

# 2025 FOURTH ROUND HOUSING PLAN

HOUSING ELEMENT & FAIR SHARE PLAN  
BOROUGH OF CALIFON  
HUNTERDON COUNTY  
NEW JERSEY

FEBRUARY 18, 2026

ORIGINALLY ADOPTED BY THE PLANNING BOARD

JUNE 25<sup>TH</sup>, 2025

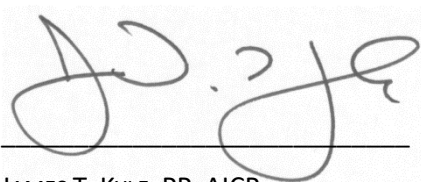
ORIGINALLY ENDORSED BY THE BOROUGH COUNCIL

JUNE 17<sup>TH</sup>, 2025

UPDATED FEBRUARY 18, 2026 WITH INSUBSTANTIAL CHANGES

AS ADOPTED BY THE PLANNING BOARD ON FEBRUARY 18, 2026

PREPARED BY:



JAMES T. KYLE, PP, AICP  
NEW JERSEY PROFESSIONAL PLANNER LICENSE 5667  
**KYLE McMANUS ASSOCIATES**

A SIGNED AND SEALED ORIGINAL IS ON FILE WITH THE BOROUGH CLERK



2 East Broad Street, Second Floor

Hopewell, NJ 08525

[jkyle@kylemcmanus.com](mailto:jkyle@kylemcmanus.com)

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## **INTRODUCTION & EXECUTIVE SUMMARY**

Since the 1975 New Jersey Supreme Court decision known as “Mount Laurel I,” New Jersey municipalities have a constitutional obligation to provide opportunities for creation of low and moderate housing units. This 1975 decision led to a body of case law, legislative changes and rulemaking by a state agency that, collectively, is now referred to as the “Mount Laurel Doctrine”. Through these actions, New Jersey municipalities have been assigned their fair share of the region’s affordable housing need for each compliance period and mechanisms must be created to address that need to have “satisfied” their constitutional obligation. The purpose of this Housing Element and Fair Share Plan (hereinafter the “Plan”) is to detail how Califon will satisfy its constitutional obligation.

Affordable housing in New Jersey is defined as housing units which are reserved for households with incomes not more than 80% of the regional median income. Each affordable unit, depending on the age and type of housing, must remain reserved for low and moderate income households for up to 40 years, a requirement enforced by deed restriction. Each affordable unit is eligible for one “credit” against the obligation and certain units are eligible for “bonus credits,” which potentially provide more than one credit per unit. In addition to providing the minimum number of credits, municipalities must ensure diversity in the unit type (at least half of the units must be available to families and the remaining may be reserved for seniors and those with special needs), diversity in the level of affordability (very low, low and moderate income units), and diversity in the size of affordable units (one, two and three bedroom units).

Participation in this process, and therefore satisfaction of the affordable housing obligation, can be achieved voluntarily or involuntarily, however, voluntary compliance is heavily incentivized. Municipalities that do not successfully participate may be vulnerable to exclusionary zoning litigation or a builder’s remedy, which is a litigation tool that can grant a developer the right to construct what is typically multifamily development on land that was not zoned to permit that use or density. Califon seeks to avoid this possibility although the reality is that the resource protection requirements of the Highlands Regional Master Plan mean it is unlikely.

This Housing Plan addresses the Borough of Califon’s third round obligation as well as the newly assigned fourth round affordable housing obligation consisting of a present need (rehabilitation) of 0 units and a prospective need (new construction) of 23 units. As the Borough did not participate in the third round declaratory judgment process, it did not negotiate its obligation with FSHC. Given this fact, the Borough relies on calculation of its third round obligation consistent with the Jacobsen decision in the matters of Princeton and West Windsor as outlined in a report prepared by Econsult Solutions, Inc. dated March 28, 2018. This report utilized what has now been coined “the Jacobsen Methodology” to determine third round obligations statewide.

The Borough lies entirely within the Preservation Area under the Highlands Regional Master Plan and also lacks centralized sewer of any kind, with all properties served by on-site septic systems or cesspools. As such, the Borough qualifies for deferment under the durational adjustment provisions of COAH’s rules.

This Plan supersedes all previously adopted housing plans and will serve as the foundation for the Borough’s filing with the New Jersey Affordable Housing Dispute Resolution Program and a request for Compliance Certification.

As detailed in this Plan, the Borough – like all New Jersey municipalities – has four components of its affordable housing obligation. Each component of the Borough’s obligation is identified below and further detail is provided in later sections.

- Rehabilitation Obligation: 0 units  
The rehabilitation obligation can be defined as an estimate of the number of deteriorated housing units existing in Califon that are occupied by low- and moderate-income households. This component is also referred to as “present need”.
- First & Second Rounds Obligation: 21 units  
The first and second round obligations can be defined as the cumulative 1987 through 1999 new construction affordable housing obligation. This component is often referred to as the “prior round” obligation.
- Third Round Obligation: 78 units  
The third round obligation can be defined as the 1999 through 2025 new construction affordable housing obligation.
- Fourth Round Obligation: 23 units  
The fourth round obligation can be defined as the 2025-2035 new construction affordable housing obligation. The current round of affordable housing, now the fourth round, is also referred to as the “prospective need”.

It is important to note that the Borough of Califon is fully conforming to the requirements of the Highlands Regional Master Plan (RMP) as conformance for the Preservation Area is mandatory under the provisions of the Highlands Act. In preparing this fourth round plan, the Borough has relied on the report entitled “Highlands Affordable Housing Implementation Guidelines”, issued by the Highlands Council in October of 2024. Through its local planning efforts, the Borough is obligated to protect critical Highlands resources while also striving to implement the Mount Laurel Doctrine. To be in conformance with the Council’s guidelines, a housing element and fair share plan must be in conformance with all applicable RMP requirements and the Land Use Capability Zone Map while also respecting water availability limits, sewer capacity and water capacity, and always in accordance with the RMP’s resource protection requirements.

## AFFORDABLE HOUSING IN NEW JERSEY

In its landmark 1975 decision, now referred to as “Mount Laurel I,” the NJ Supreme Court ruled that developing municipalities have a constitutional obligation to provide variety and choice of housing types affordable to low- and moderate-income households. In its 1983 “Mount Laurel II” decision, the NJ Supreme Court extended the regional fair share obligation to all municipalities with any “growth area” as designated in the State Development Guide Plan (NJDCG 1978) and determined that each municipality would have to establish its fair share obligation and provide zoning strategies to create a realistic opportunity for fulfillment of the fair share obligation. Mount Laurel II also gave developers, under appropriate circumstances, the opportunity to secure a “builder’s remedy” which is a litigation tool that grants a developer the right to develop what is typically a multi-family development on land that was not zoned to permit the use or the residential density desired by the developer. A developer can only prevail in litigation if a “substantial” percentage of the units are reserved for low and moderate income households.

In 1985, the Legislature enacted the Fair Housing Act in response to Mount Laurel II. The Fair Housing Act created the Council on Affordable Housing (hereinafter “COAH”) as an administrative alternative to compliance in a court proceeding. The Legislature conferred “primary jurisdiction” to COAH and charged it with promulgating regulations to establish housing regions, to estimate the state’s low- and moderate-income housing needs, set criteria and guidelines for municipalities to determine and satisfy their affordable housing obligation, and to create a process for the review and approval of appropriate housing elements and fair share plans. Approval of a municipal housing element and fair share plan by COAH was referred to as “substantive certification” and it provided protection from builder’s remedy litigation during the period which the housing element and fair share plan addresses.

COAH created the criteria and guidelines for municipalities to determine and address their respective affordable housing obligations. COAH originally established a formula for determining municipal affordable housing obligation for the six-year period between 1987 and 1993 (*N.J.A.C. 5:92-1 et seq.*), which became known as the “first round.” These rules established the first round rehabilitation obligation (also referred to as the “present need”) and the first round new construction obligation.

The first round formula was superseded by COAH regulations in 1994 (*N.J.A.C. 5:93-1.1 et seq.*). The 1994 regulations recalculated a portion of the first round 1987-1993 affordable housing obligations for each municipality and computed the additional municipal affordable housing need from 1993 to 1999 using 1990 U.S. Census data. The regulations COAH adopted in 1994 to identify a municipality’s “cumulative” obligations for the first and second rounds are known as “the second round” regulations. Under regulations adopted for the third round, the obligation of municipalities to create new affordable housing for the first and second rounds was referred to as the “prior round” obligation.

On December 20, 2004, COAH’s first version of the third round rules became effective some five years after the end of the second round in 1999. At that time, the third round was defined as the time from 1999 to 2014 but condensed into an affordable housing delivery period from January 1, 2004 through January 1, 2014. The third round rules marked a significant departure from the methods utilized in COAH’s earlier rounds by creating a “growth share” approach that linked the requirement for the provision of affordable housing to residential and non-residential development occurring within each municipality.

The growth share approach and the rules promulgated was the subject of significant litigation and was ultimately overturned by the New Jersey Appellate Court. On January 25, 2007, the New Jersey Appellate Court decision, *In re Adoption of N.J.A.C. 5:94 and 5:95*, 390 N.J. Super. 1, invalidated key elements of the first version of the third round rules, including the growth share approach. COAH issued revised rules on June 2, 2008 along with a further rule revision effective on October 20, 2008. Included in the 2008 rules was a recalculation of the cumulative first and second round obligations to account for updated data addressing secondary sources (filtering, demolitions, and residential conversions). Just as various parties challenged COAH’s initial third round regulations, parties challenged COAH’s 2008 revised third round rules. On October 8, 2010, the Appellate Division issued its decision, *In re Adoption of N.J.A.C. 5:96 and 5:97*, 416 N.J. Super. 462, with respect to the challenge to the second iteration of COAH’s third round regulations. The Appellate Division upheld the COAH regulations that assigned rehabilitation and first and second round obligations to each municipality but invalidated the regulations by which the agency assigned housing obligations in the third round, finding that the Agency continued to utilize a growth share approach, albeit an amended approach.

COAH sought a stay from the NJ Supreme Court of the deadline to issue new third round housing rules set forth by the Appellate Division. Additionally, there were various challenges to the Appellate Division’s

2010 decision. On September 26, 2013, the NJ Supreme Court upheld the Appellate Court decision in In re Adoption of N.J.A.C. 5:96 and 5:97 by New Jersey Council On Affordable Housing, 215 N.J. 578 (2013), and ordered COAH to prepare the necessary rules. Subsequent delays in COAH's rule preparation and ensuing litigation led to the NJ Supreme Court, on March 14, 2014, mandating a schedule for adoption.

Although ordered by the NJ Supreme Court to adopt revised new rules on or before October 22, 2014, COAH deadlocked in a 3-3 vote at its October 20th meeting and failed to adopt the draft rules it had issued on April 30, 2014. In response, Fair Share Housing Center (hereinafter "FSHC") filed a motion in aid of litigant's rights with the NJ Supreme Court.

On March 10, 2015, the NJ Supreme Court issued a ruling on the Motion In Aid of Litigant's Rights (In re Adoption of N.J.A.C. 5:96 & 5:97, 221 NJ 1, aka "Mount Laurel IV"). This long-awaited decision provided a new direction for how New Jersey municipalities were to comply with the constitutional requirement to provide their fair share of affordable housing. The Court transferred responsibility to review and approve housing elements and fair share plans from COAH to designated Mount Laurel trial judges. The implication was that municipalities were required to apply to Superior Court with a Declaratory Judgement Action, instead of to COAH, if they wished to be protected from exclusionary zoning litigation. These trial judges, with the assistance of an appointed Special Adjudicator to the Court, reviewed municipal plans much in the same manner as COAH previously did.

While the NJ Supreme Court's decision set a process in motion for municipalities to address their third round obligations, it did not assign those obligations. Instead, the task was completed by the trial courts. The NJ Supreme Court in its decision directed that the method of determining municipal affordable housing obligations were to be "similar to" the methodologies used in the first and second round rules and municipalities should rely on COAH's 1993 second round rules (*N.J.A.C. 5:93*) and certain components of COAH's 2008 regulations that were specifically upheld along with the Fair Housing Act (*N.J.S.A. 52:27D – 301 et seq.*), in their preparation of third round housing elements and fair share plans.

FSHC, the only public interest advocacy organization in New Jersey devoted exclusively to promoting the production of housing affordable for low and moderate income households, was granted party status in every municipal Declaratory Judgment Action. In this role it calculated municipal affordable housing obligations and offered to settle with municipalities. Such settlements addressed the municipal affordable housing obligation, compliance strategies and other terms intended to promote affordable housing production. Most municipalities that filed a Declaratory Judgment Action settled with FSHC, finding it to be in their best interest. The typical alternative to settlement with FSHC was conducting a trial in Superior Court to determine the municipal affordable housing obligation, which some municipalities did.

In addition to the State agency activity and judicial decisions through 2015, the New Jersey Legislature amended the Fair Housing Act in 2008 through P.L. 2008, c. 46, often referred to as the "Roberts Bill", or "A500". This amendment established a statewide 2.5% nonresidential development fee, prohibited new regional contribution agreements (hereinafter "RCAs"), required that 13% of all new affordable housing units be restricted to very low income households (30% of median income), and added a requirement that municipalities had to commit to spend development fees within four (4) years of the date of collection. The Fair Housing Act was further amended in 2013 (P.L. 2013, c. 6) to permit municipalities to enter into an agreement with a developer or development owner to provide a preference for veterans who served in time of war or other emergency to occupy up to 50% of the affordable units in a particular development. The preference is applicable to the first 90 of the 120 days of initial marketing and thereafter veterans

may be placed on a special waiting list for future available affordable units in the development. These amendments to the Fair Housing Act are not promulgated in any valid COAH regulations.

On March 20, 2024, an amendment to the Fair Housing Act was adopted (P.L. 2024, c.2.). This amendment creates significant changes to the fourth round of affordable housing, and all subsequent rounds. Such changes include the process in which municipalities obtain protection from builder's remedy litigation – including but not limited to the elimination of COAH and the creation of the Affordable Housing Dispute Resolution Program, the methodology to calculate municipal prospective need obligations, and the administration of affordable housing units. However, the Fair Housing Act does not create or direct the creation of new rules that would provide further guidance. Instead it states municipalities shall rely on rules adopted by COAH, unless contradicted by statute or binding court decisions, for municipal crediting, adjustments and compliance strategies. One notable example of contradiction is the generation of and use of bonus credits. See the sections that follow for additional information regarding this particular amendment to the Fair Housing Act.

The Affordable Housing Dispute Resolution Program (hereinafter the “Program”) is a program within the judiciary made up of an odd number of Judges with a minimum of 3 and not more than 7. The Program, in its discretion and in accordance with the Rules of Court, may consult or employ services of one or more special adjudicators or staff to assist it in rendering determinations, resolving disputes, and facilitating communication among municipalities and interested parties. The Program is responsible for reviewing municipal affordable housing obligations, housing plans, and conducting mediation. However, final determinations of compliance, disputes, and other issues, as well as Court orders may only be issued by a County-level housing judge.

In addition to changes addressing the compliance process and elimination of COAH, the amendment also revised minimum affordability controls for rental units from 30 years to 40 years and those for extension of affordability controls from 30 years to as little as 20 years, provided the total control period is not less than 60 years. It also created new roles for the Department of Community Affairs (hereinafter “DCA”), including calculation of non-binding rehabilitation and prospective need affordable housing obligations, oversight and adoption of rules regulating municipal affordable housing trust funds, municipal housing liaisons and affordable housing administrative agents and oversight of affordable housing unit administration. The amendment also directed the New Jersey Housing and Mortgage agency to revise the Uniform Housing Affordability Control Rules (*N.J.A.C. 5:80-26.1 et seq.*).

## **The Compliance Process**

The first step in a municipality's compliance process is to establish the affordable housing obligation. The first, second and third round obligations are already established by COAH or Superior Court, as applicable. Only the rehabilitation obligation and current prospective need, the fourth round obligation, are subject to determination.

The methodology and formulas each municipality must rely upon to determine its rehabilitation and fourth round obligation (as well as subsequent round obligations) are set forth within *N.J.S.A. 52:27D-304.1* thru *-304.3* of the Fair Housing Act. The March 8, 2018 unpublished decision of the Superior Court, Law Division, Mercer County, *In re Application of Municipality of Princeton* (“Jacobson Decision”) is also to be referenced as to datasets and methodologies that are not explicitly addressed in *N.J.S.A. 52:27D-304.3*. Notwithstanding the methodology set forth in the Fair Housing Act, the Act also required the DCA to release a non-binding report calculating obligations for each municipality in the State.

The following provides an overview of the process and deadlines associated with fourth round compliance.

- Establishing the Affordable Housing Obligation
  - October 20, 2024: DCA Regional and Municipal Fair Share Obligation Report Issued.
  - January 31, 2025: Deadline for municipalities to adopt a binding committing to the affordable housing obligation and seeking a Compliance Certification through participation in the Program.
  - February 28, 2025: Deadline for an interested party to challenge the municipality's determination of its obligation to the Program. It shall apply "an objective assessment standard".
  - March 1, 2025: The municipality's determination of its obligation will be established by default if no challenge.
  - March 31, 2025: The Program must issue a decision on the obligation challenge.
- Obtaining a Compliance Certification
  - June 30, 2025: Municipality shall adopt a Housing Plan and propose drafts of ordinances and resolutions to implement the plan. If a municipality does not adopt a Housing Element and Fair Share Plan by June 30, 2025, the Rules of Court may permit the Program or County Level Judge to allow the municipality to secure a grace period. If a municipality does not adopt a Housing Plan by June 30, 2025 and does not secure a grace period, the municipality will have its immunity revoked.
  - August 31, 2025: Deadline for an interested party to file a challenge to the Housing Plan with the Program. If there is no challenge by this date the Program will begin review of the Housing Plan for consistency with the FHA.
  - December 31, 2025: Deadline for a municipality to settle any challenge or provide an explanation as to why it will not make all, or some of the changes brought by the challenge.
  - March 15, 2026: Municipality to amend the Housing Plan and implement the agreed upon revisions resulting from a challenge and adopt all pertinent ordinances. The Housing Plan and adopted ordinances shall be immediately filed with the Program.
- Ongoing Compliance
  - Midpoint (2030): Action by municipality or interested party filed to seek a realistic opportunity review of any developments that have not moved forward.

### **Affordability Requirements**

Affordable housing is defined under New Jersey's Fair Housing Act as a dwelling, either for sale or rent, that is within the financial means of households of low- or moderate-income, as is measured within each housing region. Califon is in Region 3, which includes Hunterdon, Middlesex and Somerset counties. Moderate-income households are those with annual incomes greater than 50%, but less than 80% of the regional median income while low-income households are those with annual incomes that are 50% or less

than the regional median income. Very low-income households are a subset of “low-income” households and are defined as those with incomes 30% or less of the regional median income.

The Uniform Housing Affordability Controls (hereinafter “UHAC”) at *N.J.A.C. 5:80-26.3(d)* and (e) requires that the maximum rent for a qualified unit be affordable to households with incomes 70% or less than the median income for the region, provided the development includes 13% or more very low income units. The number of units priced at 70% of regional median income cannot exceed the number of very low income units plus one additional unit. The average rent must be affordable to households with incomes no greater than 52% of the median income. The maximum sale prices for affordable units must be affordable to households with incomes 70% or less than the median income. The average sale price must be affordable to a household with an income of 55% or less than the median income.

The regional median income is defined using the federal income limits established by Department of Housing and Urban Development (hereinafter “HUD”) on an annual basis. In the spring of each year, HUD releases updated regional income limits, and it is from these income limits that the rents and sale prices for affordable units are derived. The table on the following page reflects the 2024 affordable housing regional income limits for Region 3, prepared by New Jersey Housing and Mortgage Finance Agency (HMFA).

2025 Income Limits for Region 3					
Household Income Levels	1-Person Household	2-Person Household	3-Person Household	4-Person Household	5-Person Household
Median	\$102,340	\$109,650	\$131,580	\$146,200	\$157,896
Moderate	\$81,872	\$93,568	\$105,264	\$116,960	\$126,317
Low	\$51,170	\$58,480	\$65,790	\$73,100	\$78,948
Very Low	\$30,702	\$35,088	\$39,474	\$43,860	\$47,369

*Source: 2025 Income Limits prepared by New Jersey Housing and Mortgage Finance Agency, effective May 16, 2025.*

## **Overview of Compliance Requirements**

There are extensive requirements that municipalities must meet to ensure their affordable housing strategies result in a Compliance Certification. Furthermore, those requirements vary by housing round. The following provides a *brief and summarized* overview of the requirements.

- **Rental Obligation.** Not less than 25% of affordable units addressing the obligation of a round must be rental housing units.
- **Family Obligation.** Not less than 50% of affordable units addressing the obligation of a round must be available to families, meaning they are not restricted to a particular population. This obligation does not apply to the first and second rounds.

- Family Rental Obligation. Not less than 50% of the units meeting the rental obligation of a round must be available to families, meaning they are not restricted to a particular population. This obligation does not apply to the first and second rounds.
- Senior Maximum. Up to 30% of affordable units addressing the obligation of a round may be reserved for seniors. The maximum was 25% for the first, second and third rounds.
- Income Distribution of Affordable Units
  - Very Low Income Obligation. Not less than 13% of affordable units created or approved on or after July 1, 2008 must be reserved for very low income units (30% or less than the regional median income). Very low income units are a subset of low income units.
  - Family Very Low Income Obligation. Not less than 50% of the units meeting the very low income obligation must be available to families, meaning they are not restricted to a particular population.
  - Low Income Obligation. Not less than 50% of affordable units in any development must be reserved for low income households (50% or less than the regional median income, which includes very low income units). The remaining may be available to moderate income households (51-80% of regional median income).
- Bedroom Distribution of Affordable Units
  - The total bedrooms within the affordable units in any development must be not less than twice the number of affordable units. This requirement does not apply to the first, second or third round.
  - Studio and 1-bedroom Units. Not more than 20% of units in any development.
  - 2-bedroom Units. Not less than 30% of units in any development.
  - 3-bedroom Units. Not less than 20% of units in any development.
  - The above requirements do not apply to special needs housing or senior housing.
  - Senior developments are subject to a modified bedroom distribution such that the total bedrooms within the affordable units must be not less than the number of affordable units.
  - Senior and supportive housing developments with 20 or more affordable units shall have not less than 5% 2-bedroom and 3-bedroom affordable units. This requirement does not apply to the first, second or third round.
- Bonus Credits
  - No more than 25% of the obligation for each round.
  - Only one type of bonus credit may be applied to a unit.
  - Rental bonus credits (1.0) are only applicable to the first, second and third rounds.
  - The following unit types are eligible for 1.0 bonus credit in the fourth round.
    - Supportive and special needs bedrooms.
    - Market to affordable (conversion of a market rate unit to an affordable unit).

- 100% affordable developments: Units within 100% development provided the municipality supplies the land or a minimum of 3% of the development costs.
- The following unit types are eligible for 0.5 bonus credit in the fourth round.
  - Partnership with non-profit.
  - Proximity to transit: units within ½ mile of transit (rail, bus, ferry).
  - Senior: limited to 10% of the affordable age-restricted units proposed by capped at 30% of the obligation.
  - Units with at least three bedrooms above the minimum number required by the bedroom distribution.
  - Redevelopment for units on land previously utilized for retail, office or commercial use.
  - Extension of affordability controls on rental housing only, provided the municipality funds the cost for extension.
  - Very Low-Income units above the 13% required.

## **AFFORDABLE HOUSING IN CALIFON**

The Borough's second round housing element and fair share plan was granted substantive certification by COAH on June 5, 2002. At that time, prior to the Highlands Act and adoption of the Highlands Regional Master Plan, the Borough proposed two supportive housing projects, one by NORWESCAP at the former "Basket Factory" and another at what was known as the Staiano property (Block 18, Lot 25) along with accessory apartments to help meet what is now deemed the prior round obligation of 21 units. As detailed in later analysis prepared by the Borough Planner at the time, the Borough was "hard-pressed" to address that obligation due to environmental constraints in the form of steep slopes and floodplains in addition to a lack of sanitary sewer. The report also notes that task became even more difficult when the Highlands Act was adopted in 2004 and the Borough was included in the Preservation Area.

In June of 2010, Califon petitioned COAH for substantive certification of its third round plan. It was determined incomplete in July of 2010 and given all that unfolded with the third round period as described above, the Borough's plan was never acted upon by COAH. After the Supreme Court's 2015 decision, the Borough chose not to file a declaratory judgment action and negotiate with Fair Share Housing Center as to its third round obligation.

In October of 2024, the New Jersey Department of Community Affairs (DCA) released its calculation of fourth round obligations in compliance with A4, and determined the Borough had a present need of zero (0) units and a prospective need of twenty three (23) units. As required by A4, Borough Council adopted a binding resolution on January 16, 2025 (see Appendix 1) and filed a declaratory judgment action with the Superior Court on January 20, 2025. Judge William G. Mennen, J.S.C., issued an order filed on March 27, 2025 fixing the Borough's obligations as noted in the resolution and authorized preparation of the housing element and fair share plan (see Appendix 2)

## **CONSIDERATION OF LANDS MOST APPROPRIATE FOR AFFORDABLE HOUSING**

As part of this Plan, the Borough considered land that is appropriate for the construction of low- and moderate-income housing. While a durational adjustment is applied to both the third and fourth round obligations due to a lack of public sewer, there is also a lack of vacant developable land that is not constrained under the policies of the Highlands RMP to support new development. Even though there are a handful of vacant properties that could likely be developed under the exemption requirements of the RMP, they could not accommodate substantial development such that measurable affordable housing could be provided.

Given the constraints of the RMP and lack of sewer, only small-scale affordable housing compliance mechanisms such as accessory apartments or supportive housing are appropriate. Though these measures have failed repeatedly over the last 20 years despite significant efforts, the Borough sees these as the only appropriate opportunities.

### **Highlands Buildout and RMP Requirements**

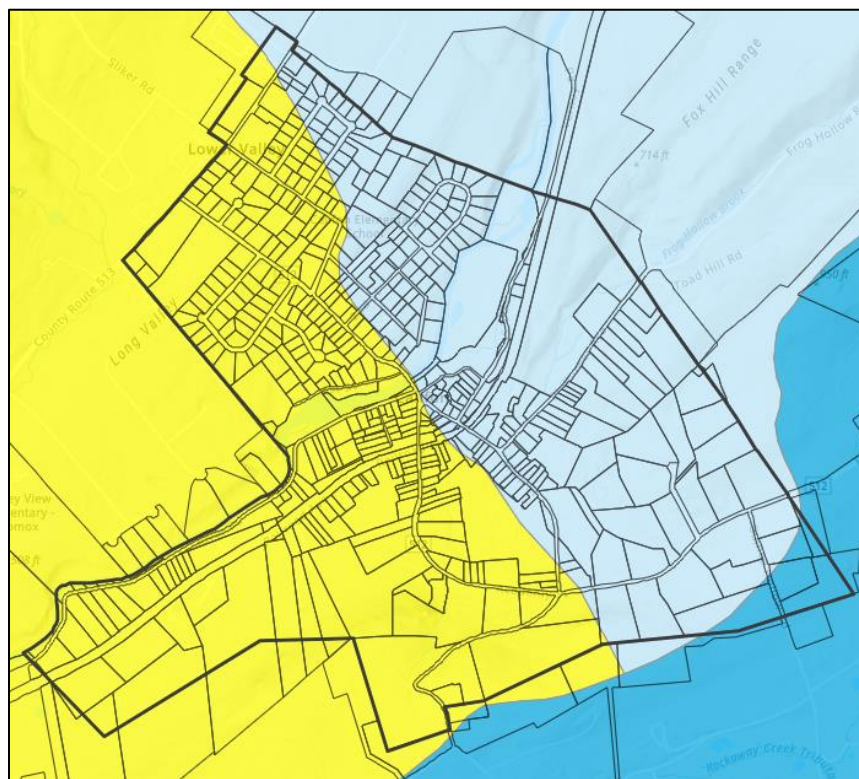
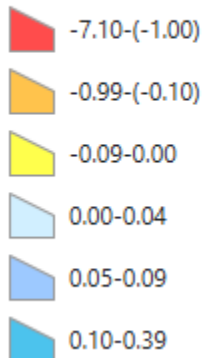
As a municipality fully conforming to the Highlands Regional Master Plan (RMP), Califon utilized the Highlands Buildout tool to assess lands potentially developable consistent with the requirements of the RMP in accordance with amendments to the Fair Housing Act in March of 2024. After updating base data utilizing the Highlands Council's build out portal, Council staff forwarded an updated buildout analysis assessing the amount of vacant land with potential for sewer service and where sewer service is not available, assessing how much development could be accommodated based on the septic density limitations of the RMP. Given that Califon is entirely in the Preservation Area, lacks sanitary sewers and septic densities are limited to 1 unit per 25 acres and 1 unit per 88 acres, no development potential was identified in the Highlands build out analysis.

In July of 2024, the Highlands RMP was amended by the Highlands Council to specifically address affordable housing-related policies "to inform the appropriate location for affordable housing in the Highlands region." While amendments to the Fair Housing Act required the Regional Master Plan be taken into account in determining municipal obligations, conforming municipalities bear an obligation to ensure that housing plans meet the resource protection requirements of the RMP. The Council's 2024 implementation guidelines note that while provision of affordable housing is of importance, it cannot come at the expense of the critical Highlands resources the Highlands Act was enacted to protect in the first place. Califon's inclusion in the Preservation Area and the myriad critical Highlands resources within its borders conflict with its ability to address its fair share of the region's affordable housing needs, but those needs are overshadowed by the greater good the Highlands Act achieves for the State at large.

The durational adjustment sought by Califon is consistent with RMP policies related to net water availability. Of the three subwatersheds that cover the Borough of Califon, only the Rockaway Creek (above McCrea Mills) subwatershed has positive net water availability of 0.1 million gallons per day. As shown on the map below however, this subwatershed only covers 2 parcels and portions of 3 other parcels in the southeast corner of the Borough. The other two subwatersheds which cover the rest of the Borough have no net water availability.

**Hydrology**

**Net Water Availability**



The July 2024 RMP amendment also discusses how the provision of affordable housing in conforming municipalities must address policies related to land use capability zones and resource protection standards requiring open water buffers, protection of prime groundwater recharge areas, limited to no development in severe steep slope areas and protection of critical habitat. As illustrated in the Borough’s Environmental Resource Inventory, all of these critical Highlands resources are present throughout Califon, together covering the majority of its approximately 1 square mile area. The result is an inability to comply with the resource protection mandates of the RMP and provide opportunities for meaningful affordable housing compliance mechanisms.

Califon will maintain consistency with the RMP policies through its referral ordinance. The requirements of the RMP are implemented through review by Highlands Council staff. The Borough also proposes to continue potential mechanisms to address its obligation consistent with the implementation guidelines, mainly supportive housing and accessory apartments.

**OPPORTUNITY FOR MULTIGENERATIONAL HOUSING**

The Fair Housing Act requires “an analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission”. As of the date of this Housing Plan, there have been no recommendations by the Multigenerational Family Housing Continuity Commission on which to provide the required analysis. However, the Commission has the primary goal of enabling senior citizens to reside at the homes of their extended families, thereby preserving and enhancing multigenerational family continuity. Borough land use policies are not in

conflict with this goal and much of the Borough's housing stock is large enough to accommodate multigenerational living. Nothing in the Land Use Ordinance prohibits creation of additional living space consisting of a bedroom and bathroom, but inclusion of separate kitchen facilities would constitute a second dwelling unit, which is not permitted but is also not necessary to permit multigenerational living.

## **DEMOGRAPHIC, HOUSING & EMPLOYMENT ANALYSIS**

See Appendix 3 to the Housing Plan for this analysis.

## **AFFORDABLE HOUSING OBLIGATION & SATISFACTION**

Fourth round housing plans must address four components of a municipality's affordable housing obligation. These include the rehabilitation obligation to improve substandard housing occupied by low- and moderate-income households, the first and second round obligation of new construction from 1987 to 1999, third round obligation of new construction from 1999 to 2025, and the fourth round obligation of new construction from 2025 to 2035.

### **First & Second Rounds Obligation: 21 units**

As noted earlier in this plan, the Borough was unsuccessful in addressing its first and second round obligations despite significant efforts to support the mechanisms identified in its plan at the time. Those mechanisms included a 5-bedroom supporting housing facility to be constructed on the site of the former "Basket Factory", a 6 bedroom supportive housing facility to be operated by the ARC of Hunterdon County and a 5 unit accessory apartment program. Ultimately after decades of effort, not a single affordable unit was realized despite promise of subsidy for accessory apartments and even the grant of land to NORWESCAP for the 5 bedroom supportive housing facility. To the extent necessary, the Borough seeks a durational adjustment of the 21 unit first and second round obligation, although this period has long passed.

### **Third Round Obligation: 78 Units**

Califon's third round obligation is 78 units, as established in a report entitled "Statewide and Municipal Obligations Under Jacobsen Opinion", prepared by Econsult Solutions, Inc. and dated March 28, 2018. This consists of a Gap Present Need of 40 units and a Prospective Need of 38 units. As noted previously, the Borough did not participate in the declaratory judgment process after the Supreme Court's 2015 decision and therefore never negotiated a settlement agreement and ultimately a third round obligation with Fair Share Housing Center. Although the Jacobsen decision was unpublished and only applicable to West Windsor and Princeton in Mercer County, after that decision it was common for Fair Share Housing Center to accept settlement on the basis of an obligation calculated using the Jacobsen methodology. Utilizing the Econsult report and the 78-unit obligation would appear the most logical approach given the lack of a settlement agreement.

### ***Durational Adjustment – Third Round***

The Borough is entitled to a durational adjustment for the third round obligation as there is no centralized sanitary sewer system to serve additional development that would generate affordable housing. Further, given the septic density limitations of the Preservation Area, it would be almost impossible to serve development even with on-site septic systems. With minimum lot sizes of 25 and 88 acres required, sufficient land cannot be amassed to provide meaningful density such that an adequate compensatory benefit would be provided to a developer to subsidize the production of affordable housing units. Further, septic density in the Highlands Preservation Area are more stringent than those outside the Highlands and systems of 2,000 gallons per day are rarely if ever achieved. This ultimately limits the number of bedrooms that can be constructed which in turn ultimately limits compliance mechanisms such as supportive housing facilities and accessory apartments.

Califon will comply with the applicable COAH rules regarding durational adjustments to satisfy the third round obligation. This means, as set forth in *N.J.A.C. 5:93-4.3(c)*, the requirement to address the third round obligation of 78 units is deferred until adequate sewer is made available. As such, the Borough commits to complying with the following, which is stated in *N.J.A.C. 5:93-4.3*:

1. Notwithstanding the lack of adequate water and/or sewer at the time a municipality petitions for substantive certification, the municipality shall reserve and set aside new water and/or sewer capacity, when it becomes available, for low and moderate income housing, on a priority basis.
2. Municipal officials shall endorse all applications to the DEP or its agent to provide water and/or sewer capacity. Such endorsements shall be simultaneously submitted to the Council.
3. Where the DEP or its designated agent approves a proposal to provide infrastructure to a site for the development of low and moderate income housing identified in the housing element, the municipality shall permit such development; and
4. Where a municipality has designated sites for low and moderate income housing that lack adequate water and/or sewer and where the DEP or its designated agent approves a proposal to provide water and/or sewer to a site other than those designated for the development of low and moderate income housing in the housing element, the municipality shall amend its housing element and fair share housing ordinance to permit development of such site for low and moderate income housing. The amended housing element and fair share housing ordinance shall be submitted to the Council within 90 days of the site's approval by the DEP or its agent.

### ***Third Round Minimum Requirements***

In addition to meeting the total 78 unit obligation, the Borough must also meet minimum and maximum requirements related to the rental obligation, maximum number of age-restricted units, minimum family unit obligation, and the minimum very low income unit obligation of 13%. These requirements are detailed below but are noted prospectively should affordable housing units be realized.

#### **Minimum Rental Obligation = 20 units**

.25 (obligation) = Minimum # rental units or .25 (78) = **19.5 units rounded up to 20 units**

This obligation is satisfied with A&P redevelopment and Halstead Place projects, which total 31 units.

#### **Maximum Senior Units = 20 units**

.25 (obligation) = Maximum # age-restricted units or  $.25 (78) = 19.5$  units rounded down to 19 units

**Minimum Family Unit Obligation = 39 units**

.50 (obligation) = Minimum # family units or  $.50 (78) = 39$  units

This obligation is satisfied with the A&P Redevelopment, Halstead Place and Alton Place sites, which total 60 family affordable units.

**Minimum Family Rental Obligation= 20 units**

.50 (rental obligation) = Minimum # Family Rental Units or  $.50 (39) = 19.5$  units, rounded up to 20 units.

**Minimum Very Low Income Unit Obligation = to be determined**

.13 (units created or approved on or after July 1, 2008) = Minimum # very low income units

Should affordable housing units be realized, this requirement will be implemented by the Borough.

**Fourth Round Obligation**

***Present Need (Rehabilitation Share)***

As calculated by DCA, Califon’s present need for the fourth round is zero (0) units. Given that no rehabilitation credits are required, no mechanisms need be proposed.

***Prospective Need***

Califon’s fourth round obligation (also referred to as the prospective need) is 23 units. This obligation is defined as the new construction obligation for 2025-2035. The Fair Housing Act, *N.J.S.A. 52:27D-304.3.b.*, describes the obligation as a “projection of housing needs based on development and growth which is reasonably likely to occur in a region or a municipality, as the case may be, as a result of actual determination of public and private entities. Prospective need shall be determined by the methodology set forth pursuant to sections 6 and 7 of P.L.2024, c. 2 (C.52:27D-304.2 and C.52:27D-304.3) for the fourth round and all future rounds of housing obligations”.

The methodology to calculate the obligation begins with determining the need for affordable housing in which the municipality is located. That regional need is then allocated to each municipality in the region, excluding qualified urban aid municipalities, based on an average of three factors: 1) equalized nonresidential valuation factor, which serves as a proxy for the municipal share of the region’s change in employment during the previous affordable housing round, 2) income capacity factor, which is the municipal share of the region’s median household income, and 3) land capacity factor, which is the municipal share of the region’s developable land.

The DCA calculated municipal fourth round obligations in *Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background*, released on or about October 18, 2024. This DCA Report calculated a fourth round obligation of 23 units for the Borough. This obligation was fixed in the March 27, 2025 order of Judge William G. Mennen, J.S.C. (see Appendix 2).

### ***Durational Adjustment – Fourth Round***

The Borough is entitled to a durational adjustment for the fourth round obligation as there is no centralized sanitary sewer system to serve additional development that would generate affordable housing. Further, given the septic density limitations of the Preservation Area, it would be almost impossible to serve development even with on-site septic systems. With minimum lot sizes of 25 and 88 acres required, sufficient land cannot be amassed to provide meaningful density such that an adequate compensatory benefit would be provided to a developer to subsidize the production of affordable housing units. Further, septic density in the Highlands Preservation Area are more stringent than those outside the Highlands and systems of 2,000 gallons per day are rarely if ever achieved. This ultimately limits the number of bedrooms that can be constructed which in turn ultimately limits compliance mechanisms such as supportive housing facilities and accessory apartments.

Califon will comply with the applicable COAH rules regarding durational adjustments to satisfy the fourth round obligation. This means, as set forth in *N.J.A.C. 5:93-4.3(c)*, the requirement to address the fourth round obligation of 23 units is deferred until adequate sewer is made available. As such, the Borough commits to complying with the following, which is stated in *N.J.A.C. 5:93-4.3*:

1. Notwithstanding the lack of adequate water and/or sewer at the time a municipality petitions for substantive certification, the municipality shall reserve and set aside new water and/or sewer capacity, when it becomes available, for low and moderate income housing, on a priority basis.
2. Municipal officials shall endorse all applications to the DEP or its agent to provide water and/or sewer capacity. Such endorsements shall be simultaneously submitted to the Council.
3. Where the DEP or its designated agent approves a proposal to provide infrastructure to a site for the development of low and moderate income housing identified in the housing element, the municipality shall permit such development; and
4. Where a municipality has designated sites for low and moderate income housing that lack adequate water and/or sewer and where the DEP or its designated agent approves a proposal to provide water and/or sewer to a site other than those designated for the development of low and moderate income housing in the housing element, the municipality shall amend its housing element and fair share housing ordinance to permit development of such site for low and moderate income housing. The amended housing element and fair share housing ordinance shall be submitted to the Council within 90 days of the site's approval by the DEP or its agent.

### ***Potential Fourth Round Strategies***

While the Borough's eligibility for a durational adjustment limits compliance actions required at this time, the Borough nonetheless seeks opportunities to create affordable housing units where possible. The following provides a summary of potential mechanisms to be utilized:

- Supportive housing: While the Borough made significant efforts in the past to provide opportunity for supportive housing, it was completely and totally unsuccessful. Califon will, however, utilize what limited resources it has to try to attract a supportive housing provider.
- Mandatory setaside ordinance: Given that small-scale residential projects are possible in the future, the Borough will adopt a mandatory setaside ordinance and require that when 5 units are approved, a 20% affordable housing setaside must be provided. The draft mandatory setaside ordinance is provided in Appendix 4.

- Accessory apartments: The Borough will maintain the sections of the land development ordinance in the R-1, R-2, R-3 and GB zones that permit accessory apartments. See Appendix 5 for the current ordinance.

### ***Distribution of Fourth Round Units***

In addition to meeting the total 23 unit fourth round obligation, the Borough must also meet a rental obligation, maximum senior units, family obligation, very low income obligation, and maximum bonus credits, as set forth in the Fair Housing Act. These obligations may be amended should bonus credits be applied to the fourth round obligation. Compliance with these requirements is noted prospectively and will be applied should development occur.

#### **Maximum Bonus = 6 credits**

- Maximum bonus credits = 25% (obligation) |  $25\% (23) = 5.75$ , rounded up to 6 credits.
- Use of bonus credits is deferred until development of affordable units occurs.

#### **Minimum Rental = 12 units**

- Minimum rental units = 25% (of units meeting the obligation) |  $25\% (23) = 11.5$ , rounded up to 12 units
- Satisfaction is deferred, consistent with the durational adjustment.

#### **Maximum Senior = 6 units**

- Maximum age-restricted units = 30% (units meeting the obligation) |  $30\% (23) = 6.9$ , rounded down to 6 units
- Satisfaction is deferred, consistent with the durational adjustment.

#### **Minimum Family = 12 units**

- Minimum family units = 50% (units meeting the obligation) |  $50\% (23) = 11.5$  units, rounded up to 12 units
- Satisfaction is deferred, consistent with the durational adjustment.

#### **Minimum Family Rental = 6 units**

- Minimum family rental = 50% (rental obligation) |  $50\% (12) = 6$  units
- Satisfaction is deferred, consistent with the durational adjustment.

#### **Minimum Very Low Income = 3 units**

- Minimum very low income units = 13% (fourth round units created or approved on or after July 1, 2008) |  $13\% (17) = 2.21$ , rounded up to 3 units
- Satisfaction is deferred, consistent with the durational adjustment.

#### **Minimum Family Very Low Income = 1 unit**

- Minimum family very low income units = 50% (very low income obligation) |  $13\% (3) = 0.39$  units, rounded up to 1 unit
- Satisfaction is deferred, consistent with the durational adjustment.

***Affordability Assistance***

Since the Borough has no affordable housing units and has collected no development fees, affordability assistance cannot be provided.

**CONSISTENCY WITH THE STATE DEVELOPMENT AND REDEVELOPMENT PLAN**

As noted in the State Plan policy maps, areas within the Highlands Region utilize land use capability designations of the Highlands Regional Master Plan rather than traditional planning areas. Although planning area-specific policies cannot be assessed, the Borough's approach to affordable housing is generally consistent with the statewide goals of the State Development and Redevelopment Plan. Most notable are:

- Revitalize the State's cities and Boroughs
- Conserve the State's natural resources and systems
- Provide adequate housing at a reasonable cost

**AFFORDABLE HOUSING ADMINISTRATION & AFFIRMATIVE MARKETING**

Califon Borough's Affordable Housing Ordinance is consistent with the Fair Housing Act, the Uniform Housing Affordability Control Rules, *N.J.A.C. 5:80-26.1 et seq.*, and the Division of Local Planning Services Fair Housing Act Rules, *N.J.A.C. 5:99*. As of the adoption of this Housing Plan, the latter two are in the process of being amended, therefore the existing ordinance will be relied upon until such time as those regulations are finalized. Ordinances adopted by March of 2026 will reflect appropriate requirements. The current affordable housing ordinance is provided in Appendix 6.

The Borough's Affordable Housing Ordinance, Title 16 Land Development, Chapter 16.36, governs the establishment of affordable units in the Borough as well as regulating the occupancy of such units. The Borough's Affordable Housing Ordinance addresses the phasing of affordable units, the low/moderate income split, bedroom distribution, occupancy standards, affordability controls, establishing rents and prices, affirmative marketing, income qualification, etc. All newly created affordable units, with limited exceptions, will comply with the affordability control period of 30 years for sale units or 40 years for rental units, as required by the Fair Housing Act and the Uniform Housing Affordability Control Rules.

The Borough has established the position of the Municipal Housing Liaison as required by the amendments to the Fair Housing Act. However, the Borough will likely rely on its affordable housing administrator to conduct the administration and affirmative marketing of its affordable housing sites that will not be administered by the developer.

The Borough's affirmative marketing plan is designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to the affordable units located in the Borough. Additionally, the affirmative marketing plan is intended to target those potentially eligible persons who are least likely to apply for affordable units and who reside in the Borough's housing region (Region 3), consisting of Hunterdon, Somerset and Middlesex counties.

The affirmative marketing plans include regulations for qualification of income eligibility, price and rent restrictions, bedroom distribution, affordability control periods, and unit marketing in accordance with N.J.A.C. 5:80-26.1 et seq. This plan must be adhered to by all private, non-profit, and municipal developers of affordable housing units and must cover the period of deed restriction or affordability controls on each affordable unit. A copy of the affirmative market plan is provided in Appendix 7. It should be noted however that with no existing affordable housing units and no realistic ability to provide affordable housing in the future, this affirmative market plan is likely moot but will be utilized should units be realized during the fourth round.

### **AFFORDABLE HOUSING TRUST FUND**

While Califon adopted a development fee ordinance and prepared spending plans in the past, this ordinance will be repealed and no development fees will be collected other than the statewide mandatory nonresidential development fee of 2.5%. As the Borough does not intend to prepare a spending plan, any nonresidential development fees collected will be sent to the State Affordable Housing Trust Fund in accordance with the requirements of the New Jersey Municipal Land Use Law.

Despite the development fee ordinance having been in place for decades, the lack of development in the Borough due to the restrictions associated with its location in the Highlands Preservation Area means no development has occurred and no fees have been collected. This pattern is not expected to change in the coming years and it is not worthwhile for the Borough to continue the development fee ordinance and its administration.

## **Appendix 1**

## **Appendix 2**

## **Appendix 3**

## **Appendix 4**

## **Appendix 5**

## **Appendix 6**

## **Appendix 7**