

BOROUGH OF MONTVALE
PLANNING BOARD

**RESOLUTION ADOPTING THE FOURTH
ROUND HOUSING ELEMENT AND FAIR SHARE PLAN
AS PART OF THE BOROUGH OF MONTVALE
MASTER PLAN**

WHEREAS, the Borough of Montvale has a demonstrated history of compliance with its Constitutional affordable housing obligations; and

WHEREAS, on March 20, 2024, P.L. 2024, c.2 (“the statute”), which was an amendment to the 1985 Fair Housing Act was signed into law; and

WHEREAS, the statute required new procedures to be followed by municipalities seeking to obtain an Affordable Housing Compliance Certification; and

WHEREAS, the statute abolished the Council On Affordable Housing and replaced it with retired on-recall judges designated as the Program which is intended to process applications by municipalities for Affordable Housing Compliance Certification; and

WHEREAS, pursuant to the statute and Directive No. 14-24 issued by the Director of the Administrative Office of the Courts, a municipality desiring to participate in the program and obtain approval of its affordable Housing Element and Fair Share Plan (“HE/FSP” or “the Plan”) was required to (1) adopt by January 31, 2025 a binding resolution determining its present and prospective

need affordable housing obligations and (2) to file an action in the form of a Declaratory Judgment Complaint in the Superior Court within 48 hours after the municipality's adoption of the aforesaid binding resolution; and

WHEREAS, pursuant to the statute, the Department of Community Affairs ("DCA") assigned municipalities affordable housing obligations, and on or about October 18, 2024 the DCA assigned Montvale a present need obligation or rehabilitation obligation of 30 units and a prospective need obligation of 348 units; and

WHEREAS, pursuant to the statute, the Mayor and Council adopted a resolution agreeing to the present need obligation of 30 units and determining that the Borough's prospective need obligation should be 176 units rather than the 348 units determined by the DCA; and

WHEREAS, pursuant to the statute and Directive No. 14-24, the Borough filed a Declaratory Judgment action in the Superior Court on January 30, 2025 under Docket No. BER-L-000750-25; and

WHEREAS, the Borough's position seeking a reduction of its prospective need obligation to 176 units was challenged by the New Jersey Builders Association ("NJBA"), Fair Share Housing Center ("FSHC"), and SHG Montvale I, LLC; and

WHEREAS, the Affordable Housing Program conducted mediation which was unsuccessful and the Program recommending that the Borough's Fourth Round obligation was 255 units; and

WHEREAS, it was determined that this calculation of the Borough's prospective need obligation was incorrect, and a "Supplemental Program Recommendation Statement of Reasons" report was issued on April 30, 2025 which would revise the Borough's Fourth Round prospective obligation to 237; and

WHEREAS, FSHC objected to the revised report, contending that the Borough's prospective obligation should be 276, or the original DCA number of 348; and

WHEREAS, the Special Adjudicator agreed in part with the Borough that the prospective need has been improperly calculated; and

WHEREAS, the County Level Housing Judge in a decision dated June 12, 2025 has determined the Borough's prospective need obligation to be 205 units; and

WHEREAS, a municipality is required pursuant to the statute to adopt a HE/FSP by June 30, 2025, and if a municipality does not adhere to this date, the statute requires that it shall not retain immunity from inclusionary zoning litigation until such time as the Borough is determined to be in compliance with the statute, the Fair Housing Act, and the Mt. Laurel doctrine; and

WHEREAS, there has been prepared a document entitled, "2025 Housing Element & Fair Share Plan, Borough of Montvale" dated June 6, 2025 prepared by Darlene A. Green, P.P., A.I.C.P., of Colliers Engineering & Design; and

WHEREAS, the Planning Board has conducted on June 17, 2025 a public hearing on the HE/FSP, with notice having been provided in accordance with

the provisions of *N.J.S.A. 40:55D-13* which pertains to notices relating to the adoption or amendment of a Master Plan; and

WHEREAS, the HE/FSP is intended to be an Element of the Borough Master Plan; and

WHEREAS, notice of the hearing has been provided to other parties, including the Borough's Special Adjudicator and Fair Share Housing Center.

NOW THEREFORE BE IT RESOLVED by the Planning Board of the Borough of Montvale as follows:

1. The HE/FSP addresses the requirements pertaining to affordable housing obligations consistent with the provisions of the statute and the 1985 Fair Housing Act.
2. The HE/FSP addresses the present/rehabilitation obligation of 30 units and the prospective need obligation of 205 units.
3. In connection with the present need (rehabilitation obligation) of 30 units, the Borough has retained an experienced entity to administer the rehabilitation program, which will be marketed through various means publicizing the availability of the rehabilitation program. The Borough will set aside \$20,000.00 per unit for a total of ten (10) units, the details of which are outlined on page 60 of the HE/FSP. In addition, the Borough will work with the Bergen County Home Improvement Program to advertise the availability of the rehabilitation program, and it is estimated that between five (5) and ten (10) units will use the County's Program. The Borough will advertise the Program on the

Borough's website and through other mediums which the Borough believes will produce credits toward the rehabilitation obligation.

4. The HE/FSP contains a comprehensive history of the inclusionary and 100% affordable developments that have been approved pertaining to the Prior Round and Third Round (see page 59 for summary of credits). It is to be noted that a total of 29 units represent surplus Third Round credits which may be applied to the Fourth Round.

5. The HE/FSP also details beginning at page 61 Third Round RDP mechanisms and credits, with seven (7) of the eight (8) mechanisms having been constructed. The Plan notes the Glenview site which is anticipated to produce nine (9) credits and the 100% affordable housing development at 26 North Kinderkamack Road which would provide six (6) credits. Additional sites address Third Round unmet need, including the Overlay Zone at the Annie Sez site (Block 707, Lot 7) and the two Overlay Districts (MI-2 and MI-3). The fourth mechanism addressing unmet need for the Third Round includes a Borough-wide set-aside Ordinance (see page 70).

6. The Plan provides that the RDP for the Fourth Round is three (3) units and allocates three (3) surplus credits from Glenview and 26 North Kinderkamack to the Fourth Round RDP. The RDP of three (3) results in an unmet need of 202 units. The Plan further notes that as a result of the numerous inclusionary and affordable developments approved and constructed, the Borough has an overall surplus of 44 units for the Fourth Round. As noted, Glenview and North Kinderkamack contribute fifteen (15) of these surplus

credits, with one (1) credit allocated toward the Fourth Round redevelopment requirement. The three (3) surplus credits toward the Fourth Round RDP and the one (1) surplus credit toward the Fourth Round redevelopment requirement results in eleven (11) of the 44 overall surplus credits available to address Fourth Round unmet need.

7. A Borough-owned site, 7 East Grand Avenue, is referenced in the Plan for a 100% affordable family rental building which will contain 18 units. A total of 18 bonus credits are available as the Borough is donating the land to enable the project.

8. The Plan contains at pages 77-78 a summary of existing and proposed credits and details the numerous properties that have and will produce affordable units within the Borough consistent with the HE/FSP.

9. The Planning Board is of the opinion that the HE/FSP represents a realistic and appropriate methodology for the Borough to address its Constitutional obligation for the Fourth Round. The Board also finds that the Plan permits the Borough to continue its history of providing affordable housing units consistent with the Constitutional obligations established by the statute, the 1985 Fair Housing Act and the *Mt. Laurel* doctrine.

BE IT FURTHER RESOLVED that based upon the foregoing facts and conclusions, that the Borough's Master Plan be and is hereby amended to include the Fourth Round HE/FSP in accordance with the requirements of the aforesaid provisions and *N.J.S.A. 40:55D-28b(3)*; and

BE IT FURTHER RESOLVED that upon adoption, a copy of the within resolution shall be forwarded to the Mayor and Council, the Borough Attorney, the Borough Planner, the Borough's Special Adjudicator and FSHC, and shall be posted on the municipality's website and filed with the Affordable Housing Program.

Dated: June 17, 2025

**PLANNING BOARD OF THE
BOROUGH OF MONTVALE**

By: 
John De Pinto, Chairman

Certified to be a true copy of a Resolution adopted by the Planning Board
of the Borough of Montvale at its regular meeting on Tuesday, June 17, 2025.


**JEANNE FONDACARO, Acting
Secretary/Land Use Administrator**