



Planning for Affordable Housing

Addressing Fourth-Round Obligations
2025-2035
Bernardsville Borough

Borough Council
February 24, 2025



New Jersey Enacted a New Affordable Housing Law

March 20, 2024
Governor Murphy signed
into law P.L. 2024 c.2

- Amended the Fair Housing Act (NJSA 52:27D-302)
- Abolished COAH
- Established Affordable Housing Dispute Resolution Program
- Significantly changes how affordable housing matters are administered in NJ

Affordable Housing Dispute Resolution Program



- Court-based oversight for municipal affordable housing compliance (Mt. Laurel judges)
- Requires filing of Declaratory Judgement Action to obtain orders/certification of compliance
- Any disputes or challenges will be mediated by the Program
- Program Judges will issue orders as necessary for process
- The Program issued Administrative Directive #14-24, December 2024 , which sets forth procedures, guidelines and Housing Element and Fair Share Plan requirements

What does this mean for Bernardsville Borough?

- A new Fourth Round Housing Plan Element and Fair Share Plan must be adopted and filed no later than 48 hours after adoption, or June 30, 2025, whichever is sooner.
- Plan must provide for the fulfillment of Bernardsville's affordable housing obligation over the period between July 1, 2025 and June 30, 2035.
- Several interim deadlines require action or attention prior to June 30 and beyond June 30.



Key Milestones

February 24, 2025



Key Milestones

January 31, 2025 Deadline Met

- File Resolution Accepting DCA Obligation or Presenting Alternative Obligation
- Borough Council adopted Resolution #25-30 on January 27, 2025 accepting DCA Obligations of 113 prospective need and 0 present need.
- Posted on Municipal website & Filed as a Declaratory Judgement Action within 48 hours

February 3, 2025* Deadline Met

- Filing of Declaratory Judgement action and resolution with the *Affordable Housing Dispute Resolution Program*
- Bernardsville Borough filed the DJ action on January 29, 2025

** In no case later than 48 hours after adoption of the resolution*

Key Milestones

February 28, 2025

- Any challenges to Bernardsville's stipulated Present and Prospective Fair Share Obligations must be filed with the Program.
- If no challenge filed, obligation will be presumptively valid on March 1

March 31, 2025

- The Program must issue a decision on any challenges to Bernardsville's stipulated Present and Prospective Fair Share Obligations

Key Milestones

June 30, 2025*

- Adopt a Housing Element & Fair Share Plan (HEFSP)
- File adopted HEFSP, ordinances and resolutions with the Program**

** May apply for grace period prior to June 30**

*** No later than 48 hours after adoption or June 30, whichever is sooner*

August 31, 2025

- Deadline for challenges to Bernardsville's HEFSP*

** If grace period/extension granted to municipality, may be submitted within 30 days of extension*

Key Milestones



If there are NO challenges to the HEFSP, the Program will review for compliance with:

- Affordable Housing Regulations
- Required elements of HEFSP pursuant to Administrative Directive #14-24
- If plan is compliant, a compliance certification/order will be issued

Key Milestones

If there ARE challenges to the HEFSP, the Program will mediate:

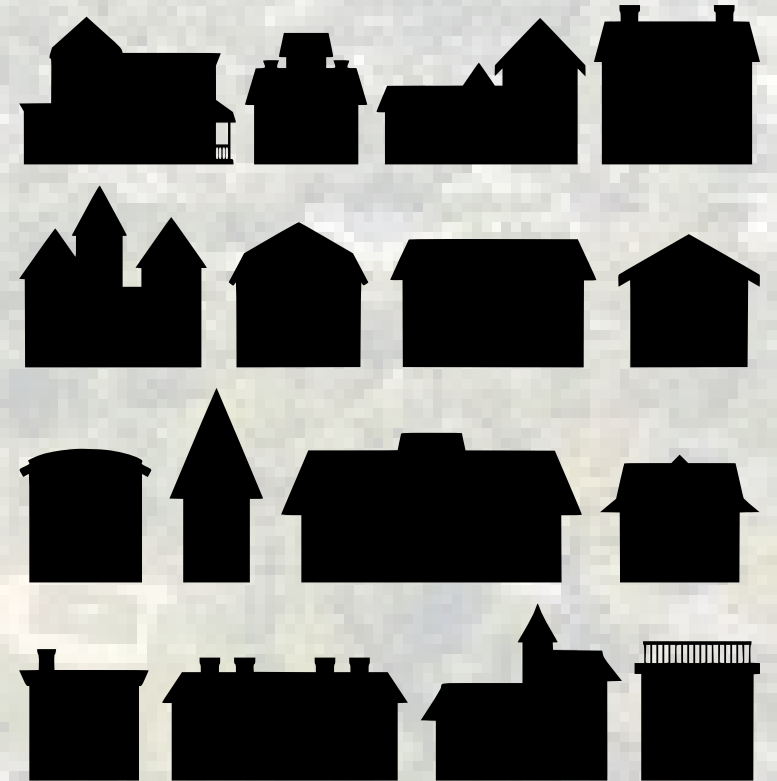
- Program determines if challenge is “compliant”;
if compliant then there is a “Settlement Conference”
- “Settlement Conference” is with interested parties;
if not resolved next step is a “Session”
- “Session” shall occur within 10 days of Settlement Conference
- Program issues decision within 10 days of “Session”
- Decision referred to Mt. Laurel Judge within 5 days for issuance
of order/additional testimony
- Settlement Agreement/Order issued upon resolution of challenge

Key Milestones

March 15, 2026

- Bernardsville must adopt all ordinances necessary to facilitate implementation of the HEFSP

NOTE: This provision of the law conflicts with Judicial Administrative Directive #14-24 (December 13, 2024), which implies that all ordinances to be adopted and included in the HEFSP



What has been done so far?



The Borough Council met the January 31, 2025 deadline by doing the following:

- Step 1
Borough Council adopted Resolution #25-30 accepting 113 units of Prospecting Need and 0 units of Present Need on 1/27/25
- Step 2
The Borough filed a Declaratory Judgement action with the *Affordable Housing Dispute Resolution Program* on 1/29/25

Bernardsville's Fourth Round Obligations

The State Department of Community Affairs issued *advisory obligations*, which were calculated based on the new law (October 2024).

Borough of Bernardsville

Present Need (Rehabilitation): 0

Prospective Need (New): 113

How is Fourth Round Present Need Calculated?

It is an estimate of existing deficient housing units currently occupied by low- and moderate-income households. A “deficient” unit means any one of the following:*

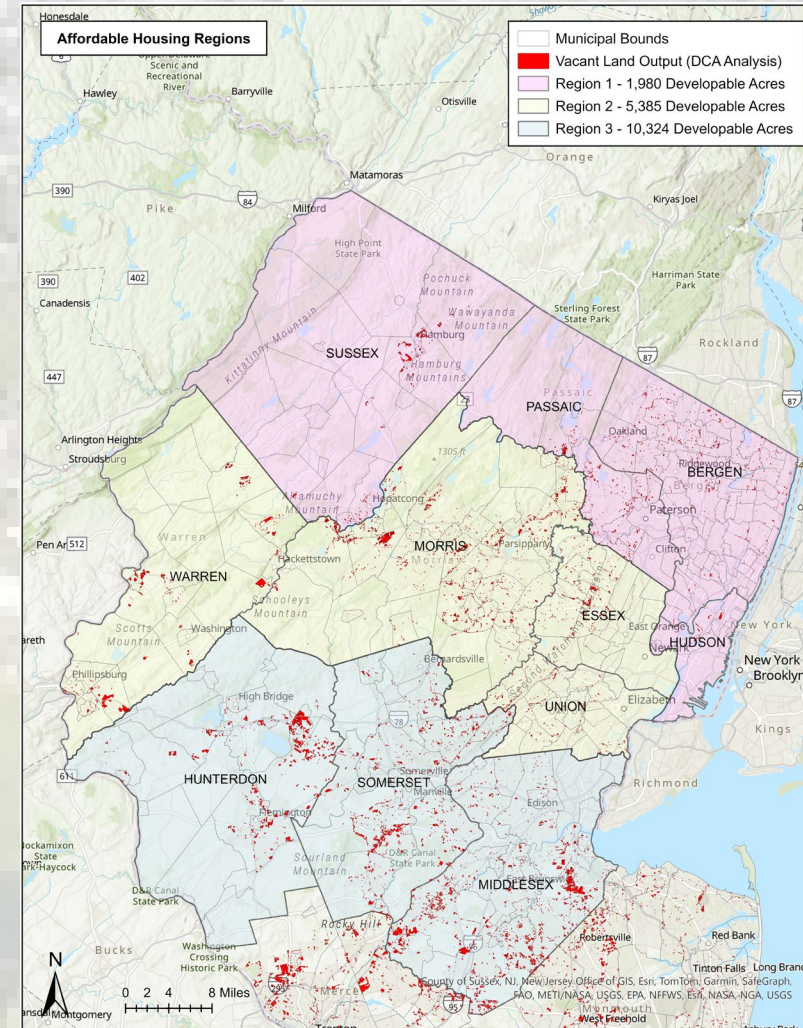
- *More than 50 years old and is overcrowded (> 1 person per room)*
- *Lacks complete plumbing facilities*
- *Lacks complete kitchen facilities*

Bernardsville has a Present Need of 0

** Calculated by NJDCA using data from the American Community Survey (ACS) and the Comprehensive Housing Affordability Strategy Dataset (CHAS)*

How is Fourth Round Prospective Need Calculated?

- Need is calculated for the entire region (Bernardsville is in Region 3)
- Each municipality receives its “fair share”
- Based on developable land, household income, and jobs/employment opportunities.



How is Fourth Round Prospective Need Calculated?

Region 3 Prospective Need

- Household growth in the region between the two most recent decennial censuses multiplied by 40%.

Region	2010 Census Households	2020 Census Households	Household Change 2010-2020	LMI Households 2025-2035
3	446,114	475,123	29,009	11,604

How is Fourth Round Prospective Need Calculated?

Municipal Prospective Need =
Regional Prospective Need x Municipal Allocation Factor

- Municipal Allocation Factor:
 - Equalized Nonresidential Valuation Factor (proxy for jobs/employment)
 - Income Capacity Factor
 - Land Capacity Factor

Factor 1: Bernardsville's Equalized Nonresidential Valuation

- Changes in nonresidential property value 1999-2023 as a percentage of regional change in value
- Non-residential property value growth is used as proxy for employment growth
- Relatively more employment growth = higher allocation of regional prospective need

Year	Nonresidential Valuation	Equalization Ratio	Equalized Nonresidential Valuation
2023	\$191,503,200	0.9777	\$195,871,126
1999	\$96,817,200	0.9992	\$96,894,716
Change			\$98,976,410

Factor 1: Bernardsville's Equalized Nonresidential Valuation

1999-2023 Nonresidential Growth

Bernardsville: **\$98,976,410**

Region 3: \$27,292,293,184

\$98,976,410 / \$27,292,293,184 = .0036 = 0.36%

**Bernardsville's Equalized Nonresidential
Valuation Factor: 0.36%**

Factor 2: Bernardsville's Income Capacity

The average of two measures:

- A. Bernardsville's share of the sum of the differences between every Region 3 municipality's median household income and a household income floor that is \$100 less than the lowest median household income in the region.
- B. Bernardsville's share of the sum of the differences between every Region 3 municipality's median household income and a household income floor that is \$100 less than the lowest median household income in the region, weighted by the number of households.

Factor 2: Bernardsville's Income Capacity

Data Inputs:

Bernardsville's Median Household Income:	\$220,060
Number of Households in Bernardsville:	2,680
Region 3's Lowest Median Household Income:	\$56,239 (Perth Amboy)
Region 3's Household Income Floor:	\$56,139 (\$56,239 - \$100)

Factor 2: Bernardsville's Income Capacity

Measure A: Bernardsville's Household Income Capacity:

$$\$220,060 - \$56,139 = \$163,921$$

Measure B: Bernardsville's Municipal Income Capacity:

$$\$163,921 \times 2,680 = \$439,308,280$$

Factor 2: Bernardsville's Income Capacity

Income Capacity	Region 3 Sum of Differences	Bernardsville	Bernardsville's Share
Measure A	\$4,833,505	\$163,921	3.39%
Measure B	\$28,112,743,941	\$439,308,280	1.56%
Average			2.48%

Bernardsville's Income Capacity Factor: 2.48 %

Factor 3: Bernardsville's Land Capacity

Bernardsville's total acreage of developable land: 9.58 acres

- Excludes certain environmental factors
- Weighted based on State Plan areas

Bernardsville's Land Capacity Factor: 0.09%

Bernardsville's Fourth-Round Prospective Need Calculation

Region 3 Prospective Need:	11,604
Bernardsville's Average Allocation Factor:	0.98%
Bernardsville's Equalized Nonresidential Valuation Factor:	0.36%
Bernardsville's Income Capacity Factor:	2.48%
Bernardsville's Land Capacity Factor:	0.09%
Prospective Need: $11,604 \times 0.00977 = 113.37 \gg 113$ (rounded)	

Bernardsville's Prospective Need: 113



Questions so far?

Bernardsville's Fourth-Round Crediting and Bonus Framework

- 4th Round Prospective Need
- Assumes Maximizing Bonuses
- Additional Mandatory Micro-Requirements

Type of Obligation	Number
Present Need (Rehabilitation)	0
Prospective Need (total)	113
Total Permitted Bonuses (Max. 25%)	28
Net New Units Required	85
Minimum Family Units (50%)	57
Minimum Rental Units (25%)	29
Minimum Family Rental Units (50% of Rental)	15
Minimum Low/Mod Split 50/50	57/57
Minimum Very Low-income units (13% of Low Income)	8
Maximum age-restricted units (30%)	33
Maximum age-restricted bonuses (10% of age-restricted units)	3

4th Round Compliance Mechanisms

Vacant Land Adjustment

- Reduces obligation based on vacant land
- Vacant land in the municipality is mapped
- DCA referenced approximately 10 acres
- Multiply available land by an inclusionary zoning level of density, i.e. 10 units/acre (Assume 2x for estimation purposes)
- $20 \text{ acres} \times 10 \text{ du/acre} = 200 \text{ units} \times .20 = 40 \text{ units}$
- 40 units becomes the Realistic Development Potential (RDP)
- RDP is the obligation proposed to be addressed
- $113 - 40 \text{ units} = 73 \text{ units}$ becomes unmet need which is set-aside
- 25% of the RDP must be addressed by Redevelopment

Fourth Round Compliance Mechanisms to Explore

- Extensions of controls on existing units due to expire before July 1, 2035
- Existing properties that can be converted to special-needs facilities
- Existing non-residential properties that might redevelop into residential or mixed uses
- Licensed transitional housing units or group homes that have been created and not counted in Prior Rounds
- Potential new zoning or development (inclusionary or 100% affordable)
- Accessory dwelling units
- Opportunities for bonuses

Fourth Round Bonuses (per unit)

- Special-needs units: 1 bonus credit
- For-sale units developed with a nonprofit partner: ½ bonus credit
- Units developed within a half-mile of a Garden State Growth Zone or a transit facility: ½ bonus credit
- Age-restricted units: ½ bonus credit, applicable to no more than 10% of age-restricted units being claimed
- Units with three or more bedrooms: ½ bonus credit for each unit above the municipality-wide (not project-specific) required minimum

Fourth Round Bonuses (continued)

- Conversion of non-residential space to residential: ½ bonus credit
- Redevelopment: ½ bonus credit
- Extensions of controls: ½ bonus credit, applicable to rental units only
- 100% affordable units: 1 bonus credit, as long as the project received a municipal contribution of land or dollars equal to at least 3% of the entire project cost
- Very low-income units: ½ bonus credit for family very low-income units above the 13% municipality-wide (not project-specific) required minimum
- Market-to-affordable: 1 bonus credit with signed agreement

Next steps required by June 30th*

- Prepare and adopt a HEFSP that meets the Fair Housing Act, Round 4 Regulations and the following:
 - Site suitability analysis for any inclusionary zone or 100% affordable site
 - Concept plans for development of any proposed inclusionary zone
 - Credit worthiness of all existing units*
 - Appendices including all ordinances & resolutions required to implement the plan*
- The HEFSP must be reviewed by the Program's Special Adjudicators (Special Masters) and Fair Share Housing Center prior to adoption
- The HEFSP is adopted by the Planning Board and the Ordinances and Resolutions are adopted by the Borough Council

*Conflicting deadlines with March 15, 2026

Implication of not complying with deadlines

- Loss of immunity from exclusionary-zoning lawsuits (builder's remedy)
- Loss of full authority over municipal zoning





Questions
Thank you.