



BOROUGH OF RUTHERFORD
County of Bergen

RESOLUTION NO. 55-2025

Dated: 1/27/2025

RESOLUTION REGARDING THE BOROUGH OF RUTHERFORD'S PRESENT AND PROSPECTIVE FAIR SHARE AFFORDABLE HOUSING OBLIGATIONS FOR THE FOURTH (4TH) ROUND

WHEREAS, on March 20, 2024, an Amendment to the Fair Housing Act, N.J.S.A. 52:27D-301 et seq. was signed into law ("Amended FHA"); and,

WHEREAS, the Amended FHA requires the New Jersey Department of Community Affairs ("DCA") to determine non-binding estimates of fair share obligations for Round Four on or before October 20, 2024; and,

WHEREAS, on October 18, 2024, the DCA issued a report entitled "Affordable Housing Obligations for 2025-2035 (Fourth (4th) Round) Methodology and Background" ("DCA Report"), wherein the DCA reported its estimate of the obligations for all municipalities based upon its interpretation of the standards set forth in the Amended FHA; and,

WHEREAS, the DCA Report calculates the Borough of Rutherford's ("Borough") Fourth (4th) Round (2025-2035) obligations as follows: a Present Need (Rehabilitation) Obligation of sixteen (16) and a Prospective Need (New Construction) Obligation of two hundred twenty two (223); and,

WHEREAS, the Amended FHA provides that the DCA Report is non-binding, thereby inviting municipalities to demonstrate that the Amended FHA would support revised calculations of Fourth (4th) Round affordable housing obligations; and,

WHEREAS, pursuant to the Amended FHA, the Borough may either accept the determination of its Present and Prospective Need Obligations as calculated by the DCA or make its own determination as to same; and,

WHEREAS, the Amended FHA further provides that "[a]ll 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". See N.J.S.A. 52:27D-311(m); and,

WHEREAS, said COAH regulations authorize municipalities to secure vacant land adjustments, durational adjustments and other adjustments; and,

WHEREAS, the DCA has released a Geographic Information Systems (GIS) spatial data representation of the Land Capacity Analysis containing the vacant and developable land information that serves as the basis for calculating the Land Capacity Factor that is required by the Amended FHA; and,

WHEREAS, the Borough, through its affordable housing planner, Neglia Engineering, has reviewed the lands identified by the DCA for the Land Capacity Factor to ascertain whether these identified lands may accommodate development; and

WHEREAS, as further set forth in detail and explained in the attached memo prepared by the Borough's affordable housing planner, upon reviewing the DCA's Land Capacity layers on the GIS, the Borough has determined that a number of the lands identified by the DCA are not developable without verification by a license wetlands delineator and a letter of interpretation by the New Jersey Department of Environmental Protection (NJDEP) and, therefore, must be excluded from the Land Capacity Factor; and,

WHEREAS, and the Borough seeks to commit to a Present Need Obligation of sixteen (16), as determined by the DCA, however, the Borough's Prospective Need Obligation must be revised to two hundred ten (210), from the two hundred twenty three (223) that was determined by DCA, to accurately reflect the developable lands in the Land Capacity Factor, subject to any vacant land, durational and/or other adjustments that the Borough may seek as part of the Housing Element and Fair Share Plan ("HEFSP") it subsequently submits in accordance with the Amended FHA; and


WHEREAS, the Borough reserves the right to comply with any additional amendments to the FHA that the Legislature may enact; and,

WHEREAS, in the event that a third (3rd) party challenges the calculations provided for in this Resolution, the Borough reserves the right to take such position as it deems appropriate in response thereto, including that its Fourth (4th) Round Present or Prospective Need Obligations should be lower than as described herein.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Rutherford, Bergen County, New Jersey that the Borough hereby commits to a fair share Present Need (Rehabilitation) Obligation of sixteen (16), as determined by the DCA, and a Prospective Need (New Construction) Obligation of two hundred ten (210), as determined by the Borough's affordable housing planner for the reasons set forth herein, for the Fourth (4th) Round of affordable housing obligations, subject to any vacant land, durational and/or other adjustments that the Borough may seek as part of its HEFSP that it subsequently submits in accordance with the Amended FHA; and,

BE IT FURTHER RESOLVED that the Borough’s Affordable Housing Counsel is hereby directed and authorized to file a declaratory judgment action with the Superior Court of New Jersey, Bergen County no later than forty-eight (48) hours following adoption of this Resolution seeking a compliance certification regarding its fair share affordable housing obligation for the Fourth (4th) Round and that a copy of this Resolution shall be made part of such Court filing; and,

BE IT FURTHER RESOLVED, that the Borough Clerk is further authorized to immediately post a copy of this Resolution on the Borough’s website.

	Yes/Aye	No/Nay	Abstain	Absent	I hereby certify that this is a true and exact copy of the Resolution adopted by the Mayor and Council of the Borough of Rutherford on the 27 th day of January, 2025  Margaret M. Scanlon, Borough Clerk
Del Rey-Cone	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Quatrone	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Cokeley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
McGowan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Errico	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Guzman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Mayor Nunziato – tie only	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	