

STATE OF NEW JERSEY
COUNTY OF HUNTERDON
BOROUGH OF FRENCHTOWN

RESOLUTION #2025-35

RESOLUTION OF THE BOROUGH OF FRENCHTOWN, COUNTY OF HUNTERDON, STATE OF NEW JERSEY, COMMITTING TO ROUND 4 PRESENT AND PROSPECTIVE NEED AFFORDABLE HOUSING OBLIGATIONS

WHEREAS, the Borough of Frenchtown (“Borough”) has a demonstrated history of voluntary compliance meeting its affordable housing obligations as evidenced by its Round 3 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 6, 2015, the Borough filed a Declaratory Judgment Complaint in Superior Court, Law Division (“Declaratory Judgment Complaint”), seeking, among other things, a judicial declaration that its Housing Element and Fair Share Plan (“Fair Share Plan”), to be amended as necessary, satisfied the Borough’s “fair share” of the regional need for low and moderate income housing pursuant to the “Mount Laurel doctrine;” and

WHEREAS, that Declaratory Judgment Complaint was adjudicated through a Court-approved Housing Element and Fair Share Plan and a Final Judgment of Compliance and Repose, which precludes builder’s remedy lawsuits against the Borough until July 1, 2025; and

WHEREAS, on March 20, 2024, Governor Philip D. Murphy signed into law P.L. 2024, c.2 (“A4”), an amendment to the New Jersey Fair Housing Act; and

WHEREAS, A4 calculates the size of the regional affordable housing need as the “projected household change for a 10-year round in a region shall be estimated by establishing the household change experienced in the region between the most recent federal decennial census, and the second-most recent federal decennial census. This household change, if positive, shall be divided by 2.5 to estimate the number of low- and moderate-income homes needed to address low- and moderate-income household change in the region, and to determine the regional prospective need for a 10-year round of low- and moderate-income housing obligations...”; and

WHEREAS, A4 determines the size of the regional need, but does not calculate allocation of the need to individual municipalities; and

WHEREAS, instead, A4 required the Department of Community Affairs (“DCA”) to produce non-binding estimates of need on or before October 20, 2024, which the DCA provided on October 18, 2024 (“DCA Report”); and

WHEREAS, the DCA Report calculates the Borough’s Round 4 (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 11 and a Prospective Need or New Construction Obligation of 22; and

WHEREAS, A4 further provides that, irrespective of the DCA’s calculation, municipalities are to determine “present and prospective fair share obligation(s)... by binding resolution no later than January 31, 2025”; and

WHEREAS, the Borough’s Professional Planner, Darlene A. Green, PP, AICP, prepared a Memorandum, dated January 7, 2025, analyzing the “Fourth Round Allocation Factors” (“Green Report”) concluding that the calculation of the Allocation Factors in the DCA Report are correct; and

WHEREAS, a true copy of the Green Report is attached to this Resolution and incorporated into herein by reference; and

WHEREAS, this Resolution satisfies the requirements of A4 by accepting the DCA estimate of need as described in the DCA Report; and

WHEREAS, Section 3 of A4 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 A4; and

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WHEREAS, the Borough's calculation of need is entitled to a "presumption of validity" because it complies with Sections 6 and 7 of A4; and

WHEREAS, the Borough specifically reserves the right to adjust those numbers based on one or any of the foregoing adjustments: 1) a windshield survey or similar survey which accounts for a more accurate 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; and

WHEREAS, in addition to the foregoing, the Borough specifically reserves all rights to revoke or modify this Resolution and commitment in the event of a successful challenge to A4 in the context of the Borough of Montvale, et al. v. State of New Jersey, et al. (MER-L-1778-24), any other similar action challenging A4, or any legislation adopted and signed into law by the Governor of New Jersey that alters the deadlines and/or requirements of A4; and

WHEREAS, in addition to the foregoing, the Borough reserves the right to take a position that its Round 4 Present or Prospective Need Obligations are lower than described herein if 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 A4 requires or can require an increase in the Borough's Round 4 Present or Prospective Need Obligations based on a successful downward challenge of any other municipality in the region because the plain language and clear intent of A4 is to establish, for example, unchallenged numbers by default on March 1, 2025; and

WHEREAS, the Borough hereby commits for its professionals to prepare the necessary Housing Element and Fair Share Plan to meet the statutory deadline in A4 and address the Borough's fourth round affordable housing obligations, as determined by the Program and Court, which includes the reservations described above; and

WHEREAS, considering the above, the Mayor and Common Council find that it is in the best interest of Borough to declare its obligations in accordance with this Resolution; and

NOW, THEREFORE, BE IT RESOLVED on this 29th day of January 2025, by the Common Council of the Borough of Frenchtown, County of Hunterdon, State of New Jersey, as follows:

1. All the WHEREAS clauses are incorporated into these NOW, THEREFORE paragraphs, including the Green Report.
2. The Mayor and Common Council hereby commit to the DCA Round 4 Present Need Obligation of 11 and the Round 4 Prospective Need Obligation of 22 described in this Resolution subject to all reservations of rights, which specifically include:
 - a) The right to adjust these numbers based on a windshield survey, lack of land, sewer, water, regional planning inputs, or any combination thereof;
 - b) All rights to revoke or modify this Resolution in the event of a successful legal challenge, or legislative change, to A4; and
 - c) All rights to take any contrary position in the event of a third-party challenge to the obligations.
3. The Borough hereby directs its Clerk, Planner and Municipal Attorney to file this Resolution with the Affordable Housing Dispute Resolution Program-Implementation of L. 2024, c. 2 ("Program") pursuant to the requirements on A4 and to file an accompanying declaratory judgment action with the Program as required by Administrative Directive #14-24 ("Action") and to attach a copy of this Resolution to the Action within 48 hours of the adoption of this Resolution.

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4. The Borough Common Council hereby commits its professionals to prepare the necessary Housing Element and Fair Share Plan to meet the statutory deadline in A4 to address the Borough's fourth round affordable housing obligations, as determined by the Program and Court, which includes the reservations described in this Resolution.

5. This Resolution shall take effect immediately.

Dated: January 29, 2025

ATTEST and AFFIX SEAL



Samantha M. Gravelle, RMC
Borough Clerk

Borough of Frenchtown



Brad Myhre, Mayor

CERIFICATION

I, Samantha M. Gravelle, Clerk of the Borough of Frenchtown, County of Hunterdon, State of New Jersey, hereby certify that the foregoing resolution is a true, complete and accurate copy of an Ordinance adopted by the Governing Body of the Borough of Frenchtown at a meeting held on January 29, 2025.



Samantha M. Gravelle, RMC
Borough Clerk

Shelbourne at Hunterdon
53 Frontage Road, Suite 110
Hampton, New Jersey 08827
Main: 877 627 3772



Memorandum

To: Frenchtown Mayor & Council
From: Darlene A. Green, PP, AICP
Date: January 7, 2025
Subject: Fourth Round Allocation Factors
Project No.: FTT0122

P.L. 2024, c.2 specifies the formula and process by which Fourth Round affordable housing obligation numbers are to be calculated. The Department of Community Affairs (DCA) was charged with the preparation of the Fourth Round numbers. DCA published their report on or about October 18, 2024. The allocation process starts with a state-wide number. DCA has calculated this number to be 84,698. This number is allocated amongst the six affordable housing regions. Frenchtown is located in Region 3 – Hunterdon, Middlesex, and Somerset County. Region 3 has a Fourth Round obligation of 11,604.

The regional need is then distributed to the non-urban aid municipalities based on three allocation factors:

- Equalized Non-residential Valuation
- Income Capacity
- Land Capacity

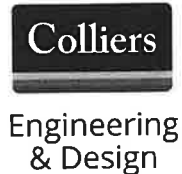
Equalized non-residential valuation is determined by the change in value for commercial and industrial parcels between 1999 and 2023. The Borough value change is divided by the change in value of Region 3, which produces a percentage. This percentage is the Equalized Non-residential Valuation factor.

Income capacity measures the extent to which the Borough's income level differs from that of the lowest-income municipality in its Region. For Region 3, Perth Amboy has the lowest median income. The analysis reviews the income difference and does account for number of households in each community. Once again, each community is compared to the Region's aggregate median income difference. Essentially, the higher median income a community has, the higher percentage it is allocated.

Land capacity estimates the total acreage that is developable based on 2020 aerial imagery. The Borough's developable acreage is divided by the Region's total acreage, which produces a percentage. This percentage is the Land Capacity factor.

The three factors are then averaged for each community. That average is then multiplied by the obligation for the municipality's Region.

Project No. FTT0122
January 7, 2025
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The information below summarizes the three allocation factors and the average allocation assigned to Frenchtown.

- Non-residential ~ 0.07%
- Land Capacity ~ 0.00%
- Income ~ 0.49%
- Average allocation is 0.19%; therefore the Fourth Round Obligation is 22

DCA provided a detailed excel workbook with their data inputs and calculations. Below is a summary of the data we reviewed and our findings.

Equalized Non-residential Valuation

- 2023 commercial and industrial values are correct (total = \$24,776,996)
- 2023 State Equalization Table Average Ratio – 67.35% from state table on website is correct
- 1999 commercial and industrial values are correct (total = \$17,195,600)
- 1999 State Equalization Table Average Ratio – 96.48% is correct, verified by Erica, Tax Assessor
- The calculations for Frenchtown are correct

Income Capacity

- 2022 number of households is correct (637)
- 2022 median income is correct (\$99,018)
- Regional 3 minimum median income was Perth Amboy with \$56,239, correct
- Difference from median household floor with household weight is correct
- Household weighted income difference percentage is correct
- Difference from median household income floor is correct
- Income difference percentage of region is correct
- Income capacity allocation calculations for Frenchtown are correct

Land Capacity

- Table states 0 developable acres – we agree with this

Our analysis confirms the data for the allocation factors is correct and the mathematical formulas are accurately calculated for the Region. As a result, we have no reason to object to the Fourth Round obligation DCA has calculated for Frenchtown.