

## RESOLUTION

**RESOLUTION OF THE COUNCIL OF THE TOWNSHIP OF BRIDGEWATER COMMITTING TO ROUND 4 PRESENT AND PROSPECTIVE NEED AFFORDABLE HOUSING OBLIGATIONS AS REQUIRED BY THE MARCH 24, 2024 LAW SIGNED BY GOV. MURPHY (P.L.2024 c.2) HEREINAFTER ABBREVIATED AS “A4”**

**WHEREAS**, pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (Mount Laurel IV), the Township of Bridgewater (hereinafter “Bridgewater” or the “Township”) filed a Declaratory Judgment Complaint in Superior Court, Law Division seeking, among other things, a judicial declaration that its 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 Township has a demonstrated history of voluntary compliance as evidenced by its Rounds 1-3 record; and

**WHEREAS**, that culminated in a Court-approved Housing Element and Fair Share Plan and a Final Judgment of Compliance and Repose, which precludes builder’s remedy lawsuits until July 1, 2025; and

**WHEREAS**, on March 20, 2024, Governor Murphy signed into law P.L. 2024, c.2 (hereinafter “A4”); and

**WHEREAS**, the Township is forced to participate in the affordable housing process set forth in A4 or risk losing immunity from the builder’s remedy and exclusionary zoning litigation; and

**WHEREAS**, A4 was signed into law without consideration of how it would impact individual municipalities or where development should occur; and

**WHEREAS**, A4 provides a process and calculations that disadvantage municipalities; and

**WHEREAS**, A4 calculates the size of the regional affordable housing need as follows “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**, this means that the regional need equates to 40% of regional household growth; and

**WHEREAS**, the 1985 version of the Fair Housing Act and A4 both prohibit a result that would compel a municipality to spend its own money on compliance; and

**WHEREAS**, the theory which permits a municipality to meet its obligations without municipal subsidy is zoning for “inclusionary zoning”; and

**WHEREAS**, inclusionary zoning most typically requires a 15% or 20% set aside; and

**WHEREAS**, it is not clear how a regional need predicated upon 40% of anticipated growth can be met with 15-20% set asides and without municipal subsidy; and

**WHEREAS**, A4 provides that certain other municipalities in the region have an allocation of 0% of the need, irrespective of the growth in that particular municipality; and

**WHEREAS**, A4 yields a statewide new construction obligation of over 8,400 affordable units per year; and

**WHEREAS**, this is a substantially higher annual number than was imposed by COAH in the “Prior Round” or any iteration of its Round 3 regulations; 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 it did provide on October 18, 2024 (“DCA Report”); and

**WHEREAS**, the DCA Report calculates the Township’s Round 4 (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 130 units and a Prospective Need or New Construction Obligation of 474 units; 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 Township has calculated its own Round 4 Present and Prospective Need affordable housing obligations, independently, and commits itself to the following obligations: 130 unit Round 4 Present Need or Rehabilitation Obligation and 417 Prospective Need or New Construction Obligation. The basis for that conclusion is a report prepared by Graham Petto, P.P., AICP of Topology, dated January 24, 2025, and attached hereto as Exhibit A (“Topology 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

**WHEREAS**, Township’s calculation of need is entitled to a “presumption of validity” because it complies with Sections 6 and 7 of A4; and

**WHEREAS**, the Township 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 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; and

**WHEREAS**, in addition to the foregoing, the Township specifically reserves all rights to revoke this resolution and commitment in the event of a successful challenge to A4 in the context of the Montvale case (MER-L-1778-24), any other such 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 Township reserves the right to take a position that its Round 4 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 light of the above, the Mayor and Council find that it is in the best interest of the Township to declare its obligations in accordance with this resolution.

**NOW, THEREFORE, BE IT RESOLVED** on this 30th day of January by the Council of the Township of Bridgewater, Somerset County, State of New Jersey, as follows:

1. All of the Whereas Clauses are incorporated into the operative clauses of this resolution.
2. In accordance with the Topology Report, the Mayor and Council hereby commit to the DCA Round 4 Present Need Obligation of 130 units and the Round 4 Prospective Need Obligation of 417 units described in this resolution subject to all reservations of rights, which specifically include:
  - a) The right to adjust the number based on a windshield survey, lack of land, sewer, water, regional planning inputs, or any combination thereof;
  - b) All rights to revoke this resolution in the event of a successful legal challenge, or legislative change, to A4;
  - c) All rights to take any contrary position in the event of a third-party challenge to the obligations.
3. The Township hereby directs its Affordable Housing Counsel to file this Resolution with the “Program” pursuant to the requirements of A4.
4. This resolution shall take effect immediately, according to law.

Introduced	Seconded	Council	Aye	Nay	Abstain	Absent
		Kirsh				✓
	✓	Kurdyla	✓			
		Pedroso				✓
✓		Ring	✓			
		Norgalis	✓			

Adopted: January 30, 2025

I hereby certify this is a true and exact copy of a resolution adopted by the Bridgewater Township Council on January 30, 2025

Grace W. Njuguna  
 Grace Njuguna, RMC, Township Clerk