

Resolution 2025-002

**BOROUGH OF SOUTH BOUND BROOK
COUNTY OF SOMERSET
STATE OF NEW JERSEY**

**RESOLUTION OF MAYOR AND COUNCIL ACCEPTING ITS FOURTH ROUND
FAIR SHARE AFFORDABLE HOUSING OBLIGATION AND OTHER ACTIONS**

WHEREAS, on March 20, 2024, Governor Phil Murphy signed into law P.L. 2024, c.2 (A-4/S-50), setting forth the manner in which municipal affordable housing obligations for the “4th Round” – the period of 2025-2035 – were to be calculated and the process for municipalities to address the aforesaid affordable housing obligations (hereinafter, the “Amended FHA” or the “Act”); and

WHEREAS, the Amended FHA required the Department of Community Affairs (the “DCA”), to produce non-binding estimates of need for municipalities, on or before October 20, 2024; and

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

WHEREAS, the DCA Report calculated the Borough of South Bound Brook as having a present need or rehabilitation share of 67 units and a prospective need or new construction obligation of 22 units for the Fourth Round (2025-2035); and

WHEREAS, pursuant to the Act, every municipality in the State of New Jersey has an obligation to adopt a binding resolution establishing its fair share affordable housing obligation for the Fourth Round by January 31, 2025; and

WHEREAS, the Borough’s affordable housing professionals have independently reviewed the present need and prospective share published in the DCA Report and have

recommended that the Borough adopt these amounts as its Fourth Round Fair Share obligation; and

WHEREAS, Section 3 of the Act 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 Act; and

WHEREAS, the Mayor and Council have reviewed this matter and agree to accept the recommendations of the Borough’s affordable housing professionals and take other necessary actions in connection with the Amended FHA; 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 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); or (4) any other applicable adjustment permitted by law; and

WHEREAS, in addition to the foregoing, the Borough specifically reserves all rights to revoke this resolution and commitment in the event of a successful challenge to the Act in the context of the Montvale case (MER-L-1778-24), any other such action challenging the Act, or any legislation adopted and signed into law by the Governor of New Jersey that alters the deadlines and/or requirements of the Act.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Borough Council of the Borough of South Bound Brook, as follows:

1. The aforesaid recitals are incorporated herein as if set forth in their entirety.

2. The Borough hereby establishes its Fourth Round Affordable Housing Fair Share obligation as a present need of 67 units and a prospective need of 22 units, 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, other applicable adjustment permitted by law, or any combination thereof;
 - b. All rights to revoke this Resolution in the event of a successful legal challenge, or legislative change, to the Act;
 - c. All rights to take any contrary position in the event of a third-party challenge to the obligations.
3. The Borough's affordable housing attorney is hereby authorized and directed to file an action in the form of a declaratory judgment complaint and civil case information statement within 48 hours after the adoption of this resolution.
4. The Borough's affordable housing professionals shall submit the Borough of South Bound Brook into the DCA affordable housing dispute program and take any other action necessary to comply with the Amended FHA and implement its Fourth Round Affordable Housing Fair Share obligation, including but not limited to defending any challenges to the Borough's actions herein.
5. The Borough also authorizes and directs its affordable housing professionals to prepare the appropriate Housing Element and Fair Share Plan as a component of the Borough's Master Plan so that is filed with DCA on or before June 30, 2025.
6. This Resolution shall take effect immediately, according to law.
7. A certified copy of this Resolution shall be submitted to the DCA upon its adoption.

Certification

I, Christina Fischer, Registered Municipal Clerk, of the Borough of South Bound Brook, in the County of Somerset, do hereby certify that the foregoing Resolution was presented and duly adopted by the Borough Council at a meeting of the Borough of South Bound Brook held on January 14, 2025.



Christina Fischer, RMC