

RESOLUTION 2025-32

**BOROUGH OF NEPTUNE CITY
COUNTY OF MONMOUTH, STATE OF NEW JERSEY**

**RESOLUTION OF THE BOROUGH OF NEPTUNE CITY COMMITTING TO THE BOROUGH'S FOURTH ROUND
AFFORDABLE HOUSING OBLIGATION**

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

WHEREAS, the Amended FHA established a new framework for determining and enforcing municipalities' affordable housing obligations under the Mount Laurel doctrine for the years 2025 – 2035 (the "Fourth Round"); and

WHEREAS, the Amended FHA abolished the Council on Affordable Housing, also known as COAH, and delegated its responsibilities to the New Jersey Department of Community Affairs (hereinafter "DCA"), the New Jersey Housing and Mortgage Finance Agency, and the Affordable Housing Dispute Resolution Program (hereinafter "DRP"), created by the same law; and

WHEREAS, the Amended FHA required the DCA to calculate non-binding estimates of present and prospective need for low-and-moderate-income housing in each municipality for the Fourth Round 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, including the Borough of Neptune City (hereinafter the "Borough"), based upon its interpretation of the standards in the Amended FHA; and

WHEREAS, the DCA Report calculates the Borough's Fourth Round (2025-2035) obligations as follows: a Present Need ("Rehabilitation") Obligation of 12 and a Prospective Need ("New Construction") Obligation of 32; 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 the Fourth Round 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 the Council on Affordable Housing ("COAH") unless those regulations are contradicted by statute, including P.L. 2024, c.2, or binding court decisions." (N.J.S.A. 52:27D-31(m)); and

WHEREAS, COAH regulations authorize vacant land adjustments, durational adjustments and other adjustments; and

WHEREAS, COAH regulations authorize municipalities to secure an adjustment to their rehabilitation obligation through a windshield survey; and

WHEREAS, the Borough intends to accept the DCA calculations of the Borough's Present Need Obligation of 12 units and Prospective Need Obligation of 32 units as reported by the DCA in its October 18, 2024 Report

subject to any vacant land, windshield survey and/or any other additional authorized adjustments it may seek as part of the Housing Plan element and Fair Share Plan element 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, the Borough also reserves the right to adjust its position in the event of any rulings in the Montvale Litigation (MER-L-1778-24) or any other such litigation or legislative action that alters the deadlines and/or requirements of the Amended FHA; and

WHEREAS, in the event that a third 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 Round Present or Prospective Need Obligations should be lower than described herein; and

WHEREAS, in addition to the foregoing, nothing in the Amended FHA requires or can require an increase in the Borough's Fourth Round Present or Prospective Need Obligations based on a successful downward challenge of any other municipality in the region since the plain language and clear intent of the Amended FHA is to establish, for example, unchallenged numbers by default on March 1, 2025; and

WHEREAS, the Amended FHA obligates municipalities to adopt a binding resolution as to its Fourth Round affordable housing obligations by no later than January 31, 2025 or lose immunity from builder's remedy litigation; and

WHEREAS, in addition to the above, the Acting Administrative Director of the Administrative Office of the Court issued Directive #14-24, dated December 13, 2024 and pursuant to that Directive, a municipality seeking a certification of compliance with the Amended FHA is required to file a legal action in the form of a declaratory judgment complaint within 48 hours after adoption of the municipal resolution, or by February 3, 2025, whichever is sooner, in order to retain immunity from builder's remedy litigation; and

WHEREAS, in light of the above, the Mayor and Council of the Borough believe that it is in the best interest of the Borough to declare its commitment its Fourth Round affordable housing obligation in accordance with the Amended FHA in order to retain immunity from builder's remedy litigation; and

WHEREAS, the Borough seeks a certification of compliance with the FHA and, therefore, authorizes the filing of a declaratory judgment action pursuant to the Directive #14-24 within 48 hours after the adoption of this resolution to seek compliance with the Amended FHA.

NOW, THEREFORE, BE IT RESOLVED on this 27th day of January, 2025 by the Mayor and Council of the Borough of Neptune City as follows:

1. The foregoing recitals are hereby incorporated into the operative clauses of this resolution.
2. For the reasons set forth in this resolution, the Borough of Neptune City hereby commits to the DCA Fourth Round Present Need ("Rehabilitation") Obligation of 12 units and the DCA Fourth Round Prospective Need ("New Construction") Obligation of 32 units described in this resolution, subject to all reservations of rights, including but not limited to:
 - A. The right to adjust the number of units based on one or any of the following: a windshield survey, vacant land assessment, durational adjustments, and all other applicable adjustments permitted in accordance with COAH; and
 - B. The right to adjust its fair share obligation in the event of any future legislation that adjusts the fair share obligations reported by the DCA on October 18, 2024; and

- C. The right to adjust its fair share obligations based upon any ruling in the Montvale Litigation or any other litigation; and
 - D. The right to adjust its fair share obligations in the event of a third party challenge to the fair share obligations and the Borough’s response thereto.
3. The Borough hereby directs its professionals to file a declaratory judgment complaint in Monmouth County within 48 hours after adoption of this resolution.
 4. The Borough authorizes its professionals to attach this resolution as an exhibit to the declaratory judgment action that is filed and to submit and/or file this resolution with the DRP or any other such entity as may be determined to be appropriate.
 5. This resolution shall take effect immediately, according to law.

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
Council President Kocsis		X	X			
Councilmember Karalovich			X			
Councilwoman Oliver			X			
Councilwoman Pappas			X			
Councilmember Renee	X		X			
Councilmember Thomas			X			
Mayor McGreevy						

CERTIFICATION

I, Corinne DiCorcia Williams, Borough Clerk of the Borough of Neptune City do hereby certify this to be a true and exact copy of a resolution adopted by the Governing Body of the Borough of Neptune City, County of Monmouth, State of New Jersey at the regular meeting held on January 27, 2025



CM DiCorcia Williams

Corinne M. DiCorcia Williams, RMC
Borough Clerk