

**BOROUGH OF PENNINGTON
RESOLUTION 2025-1.31**

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE BOROUGH OF
PENNINGTON TO SET FORTH THE BOROUGH'S PRESENT AND
PROSPECTIVE FAIR SHARE OBLIGATIONS FOR THE FOURTH ROUND OF
MUNICIPAL HOUSING COMPLIANCE**

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 the Borough of Pennington's Fourth Round -(2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of four (4) and a Prospective Need or New Construction Obligation of fifty-eight (58); and

WHEREAS, the Amended FHA 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 and the Amended FHA authorize a 20% cap, vacant land adjustments as well as durational adjustments; and

WHEREAS, based on the foregoing, the Borough of Pennington accepts the DCA calculations of the Borough's fair share obligations and commits to its fair share of four (4) units present need and fifty-eight (58) 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 of Pennington 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 Pennington reserves the right to adjust its position in response to and in light of same, particularly if such a 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 Pennington 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 Pennington finds that it is in the best interest of the Borough of Pennington 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 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 Pennington seeks a certification of compliance with the Amended FHA and, therefore, directs its Affordable Housing Counsel to file a declaratory judgment complaint and associated pleadings within 48 hours of the adoption of this resolution in the Superior Court of New Jersey - Mercer County.

NOW, THEREFORE, BE IT RESOLVED, on this 27th day of January, 2025 by the Borough Council of the Borough of Pennington, County of Mercer as follows:

1. All of the above Whereas clauses are incorporated into the operative clauses of this resolution.
2. The Borough of Pennington hereby commits to the DCA Fourth Round Present Need Obligation of four (4) units and the Fourth Round Prospective Need Obligation of fifty-eight (58) units described in this resolution, subject to all reservations of rights set forth above.
3. The Borough of Pennington hereby authorizes and directs its Affordable Housing Counsel to file a declaratory judgment complaint in the Superior Court of New Jersey - Mercer County within 48 hours after adoption of this resolution.
4. In accordance with the Amended FHA and Directive #14-24, the Borough of Pennington authorizes its Affordable Housing Counsel to attach a copy of this resolution as an exhibit to the declaratory judgment action that is filed and to submit and/or file this resolution with the Program or any other such entity as may be determined to be appropriate.
5. The Borough of Pennington 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.
6. The Borough of Pennington shall undertake all acts necessary to adopt a housing element and fair share plan to address its present and prospective need obligations as provided for by the Amended FHA, for filing by June 30, 2025 as part of the declaratory judgment action authorized herein.
7. The Borough of Pennington’s Mayor, Administrator, Clerk, Attorneys, Planners, and other appropriate officers, employees and professionals, are hereby authorized and directed to prepare and execute any and all such other documents and undertake any and all such further acts as may be necessary or required to effectuate the actions set forth herein.
8. This resolution shall take effect immediately, according to law.

Record of Council Vote on Passage

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Angarone					Rubenstein				
Chandler					Stern				
Marciante					Valenza				

This is to certify that the foregoing is a true copy of a Resolution adopted by the Borough Council of the Borough of Pennington at a meeting on January 31, 2025.

Elizabeth Sterling, Borough Clerk