

**RESOLUTION NO. 2025-1.114  
OF THE GOVERNING BODY OF  
THE BOROUGH OF BLOOMINGDALE**

**RESOLUTION OF THE BOROUGH OF BLOOMINGDALE, COUNTY OF  
PASSAIC AND STATE OF NEW JERSEY, ADOPTING  
BLOOMINGDALE'S AFFORDABLE HOUSING PRESENT AND  
PROSPECTIVE NEED OBLIGATIONS FOR THE PERIOD OF JULY 1,  
2025 THRU JULY 1, 2035 IN ACCORDANCE WITH P.L. 2024 C.2, AND  
RESERVING ALL RIGHTS.**

**WHEREAS**, the Borough of Bloomingdale (hereinafter "Borough") has a demonstrated history of voluntary compliance with the Mount Laurel doctrine and the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq. ("FHA"); and

**WHEREAS**, pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (Mount Laurel IV), in July 2015, the Borough filed a Declaratory Judgment Action in the Superior Court, Law Division, Passaic County, under Docket No. PAS-L-2360-15 ("2015 Action") seeking, among other things, a judicial declaration that the Borough's Housing Element and Fair Share Plan (hereinafter "Fair Share Plan"), to be amended as necessary, satisfies its "fair share" of the regional need for low and moderate income housing pursuant to the "Mount Laurel doctrine;" and

**WHEREAS**, the Borough's 2015 Action ultimately culminated in the Court entering an Order Granting Third Round Certification on July 18, 2016 which entitles the Borough to immunity and precludes Mount Laurel lawsuits and exclusionary zoning litigation, including builder's remedy lawsuits, from being filed against the Borough until after July 1, 2025; and

**WHEREAS**, on March 20, 2024, Governor Murphy signed into law, P.L. 2024, c.2, which, among other things, amended various provisions of the FHA, abolished the Council on Affordable Housing ("COAH") and established the Affordable Housing Dispute Resolution Program ("Program"); and

**WHEREAS**, P.L. 2024, c.2, sets forth that the Fourth Round period of affordable housing obligations shall run from July 1, 2025 through June 30, 2035 ("Fourth Round" or "Round Four"); and

**WHEREAS**, pursuant to P.L. 2024, c.2, the Borough is located in Housing Region 1, which is comprised of Bergen, Hudson, Passaic and Sussex counties; and

**WHEREAS**, the amendments to the FHA require the Department of Community Affairs ("DCA") to prepare and publish a report on the calculations of the regional need and each municipality's present and prospective need affordable housing obligations for the Fourth Round within seven (7) months of March 20, 2024; and

**WHEREAS**, on October 18, 2024 the DCA published its report on the calculations with respect to Statewide regional need and municipal present and prospective need affordable housing obligations for the Fourth Round (the “DCA Report”); and

**WHEREAS**, pursuant to P.L. 2024, c.2, the DCA has calculated the total Statewide prospective need obligation to be 84,698 units, which equates to a Statewide new construction obligation of over 8,400 affordable units per year; and

**WHEREAS**, the DCA Report further calculates the Borough’s non-binding Fourth Round obligations as follows: 1) a present need or rehabilitation obligation of “0”; and 2) a prospective need or new construction obligation of “434”; and

**WHEREAS**, pursuant to N.J.S.A. 52:27D-304.1e of the FHA, the calculations in the DCA Report are not binding on municipalities; and

**WHEREAS**, rather, pursuant to N.J.S.A. 52:27D-304.1 of the FHA, each municipality is required to ultimately determine its respective Fourth Round present and prospective need fair share obligations, and adopt a binding resolution committing to these obligations describing the basis for the municipality’s determination on or before January 31, 2025; and

**WHEREAS**, P.L. 2024, c.2, directs that each municipality shall determine its Fourth Round present and prospective need fair share obligations, with consideration of the calculations in the DCA Report, and in accordance with the formulas established in N.J.S.A. 52:27D-304.2 and -304.3 of the FHA using “necessary datasets that are updated to the greatest extent practicable”; and

**WHEREAS**, the Borough’s Planner and Municipal Attorney have reviewed and analyzed the DCA Report along with the underlying data and data sets relied upon by the DCA in reaching its non-binding calculations for the Borough, and have carefully considered and analyzed the most up-to-date localized data pertaining to the Borough, including amongst other verifiable data, local land use approvals, environmental constraints and other site specific information, construction permits, and MOD-IV data maintained and on file with the Borough with regard to the land capacity and equalized non-residential valuation allocation factors; and

**WHEREAS**, based upon same, the Borough has determined to accept the estimate set forth in the DCA Report with respect to the Borough’s Present Need Obligation of “0” at this time; and

**WHEREAS**, however, based upon the above analysis, the Borough rejects the DCA’s non-binding calculation of the Borough’s Prospective Need Obligation of “434”, as based on the opinions of the Borough’s Planner, the DCA’s non-binding calculations and underlying data sources in arriving at the Borough’s allocated land capacity factor were incorrect and erroneous for multiple reasons; and

**WHEREAS**, in particular, the Borough Planner has confirmed that the DCA mistakenly arrived at the Borough’s land capacity factor using incorrect assumptions and inaccurate data to

erroneously determine that approximately 74.54 acres of land within the Borough is “developable”; and

**WHEREAS**, using the most up-to-date localized verifiable data and information available to the Borough, the Borough’s Planner has determined that only 39.20 acres of land within the Borough is “developable” after consideration is given to the applicable preserved land, deed restrictions, lack of available road access, consideration of prior round inclusionary development sites, environmental constraints and restrictions (including wetlands, wetland buffers, steep slopes, special flood hazard areas, and floodways), land use board approvals, construction permit data, and MOD-IV data, amongst other localized data and updated verifiable information; and

**WHEREAS**, the Borough’s Planner has further independently calculated the Borough’s Fourth Round Prospective Need affordable housing obligation based on the formulas, criteria, methodology and datasets required by sections 6 and 7 of P.L. 2024, c. 2 (N.J.S.A. 52:27D-304.2 and -304.3, and has arrived at a Fourth Round Prospective Need Obligation that accurately reflects the most up-to-date pertinent factual data specific to the Borough; and

**WHEREAS**, based upon the calculations and analysis performed by the Borough Planner, the Borough has determined that its Fourth Round Prospective Need or New Construction obligation is “269” and

**WHEREAS**, the Borough’s Planner has prepared report setting forth this analysis, a summary of all relevant factors, and the basis for such conclusions, which is/are summarily incorporated by reference above and which is attached hereto as Exhibit “A”; and

**WHEREAS**, N.J.S.A. 52:27D-304.1f(1)(b) 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 P.L. 2024, c.2 ... [;]” and

**WHEREAS**, the Borough’s calculation of its present need and prospective need obligations is entitled to a “presumption of validity” because it complies with sections 6 and 7 of P.L. 2024, c.2; and

**WHEREAS**, the Borough, however, specifically reserves the right to adjust its Present Need Obligation and/or Prospective Need Obligations, including for any of the foregoing adjustments: 1) a structural conditions survey or similar exterior survey which accounts for a lower 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 Regional Master Plan and its build out; and

**WHEREAS**, in addition to the foregoing, the Borough specifically reserves all rights to revoke this Resolution and commitment to its Fourth Round affordable housing obligations herein, in the event of: (1) a successful challenge to P.L. 2024, c.2 as a result of the pending litigation entitled: Township of Montvale et al, v. State of New Jersey, et al., Docket No.: MER-L-1778-24;

(2) any other successful challenge to P.L. 2024, c.2, or any directive or regulation adopted pursuant thereto; and/or (3) any subsequent legislative or regulatory enactment which alters or changes the deadlines, calculations, methodology and/or other requirements of P.L. 2024, c.2; and

**WHEREAS**, the Borough further specifically reserves the right to take a position that its Fourth Round Present Need and/or Prospective Need Obligation(s) 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, nothing in P.L. 2024, c. 2 requires or can require an increase in the Borough's Fourth Round Present Need and/or Prospective Need Obligation(s) based on a successful downward challenge of any other municipality in the Region since the plain language and clear intent of P.L. 2024, c.2, is to establish, for example, unchallenged numbers by default as of March 1, 2025; and

**WHEREAS**, in light of the above, the Mayor and Borough Council find that it is in the best interest of the Borough of Bloomingdale to declare its Fourth Round affordable housing obligations by resolution in accordance with P.L. 2024, c.2.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Borough Council of the Borough of Bloomingdale, in the County of Passaic, and State of New Jersey as follows:

1. All of the Whereas Clauses set forth above are hereby incorporated into the operative clauses of this Resolution by reference.

2. The Mayor and Borough Council hereby commit to a Fourth Round Present Need Obligation of "0" and a Fourth Round Prospective Need Obligation of "269", and which such commitment to the Borough's Fourth Round Affordable Housing Obligations be and is hereby subject to the Borough's reservation of all rights it may have, as described in this Resolution or otherwise, to revoke, repeal, suspend, amend or modify this Resolution by further action of the Borough, including but not limited to, the following:

- a) The right to adjust, modify, cancel, withdraw or revoke the Borough's commitment to its Fourth Round Present Need and/or Prospective Need Obligation(s), and/or to otherwise revoke, repeal, suspend, amend, or modify this Resolution should additional information or evidence become available or discoverable to the Borough in the future;
- b) The right to adjust the Borough's Present Need and/or Prospective Need Obligation(s) based on lack of available vacant and developable land, sewer, water, and/or due to regional planning inputs, formulas or considerations, including, but not limited to the Highlands Regional Master Plan and its build out, or any combination of the above;
- c) All rights to revoke this Resolution in the event of a successful legal challenge to P.L. 2024, c.2, a legislative change to P.L. 2024, c. 2, or any successful

challenge to any directive or regulation adopted pursuant to P.L. 2024, c.2, or any change or amendment to such directives or regulations;

- d) All rights to take a position that the Borough’s Fourth Round Present Need and/or Prospective Need Obligation(s) are lower than described herein in the event that a third party challenges the calculations provided for or relied upon in this Resolution; and/or
- e) All rights to take a position that the Borough’s Fourth Round Present Need and/or Prospective Need Obligation(s) is/are lower than described herein in the event a third party claims the Borough’s Fourth Round Present Need and/or Prospective Need Obligation(s) require an increase based on a reallocation or modification of the Regional present need and/or prospective need obligation(s) allegedly due from a successful reduction of the allocated present and prospective need obligations assigned to any another municipality in the Region

3. The Borough’s calculation of present and prospective need obligations is/are entitled to a “presumption of validity” because it complies with sections 6 and 7 of P.L. 2024, c.2.

4. In accordance with N.J.S.A. 52:27D-304.1, the Borough hereby directs the Borough Attorney to file an action with the Affordable Housing Dispute Resolution Program along with this Resolution, and to take all necessary and proper steps to address any challenges to same by any interested parties.

5. The Borough further commits to adopt its Housing Element and Fair Share Plan pursuant to N.J.S.A. 52:27D-304.1f(2) based on this determination on or before June 30, 2025, and hereby further directs the Borough Attorney, Borough Planner and Borough Engineer to begin taking steps to prepare same.

6. A copy of this Resolution, along with filing date of the Borough’s action with the Program, shall be placed on the Borough’s website.


7. A copy of this Resolution shall remain on file in the Borough Clerk’s office and available for public inspection.

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

***Record of Council Vote on Passage***

COUNCIL PERSON	AYE	NAY	Abstain	Absent	COUNCIL PERSON	AYE	NAY	Abstain	Absent
Bronkhurst	X				Hudson	X			
Catalano	X				Schubert	X			
Graziano	X				Yazdi	X			

I hereby certify that the foregoing is a true copy of a Resolution adopted by the Governing Body of the Borough of Bloomingdale at an Official Meeting held on January 21, 2025.

  
 Breeanna Smith, RMC  
 Municipal Clerk, Borough of Bloomingdale

# EXHIBIT "A"