

Planning for Affordable Housing:

Addressing Montgomery's Fourth Round Obligation 2025-2035

Township Committee
January 16, 2025



Maybe you've heard?-----

New Jersey Enacted a New Affordable Housing Law

On 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 New Jersey

Meet the new boss ... same as the old boss!

Affordable Housing Dispute Resolution Program (Yup---You're back in Court...)

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



What Does This Mean for Montgomery?

- 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, whichever is sooner.
- Plan must provide for the fulfillment of Montgomery'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

January 31, 2025

Township Committee adoption of resolution setting forth Montgomery's affordable housing obligations—an official, binding stipulation as to the number of affordable units Montgomery will plan to create during the Fourth Round

Posted on Municipal website within 48 hrs

February 3, 2025*

Filing of Declaratory Judgement action and resolution with the *Affordable Housing Dispute Resolution Program*

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

Key Milestones

February 28, 2025

Any challenges to Montgomery'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 Montgomery's stipulated Present and Prospective Fair Share Obligations

Key Milestones

June 30, 2025*

Adopt Housing Plan Element & Fair Share Plan (HPE/FSP)

File adopted HPE/FSP, ordinances and resolutions with the Program**

* May apply for grace period prior to June 30

**no later than 48 hours after adoption, of June 30, whichever is sooner

August 31, 2025

Deadline for challenges to Montgomery's HPE/FSP*

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

Key Milestones

What if there ARE NO CHALLENGES to the HPE/FSP?

Program will review for compliance with:

- New law
- Required elements of HPE/FSP pursuant to Administrative Directive #14-24
- If plan is compliant, a compliance certification/order will be issued (we think!)

Key Milestones

What if there ARE CHALLENGES to the HPE/FSP? Program Mediates...

- Program determines if challenge is “compliant”; if compliant then “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 (we think!)

Key Milestones

March 15, 2026

By March 15, 2026, Montgomery must adopt all ordinances necessary to facilitate implementation of the HPE/FSP

NOTE: This provision of the law conflicts with Judicial Administrative Directive #14-24 (December 13, 2024), which requires all ordinances to be adopted and included in June 30 HPE/FSP



No Time to Waste!

What must Montgomery do to meet the January 31, 2025, Deadline?

- Township Committee resolution setting forth present and prospective fair share obligations
- Filing of a Declaratory Judgement action regarding resolution with the *Affordable Housing Dispute Resolution Program*

Step 1: Determine/Stipulate to Montgomery's Fourth Round Obligations

- The State Department of Community Affairs issued *advisory* obligations, which were calculated based on the new law (October 2024)
 - Present Need (Rehabilitation): 73
 - Prospective Need (New): 260

How is Montgomery's 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:*

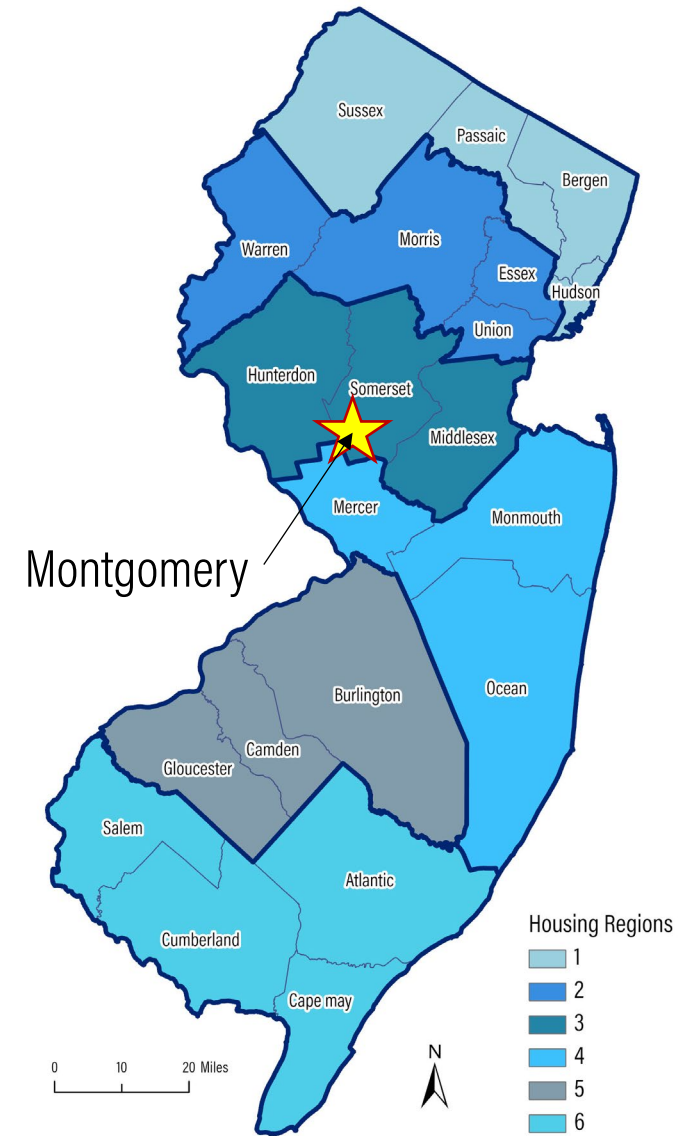
- More than 50 years old and is overcrowded (> 1 person per room)
- Lacks complete plumbing facilities
- Lacks complete kitchen facilities

Montgomery has a Present Need of 73

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

How is Montgomery's Fourth Round Prospective Need Obligation Calculated?

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



How is the Fourth Round Prospective Need Obligation 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 Montgomery's Fourth Round Prospective Need Obligation 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: Montgomery's Equalized Nonresidential Valuation

- Changes non-residential 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	\$272,846,900	0.65	\$422,102,259
1999	\$252,688,400	0.99	\$254,111,424
		Change	\$167,990,835



Factor 1: Montgomery's Equalized Non-residential Valuation

1999-2023 Non-residential Growth

- Montgomery: \$167,990,835
- Region 3: \$27,262,293,184
- $\$167,990,835 / \$27,262,293,184 = 0.62\%$

Montgomery's Equalized Non-residential Valuation factor: 0.62%

Factor 2: Montgomery's Income Capacity

The average of two measures:

- A. Montgomery'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. Montgomery'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: Montgomery's Income Capacity

- **Data Inputs**

- **Montgomery's Median Household Income:** \$224,185
- **Number of Households in Montgomery:** 8,102
- **Region 3's Lowest Median Household Income:** \$56,239
- **Region 3's Household Income Floor:** \$56,139 (\$56,239 - \$100)

Factor 2: Montgomery's Income Capacity

Measure A: Montgomery's Household Income Capacity

$$\text{\$224,185} - \text{\$56,139} = \text{\$168,046}$$

Measure B: Montgomery's Municipal Income Capacity:

$$\text{\$168,046} \times 8,102 = \text{\$1,361,508,692}$$

Factor 2: Montgomery's Income Capacity

Montgomery's Income Capacity Factor: 4.16%

Income Capacity	Region 3 Sum of Differences	Montgomery	Montgomery Share
Measure A	\$4,833,505	\$168,046	3.48%
Measure B	\$28,112,743,941	\$1,361,508,692	4.84%
		Average	4.16%



Factor 3: Montgomery's Land Capacity

Montgomery's total acreage of
developable land: 202 acres

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

Montgomery's Land Capacity Factor

1.95%

Montgomery's Fourth Round Prospective Need Calculation

- **Montgomery's Prospective Need:** 260
- **Region 3 Prospective Need:** 11,604
- **Montgomery's Averaged Allocation Factor:** 2.24%
 - **Montgomery's Equalized Nonresidential Valuation Factor:** 0.62%
 - **Montgomery's Income Capacity Factor:** 4.16%
 - **Montgomery's Land Capacity Factor:** 1.95%
- **Prospective Need:** $11,604 \times 2.24\% = 259.93 \rightarrow 260$ (rounded)

Questions so far?

Montgomery's Fourth Round Crediting and Bonus Framework

NJDCA Prospective Need

Assumes maximizing bonuses

Type of Obligation	Number
Present Need (Rehabilitation)	73
Prospective Need (total)	260
Total Permitted bonuses	65
Net new units required	195
Minimum family units	98
Minimum rental units	49
Minimum family rental units	25
Minimum very low-income units	26
Minimum 3-bedroom units	20
Maximum age-restricted units	58
Maximum age-restricted bonuses	2.9



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
- Potential new 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

Immediate steps required by January 31

- Township Committee must decide whether to adopt the NJDCA obligations or provide a rationale (based on the law) for alternative obligations.
- Township Committee must adopt a binding resolution stipulating to its present and prospective fair share obligations (either NJDCA or alternative)
- City must file a Declaratory Judgement Action regarding resolution with the *Affordable Housing Dispute Resolution Program*

Implication of not meeting the January 31 (or any other) deadline

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



Questions?

Thank you!

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