

**Town of Hammonton
RESOLUTION #32-2025**

**RESOLUTION OF THE TOWN OF HAMMONTON COMMITTING TO FOURTH
ROUND PRESENT AND PROSPECTIVE NEED AFFORDABLE HOUSING
OBLIGATIONS**

WHEREAS, the Town of Hammonton (hereinafter the “Town” or “Hammonton”) has a demonstrated history of voluntary compliance as evidenced by its Third Round record; and

WHEREAS, pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (Mount Laurel IV), on July 15, 2015, the Town of Hammonton filed a Declaratory Judgment Complaint in Superior Court, Law Division seeking, among other things, a judicial declaration that its Third Round Housing Element and Fair Share Plan, to be amended as necessary, satisfied its “fair share” of the regional need for low and moderate income housing pursuant to the “Mount Laurel doctrine;” and

WHEREAS, that culminated in a Court-approved Third Round Housing Element and Fair Share Plan and Judgment of Compliance and Repose, which precludes all Mount Laurel lawsuits, including builder's remedy lawsuits, until July 7, 2025; and

WHEREAS, on March 20, 2024, Governor Murphy signed into law P.L. 2024, c.2, which amended the 1985 New Jersey Fair Housing Act (hereinafter the “Amended FHA”); and

WHEREAS, the Amended FHA required the Department of Community Affairs (“DCA”) to provide an estimate of the Fourth Round affordable housing obligations for all municipalities on or before October 20, 2024, based upon the criteria described in the Amended FHA; and

WHEREAS, the DCA issued a report on October 18, 2024 (“DCA Report”) wherein it reported its estimate of the Fourth Round affordable housing obligations for all municipalities based upon its interpretation of the standards in the Amended FHA; and

WHEREAS, the DCA Report calculates the Town’s Fourth Round (2025-2035) obligations as follows: a Present Need (Rehabilitation) Obligation of 64 and a Prospective Need (New Construction) Obligation of 49; and

WHEREAS, the Amended FHA further provides that, irrespective of the DCA’s calculations, municipalities have the ability to either accept, or provide alternate calculations for, the DCA’s “present and prospective fair share obligation(s) ... by binding resolution no later than January 31, 2025”, a deadline which was later extended to February 3, 2025 by the Administrative Office of the Courts (“AOC”) via a directive issued on December 13, 2024; and

WHEREAS, the Town’s affordable housing professionals have reviewed the Present Need calculations and the Prospective Need calculations published by the DCA and have

recommended that the Town adopt these calculations as the Town of Hammonton's Fourth Round affordable housing obligations; and

WHEREAS, this Resolution satisfies the requirements of the Amended FHA by accepting the DCA's estimate of the Town's Present and Prospective Need for the Fourth Round (2025-2035), as described in the DCA Report; and

WHEREAS, Section 3 of the Amended FHA provides that: "the municipality's determination of its fair share obligation shall have a presumption of validity, if established in accordance with sections 6 and 7" of the Amended FHA; and

WHEREAS, the Town's acceptance of the Fourth Round obligations calculated by the DCA are entitled to a "presumption of validity" because it complies with Sections 6 and 7 of the Amended FHA; and

WHEREAS, in addition to the foregoing, the Town specifically reserves the right to adjust its fair share obligations in accordance with applicable DCA regulations or other applicable law based on one or more of the foregoing adjustments if applicable: 1) a windshield survey or similar survey which accounts for a higher-resolution estimate of present need; 2) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; 3) a Durational Adjustment, whether predicated upon lack of sewer or lack of water; and/or 4) an adjustment predicated upon regional planning entity formulas, inputs or considerations, including but not limited to, the Highlands Council Regional Master Plan and its build out, or the Pinelands Commission or Meadowlands Commission regulations and planning documents; and

WHEREAS, in addition to the foregoing, the Town specifically reserves all rights to revoke or amend this Resolution and commitment, as may be necessary, in the event of a successful challenge to the Amended FHA in the context of the case The Borough of Montvale et al. v. the State of New Jersey et al. (MER-L-1778-24), any other such action challenging the Amended FHA, or any legislation adopted and signed into law by the Governor of New Jersey that alters the deadlines and/or requirements of the Amended FHA and any regulations promulgated thereto; and

WHEREAS, in addition to the foregoing, the Town reserves the right to take a position that its Fourth Round Present or Prospective Need Obligations are lower than described herein in the event that a third party challenges the calculations provided for in this Resolution (a reservation of all litigation rights and positions, without prejudice); and

WHEREAS, in addition to the foregoing, nothing in the Amended FHA requires or can require an increase in the Town's Fourth Round Present or Prospective Need Obligations based on a successful downward challenge of any other municipality in the region since the plain language and clear intent of the Amended FHA is to establish unchallenged numbers by default on March 1, 2025; and

WHEREAS, in addition to the foregoing, the Acting Administrative Director of the AOC issued Directive #14-24 (hereinafter "AOC Directive") on December 13, 2024; and

WHEREAS, pursuant to AOC Directive #14-24, a municipality seeking a Fourth Round Compliance Certification from the entity created by the Amended FHA known as the Affordable Housing Dispute Resolution Program (hereinafter “the Program”), shall file an action in the appropriate venue with the Program, in the form of a Declaratory Judgment Complaint within 48 hours after adoption of the municipal resolution accepting or challenging its Fourth Round fair share obligations, or by February 3, 2025, whichever is sooner; and

WHEREAS, nothing in this Resolution shall be interpreted as an acknowledgment of the legal validity of the AOC Directive and the Borough reserves any and all rights and remedies in relation to the AOC Directive; and

WHEREAS, the Town seeks a Compliance Certification from the Program and, therefore, wishes to file a Declaratory Judgment Complaint in the appropriate venue with the Program, along with a copy of this Resolution, within 48 hours of the adoption of this Resolution; and

WHEREAS, in light of the above, the Mayor and Town Council finds that it is in the best interest of the Town to declare its obligations in accordance with this binding Resolution and in accordance with the Amended FHA; and

NOW THEREFORE BE IT RESOLVED on this 27th day of January 2025, by Council of the Town of Hammonton, as follows:

1. All of the Whereas Clauses are incorporated into the operative clauses of this Resolution as if set forth in full herein.
2. For the reasons set forth in this Resolution, Mayor and Town Council hereby commit to the DCA Fourth Round Present Need (Rehabilitation) Obligation of 64 and the DCA Fourth Round Prospective Need (New Construction) Obligation of 49 as described in this Resolution, subject to all reservations of rights, which specifically include, without limitation, the following:
 - a. The right to adjust the Town’s fair share obligations based on a windshield survey or similar survey, a Vacant Land Adjustment, a Durational Adjustment, and all other applicable adjustments, permitted in accordance with applicable DCA regulations or other applicable law; and
 - b. As described in the WHEREAS section, all rights to revoke or amend this Resolution in the event of a successful legal challenge, or legislative change, to the Amended FHA; and
 - c. The right to take any contrary position, or adjust its fair share obligations, in the event of a third party challenge to the Town’s fair share obligations.
3. Pursuant to the requirements of the FHA as amended, and the Administrator of the Court’s AOC Directive #14-24 issued on December 13, 2024, the Town hereby directs its solicitor to file a Declaratory Judgment Complaint, along with this Resolution and a Case Information Statement (Civil CIS), in the appropriate venue with the Program or any

other such entity as may be determined to be appropriate, and to initiate such action within 48 hours of the adoption of this Resolution, so that the Town's Fourth Round Housing Element and Fair Share Plan can be reviewed and approved.


4. This Resolution shall take effect immediately, according to law.

Adopted: January 27, 2025

THE TOWN OF HAMMONTON

By: 
Stephen DiDonato, Mayor

Attest:


Frank Zuber, Municipal Clerk

Roll Call:

Aye: Furgione, Gribbin, Marino, Oliva, R. Radio, S. Radio, DiDonato

Nay:

Abstain:

Absent: