



**BOROUGH OF CALDWELL  
NEW JERSEY**

Resolution No: 1-55

Date of Adoption: January 21, 2025

**TITLE:**

**A BINDING RESOLUTION OF THE BOROUGH OF CALDWELL, COUNTY OF ESSEX, ACCEPTING THE DCA'S FOURTH ROUND AFFORDABLE HOUSING PRESENT NEED AND PROSPECTIVE NEED NUMBERS AND DIRECTING SPECIAL MOUNT LAUREL COUNSEL TO TAKE APPROPRIATE ADDITIONAL ACTIONS**

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

**WHEREAS**, the Amended FHA required 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 estimate of the obligation for all municipalities based upon its interpretation of the standards in the Amended FHA; and

**WHEREAS**, the DCA Report calculates the Borough of Caldwell's Round 4 (2025-2035) obligations as follows: a Present Need or "Rehabilitation Obligation" of 57 and a Prospective Need or "New Construction Obligation" of 79; and

**WHEREAS**, the Amended FHA provides that the DCA Report is non-binding, thereby inviting municipalities to demonstrate that the Amended FHA would support lower calculations of Round 4 affordable housing obligations; 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" (N.J.S.A. 52:27D-311(m)); and

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

**WHEREAS**, based on the foregoing, the Borough of Caldwell accepts the DCA fair share calculations and commits to its Present Need of 57 and Prospective Need of 79 subject to any vacant land and/or durational adjustments it may seek as a component of the Borough's Round 4 Housing Element and Fair Share Plan to be adopted, endorsed, and filed in accordance with the Amended FHA; and

**WHEREAS**, the Borough of Caldwell reserves the right to take action to comply with any additional amendments to the FHA, judicial rulings, and/or future Administrative Directives; and

**WHEREAS**, in the event that a third party challenges the calculations provided for in this Resolution, the Borough of Caldwell reserves the right to take such position as it deems appropriate in response thereto, including a declaration that its Round 4 Present or Prospective Need obligations are lower than set forth herein; and

**WHEREAS**, in light of the above, the Governing Body of the Borough of Caldwell finds that it is in the best interest of the Borough to declare its commitment to the obligations reported by the DCA on October 18, 2024 subject to the reservations set forth herein; and

**WHEREAS**, in addition to the above, the Acting Administrative Director issued Directive #14-24, dated December 13, 2024, and made the directive available later in the week that followed; 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, Borough of Caldwell seeks a certification of compliance with the FHA and, therefore, directs its Special Mount Laurel Counsel to file a declaratory relief action within 48 hours of the adoption of this resolution in the appropriate vicinage.

NOW, THEREFORE, BE IT RESOLVED on this 21<sup>st</sup> day of January, 2025 by the Council of the Borough of Caldwell as follows:

1. All of the above Whereas Clauses are incorporated into the operative clauses of this resolution.
2. The Borough of Caldwell hereby commits to the DCA Round 4 Present Need of 57 and the Round 4 Prospective Need of 79 as set forth herein, subject to all reservations of rights set forth above.
3. The Borough of Caldwell hereby directs its Special Mount Laurel Counsel to file a declaratory judgment complaint in the appropriate vicinage within 48 hours after adoption this resolution.
4. The Borough of Caldwell directs its Special Mount Laurel Counsel (a) to attach this resolution as an exhibit to the aforementioned declaratory judgment action; (b) to submit and/or file this resolution with the Program or any other such entity as may be determined to be appropriate; and (c) to take any other actions as necessary and according to law.
5. This resolution shall take effect immediately, according to law.

I, Brittany Heun, R.M.C., Borough Clerk of the Borough of Caldwell, do hereby certify that the foregoing Resolution was adopted at a Regular Meeting of the Caldwell Borough Council, held this 21<sup>st</sup> day of January, 2025 and in witness whereof I have hereunder set my hand and official seal on this date written.

*Brittany Heun*  
 BRITTANY HEUN, RMC, BOROUGH CLERK  
 1/22/2025  
 Date

RECORD OF COUNCIL VOTE

*Carolman Brown* presented the following resolution - Seconded by: *Carolman Buechner*

COUNCIL MEMBER Yes No Absent Abstain COUNCIL MEMBER Yes No Absent Abstain

Daniolowicz	<input checked="" type="checkbox"/>				Rodeffer	<input checked="" type="checkbox"/>			
Brown	<input checked="" type="checkbox"/>				Buechner	<input checked="" type="checkbox"/>			
Jurgensen	<input checked="" type="checkbox"/>				Hunkele	<input checked="" type="checkbox"/>			

*Brittany Heun*  
 Brittany Heun, Borough Clerk

*Garrett Jones*  
 Garrett Jones, Mayor

This resolution, when adopted, must remain in the possession of the Municipal Clerk. Certified copies are available.