

BOROUGH OF CRESSKILL

RESOLUTION

RESOLUTION OF THE BOROUGH OF CRESSKILL, COUNTY OF BERGEN
DETERMINING THE AFFORDABLE HOUSING OBLIGATIONS
OF THE BOROUGH OF CRESSKILL FOR THE PERIOD
JULY 1, 2025 THROUGH JUNE 30, 2035 (FOURTH ROUND)
PURSUANT TO THE FAIR HOUSING ACT, N.J.S.A. 52:27D-301, et seq.

WHEREAS, in 1975 the Supreme Court of the State of New Jersey found in S. Burlington Cty. NAACP v. Twp. of Mount Laurel, 67 N.J. 151 (1975) (Mount Laurel I) that every municipality in the State of New Jersey has a constitutional duty design its land use regulations to make realistically possible the opportunity for a variety and choice of housing for all people desiring to live there, including those of low and moderate income; and

WHEREAS, in 1983 the Supreme Court of the State of New Jersey created a judicial remedy in S. Burlington Cty. NAACP v. Twp. of Mount Laurel, 92 N.J. 158 (1983) (Mount Laurel II) that allowed developers to sue any municipality that did not comply with its constitutional duty and obtain the right to build higher density housing than allowed by the municipality's land use regulations; and

WHEREAS, in 1985 the Legislature of the State of New Jersey enacted the Fair Housing Act, N.J.S.A. 52:27D-301, et seq. to establish an administrative agency, the Council on Affordable Housing (COAH), with responsibility for determining the affordable housing obligations of municipalities and overseeing an administrative process through which municipalities could voluntarily comply with their constitutional obligation and obtain immunity from suit by developers and others seeking to challenge the constitutionality of a municipality's land use regulations; and

WHEREAS, in 2015 the Supreme Court of the State of New Jersey determined in In re Adoption of N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (Mount Laurel IV) that COAH's administrative process was not functioning and the administrative remedy established by the Fair Housing Act had been rendered futile, requiring municipalities to petition the Court to obtain approval of their Third Round fair share housing plans and immunity from exclusionary zoning lawsuits; and

WHEREAS, in February 2024 the Legislature of the State of New Jersey passed P.L. 2024, c. 2 (the Act) to abolish COAH, modify the mechanism for calculation of municipalities' affordable housing obligations, and to transform the administrative process established by the Fair Housing Act; and

WHEREAS, in March 2024 the Governor of the State of New Jersey signed the Act into law; and

WHEREAS, pursuant to the Act, the Department of Community Affairs (DCA) calculated each municipality's affordable housing obligation for the period 2025-2035 (Fourth Round) in accordance with the formulas set forth in the Act and in October 2024 DCA issued a report (Report) of its calculations and findings; and

WHEREAS, pursuant to the Act, a municipality may elect to participate in an Affordable Housing Dispute Resolution Program (the Program) established by the Legislature within the Courts through which the municipality can obtain certification of its compliance with its constitutional obligation regarding affordable housing and obtain immunity from exclusionary zoning lawsuits during the Fourth Round's ten-year period; and

WHEREAS, pursuant to the Act, in order to participate in the Program a municipality must adopt a binding Resolution determining its affordable housing obligation no later than January 31, 2025, must adopt a compliant housing element and fair share plan no later than June 30, 2025, and must adopt ordinances and resolutions necessary to implement its housing element and fair share plan no later than March 15, 2026; and

WHEREAS, pursuant to the Act, in establishing its affordable housing obligation a municipality must give consideration to the DCA's calculations as stated in its Report, must describe the basis for its determination, and must bind the municipality to adopt a compliant housing element and fair share plan; and

WHEREAS, Borough Planner Steve Lydon, PP has reviewed and analyzed the DCA's calculations as stated in its report and, based thereon, has recommended that the Borough of Cresskill accept (a) the methodology employed by the DCA in calculating the regional land capacity factor by which DCA subsequently calculated Cresskill's municipal prospective need obligation as Cresskill's fair share of the Fourth Round need for affordable housing;

NOW, THEREFORE, BE IT RESOLVED, that the Borough of Cresskill does hereby accept the methodology employed by the DCA in calculating the regional prospective need obligation for Region 1 in the Fourth Round;

BE IT FURTHER RESOLVED, that the Borough of Cresskill does hereby accept the calculation by the DCA of Cresskill's fair share of the Fourth Round need for affordable housing, as derived from the land capacity factor generated by DCA for the entirety of Region 1, as follows:

Present need:	zero (0) units
Prospective need:	one hundred fifty-five (155) units

BE IT FURTHER RESOLVED, that the Borough of Cresskill is bound to adopt a housing element and fair share plan which provides a realistic opportunity for satisfaction of the prospective and present need identified herein, as may be adjusted by the Program in accordance with the process and procedures provided by the Act including but not limited to adjustment to prospective need obligations based on a lack of vacant land as set forth in N.J.S.A. 52:27D-310.1; and

BE IT FURTHER RESOLVED that Borough Attorney Christos J. Diktas, Esq. be and is hereby authorized to file, within forty-eight (48) hours following adoption of this Resolution, an action (Action) with the Program regarding this Resolution in accordance with the procedures established by the Act; and

BE IT FURTHER RESOLVED that Borough Clerk Francesca Maragliano be and is hereby authorized to publish this Resolution, along with the date of the filing of the Action, on the Program's publicly accessible Internet website as soon as possible but no later than January 31, 2025; and

BE IT FURTHER RESOLVED that Borough Clerk Francesca Maragliano be and is hereby authorized to publish this Resolution on the Borough of Cresskill's publicly accessible Internet website as soon as possible but no later than January 31, 2025; and

BE IT FURTHER RESOLVED, a copy of this Resolution, certified by the Borough Clerk to be true, be served upon Dianne Lavin, Borough Administrator; Francesca Maragliano, Borough Clerk; Christos J. Diktas, Esq., Borough Attorney; Steve Lydon, PP, Borough Planner; and Bobbi Bauer, Planning Board Secretary.

January 15, 2025

Certified copy
 adopted by the
 Mayor & Council
 Borough of Cresskill
 on 1.15.25
Francesca Maragliano
 Borough Clerk

