

Borough of Stanhope

Sussex County, New Jersey

- Resolution -

RESOLUTION ADOPTING AN AFFORDABLE HOUSING OBLIGATION FOR THE FOURTH ROUND

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 Stanhope Borough's ("Borough") Round 4 (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of zero (0) units and a Prospective Need or New Construction Obligation of 176 units; 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, pursuant to N.J.S.A. 52:27D-304.3, a municipality's average allocation factor is comprised of the equalized nonresidential factor, income capacity factor, and land capacity factor and shall be averaged to yield the municipality's average allocation factor, 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, the DCA has released a Geographic Information Systems spatial data representation of the Land Capacity Analysis for P.L. 2024, c.2 containing the Vacant and Developable land information that serves as the basis for calculating the land capacity factor; and

WHEREAS, the Borough has reviewed the lands identified by the DCA for the land capacity factor with respect to the MOD-IV Property Tax List data, construction permit

data, land use board approvals, configuration, and accessibility to ascertain whether these identified developable lands may accommodate development; and

WHEREAS, the DCA identified approximately 24.5 acres of vacant land, which the Borough planner has reviewed and has opined that none of the identified land is appropriate to accommodate development, thereby reducing the developable lands that may accommodate development within the Borough to zero (0) acres; and

WHEREAS, based on the foregoing, the Borough relies on the DCA calculations of the Borough's fair share obligations *as modified herein* to account for the Borough's review of the lands identified by the DCA for the land capacity factor with respect to the MOD-IV Property Tax List data, construction permit data, land use board approvals, configuration, and accessibility to ascertain whether these identified developable lands may accommodate development, and the Borough seeks to commit to provide its fair share of 0 units present need and 61 units prospective need, subject to any vacant land and/or durational 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* case (MER-L-1778-24) or any other such 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 Round 4 Prospective Need Obligation should be lower than described herein; and

WHEREAS, in light of the above, the Borough Council finds that it is in the best interest of the Borough to commit to the modified present need and prospective need Fourth Round affordable housing fair share numbers set forth herein, subject to the reservations set forth herein; and

WHEREAS, in accordance with AOC Directive #14-24 dated December 13, 2024, the Borough Council finds that, as a municipality seeking a certification of compliance with the FHA, it is in the best interests of the Borough to direct the filing of an action in the form of a declaratory judgment complaint within 48 hours after adoption of the within resolution of fair share obligations, or by February 3, 2025, whichever is sooner;

NOW, THEREFORE, BE IT RESOLVED on this 28th day of January, 2025, by the Borough of Stanhope, County of Sussex, State of New Jersey as follows:


1. The Borough hereby commits to the Round 4 Present Need Obligation of 0 units and a Round 4 Prospective Need Obligation of 61 units (modified from DCA's calculation of 176 units), as explained above, and subject to all reservations of rights set forth above

2. The Borough hereby directs the Borough Attorney to file a declaratory judgment complaint in Sussex County within 48 hours after adoption of the within resolution and attaching this resolution as an exhibit.

3. The Borough authorizes its Borough Attorney to submit and/or file the within resolution with the Program or any other such entity as may be determined to be appropriate.

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

I, Ellen Horak, Borough Clerk of the Borough of Stanhope, County of Sussex, State of New Jersey, do hereby certify the foregoing resolution to be a true and correct copy of a Resolution adopted by the Borough Council at a meeting held on January 28, 2025.


Ellen Horak, Borough Clerk