

BOROUGH OF NEW MILFORD
BERGEN COUNTY, NEW JERSEY

RESOLUTION

No. 2025:149

Offered by: [Signature]

Seconded by: [Signature]

Member	Aye	No	Abstain	Absent
SANDHUSEN	✓			
ZEILNER	✓			
DUFFIE				✓
GROTSKY	✓			
SEYMOUR	✓			
GRANT	✓			
MAYOR (lie)				

**RESOLUTION ENDORSING THE HOUSING ELEMENT AND FAIR SHARE
PLAN FOR THE BOROUGH OF NEW MILFORD FOR THE FOURTH ROUND
UNDER THE FAIR HOUSING ACT, AS AMENDED**

WHEREAS, on March 20, 2024, Governor Murphy signed into law P.L. 2024, c. 2, an Amendment to the Fair Housing Act (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 estimate of the obligation for all municipalities based upon its interpretation of the standards in the Amended FHA; and

WHEREAS, the DCA Report calculates the Borough of New Milford’s Round 4 (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 14 units and a Prospective Need or New Construction Obligation of 114 units; and

WHEREAS, the Amended FHA provides that the DCA Report is non-binding, and specifically authorizes municipalities to demonstrate that the Amended FHA would support a lower calculations of Round 4 affordable housing obligations through the adoption of a binding resolution establishing its present and prospective affordable housing obligations in accordance with the methodology and formula set forth in the FHA and the filing of a Declaratory Judgment Complaint; 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 Borough received a report dated January 3, 2025 from its Municipal Planner, Paul Grygiel, AICP, PP, of Preiss, Phillips, Grygiel, Leheny & Hughes, which analyzed the Land Capacity Factor included in Prospective Need calculation, and which found that the acreage of developable land in the Land Capacity calculation should be 1.09 acres and not 2.09 acres as calculated by DCA, thus resulting in a correction of the final prospective need number from 114 units to 108 units; and

WHEREAS, based on the foregoing, the Borough of New Milford adopted a resolution on January 27, 2025 to commit to provide its fair share of 14 present need and 108 prospective need affordable housing units, 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 New Milford authorized and directed its Borough Attorney to file a declaratory judgment complaint in the Superior Court of New Jersey, together with the aforesaid resolution and report, which Complaint and attachments were filed on January 28, 2025, as Docket No. BER-L-000668-25

WHEREAS, the New Jersey Builders' Association filed an Answer and Objection to the declaratory Judgment Complaint filed by the Borough of New Milford on February 26, 2025, which challenged New Milford's proposed reduction in the affordable housing prospective need number; and

WHEREAS, the matter proceeded to a settlement conference on March 21, 2025, before the Hon. Thomas C. Miller, A.J.S.C. (Ret.), the assigned member of the Affordable Housing Program, and Art Bernard, P.P., as the designated Special Adjudicator; and

WHEREAS, as a result of such settlement conference, the parties agreed to a prospective affordable housing need of 110 units for the Borough of New Milford, as set forth in a Decision and Order Fixing Municipal Obligations for "Present Need" and Prospective Need" for the Fourth Round of the Housing Cycle entered May 13, 2025; and

WHEREAS, the Planning Board of the Borough of New Milford, by resolution adopted on May 20, 2025, adopted a Housing Element and Fair Share Plan, to implement the Borough's Fourth Round Housing obligations, which has been filed with the Affordable Housing Program and provided to the Fair Share Housing Center, and attorneys for the New Jersey Builders' Association on May 22, 2025; and

WHEREAS, the Mayor and Council have reviewed the aforesaid Housing Element and Fair Share Plan and have concluded to endorse and implement same in satisfaction of its Fourth Round Affordable Housing obligations, subject to any adjustments as set forth below;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of New Milford, County of Bergen, State of New Jersey as follows:

1. All of the above Whereas Clauses are incorporated into the operative clauses of this resolution.

2. The Borough of New Milford hereby endorses and intends to implement the Housing Element and Fair Share Plan of the Borough of New Milford, adopted May 20, 2025, a copy of which, with attachments, is on file in the Office of the Borough Clerk and is available for public inspection, in satisfaction of its Fourth Round Affordable Housing obligations under the Fair Housing Act, as amended, subject to all reservations of rights set forth below.
3. The Borough reserves the following rights:
 - a) The right to a vacant land adjustment and all other applicable adjustments in accordance with the applicable affordable housing regulations.
 - b) The right to adjust its fair share obligations and Housing Element and Fair Share Plan pursuant to future legislation and litigation.
 - c) The right to adjust the Borough's fair share obligations and Housing Element and Fair Share Plan if a third party challenges the fair share obligations or Housing Element and Fair Share Plan as set forth herein.
4. This resolution shall take effect immediately, according to law.

I hereby certify that the above is a true copy of a resolution adopted by the Council of the Borough of New Milford at the meeting held on May 28, 2025.

SEAL

