

Resolution # 49-26
3-11-2026

BOROUGH OF EAST NEWARK
COUNTY OF HUDSON, STATE OF NEW JERSEY

RESOLUTION ENDORSING THE FOURTH ROUND HOUSING ELEMENT AND
FAIR SHARE PLAN AMENDMENT ADOPTED BY THE BOROUGH
PLANNING BOARD ON FEBRUARY 26, 2026

WHEREAS, in accordance with the Fair Housing Act (“FHA”) and the Administrative Office of the Court’s Directive No. 14-24 (the “Directive”), the Borough of East Newark (the “Borough”) filed a timely Fourth Round Declaratory Judgment Complaint (the “DJ Action”) with the Affordable Housing Dispute Resolution Program (the “Program”), along with its binding resolution, on January 31, 2025, accepting a Fourth Round Present and Prospective Need; and

WHEREAS, by Order Affirming and Fixing Present and Prospective Need Affordable Housing Obligation entered on April 7, 2025, the Court ordered that (1) the Borough had established jurisdiction for the Program by filing the DJ Action within 48 hours of adopting a binding resolution, Resolution #15-25 adopted on January 30, 2025, to confirm its present and prospective affordable housing obligations; (2) the Borough will prepare and adopt a Fourth Round Housing Element and Fair Share plan (4th Round HEFSP”), which will be adopted by the Borough’s Planning Board (the “Planning Board”) and subsequently endorsed by the Borough’s Council, no later than June 30, 2025; and (3) the Borough shall have continued immunity from all exclusionary zoning lawsuits, including builder’s remedy lawsuits; and

WHEREAS, by Resolution #93-25 adopted on June 26, 2025, the Borough endorsed and sought approval of the 4th Round HEFSP, which had been previously approved by the Planning Board on June 26, 2025; and

WHEREAS, in accordance with the Directive, the Borough filed with the Court its 4th Round HEFSP on June 30, 2025 ; and

WHEREAS, the Fair Share Housing Center (“FSHC”) filed a letter in the DJ Action regarding the Borough’s 4th Round HEFSP on August 30, 2025 seeking additional information and documentation and requesting modifications to the 4th Round HEFSP prior to approval by the Program and Court; and

WHEREAS, pursuant to the FSHC letter, the Borough’s affordable housing planner, Hanah Davenport, PP, AICP, of Heyer, Gruel & Associates, drafted an Amendment to the 4th Round HEFSP; and

WHEREAS, at the conclusion of a publicly noticed hearing on February 26, 2026 and by Resolution No. PB08-26, the Planning Board adopted an Amendment to the Fourth Round Housing Element and Fair Share Plan (the “4th Round HEFSP Amendment”), which Resolution is attached hereto as Exhibit “A” and which 4th Round HEFSP Amendment is attached hereto as Exhibit “B”; and

WHEREAS, on March 6, 2026, the Borough filed with the Program and the Court Resolution No. PB08-26 and the 4th Round HEFSP Amendment; and

WHEREAS, the Borough Council, at its public meeting on March 11, 2026, considered the 4th Round Amended HEFSP previously adopted by the Planning Board.

NOW, THEREFORE, the Mayor and Borough Council now endorses the 4th Round HEFSP Amendment.

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Resolution 49-26

Councilmember	Motion	Second	Ayes	Nays	Abstain	Absent
De Oliveira			X			
Evaristo			X			
K. Graham	X		X			
R. Graham		X	X			
Pinto			X			
Zincavage			X			

CERTIFICATION

I, Dr. Cosmo A. Cirillo, Borough Clerk of the Borough of East Newark, County of Hudson, State of New Jersey, do hereby certify that the foregoing is a true copy of a resolution adopted by the Mayor and Borough Council at their regular meeting held on Wednesday, March 11, 2026.

 Dr. Cosmo A. Cirillo, RMC
 Borough Clerk

EXHIBIT A

RESOLUTION NUMBER: PB08-26

RESOLUTION OF THE PLANNING BOARD OF THE BOROUGH OF EAST NEWARK ADOPTING AN AMENDMENT TO THE FOURTH ROUND HOUSING ELEMENT AND FAIR SHARE PLAN

WHEREAS, on March 20, 2024, Governor Murphy signed into law P.L. 2024, c.2, which amended the New Jersey Fair Housing Act and established the Affordable Housing Dispute Resolution Program (the “Program”); and

WHEREAS, in accordance with the Amended Fair Housing Act, the Township timely submitted its Fourth Round Housing Element and Fair Share Plan (“Fourth Round Plan”) to the Program for review in June of 2025; and

WHEREAS, the Borough received a deficiency letter for its Fourth Round Plan from Fair Share Housing Center (“FSHC”) in August of 2025; and

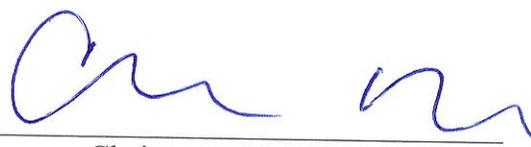
WHEREAS, the FSHC has requested the Borough amend the subsections entitled “Review of Previous Road Compliance”, “Proposed Inclusionary Development”, “Fourth Round Summary”, and “Additional Mechanisms”; replace in its entirety the subsection entitled “Development Fee Ordinance and Affordable Housing Trust Fund (AHTF)”; and revise Appendix E and Appendix G in its Fourth Round Plan; and

WHEREAS, the Borough has prepared an Amendment to the Fourth Round Housing Element and Fair Share Plan (“Amendment to the Fourth Round Plan”), which is attached hereto as Exhibit A; and

WHEREAS, upon notice duly provided pursuant to N.J.S.A. 40:55D-13, the Planning Board held a public hearing, where public comments and/or objections were heard, on the Amendment to the Fourth Round Plan on February 26, 2026; and

WHEREAS, the Planning Board determined that the attached Amendment to the Fourth Round Plan is consistent with the goals and objectives of the Borough’s current Master Plan, and that adoption and implementation of the Amendment to the Fourth Round Plan is in the public interest and protects public health and safety and promotes the general welfare.

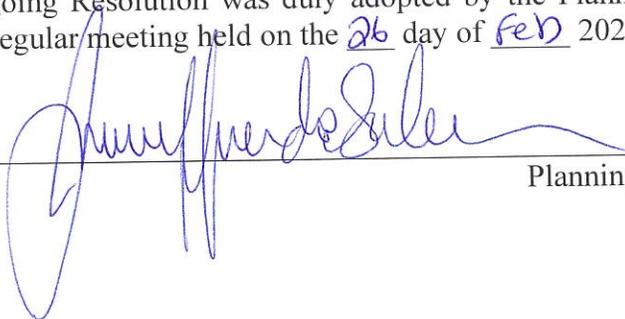
NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of East Newark, County of Hudson, State of New Jersey, that the Planning Board hereby adopts the Borough’s Amendment to the Fourth Round Housing Element and Fair Share Plan attached hereto as Exhibit A.



Chairman of the Planning Board

CERTIFICATION

I certify that the foregoing Resolution was duly adopted by the Planning Board of the Borough of East Newark at a regular meeting held on the 26 day of Feb 2026.



Planning Board Secretary

EXHIBIT B

East Newark Borough, Hudson County

Amendment to Fourth Round HEFSP
February 2026

**East Newark Borough
February 2026 Amendment to
Fourth Round Housing Element/Fair Share Plan**

This report details the substantive revisions which comprise the February 2026 Amendment to the Fourth Round Housing Element and Fair Share Plan (HEFSP) for the Borough of East Newark, dated June 12, 2025 and adopted by the Planning Board on June 26, 2025. All page numbers listed correspond to the adopted HEFSP document.

- Amended the subsection entitled “Review of Previous Round Compliance” to read as follows (strikethroughs indicate a deletion ~~thus~~ and bolded italics indicate an addition *thus*) (page 37):
 - Fourth Paragraph: “The Borough proposes to meet its combined Prior and Third Round obligation of 23 units through the development proposed at 900 Passaic Avenue in the Borough’s Thread Mill District of its designated East Newark Redevelopment Area. As was the standard during the Prior and Third Rounds, the Borough will apply ~~6~~ *5* age-restricted units, ~~11~~ *12* non-age-restricted units, and 6 units of bonus credits to the Prior and Third Round obligation. Refer to the Fourth Round Obligation Section of this Plan for further information about this development.”
- Amended the subsection entitled “Proposed Inclusionary Development” under the “Fourth Round Prospective Need Obligation” section to read as follows (strikethroughs indicate a deletion ~~thus~~ and bolded italics indicate an addition *thus*) (page 39):
 - Second Paragraph: “The Borough and redeveloper are in the process of negotiating the redevelopment agreement for the site, which will include the final breakdown of age-restricted and non-age-restricted for the affordable units. As of the writing of this Plan, it is expected that 33 of the affordable units will be non-age-restricted and 34 will be age-restricted, but negotiations are ongoing. As previously discussed, the Borough will apply ~~6~~ *5* age-restricted and ~~11~~ *12* non-age-restricted units to the combined Prior/Third Round obligation of 23 units.”
 - Fourth Paragraph: “The Borough will apply ~~7~~ *4* units of age-restricted units, ~~9~~ *12* units of non-age-restricted units, and 6 bonus credits to the Fourth Round obligation.”
- Amended the section entitled “Fourth Round Summary” to read as follows (strikethroughs indicate a deletion ~~thus~~ and bolded italics indicate an addition *thus*) (page 42):
 - The inclusionary development proposed at 900 Passaic Avenue is expected to provide 67 ~~market-rate~~ *affordable* units, which is enough to cover East Newark’s Prior Round, Third Round, and Fourth Round Prospective Obligations.
- Amended the section entitled “Additional Mechanisms” as follows:
 - Replaced the subsection entitled “Affordable Housing Ordinance” in its entirety to read as follows (page 42):
 - The Borough has prepared an Affordable Housing Ordinance (“AHO”) (Ordinance No. 03-2026) establishing the criteria for implementing affordable housing units in conformance with the requirements set forth in applicable statutes including the

Fair Housing Act (P.L.2024, c.2), 5:99 Substantive Rules (N.J.A.C. 5:99-1.1 et seq.), and Uniform housing Affordability Controls (N.J.A.C. 5:80-26.1 et seq.) as most recently amended and supplemented. The AHO has been prepared to include the necessary language regarding East Newark's Borough-Wide Mandatory Set Aside as well as its Development Fee and Affordable Housing Trust Fund regulations. The AHO was introduced by the Borough Council on February 11, 2026 and is scheduled for second reading and adoption at its March 11, 2026 meeting. The draft Ordinance has been attached as Appendix E.

- Replaced the subsection entitled "Development Fee Ordinance and Affordable Housing Trust Fund (AHTF)" in its entirety to read as follows (page 42):
 - East Newark adopted a development fee ordinance (Ordinance No. 17-2025) on December 29, 2025 implementing a development fee ordinance to collect fees from development projects and to establish an Affordable Housing Trust Fund. It is anticipated that this ordinance will be repealed and replaced by the aforementioned Affordable Housing Ordinance (Ordinance No. 03-2026), the draft copy of which has been included in this Plan as Appendix E.

The Borough Council adopted a Fourth Round Spending Plan on June 12, 2025 (Appendix F), which was prepared in accordance with the provisions of the amended Fair Housing Act ("FHA"). The FHA sets forth that a municipality may not spend or commit to spend any affordable housing development fees, including Statewide non-residential fees collected and deposited into the municipal Affordable Housing Trust Fund, without first obtaining the approval of the expenditure as part of its compliance certification. An amended Fourth Round Spending Plan will be prepared to reflect the most recent 5:99 Substantive Rules (N.J.A.C. 5:99-1.1 et seq.), and is anticipated to go before the Borough Council for approval at its March 11, 2026 meeting.

- The appendices section has been revised as follows:
 - Appendix E, entitled "Draft Mandatory Set-Aside Ordinance", and Appendix F, entitled "Draft Development Fee Ordinance," have been removed and replaced by Appendix E, entitled "Affordable Housing Ordinance (Ordinance No. 03-2026)"
 - Appendix G, entitled "Draft 2025 Spending Plan" has been renumbered to Appendix F and retitled to "Adopted 2025 East Newark Fourth Round Spending Plan"