

RESOLUTION # 2025-43

RESOLUTION OF THE TOWNSHIP OF ALLAMUCHY ADOPTING FOURTH ROUND AFFORDABLE HOUSING OBLIGATIONS PURSUANT TO P.L. 2024, c.2 AND THE FAIR HOUSING ACT, N.J.S.A. 52:27D-302

WHEREAS, on March 20, 2024, Governor Philip D. Murphy signed into law an Amendment to the Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) (hereinafter “Amended FHA”), which requires each municipality to provide its fair share of affordable housing obligations under the Mount Laurel Doctrine based on a new process and updated methodology as set forth in the Amended FHA; and

WHEREAS, on October 18, 2024, the New Jersey Department of Community Affairs (the “DCA”) calculated the non-binding statewide and regional affordable housing needs and released a non-binding determination of each municipality’s Fourth Round (2025 to 2035) affordable housing obligation as set forth in DCA’s report, entitled “Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background” (the “DCA Report”); and

WHEREAS, the DCA Report calculates the Township of Allamuchy’s Round 4 (2025-2035) obligations as follows: (a) a Present Need Obligation of 0, and (b) a Prospective Need Obligation of 281; and

WHEREAS, the Amended FHA provides that the DCA Report is non-binding, thereby inviting municipalities to demonstrate that the Amended FHA would support a lower fair share calculation; and

WHEREAS, substantial activity has occurred surrounding the Amended FHA and is ongoing since the Amended FHA was signed into law that warrants the Township of Allamuchy explicitly reserving certain rights to avoid any claim that it has waived them; and

WHEREAS, for example, the Township of Allamuchy notes that the New Jersey Institute of Local Government Attorneys (“NJILGA”) has expressed its support for legislation (hereinafter the “NJILGA Legislation”) which, if adopted would reduce the Township of Allamuchy Round 4 prospective need from 281 to 48 and which further provides that municipalities would have 90 days from receipt of revised fair share obligations from the [DCA] to provide amended Housing Element and Fair Share Plans addressing the new number; and

WHEREAS, the Township of Allamuchy supports the NJILGA Legislation and would have the right to reduce its Round 4 obligation in the event that the Legislature enacts the NJILGA Legislation; and

WHEREAS, the Amended FHA specifically provides that “[a]ll parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by COAH unless those regulations are

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contradicted by statute, including P.L. 2024, c.2, or binding court decisions” (N.J.S.A. 52:27D-311 (m)); and

WHEREAS, COAH regulations authorize the award of a durational adjustment predicated upon a lack of sewer or lack of water, as well as a and vacant land adjustment; and

WHEREAS, based on a review of the DCA Report and findings made by the Township Planner, David Novak PP, AICP of Burgis Associates, Inc. (the “Township Planner”), it is recommended that the Township Council adopt a binding resolution accepting the present need obligation of 0; and

WHEREAS, based on a review of the DCA Report and finds made by the Township Planner, it is recommended that the Township Council adopt a binding resolution determining a reduced municipal prospective need obligation of 51 based on a recalculation of the Land Capacity Allocation Factor to account for DCA’s methodological errors and as supported by the Township Planner’s Report and the mapping and data which are attached hereto and incorporated herein as Exhibit A; and

WHEREAS, the Township Planner has determined that the Land Capacity Allocation Factor must be adjusted from 181.318 acres to .927 acres by removing the following land which was improperly included as developable land in the DCA’s calculation:

- (1) Areas or portions of areas less than 25 feet wide;
- (2) Open space/parkland properties with deed restrictions and/or on Recreation and Open Space Inventory (“ROSI”);
- (3) Properties under construction or recently developed;
- (4) Public utility parcels, railroad properties, rights-of-way, areas used for stormwater management facilities, etc., and
- (5) Properties with easements restricting development within developable area; and

WHEREAS, upon correcting the Land Capacity Allocation Factor from 181.318 acres to .927 acres, the Township’s prospective need is 51 based on the approved Fourth Round Methodology; and

WHEREAS, the Township of Allamuchy reserves the right to comply with the NJILGA Legislation if the Legislature enacts it; and

WHEREAS, the Township of Allamuchy also reserves all rights to adjust its position in the event of any rulings in Borough of Montvale, et al. v. State of New Jersey, et al., Docket No. MER-L-1778-24 (hereinafter the “Montvale Case”) or any other such action that alters the deadlines and/or requirements of the Amended FHA; and

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WHEREAS, the Township of Allamuchy reserves the right to conduct a vacant land adjustment (VLA) to determine its realistic development potential (RDP) and/or seek a durational adjustment at a later date; and

WHEREAS, in the event that a third-party challenge the calculations provided for in this Resolution, the Township of Allamuchy reserves the right to take such position as it deems appropriate in response thereto including that its Round 4 Prospective Need Obligations should be lower than described herein; and

WHEREAS, in addition to the above, the Acting Administrative Director issued Directive #14-24, dated December 13, 2024, and made the directive available later in the week that followed; and

WHEREAS, pursuant to Directive #14-24 of the Acting Administrative Director, a municipality seeking a certification of compliance with the FHA shall file an action in the form of a declaratory judgment complaint in the county in which the municipality is located within 48 hours after adoption of the municipal resolution of fair share obligations, or by February 3, 2025, whichever is sooner; and

WHEREAS, the Township of Allamuchy seeks a certification of compliance with the FHA and, therefore, directs its affordable housing Counsel to file a declaratory relief action in the Superior Court of New Jersey, Warren County within 48 hours of the adoption of this resolution.

NOW, THEREFORE, BE IT RESOLVED, on this 22nd day of January, 2025 by the Mayor and Council of the Township of Allamuchy, Warren County, State of New Jersey, as follows:

1. All of the Whereas Clauses set forth above are incorporated into the operative clauses of this resolution as if fully set forth herein.

2. The Township of Allamuchy hereby accepts a present need obligation of 0 and a prospective need obligation of 51 as its Fourth Round (2025 to 2035) affordable housing obligation pursuant to P.L. 2024, c. 2 and the Fair Housing Act, N.J.S.A. 52:27D-302, et seq., and hereby binds itself to the adoption of a housing element and fair share plan based on this determination, subject to: (a) the right to comply with the NJILGA Legislation if the Legislature enacts it; (b) the right to adjust its obligation in the event of any future legislation, including but not limited to the NJILGA Legislation, that adjusts the obligations the DCA reported on October 18, 2024; (c) the right to adjust its obligations based upon any ruling in the Montvale Case or other litigation; (d) the right to adjust its obligations in the event of a third-party challenge to the obligations and the Township's response thereto; and (e) the right to conduct a VLA to determine its RDP and/or seek a durational adjustment at a later date.

3. The Mayor and Council of the Township of Allamuchy hereby direct the Township Attorney to file a declaratory judgment complaint in Warren County

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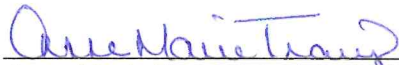
within 48 hours after adoption of this resolution, attaching this resolution and the Planner's Report thereto.

4. The Mayor and Council of the Township of Allamuchy authorize the Township Attorney to file this resolution with any such entity as may be determined to be appropriate and necessary.

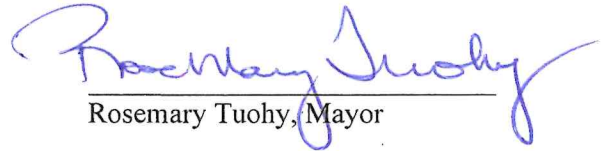
This resolution shall take effect as provided by law.

MEMBERS	MOTION	2 ND	YES	ABSTAIN	NO	ABSENT
S. Chamberlin	✓		✓			
M. Quinoa		✓	✓			
E. Fabula			✓			
D. Bonanno			✓			
R. Tuohy - Mayor			✓			

ATTEST:

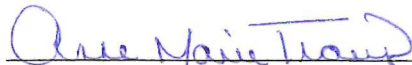

 Anne Marie Tracy, Municipal Clerk

TOWNSHIP OF ALLAMUCHY


 Rosemary Tuohy, Mayor

CERTIFICATION

I, Anne Marie Tracy, hereby certify that the foregoing Resolution is a true, complete and accurate copy of a Resolution adopted by the Mayor and Council of the Township of Allamuchy at a meeting held on January 22, 2025.


 Anne Marie Tracy, Municipal Clerk