY CONSTRAINED	Entirely within open water protection area; steep slopes and wetlands present; remaining developable acreage < 0.83 acres
21	1	15C	FLANDERS RD	STATE OF N J	B	3.315	3.315	0.000	100	3.315	0.000	NO	(409) PUBLIC DEVELOPED LOT/IS COV (607) TOTALLY CONSTRAINED	Entirely within open water protection area; steep slopes present; remaining developable acreage > 0.83 acres
22	4	1	TERRACE ST	ST MICHAELS ROMAN CATHOLIC CHURCH	R-3A	13.710	12.534	1.176	99	3.340	1.176	YES	n/a; lot is developable	Steep slopes, wetlands, & waterbody present; developable acreage > 0.83 acres.
22	5	15C	CENTER ST	BOROUGH OF NETCONG	LOR	0.342	0.342	0.000	91	0.000	0.000	NO	(409) PUBLIC DEVELOPED LOT/IS COV (607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
22	6	15C	CENTER ST	BOROUGH OF NETCONG	LOR	21.900	19.012	2.887	100	2.329	0.000	NO	(402) PRESERVED	Lot preserved per NJ Highlands Water Protection and Planning Council Highlands Region Environmental Resource Inventory: Scenic Vista Acquisition
22	14	1	CENTER ST	PUGLIESE, CARL/MIRELL A	R-3A	0.334	0.231	0.103	100	0.334	0.000	NO	(607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
22	18	1	CHURCH ST	UNKNOWN OWNER	R-3	0.003	0.000	0.003	100	0.003	0.000	NO	(607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
23	5	1	37-2 CENTER ST	MONTELLA, FELICE/ANNA C	R-3A	1.078	0.188	0.890	100	1.078	0.890	YES	n/a; lot is developable	Sleep slopes present; remaining developable acreage > 0.83 acres.
26	6	1	CHURCH ST	ST. MICHAEL'S ROMAN CATHOLIC CHURCH	R-3	10.208	5.144	5.064	100	8.621	0.000	NO	Lot is a part of an approved development application and is therefore undevelopable.	Approved development application for inclusionary affordable housing project.
26	6.01	1	1 FLANDERS RD	JUNTOS HOLDINGS LLC	R-1	0.193	0.186	0.007	100	0.193	0.000	NO	(607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
26	11	15C	FLANDERS RD	STATE OF NJ, DOT	B	6.844	3.376	3.467	100	6.844	0.000	NO	Lot is land locked by environmental constraints and major roadway interchanges.	This parcel is owned by NJDOT and is developed with a US Highway 46 and a I-80 interchange. The only access onto the parcel is from the exit lanes for each major roadway and there are environmental constraints around the parameter of the site.
26	15.01	1	43 TERRACE	14 NAVAJO LLC	R-3	0.375	0.134	#VALUE!	100	0.000	0.000	NO	(409) PUBLIC DEVELOPED LOT/IS COV	Lot is partially developed with residential development; lot is entirely within the LUCZ Lake Community Zone and per Highlands standards is not developable
26	15.02	1	CENTER ST	14 NAVAJO LLC	R-3A	0.443	0.281	#VALUE!	100	0.000	0.000	NO	(409) PUBLIC DEVELOPED LOT/IS COV	Lot is partially developed with residential development; lot is entirely within the LUCZ Lake Community Zone and per Highlands standards is not developable
26	22	15C	MAIN ST	BOROUGH OF NETCONG	R-1	0.155	0.155	0.000	100	0.155	0.000	NO	(409) PUBLIC DEVELOPED LOT/IS COV (607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
26	23	15C	MAIN ST	BOROUGH OF NETCONG	R-1	0.321	0.280	0.041	100	0.321	0.000	NO	(409) PUBLIC DEVELOPED LOT/IS COV (607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres

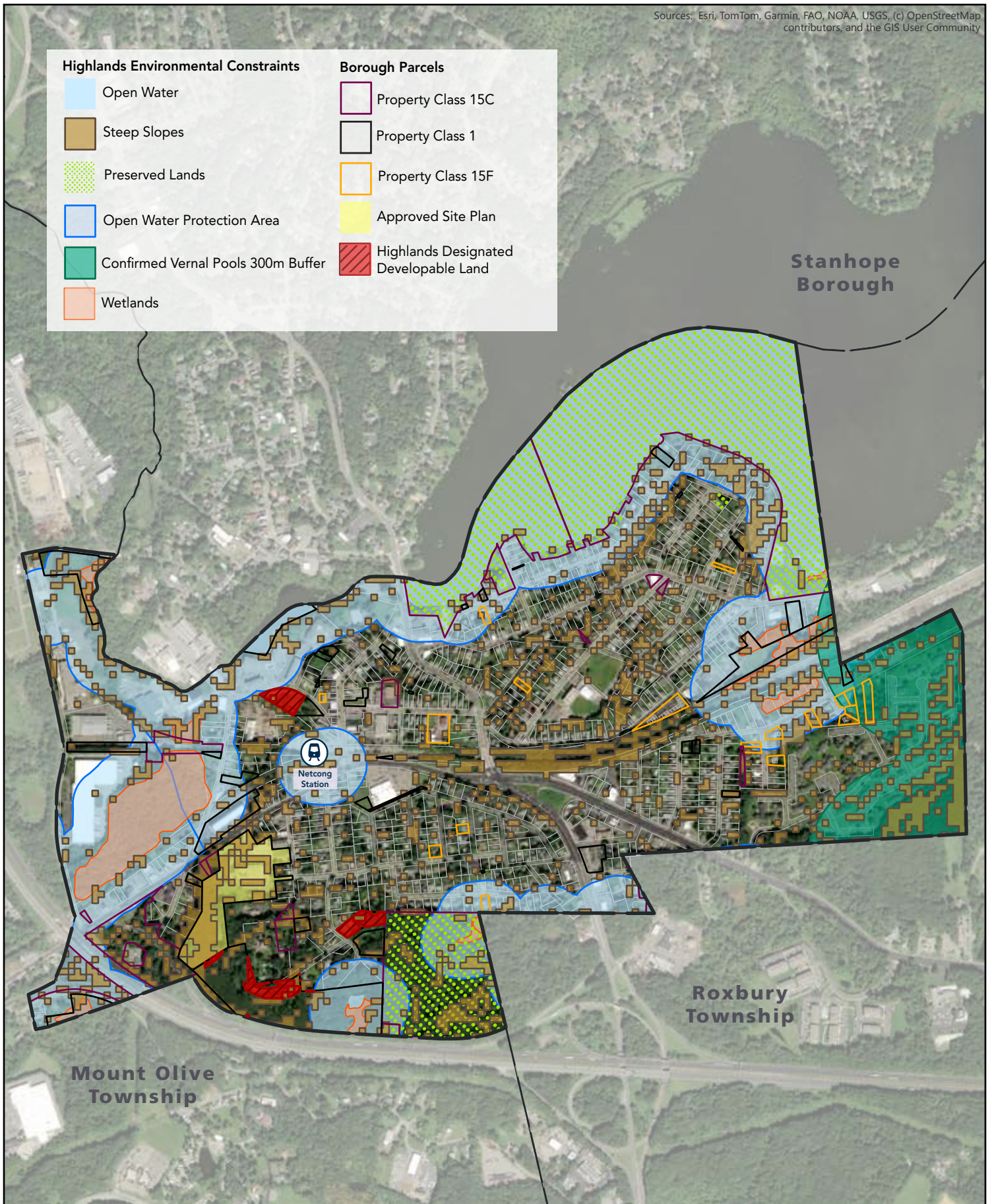


27	12	15F	40 MAPLE AVE	BOROUGH OF NETCONG	B-C	0.993	0.088	0.905	100	0.993	0.000	NO	(409) PUBLIC DEVELOPED LOT/IS COV	Lot developed with Borough Fire House and other community facilities, as designated on the Borough Official Map; Steep slopes present; lot falls within the LUCZ Lake Community Zone and per Highlands standards, is not developable
27	20	1	US 46	UNKNOWN OWNER	B-C	0.048	0.048	0.000	100	0.048	0.000	NO	(607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
28	16.01	1	1070 ROUTE 46 REAR	NETCONG 201 URBAN RENEWAL LLC	B-C	0.193	0.024	0.169	100	0.193	0.000	NO	(607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
28	17	1	DOWN ST	NETCONG 201 LLC	R-2	0.196	0.000	0.196	100	0.196	0.000	NO	(607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
31	6	15F	96 WILTOP RD	LUCATELLI, LEON	R-2	0.230	0.000	0.230	100	0.230	0.000	NO	(409) PUBLIC DEVELOPED LOT/IS COV (607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
32	2	15F	5 DOGWOOD RD	FERRARA, SAMUEL J & ELLEN JEAN	R-2	0.172	0.000	0.172	100	0.172	0.000	NO	(409) PUBLIC DEVELOPED LOT/IS COV (607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
36	34	1	US 46 REAR	UNKNOWN OWNER	R-1	0.011	0.000	0.011	100	0.011	0.000	NO	(607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
36.01	21	15F	25 AMENDOLA DR	JIMENEZ, LUIS A/MARYLOU	R-1	0.222	0.222	0.000	100	0.222	0.000	NO	(409) PUBLIC DEVELOPED LOT/IS COV (607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
38	2	15C	THOMAS ST	BOROUGH OF NETCONG	R-2	0.087	0.087	0.000	100	0.087	0.000	NO	(409) PUBLIC DEVELOPED LOT/IS COV (607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
39	1	15C	THOMAS ST	BOROUGH OF NETCONG	R-2	0.069	0.069	0.000	100	0.069	0.000	NO	(409) PUBLIC DEVELOPED LOT/IS COV (607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
40	4	1	RT 183	LOTUS ENTERPRISES	B	0.889	0.115	0.774	100	0.889	0.000	NO	(607) TOTALLY CONSTRAINED	Steep slopes present; lot falls within the LUCZ Lake Community Zone and per Highlands standards, is not developable
44	23.01	1	RAILROAD AVE	KANG KUNG, YAO HUA KUNG, ETALS.	R-2	0.192	0.000	0.192	100	0.192	0.000	NO	(607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
44	23.02	1	RAILROAD AVE	KANG KUNG, YAO HUA KUNG, ETALS	R-2	0.165	0.000	0.165	100	0.165	0.000	NO	(607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
45	4	15F	54 RAILROAD AVE	DUDA, EDWARD S JR	R-4	0.555	0.555	0.000	100	0.555	0.000	NO	(408) PUBLIC DEVELOPED BLD COV (409) PUBLIC DEVELOPED LOT/IS COV (607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
45	5.03	15F	RAILROAD AVE	COMMON ELEMENT	R-4	0.266	0.266	0.000	100	0.266	0.000	NO	(408) PUBLIC DEVELOPED BLD COV (409) PUBLIC DEVELOPED LOT/IS COV (607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
45	5.06	15F	RAILROAD AVE	COMMON ELEMENT	R-4	0.233	0.233	0.000	100	0.233	0.000	NO	(408) PUBLIC DEVELOPED BLD COV (409) PUBLIC DEVELOPED LOT/IS COV (607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
45	5.07	15F	RAILROAD AVE	COMMON ELEMENT	R-4	0.229	0.229	0.000	100	0.229	0.000	NO	(408) PUBLIC DEVELOPED BLD COV (409) PUBLIC DEVELOPED LOT/IS COV (607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
45	5.08	15F	MARC CT	COMMON ELEMENT	R-4	0.230	0.199	0.032	100	0.230	0.000	NO	(408) PUBLIC DEVELOPED BLD COV (409) PUBLIC DEVELOPED LOT/IS COV (607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
45	5.09	15F	MARC CT	COMMON ELEMENT	R-4	0.239	0.008	0.231	100	0.239	0.000	NO	(408) PUBLIC DEVELOPED BLD COV (409) PUBLIC DEVELOPED LOT/IS COV (607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
45	6	15F	RAILROAD AVE	COMMON ELEMENT	R-4	0.265	0.265	0.000	100	0.265	0.000	NO	(408) PUBLIC DEVELOPED BLD COV (409) PUBLIC DEVELOPED LOT/IS COV (607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
45	6.03	15F	UNION ST	COMMON ELEMENT	R-4	0.268	0.000	0.268	100	0.268	0.000	NO	(408) PUBLIC DEVELOPED BLD COV (409) PUBLIC DEVELOPED LOT/IS COV (607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
45	12	15C	UNION ST	BOROUGH OF NETCONG	R-2	0.256	0.192	0.064	100	0.256	0.000	NO	(409) PUBLIC DEVELOPED LOT/IS COV (607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
45	15	15F	6 UNION ST	DE FEO, DOMINICK V	R-2	0.172	0.121	0.051	100	0.172	0.000	NO	(409) PUBLIC DEVELOPED LOT/IS COV (607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
45	16	15F	4 UNION ST	ESPOSITO, ALBERT & MABEL	R-2	0.136	0.112	0.025	100	0.136	0.000	NO	(409) PUBLIC DEVELOPED LOT/IS COV (607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
45	26	1	20 BARONE ST	GALLO BROS, INC	R-2	0.172	0.150	0.022	100	0.172	0.000	NO	(607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres
					Total Lot Acreage	Total Environmentally Constrained Acreage	Total Highlands LUCZ Constrained Acreage	Final Total Developable Acreage						
TOTALS					170.745	147.591	20.074	3.080						



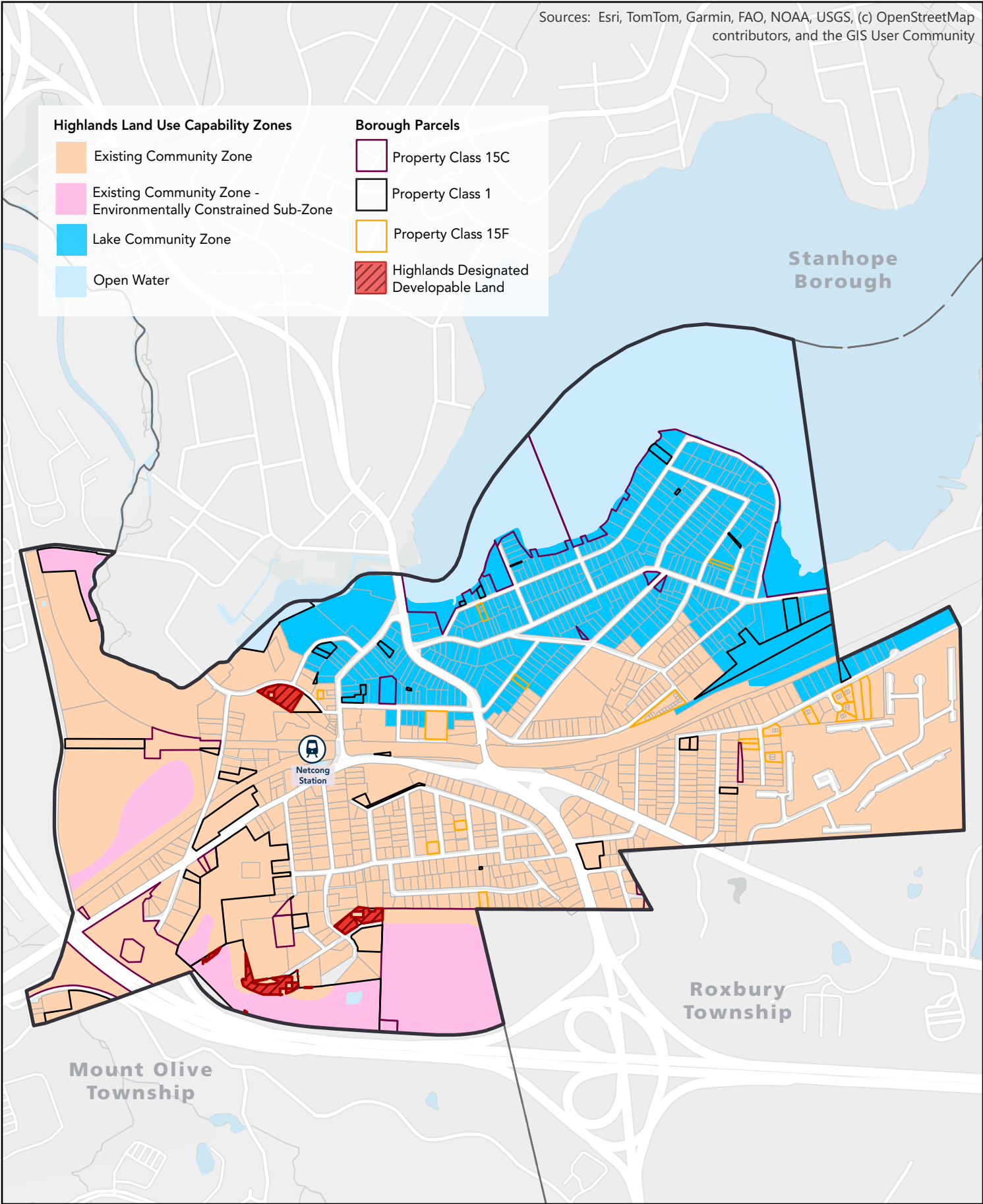
**Appendix D.1: Vacant Land Adjustment Borough Parcels Inventoried**



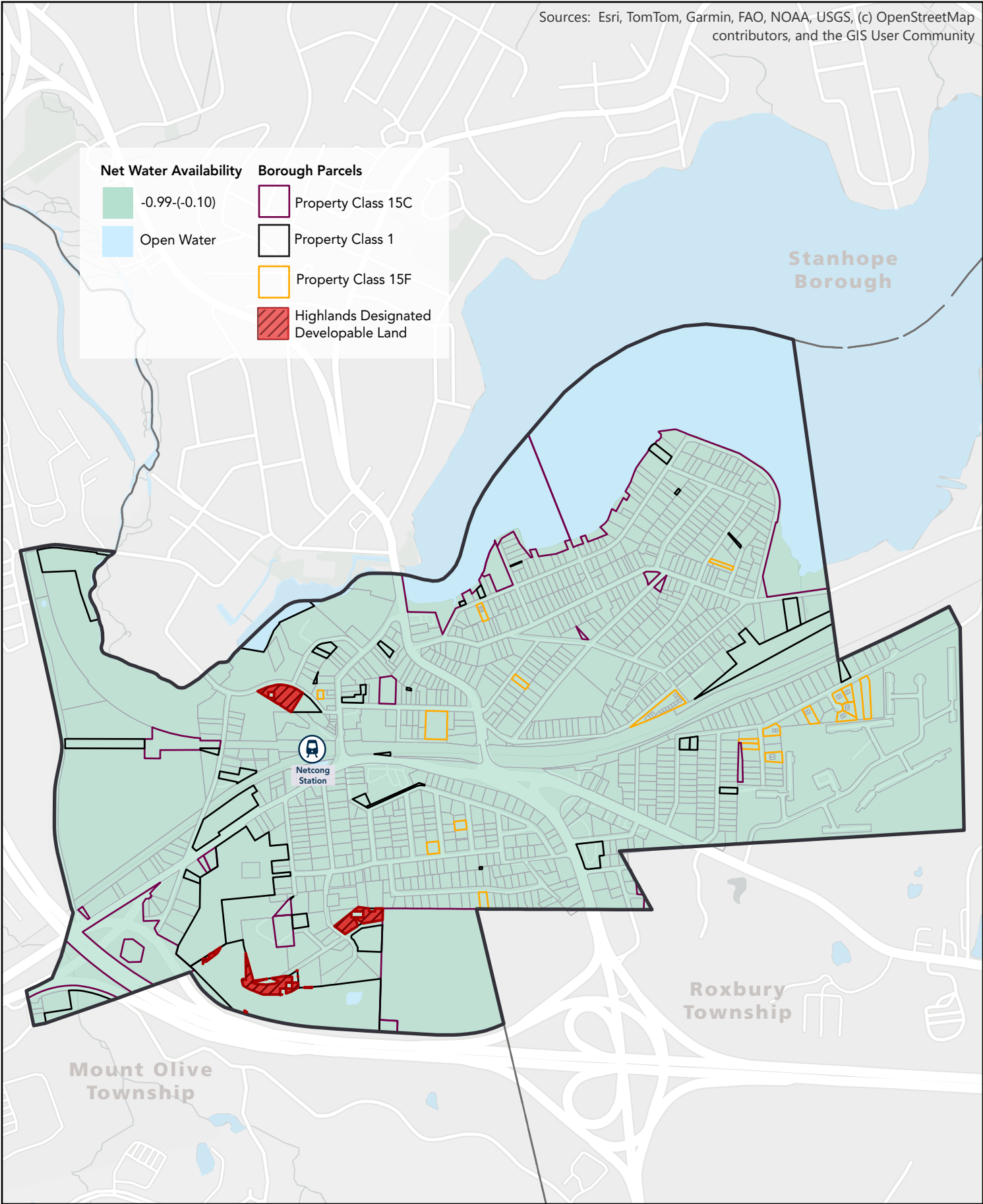


## Appendix D.2: Vacant Land Adjustment with Highlands Environmental Constraints





**Appendix D.3: Vacant Land Adjustment with Highlands Land Use Land Capability Zones**



**Appendix D.4: Vacant Land Adjustment with Highlands Net Water Availability**

## Appendix E. Spending Plan

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# **Affordable Housing Trust Fund Spending Plan**

## **Borough of Netcong**

June 2025

### **INTRODUCTION**

The Borough of Netcong, Morris County has prepared a Housing Element and Fair Share plan that addresses its regional fair share of the affordable housing need in accordance with 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). A development fee ordinance creating a dedicated revenue source for affordable housing was formerly approved by COAH and the Superior Court and adopted by the municipality. The ordinance established the Netcong affordable housing trust fund for which this spending plan is prepared.

As of May 31, 2025, Netcong has collected \$61,507.12 and expended \$25,669.00, resulting in an affordable housing trust fund balance of \$35,838.12 as of that date. All development fees, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, and interest generated by the fees are deposited in a separate interest-bearing affordable housing trust fund in TD Bank for the purposes of affordable housing. These funds shall be spent in accordance with N.J.A.C. 5:93-8.16, as described in the sections that follow.

The Borough reserves the right and authority to further amend or modify the within spending plan to address or take into account changes which may be warranted due to new rules or rule amendments or judicial determinations, which may change standards or establish new criteria for the Borough to address its affordable housing obligation.

## **1. REVENUES FOR CERTIFICATION PERIOD**

To calculate a projection of revenue anticipated during the Fourth Round (2025-2035), Netcong considered the following:

(a) Development fees:

1. Residential and nonresidential projects which have had development fees imposed upon them at the time of preliminary or final development approvals;
2. All projects currently before the planning and zoning boards for development approvals that may apply for building permits and certificates of occupancy; and
3. Future development that is likely to occur based on historical rates of development.

(b) Payment in lieu (PIL):

Actual and committed payments in lieu (PIL) of construction from developers as follows: None

(c) Other funding sources: None

(d) Projected interest:

Interest on the projected revenue in the municipal affordable housing trust fund at the current average interest rate of 1.1%.

No large development projects are anticipated in the coming years due to the limited availability of vacant and developable land in Netcong.

SOURCE OF FUNDS		PROJECTED REVENUE SCHEDULE JUNE 1, 2025-JUNE 30, 2035				
		2025-2026	2026-2027	2027-2028	2028-2029	2029-2030
(a) Development fees:						
1. Approved Development		\$0	\$0	\$0	\$0	\$0
2. Development Pending Approval		\$0	\$0	\$0	\$0	\$0
3. Projected Development <sup>1</sup>		\$3,875.29	\$3,875.29	\$3,875.29	\$3,875.29	\$3,875.29
(b) Payments in Lieu of Construction		\$0	\$0	\$0	\$0	\$0
(c) Other Funds (Specify source(s))		\$0	\$0	\$0	\$0	\$0
(d) Interest		\$352.83	\$315.32	\$277.40	\$239.06	\$200.30
<b>Total</b>		\$4,228.12	\$4,190.61	\$4,152.69	\$4,114.35	\$4,075.59
	<b>2030-2031</b>	<b>2031-2032</b>	<b>2032-2033</b>	<b>2033-2034</b>	<b>2034-2035</b>	<b>Total</b>
(a) Dev. fees:						
1. Appr.	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
2. Pending	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
3. Projected	\$3,875.29	\$3,875.29	\$3,875.29	\$3,875.29	\$3,875.29	<b>\$38,752.90</b>
(b) P-i-L	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
(c) Other	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
(d) Interest	\$161.11	\$121.50	\$81.44	\$40.95	\$0.00	<b>\$1,789.92</b>
<b>Total</b>		\$4,036.40	\$3,996.79	\$3,956.73	\$3,916.24	<b>\$40,542.82</b>

<sup>1</sup> Between 11/12/2009 and 05/31/2025, the Borough of Netcong received development fees totaling \$60,067.00 from all qualifying residential and non-residential development activities within the Borough, or an annual average of \$3,875.29. Future development trends and resulting annual development fees are assumed to be consistent with current levels, resulting in total development fees of approximately \$38,752.90 through 2035.

Netcong projects a total of approximately \$40,542.82 in revenue to be collected between June 1, 2025 and June 30, 2035. All interest earned on the account shall accrue to the account to be used only for the purposes of affordable housing.

## **2. ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS**

The following procedural sequence for the collection and distribution of development fee revenues shall be followed by Netcong:

(a) Collection of development fee revenues:

Collection of development fee revenues shall be consistent with Netcong's development fee ordinance for both residential and non-residential developments in accordance with P.L.2008, c.46, sections 8 (C. 52:27D-329.2) and 32-38 (C. 40:55D-8.1 through 8.7), as amended and supplemented and COAH's previously established rules as still applicable.

(b) Distribution of development fee revenues:

The disbursement of monies in Netcong's affordable housing trust fund is coordinated by its Borough Manager. In some instances, funds will be provided to other entities, such as an entity responsible for administering a rehabilitation program, for eventual disbursement.

### 3. DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS

(a) **Rehabilitation program (N.J.A.C. 5:93-8.16)**

Netcong will dedicate \$50,000 to its rehabilitation program in order to meet its present need obligations.

(b) **Affordability Assistance (N.J.A.C. 5:93-8.16)**

Projected minimum affordability assistance requirement:

<b>AFFORDABILITY ASSISTANCE CALCULATION</b>		
Actual development fees through 05/31/2025		\$60,067.00
Actual interest through 05/31/2025		\$1,440.12
Development fees projected 06/01/2025 through 06/30/2035	+	\$38,752.90
Interest projected 2025-2035	+	\$1,789.92
Less expenditures through 05/31/2025	-	\$25,669.00
<b>Total</b>	=	\$76,380.94
30 percent requirement	x 0.30 =	\$22,914.28
<b>PROJECTED MINIMUM Affordability Assistance Requirement 06/01/2025 through 06/30/2035</b>	=	<b>\$22,914.28</b>
<b>PROJECTED MINIMUM Very Low-Income Affordability Assistance Requirement 06/01/2025 through 06/30/2035</b>	÷ 3 =	<b>\$7,638.09</b>

Per N.J.A.C. 5:93-8.16, the Borough of Netcong must dedicate at least 30 percent of all development fees collected and interest earned to provide affordability assistance to low- and moderate-income households. In addition, at least one-third of the affordability assistance shall be used to provide affordability assistance to very-low income households. The Borough is obligated to spend approximately \$22,914.28 on affordability assistance between 2025 and 2035.

- For sale units in the form of emergency repairs, down-payment assistance, homeowner assistance loans for condominium or homeowner association fees, and homeowner assistance loans for mortgage payments up to two months or less in arrears to forestall foreclosure.
- For rent units in the form of security deposit assistance and rental assistance.



(c) **Administrative Expenses (N.J.A.C. 5:97-8.9)**

<b>ADMINISTRATIVE EXPENSE CALCULATION</b>		
Actual development fees AND interest through 05/31/2025		\$61,507.12
Development fees AND interest projected 06/01/2025 through 06/30/2035	+	\$40,542.82
Payments-in-lieu of construction and other deposits through 07/17/2008	+	0
Less expenditures through 05/31/2025	-	\$25,669.00
<b>Total for Administrative Calculation</b>	=	\$76,380.94
Less Required Affordability Assistance	-	\$22,914.28
Less Rehabilitation Expenses	-	\$50,000
<b>Available for Administrative Expenses 06/01/2025 through 06/30/2035</b>		<b>\$3,466.66</b>

Netcong projects that approximately \$3,466.66 will be available from the affordable housing trust fund to be used for administrative purposes. While the Borough is permitted to utilize a maximum of 20 percent of its total projected expenditures (\$15,276.19) for administrative expenses, the Borough intends to set aside \$50,000 for rehabilitation of units and \$22,914.28 for the required affordability assistance, leaving only \$3,466.66 in remaining projected funds. Projected administrative expenditures are the provision of professional planning and legal services related to the planning for affordable housing.

#### 4. EXPENDITURE SCHEDULE

Netcong intends to use affordable housing trust fund revenues for the creation and/or rehabilitation of housing units.

Program		PROJECTED EXPENDITURE SCHEDULE				
		JUNE 1, 2025-JUNE 30, 2035				
		2025-2026	2026-2027	2027-2028	2028-2029	2029-2030
Rehabilitation		\$5,000.00	\$5,000.00	\$5,000.00	\$5,000.00	\$5,000.00
Affordability Assistance		\$2,291.43	\$2,291.43	\$2,291.43	\$2,291.43	\$2,291.43
Administration		\$346.67	\$346.67	\$346.67	\$346.67	\$346.67
<b>Total</b>		\$7,638.09	\$7,638.09	\$7,638.09	\$7,638.09	\$7,638.09
	2030-2031	2031-2032	2032-2033	2033-2034	2034-2035	Total
Rehab.	\$5,000.00	\$5,000.00	\$5,000.00	\$5,000.00	\$5,000.00	<b>\$50,000</b>
Aff. Asst.	\$2,291.43	\$2,291.43	\$2,291.43	\$2,291.43	\$2,291.43	<b>\$22,914.28</b>
Admin.	\$346.67	\$346.67	\$346.67	\$346.67	\$346.67	<b>\$3,466.66</b>
<b>Total</b>	\$7,638.09	\$7,638.09	\$7,638.09	\$7,638.09	\$7,638.09	<b>\$76,380.94</b>

## **5. EXCESS OR SHORTFALL OF FUNDS**

In the event of any expected or unexpected shortfall if the anticipated revenues are not sufficient to implement the plan, the Borough of Netcong will appropriate funds from general revenue to provide the necessary funds.

In the event more funds than anticipated are collected, projected funds exceed the amount necessary to implement the Fair Share Plan, or the Borough of Netcong is reserving funds for affordable housing projects to meet a future affordable housing obligation, these excess funds will be used for affordability assistance programs.

## **6. BARRIER FREE ESCROW**

Collection and distribution of barrier free funds shall be consistent with the Borough of Netcong's Affordable Housing Ordinance in accordance with N.J.A.C. 5:93-8.13 and N.J.A.C. 5:93-8.16.

## **SUMMARY**

The Borough of Netcong intends to spend affordable housing trust fund revenues pursuant to N.J.A.C. 5:93-8.13 through N.J.A.C. 5:93-8.16 and consistent with the housing programs outlined in the Housing Plan Element. To the extent that programs described herein are not described in the Housing Plan Element, the Borough of Netcong will submit an amendment to its Fair Share Plan.

Netcong had a balance of \$35,838.12 as of May 31, 2025 and anticipates an additional \$38,752.90 in revenues and \$1,789.92 in interest from 2025 to 2035, for an overall total (including starting balance) of \$76,380.94. The municipality will dedicate \$50,000 toward rehabilitation, \$22,914.28 to render units more affordable, and \$3,466.66 to administrative costs. In the event that there is a shortfall of funds, the Borough will adopt an intent to bond. The municipality will dedicate any excess funds or remaining balance toward affordability assistance programs.

<b>SPENDING PLAN SUMMARY</b>		
Balance as of May 31, 2025		\$35,838.12
<b>PROJECTED REVENUE 2025-2035</b>		
Development fees	+	\$38,752.90
Payments in lieu of construction	+	\$0
Other funds	+	\$0
Interest	+	\$1,789.92
<b>TOTAL AVAILABLE FUNDS</b>	=	\$76,380.94
<b>PROJECTED EXPENDITURES</b>		
Funds used for Rehabilitation	-	\$50,000
Affordability Assistance*	-	\$22,914.28
Administration**	-	\$3,466.66
<b>TOTAL PROJECTED EXPENDITURES</b>	=	\$76,380.94
<b>REMAINING BALANCE</b>	=	\$0

\* Actual affordability assistance minimums are calculated on an ongoing basis, based on actual revenues.

\*\* Administrative expenses are limited to 20 percent of what is actually collected.

## Appendix F. Adopted Affordable Housing Ordinance Including Mandatory Set-Aside

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To be revised as needed.

*Borough of Netcong, NJ  
Tuesday, June 10, 2025*

## Chapter 194. Land Development Procedures

### Article XIV. Affordable Housing

[Added 6-11-2009 by Ord. No. 2009-10]

#### § 194-109. Affordable housing obligation.

- A. This article is intended to assure that low- and moderate-income units ("affordable units") are created with controls on affordability over time and that low- and moderate-income households shall occupy these units. This article shall apply except where inconsistent with applicable law.
- B. The Borough of Netcong Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1 et seq. The Fair Share Plan has been endorsed by the governing body. The Fair Share Plan describes the ways the Borough of Netcong shall address its fair share for low- and moderate-income housing as determined by the Council on Affordable Housing (COAH) and documented in the Housing Element.
- C. This article implements and incorporates the Fair Share Plan and addresses the requirements of N.J.A.C. 5:97, as may be amended and supplemented.
- D. The Borough of Netcong shall file monitoring reports with COAH in accordance with N.J.A.C. 5:96, tracking the status of the implementation of the Housing Element and Fair Share Plan. Any plan evaluation report of the Housing Element and Fair Share Plan and monitoring prepared by COAH in accordance with N.J.A.C. 5:96 shall be available to the public at the Borough of Netcong Municipal Building, Municipal Clerk's Office, 23 Maple Avenue, Netcong, New Jersey 07857 or from COAH at 101 South Broad Street, Trenton, New Jersey and on COAH's website, [www.nj.gov/dca/affiliates/coah](http://www.nj.gov/dca/affiliates/coah).

#### § 194-110. Definitions.

The following terms when used in this article, shall have the meanings given in this section:

##### **ACCESSORY APARTMENT**

A self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is created within an existing home, through the conversion of an existing accessory structure on the same site, by an addition to an existing home or accessory building, or by the construction of a new accessory structure on the same site.

##### **ACT**

The Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.)

##### **ADAPTABLE**

Constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

##### **ADMINISTRATIVE AGENT**

The entity responsible for the administration of affordable units in accordance with this article, N.J.A.C. 5:96, N.J.A.C. 5:97 and N.J.A.C. 5:80-26.1 et seq.

**AFFIRMATIVE MARKETING**

A regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

**AFFORDABILITY AVERAGE**

The average percentage of median income at which restricted units in an affordable housing development are affordable to low- and moderate-income households.

**AFFORDABLE**

A sales price or rent within the means of a low- or moderate-income household as defined in N.J.A.C. 5:97-9; in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented; and in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

**AFFORDABLE DEVELOPMENT**

A housing development all or a portion of which consists of restricted units.

**AFFORDABLE HOUSING DEVELOPMENT**

A development included in the Housing Element and Fair Share Plan and includes, but is not limited to, an inclusionary development, a municipal construction project or a one-hundred-percent affordable development.

**AFFORDABLE HOUSING PROGRAM(S)**

Any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

**AFFORDABLE UNIT**

A housing unit proposed or created pursuant to the Act, credited pursuant to N.J.A.C. 5:97-4, and/or funded through an Affordable Housing Trust Fund.

**AGENCY**

The New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1 et seq.).

**AGE-RESTRICTED UNIT**

A housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that:

- A. All the residents of the development where the unit is situated are 62 years or older; or
- B. At least 80% of the units are occupied by one person who is 55 years or older; or
- C. The development has been designated by the Secretary of the United States Department of Housing and Urban Development as "housing for older persons" as defined in Section 807(b) (2) of the Fair Housing Act, 42 U.S.C. § 3607.

**ASSISTED LIVING RESIDENCE**

A facility licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

**CERTIFIED HOUSEHOLD**

A household that has been certified by an administrative agent as a low-income household or a moderate-income household.

**COAH**

The Council on Affordable Housing, which is in, but not of, the Department of Community Affairs of the State of New Jersey, that was established under the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.).

**DCA**

The State of New Jersey Department of Community Affairs.

**DEFICIENT HOUSING UNIT**

A housing unit with health and safety code violations that require the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load-bearing structural systems.

**DEVELOPER**

Any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land proposed to be included in a proposed development, including the holder of an option to contract or purchase, or other person having an enforceable proprietary interest in such land.

**DEVELOPMENT**

The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1 et seq.

**INCLUSIONARY DEVELOPMENT**

A development containing both affordable units and market rate units. This term includes, but is not necessarily limited to, new construction, the conversion of a nonresidential structure to residential and the creation of new affordable units through the reconstruction of a vacant residential structure.

**LOW-INCOME HOUSEHOLD**

A household with a total gross annual household income equal to 50% or less of the median household income.

**LOW-INCOME UNIT**

A restricted unit that is affordable to a low-income household.

**MAJOR SYSTEM**

The primary structural, mechanical, plumbing, electrical, fire-protection, or occupant service components of a building which include, but are not limited to, weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement or load-bearing structural systems.

**MARKET RATE UNITS**

Housing not restricted to low- and moderate-income households that may sell or rent at any price.

**MEDIAN INCOME**

The median income by household size for the applicable county, as adopted annually by COAH.

**MODERATE-INCOME HOUSEHOLD**

A household with a total gross annual household income in excess of 50% but less than 80% of the median household income.



**MODERATE-INCOME UNIT**

A restricted unit that is affordable to a moderate-income household.

**NONEXEMPT SALE**

Any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor's deed to a Class A beneficiary; and the transfer of ownership by court order.

**RANDOM SELECTION PROCESS**

A process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

**REGIONAL ASSET LIMIT**

The maximum housing value in each housing region affordable to a four-person household with an income at 80% of the regional median as defined by COAH's adopted regional income limits published annually by COAH.

**REHABILITATION**

The repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

**RENT**

The gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

**RESTRICTED UNIT**

A dwelling unit, whether a rental unit or ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as may be amended and supplemented, but does not include a market rate unit financed under UHORP or MONI.

**UHAC**

The Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.1 et seq.

**VERY-LOW-INCOME HOUSEHOLD**

A household with a total gross annual household income equal to 30% or less of the median household income.

**VERY-LOW-INCOME UNIT**

A restricted unit that is affordable to a very-low-income household.

**WEATHERIZATION**

Building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for rehabilitation.

## § 194-111. Affordable housing programs.

The Borough of Netcong has determined that it will use the following mechanisms to satisfy its affordable housing obligations:

- A. An accessory apartment program.

- (1) All accessory apartments shall meet the following conditions:
  - (a) Accessory apartments are permitted in the B-C Zone, provided that the units are affordable to low- and moderate-income households. Accessory apartments shall be limited to only low- or only moderate-income units as determined in the Fair Share Plan.
  - (b) Accessory apartments shall comply with all applicable statutes and regulations of the State of New Jersey in addition to all building codes.
  - (c) At the time of initial occupancy of the unit and for at least 10 years thereafter, the accessory apartment shall be rented only to a household which is either a low- or moderate-income household.
  - (d) Rents of accessory apartments shall be affordable to low- or moderate-income households as per COAH and UHAC regulations.
  - (e) There shall be a recorded deed or declaration of covenants and restrictions applied to the property upon which the accessory apartment is located running with the land and limiting its subsequent rental or sale of the unit and the accessory apartment.
  - (f) The appropriate utility authority must certify that there is water and sewer infrastructure with sufficient capacity to serve the proposed accessory apartment. Where the proposed location is served by an individual well and/or septic system, the additional capacity necessitated by the new unit must meet the appropriate NJDEP standards.
  - (g) The Borough of Netcong accessory apartment program shall not restrict the number of bedrooms in any accessory apartment.
  - (h) No accessory apartment created as a result of this article or these regulations shall exceed the gross floor area of the existing principal dwelling on the lot.
  - (i) Municipal building permit fees shall be waived in all cases involving affordable accessory apartment development under this section.
- (2) The maximum number of creditable accessory apartments shall be equal to no more than two units.
- (3) The Borough of Netcong shall designate an administrative entity to administer the accessory apartment program that shall have the following responsibilities:
  - (a) The administrative agent shall administer the accessory apartment program, including advertising, income-qualifying prospective renters, setting rents and annual rent increases, maintaining a waiting list, distributing the subsidy, securing certificates of occupancy, qualifying properties, handling application forms, filing deed restrictions and monitoring reports and affirmatively marketing the affordable accessory apartment program in accordance with the UHAC.
  - (b) The administrative entity shall only deny an application for an accessory apartment if the project is not in conformance with COAH's requirements and/or the provisions of this section/article. All denials shall be in writing with the reasons clearly stated.
  - (c) In accordance with COAH requirements, the Borough of Netcong shall provide at least \$25,000 per unit to subsidize the creation of each low-income accessory apartment or \$20,000 per unit to subsidize the creation of each moderate-income accessory apartment. Subsidy may be used to fund actual construction costs and/or to provide compensation for reduced rental rates.
- (4) Property owners wishing to apply to create an accessory apartment shall submit to the administrative entity:
  - (a) A sketch of floor plan(s) showing the location, size and relationship of both the accessory apartment and the primary dwelling within the building or in another structure;

- (b) Rough elevations showing the modifications of any exterior building facade to which changes are proposed; and
- (c) A site development sketch showing the location of the existing dwelling and other existing buildings; all property lines; proposed addition, if any, along with the minimum building setback lines; the required parking spaces for both dwelling units; and any man-made conditions which might affect construction.

## § 194-112. New construction.

The following general guidelines apply to all newly constructed developments that contain low- and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units.

### A. Low/moderate split and bedroom distribution of affordable housing units.

- (1) The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit.
- (2) In each affordable development, at least 50% of the restricted units within each bedroom distribution shall be low-income units.
- (3) Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
  - (a) The combined number of efficiency and one-bedroom units shall be no greater than 20% of the total low- and moderate-income units;
  - (b) At least 30% of all low- and moderate-income units shall be two-bedroom units;
  - (c) At least 20% of all low- and moderate-income units shall be three-bedroom units; and
  - (d) The remaining units may be allocated among two- and three-bedroom units at the discretion of the developer.
- (4) Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

### B. Accessibility requirements.

- (1) The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14.
- (2) All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:
  - (a) An adaptable toilet and bathing facility on the first floor;
  - (b) An adaptable kitchen on the first floor;
  - (c) An interior accessible route of travel on the first floor;
  - (d) An interior accessible route of travel shall not be required between stories within an individual unit;

- (e) An adaptable room that can be used as a bedroom, with a door, or the casing for the installation of a door, on the first floor; and
- (f) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14, or evidence that the Borough of Netcong has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:

- [1] Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
- [2] To this end, the builder of restricted units shall deposit funds within the Borough of Netcong's Affordable Housing Trust Fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.
- [3] The funds deposited under Subsection **B(2)(f)[2]** above shall be used by the Borough of Netcong for the sole purpose of making the adaptable entrance of any affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
- [4] The developer of the restricted units shall submit a design plan and cost estimate for the conversion from adaptable to accessible entrances to the Construction Official of the Borough of Netcong.
- [5] Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meets the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14, and that the cost estimate of such conversion is reasonable, payment shall be made to the Borough of Netcong's Affordable Housing Trust Fund in care of the Municipal Treasurer, who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.
- [6] Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is site impracticable to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14.

C. Maximum rents and sales prices.

[Amended 12-10-2020 by Ord. No. 2020-24]

- (1) In establishing rents and sales prices of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC utilizing the regional income limits established by the New Jersey Department of Community Affairs (DCA) or other agency as required by the Court.
- (2) The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60% of median income, and the average rent for restricted low- and moderate-income units shall be affordable to households earning no more than 52% of median income.
- (3) The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units.
  - (a) At least 13% of all low- and moderate-income dwelling units shall be affordable to households earning no more than 30% of median income.
- (4) The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70% of median income, and each affordable development must achieve an affordability average of 55% for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be

available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type.

- (5) In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units other than assisted living facilities, the following standards shall be used:
  - (a) A studio shall be affordable to a one-person household;
  - (b) A one-bedroom unit shall be affordable to a one-and-one-half-person household;
  - (c) A two-bedroom unit shall be affordable to a three-person household;
  - (d) A three-bedroom unit shall be affordable to a four-and-one-half-person household; and
  - (e) A four-bedroom unit shall be affordable to a six-person household.
- (6) In determining the initial rents for compliance with the affordability average requirements for restricted units in assisted living facilities, the following standards shall be used:
  - (a) A studio shall be affordable to a one-person household;
  - (b) A one-bedroom unit shall be affordable to a one-and-one-half-person household; and
  - (c) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
- (7) The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95% of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowners' association fees do not exceed 28% of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- (8) The initial rent for a restricted rental unit shall be calculated so as not to exceed 30% of the eligible monthly income of the appropriate household size as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- (9) The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.
- (10) The rent levels of very-low-, low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the Northeast Urban Area, upon its publication for the prior calendar year. This increase shall not exceed 9% in any one year. Rents for units constructed pursuant to low-income housing tax credit regulations shall be indexed pursuant to the regulations governing low-income housing tax credits.
- (11) If at any time COAH (or a successor administrative agency duly empowered by an amendment to the Fair Housing Act) begins to issue updated annual income limits and rules for increasing sales prices and rent levels each year, said updated income limits and rules for increasing sales prices and rent levels each year may be used instead of the methodology set forth herein.
- (12) Utilities. Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.

## § 194-113. Affirmative marketing requirements.

- A. The Borough of Netcong shall adopt, by resolution, an affirmative marketing plan, subject to approval of COAH, compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
- B. The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The affirmative marketing plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward COAH Housing Region 2 and covers the period of deed restriction.
- C. The affirmative marketing plan shall provide a regional preference for all households that live and/or work in COAH Housing Region 2 comprised of Morris, Essex, Union and Warren.
- D. The administrative agent designated by the Borough of Netcong shall assure the affirmative marketing of all affordable units consistent with the affirmative marketing plan for the municipality.
- E. In implementing the affirmative marketing plan, the administrative agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- F. The affirmative marketing process for available affordable units shall begin at least four months prior to the expected date of occupancy.
- G. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by the Borough of Netcong.

## § 194-114. Occupancy standards.

- A. In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the administrative agent shall strive to:
  - (1) Provide an occupant for each bedroom;
  - (2) Provide children of different sexes with separate bedrooms; and
  - (3) Prevent more than two persons from occupying a single bedroom.
- B. Additional provisions related to occupancy standards (if any) shall be provided in the municipal Operating Manual.

## § 194-115. Control periods for restricted-ownership units; enforcement mechanisms.

- A. Control periods for restricted-ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted-ownership unit shall remain subject to the requirements of this article until the Borough of Netcong elects to release the unit from such requirements however, and prior to such an election, a restricted-ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, for at least 30 years.
- B. The affordability control period for a restricted-ownership unit shall commence on the date the initial certified household takes title to the unit.

- C. Prior to the issuance of the initial certificate of occupancy for a restricted-ownership unit and upon each successive sale during the period of restricted ownership, the administrative agent shall determine the restricted price for the unit and shall also determine the nonrestricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value.
- D. At the time of the first sale of the unit, the purchaser shall execute and deliver to the administrative agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first nonexempt sale after the unit's release from the requirements of this article, an amount equal to the difference between the unit's nonrestricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
- E. The affordability controls set forth in this article shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted-ownership units.
- F. A restricted-ownership unit shall be required to obtain a continuing certificate of occupancy or a certified statement from the Construction Official stating that the unit meets all code standards upon the first transfer of title that follows the expiration of the applicable minimum control period provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

## § 194-116. Price restrictions for restricted-ownership units, homeowners' association fees and resale prices.

Price restrictions for restricted-ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, including:

- A. The initial purchase price for a restricted-ownership unit shall be approved by the administrative agent.
- B. The administrative agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- C. The method used to determine the condominium association fee amounts and special assessments shall be indistinguishable between the low- and moderate-income unit owners and the market unit owners.
- D. The owners of restricted-ownership units may apply to the administrative agent to increase the maximum sales price for the unit on the basis of capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

## § 194-117. Buyer income eligibility.

- A. Buyer income eligibility for restricted-ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50% of median income, and moderate-income ownership units shall be reserved for households with a gross household income less than 80% of median income.
- B. The administrative agent shall certify a household as eligible for a restricted-ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit, including principal, interest, taxes, homeowners and private mortgage insurance and condominium or homeowners' association fees, as applicable, does not exceed 33% of the household's certified monthly income.
- C. Annual adjustment. Income limits for all units that are part of Netcong Borough's Housing Element and Fair Share Plan, and for which income limits are not already established through a federal

program exempted from the Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26.1, shall be updated by the municipality annually within 30 days of the publication of determinations of median income by HUD as follows:

[Added 12-10-2020 by Ord. No. 2020-24]

- (1) Regional income limits shall be established for the region in which Netcong Borough is located, based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the most recent decennial census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial census in the municipality's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80% of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50% of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very-low-income unit for a household of four shall be 30% of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.
- (2) The income limits applicable to Netcong Borough shall be the result of applying the percentages set forth in Subsection **C(1)** above to HUD's most current fiscal year determination of median income and shall be utilized until Netcong Borough updates the income limits after HUD publishes revised determinations of median income for the next fiscal year.
- (3) The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the Borough of Netcong annually by taking the percentage increase of the income limits calculated pursuant to Subsection **C(1)** above over the previous year's income limits and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.
- (4) If at any time COAH (or a successor administrative agency duly empowered by an amendment to the Fair Housing Act) begins to issue updated annual income limits and rules for increasing sales prices and rent levels each year, said updated income limits and rules for increasing sales prices and rent levels each year may be used instead of the methodology set forth herein.

## § 194-118. Limitations on indebtedness secured by ownership unit; subordination.

- A. Prior to incurring any indebtedness to be secured by a restricted-ownership unit, the administrative agent shall determine in writing that the proposed indebtedness complies with the provisions of this section.
- B. With the exception of original purchase money mortgages, during a control period neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted-ownership unit to exceed 95% of the maximum allowable resale price of that unit, as such price is determined by the administrative agent in accordance with N.J.A.C. 5:80-26.6(b).

## § 194-119. Control periods for restricted rental units.



- A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this article until the Borough of Netcong elects to release the unit from such requirements pursuant to action taken in compliance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, and prior to such an election, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, for at least 30 years.
- B. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Morris. A copy of the filed document shall be provided to the administrative agent within 30 days of the receipt of a certificate of occupancy.
- C. A restricted rental unit shall remain subject to the affordability controls of this article, despite the occurrence of any of the following events:
  - (1) Sublease or assignment of the lease of the unit;
  - (2) Sale or other voluntary transfer of the ownership of the unit; or
  - (3) The entry and enforcement of any judgment of foreclosure.

## § 194-120. Price restrictions for rental units; leases.

- A. A written lease shall be required for all restricted rental units, except for units in an assisted living residence, and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the administrative agent.
- B. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the administrative agent.
- C. Application fees (including the charge for any credit check) shall not exceed 5% of the monthly rent of the applicable restricted unit and shall be payable to the administrative agent to be applied to the costs of administering the controls applicable to the unit as set forth in this article.

## § 194-121. Tenant income eligibility.

- A. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
  - (1) Very-low-income rental units shall be reserved for households with a gross household income less than or equal to 30% of median income.
  - (2) Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of median income.
  - (3) Moderate-income rental units shall be reserved for households with a gross household income less than 80% of median income.
- B. The administrative agent shall certify a household as eligible for a restricted rental unit when the household is a very-low-income, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:

- (1) The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
  - (2) The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
  - (3) The household is currently in substandard or overcrowded living conditions;
  - (4) The household documents the existence of assets with which the household proposes to supplement the rent payments; or
  - (5) The household documents proposed third-party assistance from an outside source such as a family member in a form acceptable to the administrative agent and the owner of the unit.
- C. The applicant shall file documentation sufficient to establish the existence of the circumstances in Subsection **B(1)** through **(5)** above with the administrative agent, who shall counsel the household on budgeting.

## § 194-122. Administration; Municipal Housing Liaison.

- A. The position of Municipal Housing Liaison (MHL) for Borough of Netcong is established by this article. The governing body shall make the actual appointment of the MHL by means of a resolution.
- (1) The MHL must be either a full-time or part-time employee of Borough of Netcong.
  - (2) The person appointed as the MHL must be reported to COAH for approval.
  - (3) The MHL must meet all COAH requirements for qualifications, including initial and periodic training.
  - (4) The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Borough of Netcong, including the following responsibilities which may not be contracted out to the administrative agent:
    - (a) Serving as the municipality's primary point of contact for all inquiries from the state, affordable housing providers, administrative agents and interested households;
    - (b) The implementation of the affirmative marketing plan and affordability controls.
    - (c) When applicable, supervising any contracting administrative agent.
    - (d) Monitoring the status of all restricted units in the Borough of Netcong's Fair Share Plan;
    - (e) Compiling, verifying and submitting annual reports as required by COAH;
    - (f) Coordinating meetings with affordable housing providers and administrative agents, as applicable; and
    - (g) Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by COAH.
- B. The Borough of Netcong shall designate, by resolution of the Borough of Netcong, subject to the approval of COAH, one or more administrative agents to administer newly constructed affordable units in accordance with N.J.A.C. 5:96, N.J.A.C. 5:97 and UHAC.
- C. An Operating Manual shall be provided by the administrative agent(s) to be adopted by resolution of the governing body and subject to approval of COAH. The Operating Manuals shall be available for public inspection in the office of the Municipal Clerk and in the office(s) of the administrative agent(s).

D. Duties and responsibilities of administrative agent; authority.

- (1) The administrative agent shall perform the duties and responsibilities of an administrative agent as are set forth in UHAC and which are described in full detail in the Operating Manual, including those set forth in N.J.A.C. 5:80-26.14, 5:80-26.16 and 5:80-26.18 thereof, which includes:
  - (a) Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by COAH;
  - (b) Affirmative marketing;
  - (c) Household certification;
  - (d) Affordability controls;
  - (e) Records retention;
  - (f) Resale and rental;
  - (g) Processing requests from unit owners; and
  - (h) Enforcement, though the ultimate responsibility for retaining controls on the units rests with the municipality.
- (2) The administrative agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities, hereunder.

## § 194-123. Enforcement.

- A. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an owner, developer or tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- B. After providing written notice of a violation to an owner, developer or tenant of a low- or moderate-income unit and advising the owner, developer or tenant of the penalties for such violations, the municipality may take the following action against the owner, developer or tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
  - (1) The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation, or violations, of the regulations governing the affordable housing unit. If the owner, developer or tenant is found by the court to have violated any provision of the regulations governing affordable housing units the owner, developer or tenant shall be subject to one or more of the following penalties, at the discretion of the court:
    - (a) A fine of not more than \$500 or imprisonment for a period not to exceed 90 days, or both. Each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense;
    - (b) In the case of an owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Borough of Netcong Affordable Housing Trust Fund of the gross amount of rent illegally collected;
    - (c) In the case of an owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the court.

- (2) The municipality may file a court action in the Superior Court seeking a judgment, which would result in the termination of the owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the first purchase money mortgage and shall constitute a lien against the low- and moderate-income unit.
- C. Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any first purchase money mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.
- D. The proceeds of the Sheriff's sale shall first be applied to satisfy the first purchase money mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating owner shall be personally responsible for and to the extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the owner shall make a claim with the municipality for such. Failure of the owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the owner or forfeited to the municipality.
- E. Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- F. If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the first purchase money mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the first purchase money mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the first purchase money mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
- G. Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the owner to accept an offer to purchase from any qualified purchaser which may be referred to the owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.
- H. The owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the owner.

## § 194-124. Appeals.

Appeals from all decisions of an administrative agent designated pursuant to this article shall be filed in writing with the Executive Director of COAH.

## Appendix G. Adopted Development Fee Ordinance

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To be revised as needed.

*Borough of Netcong, NJ  
Tuesday, June 10, 2025*

## Chapter 194. Land Development Procedures

### Article XIII. Mandatory Development Fees

[Added 11-12-2009 by Ord. No. 2009-19<sup>[1]</sup>]

[1] *Editor's Note: This ordinance also superseded former Art. XIII, Mandatory Development Fees, adopted 6-11-2009 by Ord. No. 2009-11.*

#### § 194-101. Definitions.

The following terms, as used in this article, shall have the following meanings:

##### **AFFORDABLE HOUSING DEVELOPMENT**

A development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a one-hundred-percent affordable development.

##### **COAH or the COUNCIL**

The New Jersey Council on Affordable Housing established under the Act which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the state.

##### **DEVELOPER**

The legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

##### **DEVELOPMENT FEE**

Money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:97-8.3.

##### **EQUALIZED ASSESSED VALUE**

The assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L. 1973, c. 123 (N.J.S.A. 54:1-35a through N.J.S.A. 54:1-35c).

##### **GREEN BUILDING STRATEGIES**

Those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

#### § 194-102. Residential development fees.

##### **A. Imposed fees.**

- (1) Within all zoning district(s), residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1 1/2% of the equalized assessed value for residential development, provided no increased density is permitted.

- (2) When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d" variance) has been permitted, developers may be required to pay a development fee of 6% of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application. Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal 1% of the equalized assessed value on the first two units; and the specified higher percentage up to 6% of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

B. Eligible exactions, ineligible exactions and exemptions for residential development.

- (1) Affordable housing developments and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.
- (2) Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.
- (3) Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
- (4) Owner-occupied residential structures demolished and replaced as a result of a fire, flood, or natural disaster, shall be exempt from paying a development fee.

## § 194-103. Nonresidential development fees.

A. Imposed fees.

- (1) Within all zoning districts, nonresidential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to 2.5% of the equalized assessed value of the land and improvements, for all new nonresidential construction on an unimproved lot or lots.
- (2) Nonresidential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to 2.5% of the increase in equalized assessed value resulting from any additions to existing structures to be used for nonresidential purposes.
- (3) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2.5% shall be calculated on the difference between the equalized assessed value of the preexisting land and improvement and the equalized assessed value of the newly improved structure, i.e., land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the nonresidential development fee shall be zero.

B. Eligible exactions, ineligible exactions, and exemptions for nonresidential development.

- (1) The nonresidential portion of a mixed-use inclusionary or market rate development shall be subject to the development fee of 2.5%, unless otherwise exempted below.



- (2) The fee of 2.5% shall not apply to an increase in equalized assessed value resulting from alterations, change in use within the existing footprint, reconstruction, renovations and repairs.
- (3) Nonresidential developments shall be exempt from the payment of nonresidential development fees in accordance with the exemptions required pursuant to P.L. 2008, c. 46, as specified in the Form N-RDF "State of New Jersey Nonresidential Development Certification/Exemption" form. Any exemption claimed by a developer shall be substantiated by that developer.
- (4) A developer of a nonresidential development exempted from the nonresidential development fee pursuant to P.L. 2008, c. 46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the nonresidential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the nonresidential development, whichever is later.
- (5) If a property which was exempted from the collection of a nonresidential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid nonresidential development fees under these circumstances may be enforceable by Netcong as a lien against the real property of the owner.

## § 194-104. Collection procedures.

- A. Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.
- B. For nonresidential developments only, the developer shall also be provided with a copy of Form N-RDF, "State of New Jersey Nonresidential Development Certification/Exemption" to be completed as per the instructions provided. The developer of a nonresidential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the nonresidential developer as per the instructions provided in the Form N-RDF. The Tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- C. The construction official responsible for the issuance of a building permit shall notify the local Tax Assessor of the issuance of the first building permit for a development that is subject to a development fee.
- D. Within 90 days of receipt of that notice, the Municipal Tax Assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- E. The construction official responsible for the issuance of a final certificate of occupancy notifies the local Assessor of any and all requests for the scheduling of a final inspection on property that is subject to a development fee.
- F. Within 10 business days of a request for the scheduling of a final inspection, the Municipal Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- G. Should Netcong fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subdivision b of Section 37 of P.L. 2008, c. 46 (N.J.S.A. 40:55D-8.6).
- H. Fifty percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.

I. Appeal of development fees.

- (1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest-bearing escrow account by Netcong. Appeals from a determination of the Board may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
- (2) A developer may challenge nonresidential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by Netcong. Appeals from a determination of the Director may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

## § 194-105. Affordable Housing Trust Fund.

- A. There is hereby created a separate, interest-bearing Housing Trust Fund to be maintained by the Chief Financial Officer for the purpose of depositing development fees collected from residential and nonresidential developers and proceeds from the sale of units with extinguished controls.
- B. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
  - (1) Payments in lieu of on-site construction of affordable units;
  - (2) Developer-contributed funds to make 10% of the adaptable entrances in a townhouse or other multistory attached development accessible;
  - (3) Rental income from municipally operated units;
  - (4) Repayments from affordable housing program loans;
  - (5) Recapture funds;
  - (6) Proceeds from the sale of affordable units; and
  - (7) Any other funds collected in connection with Netcong's affordable housing program.
- C. Within seven days from the opening of the trust fund account, Netcong shall provide COAH with written authorization, in the form of a three-party escrow agreement between the municipality, the bank, and COAH to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).
- D. All interest accrued in the Housing Trust Fund shall only be used on eligible affordable housing activities approved by COAH.

## § 194-106. Use of funds.

- A. The expenditure of all funds shall conform to a spending plan approved by COAH. Funds deposited in the Housing Trust Fund may be used for any activity approved by COAH to address Netcong's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to, the preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing

partnership programs, conversion of existing nonresidential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:97-8.7 through 5:97-8.9 and specified in the approved spending plan.

- B. Funds shall not be expended to reimburse Netcong for past housing activities.
- C. At least 30% of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30% or less of median income by region.
  - (1) Affordability assistance programs may include down payment assistance, security deposit assistance, low-interest loans, rental assistance, assistance with homeowners' association or condominium fees and special assessments, and assistance with emergency repairs.
  - (2) Affordability assistance to households earning 30% or less of median income may include buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30% or less of median income
  - (3) Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- D. Netcong may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.
- E. No more than 20% of all revenues collected from development fees may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20% of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the Affordable Housing Trust Fund.

## § 194-107. Monitoring.

Netcong shall complete and return to COAH all monitoring forms included in monitoring requirements related to the collection of development fees from residential and nonresidential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier-free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with Netcong's housing program, as well as to the expenditure of revenues and implementation of the plan certified by COAH. All monitoring reports shall be completed on forms designed by COAH.

## § 194-108. Ongoing collection of fees.

The ability of Netcong to impose, collect and expend development fees shall expire with its substantive certification unless Netcong has filed an adopted Housing Element and Fair Share Plan with COAH, has petitioned for substantive certification, and has received COAH's approval of its development fee

ordinance. If Netcong fails to renew its ability to impose and collect development fees prior to the expiration of its substantive certification, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the New Jersey Affordable Housing Trust Fund established pursuant to Section 20 of P.L. 1985, c. 222 (N.J.S.A. 52:27D-320). Netcong shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive certification nor shall Netcong retroactively impose a development fee on such a development. Netcong shall not expend development fees after the expiration of its substantive certification or judgment of compliance.

## Appendix H. Resolution Appointing Municipal Housing Liaison

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**Resolution #2025-17**

**RESOLUTION**


**WHEREAS**, the State of New Jersey requires the appointment of a Housing Liaison Officer and;

**WHEREAS**, the Borough Council wishes to appoint a Housing liaison Officer,

**NOW, THEREFORE BE IT RESOLVED**, by the Borough Council of the Borough of Netcong in the County of Morris and State of New Jersey that Ralph Blakeslee be and is hereby appointed as the Housing liaison Officer.

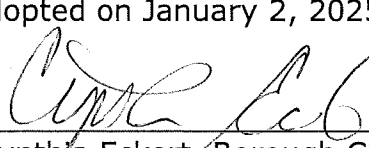
**BE IT FURTHER RESOLVED**, that this resolution shall take effect immediately.

**BOROUGH OF NETCONG**

By:   
Elmer M. Still, Mayor

**CERTIFICATION**

I, Cynthia Eckert, Clerk of the Borough of Netcong do hereby certify that the above is a true copy of a resolution adopted on January 2, 2025.

  
Cynthia Eckert, Borough Clerk