

**MAYOR and COUNCIL of the  
BOROUGH of HO-HO-KUS  
BERGEN COUNTY, NEW JERSEY**

**RESOLUTION # 25-41**

**BOROUGH OF HO-HO-KUS, COUNTY OF BERGEN,  
RESOLUTION COMMITTING TO DCA'S FOURTH ROUND  
AFFORDABLE HOUSING PRESENT NEED AND PROSPECTIVE NEED  
NUMBERS AND THE CONTINUING RELIANCE ON A COURT-  
APPROVED VACANT LAND ADJUSTMENT**

**WHEREAS**, the Borough of Ho-Ho-Kus ("Borough"), County of Bergen, State of New Jersey, has a demonstrated history of voluntary compliance with its affordable housing obligations; and

**WHEREAS**, on March 20, 2024, P.L. 2024, c.2, was signed into law which amended the Fair Housing Act at N.J.S.A. 52:27D-301 *et seq.*, (hereinafter "Amended FHA"); and

**WHEREAS**, the Amended FHA requires the Department of Community Affairs ("DCA") to produce non-binding estimates of fair share obligations on or before October 20, 2024; and

**WHEREAS**, the DCA issued a report on October 18, 2024 ("DCA Report") wherein it reported its estimates of the obligations for all municipalities based upon its interpretation of the standards in the Amended FHA; and

**WHEREAS**, the DCA Report calculates Ho-Ho-Kus Borough's Fourth Round -(2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of zero (0) and a Prospective Need or New Construction Obligation of 218 (prior to a Fourth Round vacant land adjustment as described below); and

**WHEREAS**, the Amended FHA provides that "All parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by COAH unless those regulations are contradicted by statute, including P.L. 2024, c.2, or binding court decisions" (N.J.S.A. 52:27D-311(m)); and

**WHEREAS**, COAH regulations and the Amended FHA authorize vacant land adjustments as well as durational adjustments; and

**WHEREAS**, based on the foregoing, the Borough of Ho-Ho-Kus accepts the DCA calculations of the Borough's fair share obligations and commits to its fair share of zero (0) units present need and 218 units prospective need subject to any vacant land and/or durational adjustments it shall seek as part of the Fourth Round Housing Element and Fair Share Plan it subsequently submits in accordance with the Amended FHA; and

**WHEREAS**, the Borough of Ho-Ho-Kus reserves the right to comply with any additional amendments to the FHA that the Legislature may enact; and

**WHEREAS**, in the event that the FHA is further amended or any rulings or legal precedents arise after the adoption of this Resolution, the Borough of Ho-Ho-Kus reserves the right to adjust its position in response to and in light of same, particularly in the event of any rulings in the *Montvale* case (MER-L-1778-24) or any other such action if such change alters the deadlines and/or requirements placed upon the Borough pursuant to the Amended FHA; and

**WHEREAS**, in the event that a third party challenges the calculations provided for in this Resolution, the Borough of Ho-Ho-Kus reserves the right to take such position as it deems appropriate in response thereto; and

**WHEREAS**, in light of the above, the Borough Council of the Borough of Ho-Ho-Kus finds that it is in the best interest of the Borough of Ho-Ho-Kus to declare its commitment to the obligations reported by the DCA on October 18, 2024 subject to the reservations set forth herein including a future Fourth Round vacant land adjustment; and

**WHEREAS**, in addition to the above, the Acting Administrative Director of the Administrative Office of the Courts issued Directive #14-24, dated December 13, 2024; and

**WHEREAS**, pursuant to Directive #14-24, “a municipality seeking a certification of compliance with the FHA shall file an action in the form of a declaratory judgment complaint ... in the county in which the municipality is located... within 48 hours after adoption of the municipal resolution of fair share obligations, or by February 3, 2025, whichever is sooner”; and

**WHEREAS**, the Borough of Ho-Ho-Kus seeks a certification of compliance with the Amended FHA and, therefore, directs its Borough Attorney to file a declaratory relief action within 48 hours of the adoption of this resolution in Bergen County.

**NOW, THEREFORE, BE IT RESOLVED** on this 28th day of January, 2025 by the Borough Council of the Borough of Ho-Ho-Kus as follows:

1. All of the above Whereas Clauses are incorporated into the operative clauses of this resolution.
2. The Borough of Ho-Ho-Kus hereby commits to the DCA Fourth Round Present Need Obligation of zero (0) units and the Fourth Round Prospective Need Obligation of two hundred eighteen (218) units to be adjusted by a Fourth Round vacant land adjustment described in this resolution, subject to all reservations of rights set forth above.
3. The Borough saves and holds all reservations included herein and permitted by law, including the following:
  - a. The right to a vacant land adjustment, durational adjustments, and all other applicable adjustments permitted in accordance with COAH regulations and by law;

- b. The right to adjust its fair share housing obligations in the event of any future legislation or legal decision;
- c. The right to adjust its fair share obligations in the event of a third-party challenge to the fair share obligations and the Borough of Ho-Ho-Kus' response thereto.

4. The Borough of Ho-Ho-Kus hereby directs its Borough Attorney to file a declaratory judgment complaint in Bergen County within 48 hours after adoption of this resolution, attaching this resolution.

5. The Borough of Ho-Ho-Kus authorizes its Borough Attorney to attach this resolution as an exhibit to the declaratory judgment action that is filed with the Superior Court via ECourts per Directive #14-24 or any other such entity as may be determined to be appropriate.

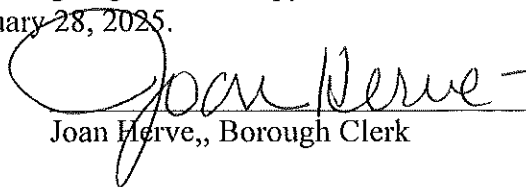
6. The Borough of Ho-Ho-Kus hereby directs its Borough Administrator and/or Borough Clerk to publish this resolution on the Borough's website within 48 hours after adoption of this resolution, attaching this resolution.

7. This resolution shall take effect immediately, according to law.

	Motion	Second	Aye	Nay	Abstain	Absent
<b>Mayor Randall</b>						
<b>Councilmember Troast</b>	X		X			
<b>Councilmember Shell</b>						X
<b>Councilmember Iannelli</b>			X			
<b>Councilmember Crossley</b>		X	X			
<b>Councilmember Policastro</b>						X
<b>Councilmember Moran</b>			X			

**CERTIFICATION**

I, Joan Herve, Clerk of the Borough of Ho-Ho-Kus, County of Bergen, State of New Jersey, do hereby certify that the foregoing is a true copy of a resolution adopted by the Borough Council at a meeting held on January 28, 2025.

  
 Joan Herve,, Borough Clerk