

Periodic Examination  
for a General Reexamination  
of the  
Kingwood Township Master Plan and Development Regulations

Reexamination Report  
March 2018

In accordance with the Municipal Land Use Law at N.J.S.A. **40:55D-89. Periodic examination**, the law states that:

“The governing body shall, at least every 10 years, provide for a general reexamination of its master plan and development regulations by the planning board, which shall prepare and adopt by resolution a report on the findings of such reexamination, a copy of which report and resolution shall be sent to the Office of Planning Advocacy and the county planning board. A notice that the report and resolution have been prepared shall be sent to any military facility commander who has registered with the municipality pursuant to section 1 of P.L.2005, c.41 (C.40:55D-12.4) and to the municipal clerk of each adjoining municipality, who may request a copy of the report and resolution on behalf of the military facility or municipality. A reexamination shall be completed at least once every 10 years from the previous reexamination.

The reexamination report shall state:

- a. The major problems and objectives relating to land development in the municipality at the time of the adoption of the last reexamination report.
- b. The extent to which such problems and objectives have been reduced or have increased subsequent to such date.
- c. The extent to which there have been significant changes in the assumptions, policies, and objectives forming the basis for the master plan or development regulations as last revised, with particular regard to the density and distribution of population and land uses, housing conditions, circulation, conservation of natural resources, energy conservation, collection, disposition, and recycling of designated recyclable materials, and changes in State, county and municipal policies and objectives.
- d. The specific changes recommended for the master plan or development regulations, if any, including underlying objectives, policies and standards, or whether a new plan or regulations should be prepared.
- e. The recommendations of the planning board concerning the incorporation of redevelopment plans adopted pursuant to the “Local Redevelopment and Housing Law,” P.L.1992, c.79 (C.40A:12A-1 et al.) into the land use plan element of the municipal master plan, and recommended changes, if any, in the local development regulations necessary to effectuate the redevelopment plans of the municipality.

The preparation of this Reexamination Report and the Planning Board’s recommendations set forth herein are the result of a periodic examination caused by Kingwood Township’s statutory compliance with the NJ Fair Housing Act, and Third Round constitutional compliance with the municipal Mount Laurel affordable housing obligations established in Kingwood Township’s

November 2, 2017 Settlement Agreement with Fair Share Housing Center, approved by Superior Court Judge Miller on December 11, 2017 for Third Round affordable housing compliance.

**a. The major problems and objectives relating to land development in the municipality at the time of the adoption of the last reexamination report.**

Kingwood Township's last periodic examination of the Township's Master Plan and development regulations was adopted by the Planning Board on October 13, 2011. The major problems and objectives relating to land development in the municipality at the time of the adoption of the last reexamination are summarized below:

Nonresidential Development: The Township's nonresidential zoning districts had not substantially developed with new, high value, employment generating nonresidential development. Generally situated along Route 12 the Township's nonresidential zoning districts, primarily along Route 12 and containing an ample supply of available land and generous development standards, had experienced little change and economic development growth since the prior Reexamination conducted in 2004.

Growth Management and Natural Resource Protection: The need to effectively control residential growth, abate the loss of land to suburban sprawl, retain agricultural land, avoid the conversion of agricultural land to residential development and protect the Township's natural resources were locally identified objectives requiring strategic planning responses.

Affordable Housing: The need to continue to address the Township's affordable housing obligations was identified in 2011. At that time, the Third Round rules governing Mount Laurel affordable housing compliance had not been resolved by the NJ Council on Affordable Housing.

**b. The extent to which such problems and objectives have been reduced or have increased subsequent to such date.**

Nonresidential Development: Modest nonresidential development was noted in 2011 at both the east and west end of Route 12, however, depressed market demand at that time created substantial vacancy in the Route 12 Business Park and periodically among other sites that has gradually been resolved through a series of new nonresidential tenants, sales and re-occupancies of nonresidential space. Existing nonresidential development at the east end of Route 12 experienced some changes in ownership and modest use changes, however the level of nonresidential development has not been substantially expanded. The emergence of solar energy generating facilities briefly emerged as a significant nonresidential development demand that briefly appeared to cause the loss of substantial farmland areas in the Township. This included approval of several commercial solar generating facilities, of which three have been fully constructed and are operational.

Growth Management and Natural Resource Protection: Persistent threats to the loss of valuable natural resource lands and farmland have considerably subsided with the abatement in demand for suburban residential development, which was nearly non-existent since 2011. The great recession of 2007-08 created a generational shift in market demand for housing away from

the Township's and the region's rural areas to the developed urban centers to the east. Additionally, residential growth in eastern Pennsylvania owing to a favorable tax climate, reduced cost of living and access to major regional highways contributed to the loss of suburban residential development pressure that had previously threatened the loss of valuable natural resource lands and farmland in the Township.

Affordable Housing: COAH's Third Round rules remained uncertain due to COAH's two prior attempts at rule-making being overturned in the Courts. As a result, there was no viable administrative remedy available to the municipality to adequately address its Third Round affordable housing obligations through COAH's substantive certification process for municipal Mount Laurel compliance.

**c. The extent to which there have been significant changes in the assumptions, policies, and objectives forming the basis for the master plan or development regulations as last revised, with particular regard to the density and distribution of population and land uses, housing conditions, circulation, conservation of natural resources, energy conservation, collection, disposition, and recycling of designated recyclable materials, and changes in State, county and municipal policies and objectives.**

Nonresidential Development: The most noteworthy change in the assumptions, policies and objectives forming the basis of the Township's Master Plan and development regulations has to do with the Township's adoption of the Eastern Gateway Village Center Overlay zoning on Route 12, which established high-density mixed-use nonresidential development options (adopted in 2012). This zone became the focus for Mount Laurel compliance due to the policy orientation to concentrate new development and high-density development in the easterly-most area of the Township with the most proximate location and convenient highway access to employment centers and developed areas of the region located to the east of the Township. These policies were also the outgrowth of recognition of a private wastewater treatment facility serving the Route 12 Business Park, which indicated the feasibility of developing such facilities to support new development in this area of the Township.

Growth Management and Natural Resource Protection: With the substantial abatement of regional growth pressures, Kingwood Township has implemented focused growth management and natural resource protection strategies primarily including land acquisition through vertically integrated partnerships with the County and the State as well as coordination and partnership with the private, non-profit land conservation community. This focus on land protection through acquisition of land and the sale of development easements on farmland have resulted in the creation of significant open space parkland, protected natural resource areas and preserved farmland areas.

Affordable Housing: On March 10, 2015, the NJ Supreme Court decided challenges in the matter of the adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing (COAH). This decision dissolved the NJ Fair Housing Act's (FHA) exhaustion-of-administrative-remedies requirement and authorized the Courts to hear and decide actions

addressing municipal compliance with Mount Laurel obligations by the municipalities that had sought the protections of the FHA through COAH. Kingwood Township entered the Court Process in July of 2015 seeking a Court judgment of compliance and repose regarding Kingwood Township's Mount Laurel constitutional compliance for the Third Round (1999-2025).

**d. The specific changes recommended for the master plan or development regulations, if any, including underlying objectives, policies and standards, or whether a new plan or regulations should be prepared.**

Nonresidential Development: The addition of inclusionary affordable housing development options to the EGVCO in the east end of the Township along Route 12 is the most significant policy recommendation affecting nonresidential development objectives. The inclusionary zoning standards to address Kingwood Township's Third Round affordable housing obligations are enumerated in the Planning Board's Amended Third Round Housing Plan Element and Fair Share Plan, pursuant to a settlement agreement by and between Kingwood and Fair Share Housing Center, Township's November 2, 2017, which was approved by Superior Court Judge Miller on December 11, 2017 to resolve Kingwood Township's Mount Laurel affordable housing constitutional compliance obligations. The standards set forth in the Housing Plan Element and Fair Share Plan for the inclusionary zoning with non-residential development options are enumerated within a recommendation to establish the EGVCO-AH, Eastern Gateway Village Overlay -Affordable Housing Overlay Zone. This Reexamination Report recommends adoption of the amended Third Round Housing Plan Element and Fair Share Plan and zoning standards for inclusionary development, with limited nonresidential development standards. Further, this Periodic Examination recommends the adoption of a Land Use Plan Amendment designating the EGVCO-AH, Eastern Gateway Village Overlay -Affordable Housing Overlay Zone that includes two parcels of land: Block 21, Lot 1 and Block 15, Lot 8 within the EGVCO. The Eastern Gateway Village Overlay -Affordable Housing Overlay Zone as identified on the attached map, Exhibit 1.

Affordable Housing: This Periodic Examination and Reexamination Report recommends that the Planning Board adopt to amendments to the Kingwood Township Master Plan:

- (1) Adopt amended Third Round Housing Plan Element and Fair Share Plan pursuant to Judge Miller's order of December 11 that identifies Kingwood Township's Third Round affordable housing obligations and proposed Mount Laurel compliance mechanisms to fully address those obligations.
- (2) Adopt Amendment to the Land Use Plan Element of the Kingwood Township Master Plan, dated March 2018 establishing the Eastern Gateway Village Center Overlay – Affordable Housing Overlay Zone in accordance with Kingwood Township's November 2, 2017 Settlement Agreement with Fair Share Housing Center, approved by Superior Court Judge Miller on December 11, 2017, and establishing development standards for inclusionary zoning within Block 21, Lot 1 and Block 15, Lot 8 as enumerated therein.

This Periodic Examination and Reexamination Report recommends that the Kingwood Township Committee adopt two amendments to zoning, including:

- (1) Adopt the proposed ordinance entitled “AN ORDINANCE ESTABLISHING INCLUSIONARY AFFORDABLE HOUSING ZONES IN THE EASTERN GATEWAY VILLAGE OVERLAY ZONE IN THE MIXED-USE CORE SUBDISTRICT AND THE COMMERCIAL AND ARTISAN SUBDISTRICT BY AMENDING CHAPTER CXXXII, ZONING, ARTICLE II ESTABLISHMENT OF DISTRICTS; MAPS; BOUNDARIES AND ARTICLE III DISTRICT REGULATIONS TO ADDRESS KINGWOOD TOWNSHIP’S THIRD ROUND AFFORDABLE HOUSING OBLIGATIONS”
- (2) Amend the Kingwood Township Zoning Map designating Block 21, Lot 1 and Block 15, Lot 8 the Eastern Gateway Village Center Overlay – Affordable Housing Overlay Zone on the Kingwood Township Zoning Map as indicated on “Exhibit 1”, attached.

**e. The recommendations of the planning board concerning the incorporation of redevelopment plans adopted pursuant to the “Local Redevelopment and Housing Law,” P.L.1992, c.79 (C.40A:12A-1 et al.) into the land use plan element of the municipal master plan, and recommended changes, if any, in the local development regulations necessary to effectuate the redevelopment plans of the municipality.**

This Periodic Examination and Reexamination Report identifies no recommendations by the Planning Board concerning the incorporation of redevelopment plans adopted pursuant to the “Local Redevelopment and Housing Law.”