

FILED

May 4, 2026

Hon. Darren J. Del Sardo, P.J.Cv.

Hon. Darren J. Del Sardo, P.J.Cv.

Superior Court of New Jersey

Law Division – Civil Part

Passaic County

Passaic County Courthouse

77 Hamilton Street, 3rd Floor

Chambers/Courtroom 322

Paterson, New Jersey 07505

PREPARED BY THE COURT:

**IN THE MATTER OF THE
DECLARATORY JUDGMENT
ACTION OF THE TOWNSHIP
OF WEST MILFORD, PASSAIC
COUNTY PURSUANT TO P.L.
2024, CHAPTER 2 (N.J.S.A.
52:27D-304.1, et seq.),**

Petitioner.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – CIVIL PART
PASSAIC COUNTY
DOCKET NO. PAS-L-000309-25

Civil Action

Mt. Laurel Program

**CERTIFICATION OF COMPLIANCE
AND REPOSE FOR THE
FOURTH ROUND HOUSING CYCLE**

THIS MATTER, having come before the Court on referral from and recommendation issued by the Affordable Housing Dispute Resolution Program (“Program”), pursuant to the Complaint for Declaratory Judgment filed on January 24, 2025 (“DJ Complaint”) by the Petitioner, **TOWNSHIP OF WEST MILFORD** (“Petitioner” or “Municipality”), pursuant to N.J.S.A. 52:27D-304.2, -304.3, and -304.1(f)(1)(c) of the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, et seq. (collectively, the “FHA”), and in accordance with Section II.A of Administrative

Directive #14-24 (“Directive #14-24”) of the ”Program”, seeking a certification of compliance with the FHA;

AND THE COURT, having entered its “*Decision and Order Approving Municipal Housing Element and Fair Share Plan for the Fourth Round Housing Cycle*” on March 20, 2025 (“Approval Order”) for the Municipality to meet and ensure satisfaction of its previously fixed “present need” obligation of 105 affordable housing units, and a “prospective need” obligation of 197 affordable housing units (collectively, the “Fourth Round Affordable Housing Obligation”),¹ and therein authorizing the Municipality to adopt its implementing Ordinance(s) to satisfy its Fourth Round Affordable Housing Obligation;

AND IT APPEARING that, the Municipality, upon having given due notice to all interested parties as provided for by the New Jersey Open Public Meetings Act, N.J.S.A. 10:4-12, et seq. and the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq., as required, adopted implementing ordinances and resolutions to ensure implementation of its approved Fourth Round Housing Element and Fair Share Plan (“HEFSP”), incorporating therein any changes from the Program and this Court’s prior Order, and on March 4, 2026, for the implementation of its Fourth Round Affordable Obligation, and thus by or before March 15, 2026;

AND THE COURT, having previously and here again determined that the Municipality’s Fourth Round HEFSP is fair and reasonable to the region’s low- and moderate-income households according to the principles set forth in Morris County Fair Housing Council v. Boonton Twp., 197 N.J. Super. 359 (Law Div. 1984), *aff’d o.b.* 209 N.J. Super. 108 (App. Div. 1986) and East/West

¹ Per prior “*Decision and Order Fixing Municipal Obligations for ‘Present Need’ and ‘Prospective Need’ for the Fourth Round Housing Cycle*” of this Court entered on March 20, 2025 (see Trans. ID: LCV2025872938).

Venture v. Borough of Fort Lee, 286 N.J. Super. 311 (App. Div. 1996) and, therefore, approved by the Court;

AND THE COURT, having been satisfied and further determined that the Municipality has timely adopted implementing ordinances and resolutions to ensure implementation of its approved Fourth Round HEFSP, incorporating therein any changes from the Program and this Court's prior Order(s), and for the satisfaction of its Fourth Round Affordable Obligation, as provided for and in accordance with N.J.S.A. 52:27D-304.1f (2)(c) of the FHA and Section III.A of Directive #14-24 (as amended), and which Plan contained the elements set forth in the "Addendum" attached to Directive #14-24 (as amended), having thereby qualified for immunity, and for good cause having otherwise been shown:

IT IS on this 4th day of May **2026, ADJUDGED AND ORDERED**, as follows:

1. That Exhibit P-1 (the Fourth Round HEFSP), and Exhibit P-2 (adopted Implementing Ordinance(s)), are hereby admitted into evidence and entered into the record.

2. That the Municipality has provided adequate notice of its proposed Implementing Ordinance(s) for implementation of its approved Fourth Round HEFSP to the public and all interested parties and in strict accordance with the Court's prior Approval Order.

3. That the Municipality's approved Fourth Round HEFSP and constituent compliance mechanisms contained therein, and the Implementing Ordinance(s), are hereby determined to be fair and reasonable to the interests of the region's low- and moderate-income households and to represent a realistic opportunity for the provision of affordable housing in accordance with the Mt. Laurel doctrine, and specifically in accordance with the principles set forth in Morris County Fair Housing Council v. Boonton Twp., 197 N.J. Super. 359 (Law Div.

1984), *aff'd o.b.* 209 N.J. Super. 108 (App. Div. 1986) and East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311 (App. Div. 1996).

4. That the Municipality and those parties implicated or otherwise involved and referenced therein are directed and ordered to proceed, *forthwith*, to implement the approved Fourth Round HEFSP and approved compliance mechanisms contained therein and in accordance with its terms.

5. That the Municipality's immunity from builder's remedy and/or exclusionary zoning litigation, be, and is hereby continued and shall remain in full force and effect for the Fourth Round period of July 1, 2025 to June 30, 2035, *subject, however*, to revocation or other Order of the Court that does or may hereafter issue, on notice of motion to the Municipality and all interested parties and good cause shown, at any time during the pendency of the Fourth Round Housing cycle..

6. **That the Court shall retain jurisdiction for the purpose of enforcing the terms and conditions of this Certification of Compliance and Repose and the Municipality's adopted Fourth Round HEFSP.**

IT IS FURTHER ORDERED, that a copy of this Order shall be deemed served on the Petitioner, Petitioner's counsel, and counsel for all Challengers upon its posting by the Court to the eCourts case jacket for this matter pursuant to R. 1:5-1(a) and R. 1:32-2A.

SO ORDERED:

/s/ Darren J. Del Sardo

HON. DARREN J. DEL SARDO, P.J.Cv.
Designated Mt. Laurel Judge – Passaic Vicinage

(X) By the Court.

EXHIBIT P-1

Housing Element and Fair Share Plan



West Milford Township, Passaic County

June 5, 2025

Prepared by:



**J Caldwell
& Associates, LLC**
Community Planning Consultants

2025 Housing Element and Fair Share Plan
Township of West Milford
Passaic County, New Jersey

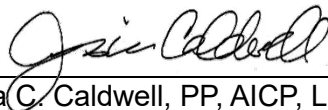
Township of West Milford Planning Board

Steven Castronova, Chair
Geoffrey Syme, Vice Chair
Michele Dale, Mayor
Ada Erik, Councilwoman
Christopher Garcia
Michael Gerst
James Rogers
JoAnn Blom, Alternate #1

Pamela Jordan, Board Secretary
Thomas Collins, Esq., Board Attorney
Thomas Molica, Esq., Board Attorney
Patrick D. McClellan, P.E., Board Engineer
Jessica C. Caldwell, P.P., A.I.C.P., Board Planner

June 2025

Prepared by:



Jessica C. Caldwell, PP, AICP, LEED-GA
NJPP License #5944

Contents

| | |
|---|----|
| 1. Introduction | 1 |
| 1.1 Community Overview..... | 1 |
| 1.2 Relationship to Other Plans | 3 |
| Municipal Master Plan..... | 3 |
| State Development and Redevelopment Plan (2001)..... | 3 |
| County Comprehensive Plan..... | 3 |
| Highlands Regional Master Plan | 4 |
| Surrounding Municipalities' Master Plans | 4 |
| 1.3 History of Affordable Housing in West Milford Township..... | 5 |
| 1.4 Purpose and Goals | 9 |
| 1.5 Contents of the Plan | 9 |
| 2. Demographic Characteristics | 11 |
| 2.1 Population | 11 |
| Population Change | 11 |
| Age | 11 |
| Household Size and Type | 12 |
| Income | 14 |
| 2.2 Employment Characteristics | 15 |
| Workforce | 15 |
| Commuting Characteristics | 16 |
| Employment by Industry..... | 17 |
| 3. Housing Characteristics | 18 |
| 3.1 Inventory of housing stock | 18 |
| Housing Occupancy and Tenure | 18 |
| Vacancy Status | 18 |
| Units In Structure | 19 |
| Year Structure Built | 20 |
| 3.2 Costs and Value | 21 |
| Selected Monthly Owner Costs..... | 21 |
| Value..... | 22 |
| Rent vs. Household Income | 22 |
| 3.3 Housing Units Capable of Being Rehabilitated | 23 |
| Housing In Need of Rehabilitation | 23 |
| 3.4 Projection of Housing Stock..... | 23 |
| Housing Units Certified | 23 |
| Land Use Board Approvals | 24 |

| | |
|--|----|
| Land Available for New Construction and Redevelopment | 24 |
| Multigenerational Housing | 25 |
| 4. Fair Share Plan | 26 |
| 4.1 Plan Purpose and Goals | 26 |
| 4.2 Determination of Housing Need | 26 |
| Prior Round Obligation | 26 |
| Third Round Obligation | 27 |
| Fourth Round Obligation | 29 |
| 4.3 Lands Available for New Construction and Redevelopment | 30 |
| Build-Out Analysis and Vacant Land Adjustment | 30 |
| Lack of Water and Sewer | 31 |

APPENDICES

Appendix A- Resolutions

Appendix B - Ordinances

Appendix C - Spending Plan

Appendix D - Marketing Plan

Appendix E - Deed Restrictions

Appendix F- Highlands Build-Out Analysis

West Milford Housing Element and Fair Share Plan – Fourth Round 2025-2035

1. Introduction

1.1 Community Overview

The Township of West Milford is located in the northern section of Passaic County, New Jersey, and borders Morris County to its south, Sussex County to its west, and Orange County, New York to its north. Located on the fringe of the New York Metropolitan Area, adjacent municipalities to West Milford include Vernon Township and Hardyston Township to the west; Jefferson Township, Rockaway Township, Borough of Kinnelon, and the Borough of Butler to the south; Ringwood Borough and the Borough of Bloomingdale to the east; and the Town of Warwick in New York State to the north. West Milford is rich in history, has abundant natural resources, and continues to draw tourists and year-round residents, particularly in recent years following the COVID-19 health emergency. **Figure 1** illustrates West Milford's neighboring municipalities, highways, other roadways, surface water features, and its Highlands Preservation Area context (discussed below).

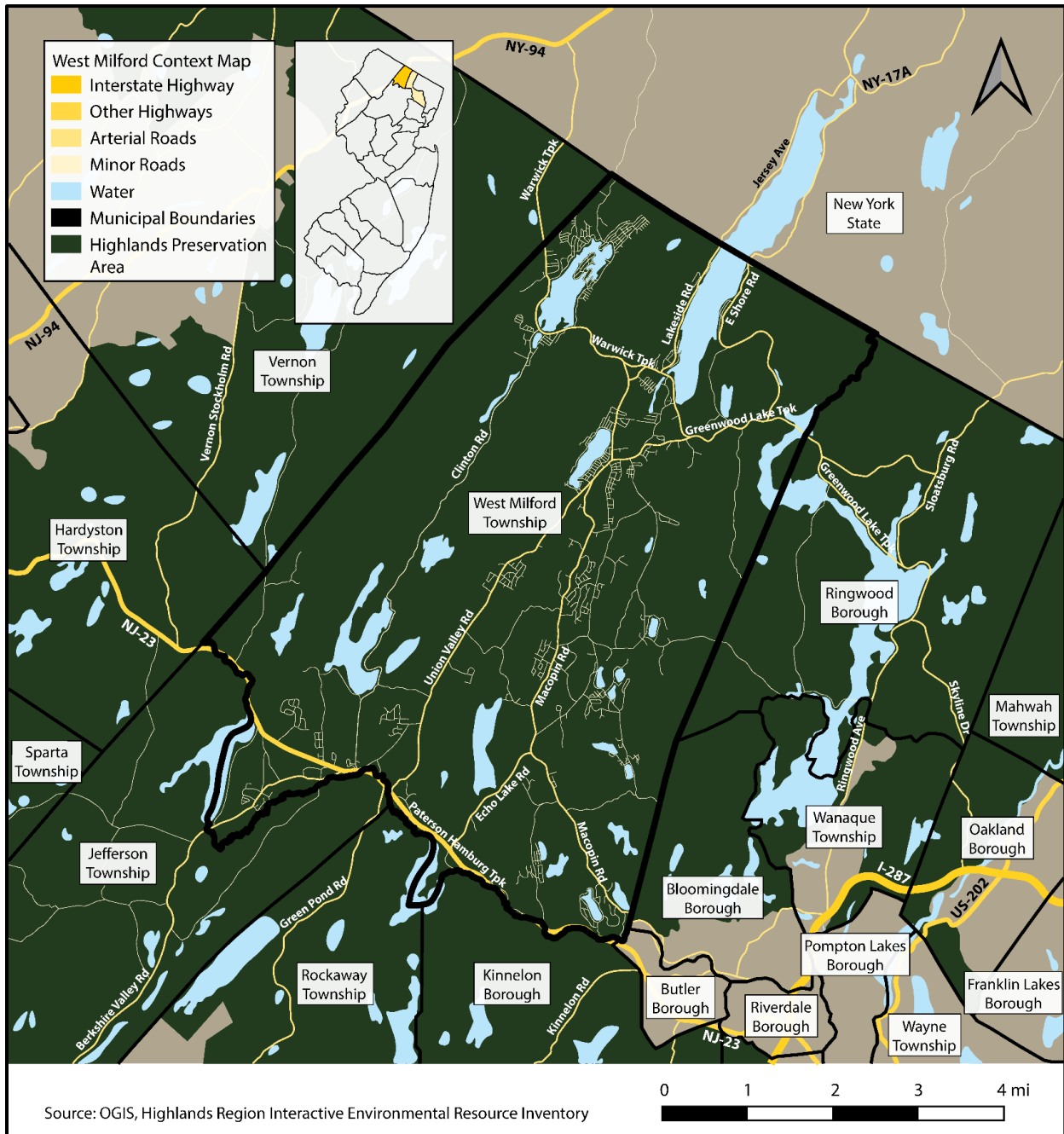
Encompassing just over 81 square miles, West Milford is known for its beautiful lakes, green spaces, and mountains. West Milford's 24,862 residents (2020 Census) and countless visitors enjoy the proximity to swimming, boating, and fishing on local lakes. The largest surface water features in the Township include Greenwood Lake, the Clinton Reservoir, Echo Lake, the Monksville Reservoir, Upper Greenwood Lake, and Pinecliff Lake. Hiking, biking, horseback riding, camping, and a variety of recreational activities can be found at local parks and open spaces including Abram S. Hewitt State Forest, Apschawa Preserve, Tranquility Ridge, the Emerald Forest Property, and parts of Wawayanda State Park and Norvin Green State Forest. Important inter-state regional trails include the famous Appalachian Trail and the Highlands Trail.

West Milford is situated entirely within the Highlands Preservation Area of the New Jersey Highlands Region. The Highlands Council approved West Milford's petition for Plan Conformance in February 2011. As a result, development within the Township is generally limited to existing infrastructure and redevelopment within existing developed areas. Existing development within the Township comprises several small-scale communities, or villages, such as Hewitt, Macopin, and the lake communities of Upper Greenwood Lake and Pinecliff Lake. Several schools serve these communities, including five elementary schools, a middle school, a high school, and an academy school. Some commuter transit to New York City is available using New Jersey Transit buses from the West Milford and Newfoundland park-and-ride lots on Greenwood Lake Turnpike and Old Route 23, respectively. Most residents use personal cars for transportation, accessing NJSH Route 23 along with several County roads to connect to the broader region.

A comprehensive Master Plan Update and Reexamination Report were recently completed in 2025. The 2025 Master Plan Reexamination Report recommended the development of this Housing Element and Fair Share Plan in response to recent updates to affordable housing regulations in the state in response to Round Four affordable housing obligations, which are slated to run from July 2025 to 2035. The 2025 Master Plan included a new Land Use Element, which proposed a new Land Use Plan and Land Use Districts alongside a Climate Change-Hazard Vulnerability Assessment. A Circulation Plan Element and Community Facilities Plan are also included. Before this year, West Milford adopted its last Master Plan in 1987, with Reexamination Reports taking place in 1993, 1999, 2003, 2010, and 2013. In addition, the Township has completed a 2023 Belcher's Creek Trail Feasibility Study, 2021 Sustainable Economic Development Plan, a 2021 Open Space and Recreation Plan, a 2017 Land Use Element, a 2014

Trails Master Plan, a 2012 Highlands Preservation Area Master Plan Element, a 2011 Highlands Environmental Resource Inventory, and a 2010 Housing Element and Fair Share Plan.

Figure 1. Context Map



1.2 Relationship to Other Plans

Municipal Master Plan

The 2025 West Milford Master Plan identified the following Housing goals and objectives:

Goal 4: To accommodate for future growth through innovative land use mechanisms and zoning techniques which acknowledge the Township's Highlands Preservation Area designation and environmentally-sensitive lands.

Objective 1. Encourage the creation of a variety of housing types through various mechanisms including, but not limited to, accessory dwelling units or mixed-use structures in commercial districts; and

Objective 2. Implement zoning ordinances which promote a balance between allowing desired land improvements on residential lots and the environmentally sensitive nature of the Township.

State Development and Redevelopment Plan (2001)

At the time of the preparation of this Housing Element and Fair Share Plan (HEFSP), the update to the New Jersey State Development and Redevelopment Plan (SDRP) is expected to be completed in late 2025. The last update to the SDRP was adopted in 2001. The State Development and Redevelopment Plan's Planning Areas don't apply to Highlands Preservation Area communities. Therefore, the State Plan is generally superseded by the Highlands Regional Master Plan in Highlands conforming municipalities. Nonetheless, the SDRP has goals for the state with respect to housing as follows:

Housing: Provide for a full range of housing choices primarily in Centers at appropriate densities to accommodate projected growth. Ensure that housing in general—and in particular affordable, senior citizen, special needs and family housing—is developed with access to a range of commercial, cultural, educational, recreational, health and transportation services and facilities. Focus multi-family and higher-density, single-family housing in Centers. Any housing in the Environs should be planned and located to maintain or enhance the cultural and scenic qualities and with minimum impacts on environmental resources.

County Comprehensive Plan

Passaic County has a variety of Master Plan specific documents which can be found under Plans and Technical Studies within their Planning & Economic Development Department webpage including the Transportation Element (2012), Corridor Enhancement Program (2005), Green Stormwater Infrastructure Element (2019), Highlands Element and Regional Master Plan (2011), Parks, Recreation and Open Space Master Plan (2014), and Sustainability Element (2013). This HEFSP is consistent with the following goals and objectives outlined in the 2011 Highlands Element of the Passaic County Master Plan, prepared by the Passaic County Planning Board:

1. To promote and coordinate with municipalities on the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment; and
2. To promote the provisions of sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both

public and private, according to their respective environmental requirements in order to meet the needs of all citizens.

Highlands Regional Master Plan

The Highlands Regional Master Plan was adopted in 2008 in response to the Highlands Water Policy and Planning Protection Act (N.J.S.A. 13:20-1 et seq.) of 2004. This RMP has been updated several times, in 2018, 2019, and 2024. The entirety of the Township is situated within the Preservation Area, where conformance with the RMP is mandatory. Following the Highlands Council approval for West Milford’s petition for Plan Conformance in February 2011, the Township prepared and adopted various Highlands Plan Conformance documents, including an updated Environmental Resource Inventory, a Highlands Regional Master Plan Element, an Open Space and Recreation Plan Element, and a Sustainable Economic Development Plan Element.

The Highlands Council adopted, “RMP Addendum 2024-3: Highlands Affordable Housing Guidelines” on July 18, 2024, which established standards for identifying locations for affordable housing and availability of land and resources in the region. This guidance was used as part of the preparation of this HEFSP. This HEFSP also supports the RMP’s Housing and Community Facilities Goal 60: “Market rate and affordable housing sufficient to meet the needs of the Highlands Region within the context of economic, social, and environmental considerations and constraints.”

Surrounding Municipalities’ Master Plans

Vernon Township, Sussex County

Vernon Township’s Master Plan was adopted by the Vernon Township Planning Board on December 27, 1995. They have since completed Master Plan Updates in 2016 and 2022. In addition, the Township adopted an Open Space & Recreation Plan, Farmland Preservation Plan, and Stormwater Management Plan in 2023. This HEFSP does not significantly impact Vernon’s Master Plan.

Hardyston Township, Sussex County

Hardyston Township’s Master Plan was adopted in October 2003. The Township has also amended the Land Use Element of the Master Plan in January 2016. This HEFSP does not significantly impact Hardyston’s Master Plan.

Jefferson Township, Morris County

Jefferson Township’s Master Plan was adopted in 1978 with the most recent Master Plan Update completed in 1991. The Township has also adopted Reexamination Reports in 1998, 2000, 2001, 2003, and 2023. In addition, the Township has also adopted an Open Space Recreation Plan in 2001, a Housing Element – Fair Share Plan in 2000 and 2006, a Highlands Environmental Resource Inventory in 2013, and a Highlands Preservation Area Master Plan Element in 2014. The Township also recently adopted a Sustainable Economic Development Plan in 2025. This HEFSP does not significantly impact Jefferson’s Master Plan.

Rockaway Township, Morris County

Rockaway Township’s Master Plan was adopted in 2006. The Township has made Master Plan Reexamination Reports in 2019 and 2020, which included a Housing Plan. They also adopted an Open Space Recreation Plan in 2013. This HEFSP does not significantly impact Rockaway Township’s Master Plan.

Kinnelon Borough, Morris County

Kinnelon Borough's Master Plan was adopted in 1954 (updated 1958-1960) and the Borough adopted its first Official Zoning Map in 1966 (first revised in 1996). The Borough has since completed Master Plan Reexamination Reports in 1988, 1994, 2000, 2015, and 2022. In addition, the Borough has adopted an updated Land Use Element and Land Use Plan (1978), a Recycling Plan Element, a Land Use Plan Map and Study (1990), Housing Element and Fair Share Plans (most recent in 2017), a Highlands Master Plan Element (2011), an Open Space and Recreation Plan (2012 – updated in 2022), and an Environmental Resource Inventory (1973-1974 and 2013). This HEFSP does not significantly impact Kinnelon's Master Plan.

Bloomingtondale Borough, Passaic County

Bloomingtondale Borough's Master Plan was adopted in 1996. The Borough has since adopted a Master Plan Amendment in 2015. This HEFSP does not significantly impact Bloomingtondale's Master Plan.

Ringwood Borough, Passaic County

Ringwood Borough's Master Plan was adopted in 1991. The Borough has completed Master Plan Reexamination Reports in 2012 and 2022. A Recycling Plan Element in 1992, a Land Use Element in 2007, a Conservation Plan in 2007, and a Housing Element in 2010 have also been adopted. This HEFSP does not significantly impact Ringwood's Master Plan.

Butler Borough, Morris County

Bloomingtondale Township's Master Plan was adopted in 1958 with Master Plan Updates completed in 1977, 1987, 1994, and most recently, in 2004. The Township has since adopted a Master Plan Reexamination Report in 2015. This HEFSP does not significantly impact Butler's Master Plan.

Town of Warwick, New York

The Town of Warwick's Master Plan was adopted in 1987 with Comprehensive Plan Updates completed in 2008 and most recently, in 2016. This HEFSP does not significantly impact Warwick's Master Plan.

1.3 History of Affordable Housing in West Milford Township

The New Jersey Supreme Court, in Mount Laurel I (1975) and Mount Laurel II (1983) required all New Jersey municipalities to take affirmative actions toward providing their "fair share" of the region's need for affordable housing for low- and moderate-income people. In response to the Mount Laurel II decision, the New Jersey Legislature adopted the Fair Housing Act (FHA) in 1985. This act created the Council on Affordable Housing (COAH) to assess the statewide need for affordable housing, allocate that need on a municipal fair share basis, and review and approve municipal housing plans aimed at implementing the local fair share obligation. Subsequently, the New Jersey Municipal Land Use Law (MLUL) was amended to require a housing element as a mandatory element of the municipal master plan. According to the MLUL, "a municipality's housing element shall be designed to achieve the goal of access to affordable housing to meet present and prospective housing needs, with particular attention to low- and moderate-income housing (52: 27D-310)."

COAH adopted its Third Round Rules in December 2004. On January 25, 2007, the Appellate Division issued a decision on an appeal of COAH's Third Round regulations. COAH was precluded from issuing Third Round Substantive Certifications until new rules for the Third Round

were revised and adopted. On October 8, 2010, the Appellate Division invalidated COAH's Rules in In re Adoption of N.J.A.C. 5:96 & 5:97 by the New Jersey Council on Affordable Housing, 416 N.J. Super. 462 (App. Div. 2010). The decision stated, among other things, that growth share methodology was invalid, and directed COAH to adopt rules utilizing methodologies similar to those used in the First and Second Round Rules. On September 26, 2013 the Supreme Court affirmed the Appellate Division's 2010 decision and remanded COAH to undertake new rulemaking based on COAH's prior round rules and methodologies. COAH failed to formally adopt amended Third Round Rules.

In a 2015 decision known as Mount Laurel IV, the New Jersey Supreme Court divested COAH of jurisdiction of affordable housing, resulting in the process being left to the trial court system. This ruling dissolved the substantive certification process, turning instead to a judicial determination wherein a municipality files for a declaratory judgment action to certify that their Housing Element and Fair Share Plan has satisfied their Third Round obligation. At the same time, the Court appointed "Mount Laurel" judges for each of the State's judicial vicinages.

In 2024, New Jersey Legislature passed into law amendments to the Fair Housing Act (N.J.S.A. 52:27D-304.1 et seq. via NJ A4/S50) ("Amended FHA" or "P.L. 2024, c.2") that abolished and replaced COAH with the Affordable Housing Dispute Resolution Program ("the Program"), and set forth new methodology for the calculations of a municipality's affordable housing obligations for the Fourth Round and beyond.

West Milford Township

West Milford is in Affordable Housing Region 1, which includes Sussex, Passaic, Bergen, and Hudson Counties.

Prior Round

West Milford received Substantive Certification from COAH on October 6, 1999 (Resolution Granting Substantive Certification No. 138-99), for its second round HEFSP, dated January 22, 1997. At that time, the Township's affordable housing obligation was 187 units, comprised of 98 units of new construction and 89 units in the rehabilitation program. However, significant revisions to COAH's rules and a shift away from both a "Town Center" approach and higher density residential because of the adoption of the Highlands Water and Protection and Planning Act in August 2004, all dramatically altered future development potential for West Milford. Three (3) "prior round" sites – Valley Ridge, Random Woods, and Stanford Village – designed to include both market and affordable housing included in the 1997 HEFSP and certified by COAH in anticipation of their eventual development did not go forward. COAH's recalculated prior round obligation for West Milford was 98 units including a mandatory rental obligation which equated to 25 units. The Township applied 73 credits for units and bedrooms and a rental bonus credit of 25 to provide the required obligation of 98 units. **Table 1** includes the specific mechanisms used by the Township to meet the 98-unit obligation including age-restricted units, family units, and several group homes.

Table 1. Summary of West Milford's Prior Round Obligation¹

| Units / Bedrooms / Credits Addressing Prior Round Obligation of 98 | | | | |
|---|--------------|------------|------------------------------|-----------------|
| Name | Block | Lot | # Units/ Bedrooms | Type |
| Lincoln Hill | 6401 | 6.02 | 13 | Age-restricted |
| Bald Eagle Manor | 5621 | 1, 2, 3 | 11 | Age-restricted |
| Bald Eagle Manor | 5301 | 21, 33 | 12 | Congregate care |
| 12 Meadow Trail* | 7521 | 8 | 1 | Family |
| 2 Kushaqua Trail** | 3008 | 1 | 1 | Family |
| Advo Serve | 2202 | 5.01 | ***20 | Group home |
| Wehrlen House | 9404 | 14 | ***5 | Group home |
| Center For Humanistic Change | 9101 | 45 | 3 | Group home |
| Puerto Rican Federation Services | 1611 | 20 | 3 | Group home |
| ALFA Development 22 Vine Street | 5604 | 1 | 3 | Group home |
| ALFA Development 240 Germantown Road | 13812 | 13 | 1 | Group home |
| Sub-total | | | 73 | |
| Rental bonus credits** | | | 25 | |
| Total | | | 98 | |

* Sold by Township to Salt & Light Co. Ord. 2002-17

** Sold by Township to Salt & Light Co. Ord. 2001-8

*** **Rental Bonus:** The prior round rental bonus cannot exceed the actual rental obligation which is 25 units/bedrooms. The maximum number of rental bonus credits is capped at 25.

Age-restricted units: The maximum number of age-restricted units eligible for credit in the prior round is capped in accordance with the formula set forth in N.J.A.C. 5:97-3.10, which calculates to **38 units**.

¹ Retrieved from Table 24 of the Housing Plan Element Fair Share Plan, prepared by the West Milford Planning Board, and dated May 27, 2010.

Third Round

West Milford originally had a Third Round affordable housing obligation of 47 units and a rehabilitation obligation of 66 units. As of the Housing Plan Element Fair Share Plan, dated May 27, 2010, 14 affordable units (including bedrooms in a group home) were in place and 20 residential dwellings had undergone major rehabilitation work to qualify for credit thus, the Township needed to address a balance of 33 units of new construction and 46 units in the rehabilitation program.

West Milford planned to utilize municipally-owned properties in cooperation with experienced and qualified non-profit entities to facilitate the construction of the remaining affordable housing obligation. To meet the 33-unit new construction obligation, the Township planned to complete the following: 1) Two (2) accessory apartments (2 credits); 2) Eight (8) single-family dwellings (8 credits); 3) Eight (8) duplex units (16 credits); and 4) Two (2) supportive and special needs residences with a combined total of seven (7) bedrooms (7 credits). To meet the 46-unit rehabilitation obligation, the Township planned to disseminate information about the Passaic County Department of Community Development program through the Township's website, mailing with property tax bills, and notices and/or new articles in location circulation newspapers.

However, West Milford's present need obligation was revised to 70 units, and the total prospective need obligation was revised to 343 units under the 2018 "Statewide and Municipal Obligations under Jacobson Opinion." Furthermore, the Township ultimately did not seek approval for a Household Element and Fair Share Plan from the Court for the Third Round.

Fourth Round

On March 20, 2024, Governor Murphy signed into law Bill A4/S50 (P.L. 2024, c.2), which set forth the rules and regulations governing the Fourth Round (2025-2035) of affordable housing obligations in New Jersey. This law abolished COAH and shifted implementation of the Fair Housing Act to the New Jersey Department of Community Affairs (DCA), creating the Affordable Housing Dispute Resolution Program (the Program).

On October 18, 2024, the DCA prepared and submitted a non-binding report ("DCA Report")² on the Fourth Round affordable housing fair share obligations for all municipalities within the State of New Jersey. The DCA determined that the Township's Fourth Round Present Need/Rehabilitation Obligation is 105 units and has a Prospective Need of 197 units. The FHA, as amended by P.L. 2024, c.2, ("Amended FHA") explicitly stated the DCA's numbers are non-binding.

On January 22, 2025, West Milford adopted Resolution 2025-084, adopting the Fourth Round affordable housing obligations. On January 24, 2025, the Township filed a Declaratory Judgment action with the Superior Court seeking approval of a Housing Element and Fair Share Plan proposed to be adopted by June 30, 2025 pursuant to the requirements of the Amended Fair Housing Act and Directive #14-24 issued by the Program.

² NJ DCA, Affordable Housing Obligations for 2025-2035 (Fourth Round): Methodology and Background, October 2024.

1.4 Purpose and Goals

The purpose of this Housing Element and Fair Share Plan is to provide a realistic opportunity to address the housing needs of West Milford residents across all income levels. This plan proposes multiple opportunities to develop a variety of housing types to meet these needs, which can be integrated into the existing land use pattern and character of the Township. This Plan has been prepared to meet the requirements of the Municipal Land Use Law (MLUL), Fair Housing Act (FHA), the New Jersey State Development and Redevelopment Plan (SDRP), and Bill A4/S50 (P.L. 2024, c.2).

The overriding policy of the Housing Plan Element of the Master Plan is to ensure the provision of a variety of housing opportunities sufficient to address the needs of the community and the region, including the need for affordable housing, while at the same time respecting the density limits of the Highlands Element Land Use Plan, the resource constraints applicable to the Highlands Area, and the numerous other policies, goals and objectives set forth by the Township Master Plan. The Housing Plan Element furthers the zoning purposes of the Municipal Land Use Law (MLUL) at NJSA 40:55D-2, specifically 2a, 2e, 2g and 2l, and fulfills the requirements of the New Jersey Fair Housing Act of 1985 (N.J.S.A. 52:27D-301 et seq.), which in keeping with the New Jersey Supreme Court doctrine, as expressed in the Mount Laurel decisions, recognizes that every municipality has a constitutional obligation to provide, through its land use regulations, a realistic opportunity for provision of a fair share of its region's present and prospective needs for housing for low- and moderate-income families.

1.5 Contents of the Plan

Municipal Land Use Law (N.J.S. § 52:27D-310) and the Fair Housing Act (P.L. 1985, c.222) require that the Housing Element and Fair Share Plan include the following:

- a. An inventory of the municipality's housing stock by age, condition, purchase or rental value, occupancy characteristics, and type, including the number of units affordable to low- and moderate-income households and substandard housing capable of being rehabilitated, and in conducting this inventory the municipality shall have access, on a confidential basis for the sole purpose of conducting the inventory, to all necessary property tax assessment records and information in the assessor's office, including but not limited to the property record cards;
- b. A projection of the municipality's housing stock, including the probable future construction of low- and moderate-income housing, for the next ten years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development and probable residential development of lands;
- c. An analysis of the municipality's demographic characteristics, including but not necessarily limited to, household size, income level, and age;
- d. An analysis of the existing and probable future employment characteristics of the municipality;
- e. A determination of the municipality's present and prospective fair share for low- and moderate-income housing and its capacity to accommodate its present and prospective housing needs, including its fair share for low- and moderate-income housing, as established pursuant to section 3 of P.L.2024, c.2 (C.52:27D-304.1);

- f. A consideration of the lands that are most appropriate for construction of low- and moderate-income housing and of the existing structures most appropriate for conversion to, or rehabilitation for, low- and moderate-income housing, including a consideration of lands of developers who have expressed a commitment to provide low- and moderate-income housing;
- g. 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, adopted pursuant to paragraph (1) of subsection f. of section 1 of P.L. 2021, c. 273 (C.52:27D-329.20);
- h. For a municipality located within the jurisdiction of the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L. 2004, c. 120 (C.13:20-4), an analysis of compliance of the housing element with the Highlands Regional Master Plan of lands in the Highlands Preservation Area, and lands in the Highlands Planning Area for Highlands-conforming municipalities. This analysis shall include consideration of the municipality's most recent Highlands Municipal Build Out Report, consideration of opportunities for redevelopment of existing developed lands into inclusionary or 100 percent affordable housing, or both, and opportunities for 100 percent affordable housing in both the Highlands Planning Area and Highlands Preservation Area that are consistent with the Highlands regional master plan; and
- i. An analysis of consistency with the State Development and Redevelopment Plan, including water, wastewater, stormwater, and multi-modal transportation based on guidance and technical assistance from the State Planning Commission.

2. Demographic Characteristics

2.1 Population

Population Change

In 1990, West Milford had a population of 25,430, with a 4% increase between 1990 and 2000, but decreases for each decade thereafter. By 2020, the Township had a population of 24,862, representing a total decrease of 568 residents since 1990. Compared to the growth rate of Passaic County and of New Jersey, West Milford saw much lower growth rates for all decade intervals. With a decrease of about 1,000 people between 2010 and 2020, the Township population is likely to continue to decrease or remain stable but will almost certainly not increase.

Table 2. Population Change, 1990 - 2020

| | 1990 | % Change | 2000 | % Change | 2010 | % Change | 2020 |
|----------------|-----------|----------|-----------|----------|-----------|----------|-----------|
| West Milford | 25,430 | 4% | 26,410 | -2% | 25,850 | -4% | 24,862 |
| Passaic County | 453,302 | 8% | 490,337 | 2% | 501,226 | 5% | 524,118 |
| New Jersey | 7,730,188 | 9% | 8,414,347 | 4% | 8,791,894 | 6% | 9,288,994 |

Sources:

U.S. Census Bureau. (2010). POPULATION AND HOUSING UNITS: 1990 TO 2010; AND AREA MEASUREMENTS AND DENSITY: 2010.

U.S. Census Bureau. (2020). PROFILE OF GENERAL POPULATION AND HOUSING CHARACTERISTICS. Decennial Census, Profile of General Population and Housing Characteristics, Table DP1.

Age

In 2020, West Milford's largest age cohort was 45 to 54 years (15.2%), followed by 35 to 44 years (11.2%) and 65 to 74 years (11.1%). As illustrated in **Figure 2**, the Township is seeing significant increases in its older populations and decreases in its younger populations.

Table 3. Age, 2000 - 2020

| Age | 2000 | % | 2010 | % | 2020 | % |
|-------------------|--------|-------|--------|-------|--------|-------|
| Total Population | 26,410 | | 25,754 | | 24,862 | |
| Under 5 years | 1,773 | 6.7% | 1,416 | 5.5% | 1,061 | 4.3% |
| 5 to 9 years | 2,207 | 8.4% | 1,800 | 7.0% | 1,111 | 4.5% |
| 10 to 14 years | 2,004 | 7.6% | 1,715 | 6.7% | 1,403 | 5.6% |
| 15 to 19 years | 1,659 | 6.3% | 1,760 | 6.8% | 1,489 | 6.0% |
| 20 to 24 years | 1,110 | 4.2% | 1,429 | 5.5% | 1,288 | 5.2% |
| 25 to 34 years | 3,358 | 12.7% | 2,468 | 9.6% | 2,707 | 10.9% |
| 35 to 44 years | 5,532 | 20.9% | 4,370 | 17.0% | 2,778 | 11.2% |
| 45 to 54 years | 4,173 | 15.8% | 4,913 | 19.1% | 3,777 | 15.2% |
| 55 to 59 years | 1,592 | 6.0% | 1,736 | 6.7% | 2,361 | 9.5% |
| 60 to 64 years | 766 | 2.9% | 1,539 | 6.0% | 2,311 | 9.3% |
| 65 to 74 years | 1,316 | 5.0% | 1,451 | 5.6% | 2,765 | 11.1% |
| 75 to 84 years | 703 | 2.7% | 751 | 2.9% | 1,320 | 5.3% |
| 85 years and over | 217 | 0.8% | 406 | 1.6% | 491 | 2.0% |

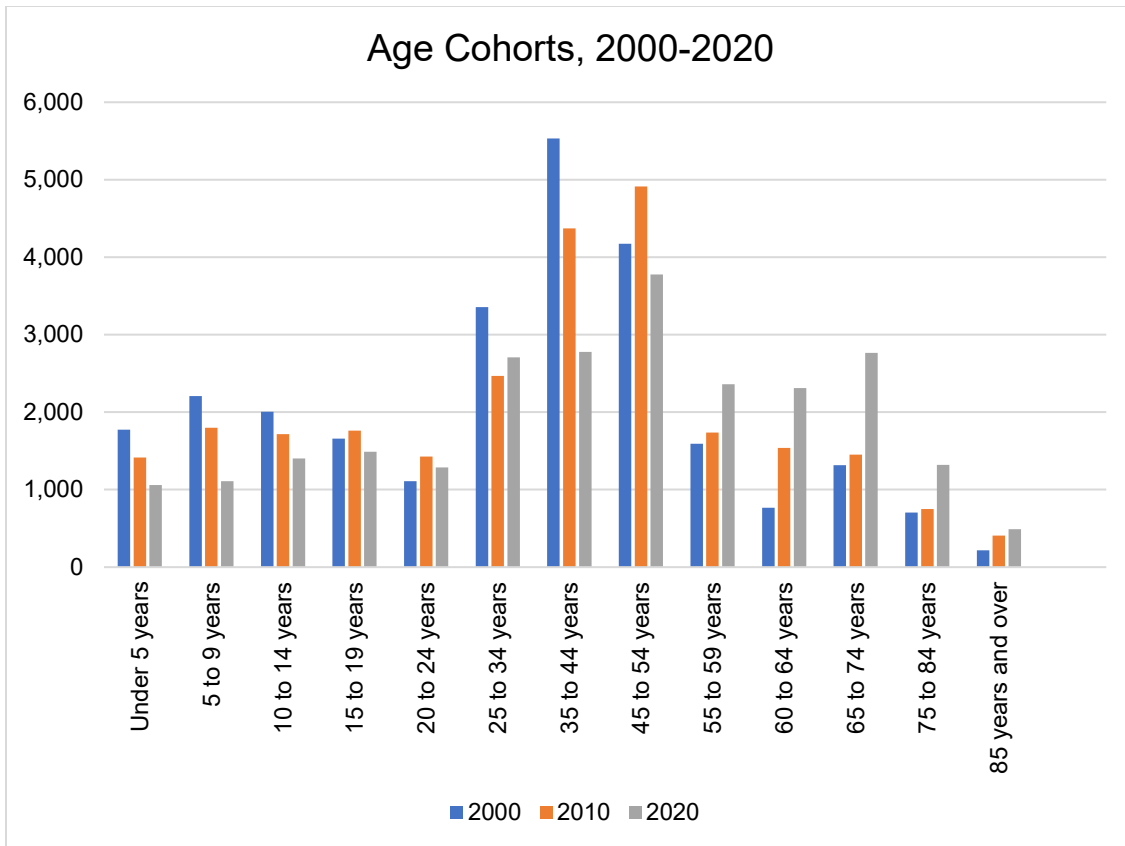
Sources:

2000: United States Census Bureau, 2000 Decennial Census, DP1, "Profile of General Demographic Characteristics."

2010: United States Census Bureau, 2010 American Community Survey, DEMOGRAPHIC AND HOUSING ESTIMATES, 5-year Estimates Data Profile, DP05.

2020: United States Census Bureau, 2020 Decennial Census, DP1, "Profile of General Demographic Characteristics."

Figure 2. Age Cohorts, 2000-2020



Sources:
 U.S. Census Bureau. (2000). PROFILE OF GENERAL POPULATION AND HOUSING CHARACTERISTICS. *Decennial Census, DEC Demographic Profile, Table DP1.*
 U.S. Census Bureau. (2010). DEMOGRAPHIC AND HOUSING ESTIMATES. *American Community Survey, ACS 5-Year Estimates Data Profile, DP05.*
 U.S. Census Bureau. (2020). PROFILE OF GENERAL POPULATION AND HOUSING CHARACTERISTICS. *Decennial Census, DEC Demographic Profile, Table DP1.*

Household Size and Type

Between 2000 and 2020, the U.S. Decennial Census reported an increase in occupied housing units, where 9,190 units were reported in 2000 and 9,638 in 2020. One-person and two-person households increased between each decade, whereas three-person and four-or-more-person households decreased between each decade. Two-person households comprise most of the Township’s households, accounting for over a third of the 2020 household stock. Four-or-more-person households decreased substantially each decade, and one-person households are becoming more common. Given the age cohort demographics above, this may indicate that West Milford is comprised of older couples and widowed individuals who are well-established in the community. Across the County and State, there has been a gradual increase in the number of occupied housing units from 2000 to 2020, where one-person households also saw the largest growth.

Table 4. Household Size, 2000-2020

| Household Size | 2000 | % | 2010 | % | 2020 | % |
|-----------------------------------|------------------|-------|------------------|-------|------------------|-------|
| Total households (West Milford) | 9,190 | | 9,625 | | 9,638 | |
| 1-person household | 1,532 | 16.7% | 2,090 | 21.7% | 2,268 | 23.5% |
| 2-person household | 2,936 | 31.9% | 3,097 | 32.2% | 3,301 | 34.2% |
| 3-person household | 1,827 | 19.9% | 1,801 | 18.7% | 1,761 | 18.3% |
| 4-or-more-person household | 2,895 | 31.5% | 2,637 | 27.4% | 2,308 | 23.9% |
| Total households (Passaic County) | 163,856 | | 166,785 | | 177,075 | |
| 1-person household | 36,287 | 22.1% | 37,706 | 22.6% | 40,719 | 23.0% |
| 2-person household | 44,744 | 27.3% | 44,433 | 26.6% | 47,081 | 26.6% |
| 3-person household | 29,034 | 17.7% | 29,357 | 17.6% | 31,761 | 17.9% |
| 4-or-more-person household | 53,791 | 32.8% | 55,289 | 33.1% | 57,514 | 32.5% |
| Total households (State) | 3,064,645 | | 3,214,360 | | 3,426,102 | |
| 1-person household | 751,353 | 24.5% | 811,221 | 25.2% | 876,661 | 25.6% |
| 2-person household | 927,354 | 30.3% | 957,682 | 29.8% | 1,026,368 | 30.0% |
| 3-person household | 531,987 | 17.4% | 558,029 | 17.4% | 592,617 | 17.3% |
| 4-or-more-person household | 853,951 | 27.9% | 887,428 | 27.6% | 930,456 | 27.2% |

Sources:

U.S. Census Bureau. (2000). HOUSEHOLD SIZE. *Decennial Census, DEC Summary File 1, Table H016.*U.S. Census Bureau. (2010). HOUSEHOLD SIZE. *Decennial Census, DEC Summary File 1, Table H13.*U.S. Census Bureau. (2020). HOUSEHOLD SIZE. *Decennial Census, Demographic and Housing Characteristics, Table H9.***Table 5. Occupants per Room, 2000-2020**

| Occupied housing units | 2000 | % | 2010 | % | 2020 | % |
|---------------------------------|-------|-------|-------|-------|--------|-------|
| Total units | 9,190 | | 8,870 | | 10,019 | |
| 1.00 occupant or less per room | 9,035 | 98.3% | 8,774 | 98.9% | 9,941 | 99.2% |
| 1.01 to 1.50 occupants per room | 127 | 1.4% | 96 | 1.1% | 78 | 0.8% |
| 1.51 or more occupants per room | 28 | 0.3% | 0 | 0.0% | 0 | 0.0% |

Sources:

U.S. Census Bureau. (2000). PROFILE OF SELECTED HOUSING CHARACTERISTICS. *Decennial Census, DEC Summary File 4, Table DP4.*U.S. Census Bureau. (2010). TENURE BY OCCUPANTS PER ROOM. *ACS 5-Year Estimates Subject Tables, Table B25014.*U.S. Census Bureau. (2020). OCCUPANCY CHARACTERISTICS. *ACS 5-Year Estimates Subject Tables, Table S2501.*

Table 6. Household Type by Relationship, 2020

| Household Type by Relationship | Count | % |
|---------------------------------|--------|-------|
| Total population | 24,862 | |
| In households | 24,526 | 98.6% |
| Householder | 9,638 | 38.8% |
| Male | 1,583 | 16.4% |
| Female | 1,979 | 20.5% |
| Opposite-sex spouse | 5,453 | 21.9% |
| Same-sex spouse | 38 | 0.2% |
| Opposite-sex unmarried partner | 577 | 2.3% |
| Same-sex unmarried partner | 25 | 0.1% |
| In group quarters | 336 | 1.4% |
| Institutionalized population | 204 | 0.8% |
| Noninstitutionalized population | 132 | 0.5% |

Source:

U.S. Census Bureau. (2020). PROFILE OF GENERAL POPULATION AND HOUSING CHARACTERISTICS. *Decennial Census, DEC Demographic and Housing Characteristics, Table DP1.*

Income

The median household income in West Milford in 2020 was \$103,425, with most households (52.9%) earning more than \$100,000. The Township's household income was significantly higher year-over-year than the County and State.

Table 7. Income in the Past 12 Months, 2000 - 2020

| Household Income | Percent of Households | | |
|---|-----------------------|-----------------|------------------|
| | 1999 | 2010 | 2020 |
| Total Households | 9,235 | 8,870 | 10,019 |
| Less than \$10,000 | 2.2% | 1.8% | 2.9% |
| \$10,000 to \$14,999 | 2.9% | 1.9% | 1.1% |
| \$15,000 to \$24,999 | 5.1% | 4.6% | 5.6% |
| \$25,000 to \$34,999 | 6.2% | 5.2% | 4.3% |
| \$35,000 to \$49,999 | 12.1% | 8.3% | 4.9% |
| \$50,000 to \$74,999 | 22.2% | 16.9% | 15.9% |
| \$75,000 to \$99,000 | 20.4% | 17.8% | 12.3% |
| \$100,000 to \$149,999 | 21.8% | 23.8% | 23.7% |
| \$150,000 to \$199,999 | 4.6% | 12.7% | 13.7% |
| \$200,000 or more | 2.5% | 6.9% | 15.5% |
| Median household income (West Milford) | \$74,124 | \$88,692 | \$103,425 |
| Median household income (Passaic County) | \$49,210 | \$53,993 | \$73,562 |
| Median household income (State) | \$55,146 | \$67,681 | \$85,245 |

Sources:

U.S. Census Bureau. (2000). PROFILE OF SELECTED ECONOMIC CHARACTERISTICS: 2000. *Decennial Census, DEC Summary File 4 Demographic Profile, Table DP3.*U.S. Census Bureau. (2010). INCOME IN THE PAST 12 MONTHS (IN 2010 INFLATION-ADJUSTED DOLLARS). *American Community Survey, ACS 5-Year Estimates Subject Tables, Table S1901.*U.S. Census Bureau. (2020). INCOME IN THE PAST 12 MONTHS (IN 2020 INFLATION-ADJUSTED DOLLARS). *American Community Survey, ACS 5-Year Estimates Subject Tables, Table S1901.*

2.2 Employment Characteristics

Workforce

In 2020, the ACS reported that West Milford has a population aged 16 and older of 21,421. Of this number, 14,721 were in the labor force,³ with 987 individuals reported as unemployed, resulting in an unemployment rate of 6.7%. West Milford's unemployment rate is greater than that of the County (6.3%) and State (5.8%).

Table 8. Employment Status, 2020

| Employment Status | Estimate | % |
|---|----------|-------|
| Population 16 years and older | 21,421 | |
| In labor force | 14,721 | 68.7% |
| Civilian labor force | 14,721 | 68.7% |
| Employed | 13,734 | 64.1% |
| Unemployed | 987 | 4.6% |
| Armed Forces | 0 | 0% |
| Not in labor force | 6,700 | 31.3% |
| Unemployment rate (West Milford) | | |
| | | 4.6% |
| Unemployment rate (Passaic County) | | |
| | | 6.3% |
| Unemployment rate (State) | | |
| | | 5.8% |

Source:

U.S. Census Bureau. (2020). SELECTED ECONOMIC CHARACTERISTICS. *American Community Survey, ACS 5-Year Estimates Data Profiles, Table DP03.*

³ According to the United States Census Bureau Glossary, "The labor force includes all people classified in the civilian labor force, plus members of the U.S. Armed Forces (people on active duty with the United States Army, Air Force, Navy, Marine Corps, or Coast Guard). The civilian labor force consists of people classified as employed or unemployed.

Commuting Characteristics

According to the 2020 ACS, most of the Township's employed population worked within New Jersey (91.6%). However, only 40.2% worked within Passaic County. As a Township that borders New York State and Sussex and Morris Counties in New Jersey, most of the Township's employed population works in these other regions.

When commuting to work, the vast majority (84.2%) of workers took a car, truck, or van, and most of those who did drove alone. This trend is similar to that of Passaic County (82.0%), but not the State, which saw 77.4% of workers commute via car, truck, or van. The mean travel time for all West Milford workers in 2020 was 39.7 minutes, which is significantly greater than that of both the County (28 minutes) and State (32 minutes).

Table 9. Commuting Characteristics, 2020

| Commuting Characteristics | West Milford | Passaic County | New Jersey |
|---|--------------|----------------|------------|
| Workers 16 years and over | 13,464 | 239,308 | 4,332,443 |
| Did not work from home | 12,010 | 227,103 | 4,016,175 |
| Means of transportation to work | | | |
| Car, truck, or van | 84.2% | 82.0% | 77.4% |
| Drove alone | 77.9% | 70.9% | 69.6% |
| Carpooled | 6.3% | 11.2% | 7.8% |
| Public transportation (excluding taxicab) | 2.3% | 7.8% | 10.8% |
| Walked | 2.2% | 3.8% | 2.6% |
| Bicycle | 0.0% | 0.2% | 0.3% |
| Taxicab, motorcycle, or other means | 0.4% | 1.0% | 1.6% |
| Place of work | | | |
| Worked in state of residence | 91.6% | 92.3% | 86.4% |
| Worked in county of residence | 40.2% | 46.5% | 54.6% |
| Worked outside county of residence | 51.3% | 45.8% | 31.7% |
| Worked outside state of residence | 8.4% | 7.7% | 13.6% |
| Travel time to work | | | |
| Less than 10 minutes | 8.8% | 9.4% | 9.6% |
| 10 to 14 minutes | 4.7% | 13.8% | 11.3% |
| 15 to 19 minutes | 5.6% | 13.2% | 12.5% |
| 20 to 24 minutes | 7.2% | 14.7% | 12.7% |
| 25 to 29 minutes | 5.7% | 8.5% | 6.4% |
| 30 to 34 minutes | 14.6% | 13.7% | 13.4% |
| 35 to 44 minutes | 13.8% | 8.4% | 8.0% |
| 45 to 59 minutes | 18.4% | 7.9% | 10.2% |
| 60 or more minutes | 21.2% | 10.3% | 15.8% |
| Mean Travel time to work (minutes) | 39.7 | 28.0 | 32.0 |

Source:

U.S. Census Bureau. (2020). COMMUTING CHARACTERISTICS BY SEX. *American Community Survey, ACS 5-Year Estimates Subject Tables, Table S0801.*

Employment by Industry

Of the Township's 13,734 employed population aged 16 years and over in 2020, most (22.3%) worked within educational services, and health care and social assistance followed by professional, scientific, management, administrative and waste management services (11.9%); retail trade (11.8%); and finance and insurance, and real estate, and rental and leasing (10.2%).

West Milford mirrors the State's four (4) largest industries, wherein most residents (24.1%) worked within educational services, and health care and social assistance followed by professional, scientific, management, administrative and waste management services (13.7%); retail trade (10.7%); and finance and insurance, and real estate, and rental and leasing (8.5%).

Table 10. Industries of Employment, 2020

| Industry | Estimate | % |
|--|-----------------|----------|
| Civilian employed population 16 years and over | 13,734 | 100% |
| Educational services, and health care and social assistance | 3,064 | 22.3% |
| Professional, scientific, and management, and administrative and waste management services | 1,631 | 11.9% |
| Retail trade | 1,623 | 11.8% |
| Finance and insurance, and real estate and rental and leasing | 1,400 | 10.2% |
| Manufacturing | 1,323 | 9.6% |
| Construction | 1,065 | 7.8% |
| Arts, entertainment, and recreation, and accommodation and food services | 840 | 6.1% |
| Transportation and warehousing, and utilities | 828 | 6.0% |
| Other services, except public administration | 630 | 4.6% |
| Wholesale trade | 574 | 4.2% |
| Public administration | 535 | 3.9% |
| Information | 221 | 1.6% |
| Agriculture, forestry, fishing and hunting, and mining | 0 | 0.0% |

Source:

U.S. Census Bureau. (2020). SELECTED ECONOMIC CHARACTERISTICS. *American Community Survey, ACS 5-Year Estimates Data Profiles, Table DP03.*

3. Housing Characteristics

3.1 Inventory of housing stock

Housing Occupancy and Tenure

In 2020, the Decennial Census reported a total of 10,570 housing units. Of this number, 9,638 were occupied. More specifically, 8,470 of the units were owner-occupied, with the remaining 1,168 units being renter-occupied. West Milford's homeowner vacancy rate was 1.8% and the rental vacancy rate was 7.1%. However, Passaic County and New Jersey differ from West Milford in that they have smaller homeowner and rental vacancy rates.

Table 11. Housing Occupancy and Tenure, 2020

| Housing Occupancy and Tenure | West Milford | Passaic County | New Jersey |
|-------------------------------------|---------------------|-----------------------|-------------------|
| Total housing units | 10,570 | 185,367 | 3,761,229 |
| Occupied housing units | 9,638 | 177,075 | 3,426,102 |
| Owner-occupied | 8,470 | 90,297 | 2,098,500 |
| Renter-occupied | 1,168 | 86,778 | 1,327,602 |
| Vacant housing units | 932 | 8,292 | 335,127 |
| Homeowner vacancy rate | 1.8% | 1.1% | 1.5% |
| Rental vacancy rate | 7.1% | 3.5% | 5.7% |

Source:

U.S. Census Bureau. (2020). PROFILE OF GENERAL POPULATION AND HOUSING CHARACTERISTICS. *Decennial Census, DEC Demographic Profile, Table DP1.*

Vacancy Status

Of the 932 vacant housing units reported in the 2020 Decennial Census, most were categorized as for seasonal, recreational, or occasional use, followed by "other vacant." The other category includes a variety of situations,⁴ as follows:

1. The owner does not want to rent or sell;
2. The owner is elderly and living in a nursing home or with family members;
3. The unit is being held for the settlement of an estate;
4. The unit is being renovated; or
5. The unit is being foreclosed.

⁴ Kresin, M. "Other" Vacant Housing Units: An Analysis from the Current Population Survey/Housing Vacancy Survey." U.S. Census Bureau, Social, Economic, and Housing Statistics Division. Retrieved from <https://www.census.gov/housing/hvs/files/qtr113/PAA-poster.pdf>.

There were 160 properties actively for sale and 108 properties for rent and considered vacant in 2020 in West Milford.

Table 12. Vacancy Housing Unit Type, 2020

| Vacancy Status | Count |
|---|-------|
| Total vacant units | 932 |
| For rent | 90 |
| Rented, not occupied | 18 |
| For sale only | 160 |
| Sold, not occupied | 41 |
| For seasonal, recreational, or occasional use | 375 |
| Other vacant | 248 |

Source:

U.S. Census Bureau. (2020). PROFILE OF GENERAL POPULATION AND HOUSING CHARACTERISTICS. *Decennial Census, DEC Demographic Profile, Table DP1.*

Units In Structure

West Milford is primarily single-family detached housing units; these structures comprise 84.2% of the Township's housing stock. The next largest groups were 20-or-more-unit structures (7.8%) and single-family attached housing units (5.2%).

Table 13. Units In Structure, 2020

| Units In Structure | Estimate | % |
|---------------------|----------|-------|
| Total housing units | 11,030 | |
| 1-unit, detached | 9,286 | 84.2% |
| 1-unit, attached | 579 | 5.2% |
| 2-units | 106 | 1.0% |
| 3 or 4 units | 23 | 0.2% |
| 5 to 9 units | 172 | 1.6% |
| 10 to 19 units | 0 | 0.0% |
| 20 or more | 864 | 7.8% |
| Mobile home | 0 | 0.0% |
| Boat, RV, van, etc. | 0 | 0.0% |

Source:

U.S. Census Bureau. (2020). UNITS IN STRUCTURE. *American Community Survey, ACS 5-Year Estimates Data Profiles, Table B25024.*

Year Structure Built

The 2020 ACS reported that structures built between 1960 and 1969 saw the largest number of housing units built (1,907 units, or 17.3% of the total housing stock) than any other period in West Milford. This was followed by 1,783 units, or 16.2% of the total housing stock, built between 1950 and 1959. Many housing units have also been built after 1970, but few after 2000.

Table 14. *Age/Year Structure Built*

| Year Structure Built | Estimate | % |
|-----------------------------|-----------------|----------|
| Total | 11,030 | |
| Built 2014 or later | 0 | 0.0% |
| Built 2010 to 2013 | 28 | 0.3% |
| Built 2000 to 2009 | 1,003 | 9.1% |
| Built 1990 to 1999 | 1,006 | 9.1% |
| Built 1980 to 1989 | 1,773 | 16.1% |
| Built 1970 to 1979 | 1,560 | 14.1% |
| Built 1960 to 1969 | 1,907 | 17.3% |
| Built 1950 to 1959 | 1,783 | 16.2% |
| Built 1940 to 1949 | 905 | 8.2% |
| Built 1939 or earlier | 1,065 | 9.7% |

Source:

U.S. Census Bureau. (2020). SELECTED HOUSING CHARACTERISTICS. *American Community Survey, ACS 5-Year Estimates Data Profiles, Table DP04.*

3.2 Costs and Value

There are numerous methods by which to view the value of West Milford's housing stock. The ACS provided counts for the following items: Selected Monthly Owner Costs (SMOC), the values of owner-occupied and renter-occupied units, and mortgage characteristics.

Selected Monthly Owner Costs

SMOC is a figure that consists of all costs associated with homeownership.⁵ In 2020, the ACS reported that the median SMOC for housing units with a mortgage in the Township was \$2,375. For those units without a mortgage, the median SMOC was \$1,141. Most (30.4%) owners of housing units with a mortgage had an SMOC of \$2,000 to \$2,499, and most (63.6%) owners of units without mortgages had ownership-related expenses of more than \$1,000 per month. These selected monthly owner costs were similar to that of both the County and State.

Table 15. Selected Monthly Owner Costs (SMOC), 2020

| SMOC | West Milford | % | Passaic County | % | New Jersey | % |
|----------------------------------|--------------|-------|----------------|-------|------------|-------|
| Housing units with a mortgage | 6,150 | | 58,259 | | 1,382,654 | |
| Less than \$500 | 0 | 0.0% | 6 | 0.0% | 2,772 | 0.2% |
| \$500 to \$999 | 51 | 0.8% | 624 | 1.1% | 34,504 | 2.5% |
| \$1,000 to \$1,499 | 515 | 8.4% | 2,704 | 4.6% | 138,116 | 10.0% |
| \$1,500 to \$1,999 | 1,106 | 18.0% | 8,622 | 14.8% | 253,824 | 18.4% |
| \$2,000 to \$2,499 | 1,872 | 30.4% | 13,538 | 23.2% | 275,392 | 19.9% |
| \$2,500 to \$2,999 | 1,530 | 24.9% | 13,695 | 23.5% | 231,946 | 16.8% |
| \$3,000 or more | 1,076 | 17.5% | 19,070 | 32.7% | 446,100 | 32.3% |
| Median | \$2,375 | | \$2,633 | | \$2,476 | |
| Housing units without a mortgage | 2,934 | | 30,040 | | 711,773 | |
| Less than \$250 | 25 | 0.9% | 517 | 1.7% | 14,747 | 2.1% |
| \$250 to \$399 | 36 | 1.2% | 372 | 1.2% | 18,836 | 2.6% |
| \$400 to \$599 | 272 | 9.3% | 895 | 3.0% | 48,655 | 6.8% |
| \$600 to \$799 | 239 | 8.1% | 1,752 | 5.8% | 96,262 | 13.5% |
| \$800 to \$999 | 497 | 16.9% | 4,249 | 14.1% | 136,283 | 19.1% |
| \$1,000 or more | 1,865 | 63.6% | 22,255 | 74.1% | 396,990 | 55.8% |
| Median | \$1,141 | | \$1,227 | | \$1,062 | |

Source:

U.S. Census Bureau. (2020). SELECTED HOUSING CHARACTERISTICS. *American Community Survey, ACS 5-Year Estimates Data Profiles, Table DP04.*

⁵ According to the United States Census Bureau Glossary, "Selected monthly owner costs are calculated from the sum of payment for mortgages, real estate taxes, various insurances, utilities, fuels, mobile home costs, and condominium fees. Listing the items separately improves accuracy and provides additional detail."

Value

The ACS reported a median value of owner-occupied housing units as \$298,400 in 2020. Many (41.4%) of the owner-occupied units in the Township had a value of between \$300,000 and \$499,999. The ACS also reported a median value of renter-occupied housing units as \$1,743 in 2020.

Table 16. Value of Occupied Units, 2020

| Value of Occupied Units | Estimate | % |
|----------------------------|-----------|-------|
| Owner-occupied units | 9,084 | |
| Less than \$50,000 | 252 | 2.8% |
| \$50,000 to \$99,000 | 103 | 1.1% |
| \$100,000 to \$149,999 | 497 | 5.5% |
| \$150,000 to \$199,999 | 705 | 7.8% |
| \$200,00 to \$299,999 | 3,043 | 33.5% |
| \$300,000 to \$499,999 | 3,763 | 41.4% |
| \$500,000 to \$999,999 | 612 | 6.7% |
| \$1,000,000 or more | 109 | 1.2% |
| Median | \$298,400 | |
| Occupied Units Paying Rent | 740 | |
| Less than \$500 | 0 | 0.0% |
| \$500 to \$999 | 195 | 26.4% |
| \$1,000 to \$1,499 | 102 | 13.8% |
| \$1,500 to \$1,999 | 150 | 20.3% |
| \$2,000 to \$2,499 | 239 | 32.3% |
| \$2,500 to \$2,999 | 38 | 5.1% |
| \$3,000 or more | 16 | 2.2% |
| Median | \$1,743 | |
| No rent paid | 195 | - |

Source:

U.S. Census Bureau. (2020). SELECTED HOUSING CHARACTERISTICS. *American Community Survey, ACS 5-Year Estimates Data Profiles, Table DP04.*

Rent vs. Household Income

Table 17. Gross Rent as a Percentage of Household Income (GRAPI), 2020

| Value of Occupied Units | Estimate | % |
|----------------------------|----------|-------|
| Occupied Units Paying Rent | 713 | |
| Less than 15.0 percent | 60 | 8.4% |
| 15.0 to 19.9 percent | 38 | 5.3% |
| 20.0 to 24.9 percent | 93 | 13.0% |
| 25.0 to 29.9 percent | 109 | 15.3% |
| 30.0 to 34.9 percent | 99 | 13.9% |
| 35.0 percent or more | 314 | 44.0% |
| Not computed | 222 | - |

Source:

U.S. Census Bureau. (2020). SELECTED HOUSING CHARACTERISTICS. *American Community Survey, ACS 5-Year Estimates Data Profiles, Table DP04.*

3.3 Housing Units Capable of Being Rehabilitated

Housing In Need of Rehabilitation

The ACS estimated that in 2020, there were 48 occupied housing facilities with no telephone service, 16 that lacked complete plumbing facilities, and 16 that lacked complete kitchen facilities in West Milford. Compared to the Township, the County and State had higher rates of occupied housing units that lacked these characteristics.

Table 18. Housing In Need of Rehabilitation, 2020

| Facilities | West Milford | % | Passaic County | % | New Jersey | % |
|--------------------------------------|--------------|------|----------------|------|------------|------|
| Occupied housing units | 10,019 | | 168,681 | | 3,272,054 | |
| Lacking complete plumbing facilities | 16 | 0.2% | 539 | 0.3% | 9,296 | 0.3% |
| Lacking complete kitchen facilities | 16 | 0.2% | 1,359 | 0.8% | 25,281 | 0.8% |
| No telephone service available | 48 | 0.5% | 4,536 | 2.7% | 43,331 | 1.3% |

SOURCE:

UNITED STATES CENSUS BUREAU, 2020 AMERICAN COMMUNITY SURVEY, 5-YEAR ESTIMATES. DATA PROFILES, TABLE DP04.

3.4 Projection of Housing Stock

Housing Units Certified

Since 2004, there have been 393 housing units that have received certificates of occupancy, according to the New Jersey Department of Community Affairs (DCA) Construction Reporter. Of these certifications, 284 were issued for 1- and 2-family homes and 105 for multi-unit structures. The Township lacks mixed-use housing developments.

Table 19. Housing Units Certified, 2004 - 2024

| | 1&2 Family | Multi | Mixed-use | Total |
|---------------------------|------------|------------|-----------|------------|
| 2004 | 30 | 104 | 0 | 134 |
| 2005 | 38 | 0 | 0 | 38 |
| 2006 | 19 | 1 | 1 | 21 |
| 2007 | 26 | 0 | 2 | 28 |
| 2008 | 22 | 0 | 1 | 23 |
| 2009 | 15 | 0 | 0 | 15 |
| 2010 | 9 | 0 | 0 | 9 |
| 2011 | 13 | 0 | 0 | 13 |
| 2012 | 8 | 0 | 0 | 8 |
| 2013 | 13 | 0 | 0 | 13 |
| 2014 | 8 | 0 | 0 | 8 |
| 2015 | 7 | 0 | 0 | 7 |
| 2016 | 8 | 0 | 0 | 8 |
| 2017 | 5 | 0 | 0 | 5 |
| 2018 | 10 | 0 | 0 | 10 |
| 2019 | 9 | 0 | 0 | 9 |
| 2020 | 7 | 0 | 0 | 7 |
| 2021 | 12 | 0 | 0 | 12 |
| 2022 | 11 | 0 | 0 | 11 |
| 2023 | 8 | 0 | 0 | 8 |
| Sept 2024 YTD | 6 | 0 | 0 | 6 |
| West Milford Total | 284 | 105 | 4 | 393 |

Table 19. Housing Units Certified, 2004 - 2024

| | 1&2 Family | Multi | Mixed-use | Total |
|-----------------------------|-----------------------|--------------|------------------|--------------|
| Passaic County Total | 2,984 | 5,139 | 31 | 8,154 |
| New Jersey Total | 196,108 | 161,185 | 3,341 | 360,634 |

SOURCE:

NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS, HOUSING UNITS CERTIFIED, 2000 - 2024

Land Use Board Approvals

There have been a modest number of residential applications for development in the Township of West Milford over the last five years. The majority of applications are minor in nature and apply to existing single family residential homes. This coincides with approved certificates of occupancy, with about 50 residential certificates of occupancy issued over the last five (5) years. Due to Highlands regulatory restrictions in the Township, it is unlikely that development applications or construction will increase significantly over the Fourth Round period, which runs from July 2025 to July 2035.

Land Available for New Construction and Redevelopment

The Township of West Milford has nine (9) residential zone districts that range in lot area and intensity of development but focus primarily on single-family development. The general lack of public water and sewer within the municipality limit the ability to develop zoning for higher densities. Likewise, the Highlands Preservation Area restrictions limit septic densities and generally restrict creation of new development lots.

The R-4 (Very Low Density) Residential District balances the existing physical constraints, including rugged topography, soil and geologic conditions, and the lack of sewers and central water facilities, with the desire to continue the rural character of development still prevailing in these areas. Limited development on large lots is the objective, along with opportunities for outdoor recreation activities and tourism opportunities in compatibility with the environment and rural character of the Township. The R-4 District requires a lot area of four (4) acres, with relatively significant setback requirements. Residential clusters are also permitted, which have reduced requirements.

The R-3 (Low Density) Residential District provides areas most suitable for low-density residential dwelling units in the Township. This District also provides for appropriate outdoor recreation activities and tourism opportunities in compatibility with the environment and rural character of the Township. The R-3 District requires a lot area of three (3) acres, with relatively moderate setback requirements. Properties serviced by public water and sewer have reduced requirements. Residential clusters are also permitted, which have reduced requirements.

The R-2 (Moderate Density) Residential District provides areas most suitable for moderate-density residential dwelling units in the Township. The R-2 District requires a lot area of two (2) acres, with relatively moderate setback requirements. Properties serviced by public water and sewer have reduced requirements. Residential clusters are also permitted, which have reduced requirements.

The R-1 and R-1/I (Higher Density) Residential District provides areas most suitable for higher-density residential dwelling units in the Township. The R-1 District requires a lot area of one (1) acre, with relatively minor setback requirements. Properties serviced by public water and sewer have reduced requirements, including a 15,000-square-foot minimum lot area.

The R-1/PN (Multifamily) Residential District provides areas most suitable for multifamily residential dwelling units in the Township. Properties serviced by public water and sewer have reduced requirements.

The LR (Lakeside) Residential District develops meaningful and appropriate residential standards in the lake communities of the Township. The intent is to respect the existing development patterns of the lake communities. The LR District required a lot area of 20,000 square feet, with relatively moderate setback requirements.

The SHD/R-2 (Rental Overlay/R-2 Special Housing) District encourages the construction of special housing developments, including Townhouse dwelling units, patio homes, duplexes, triplexes, quadraplexes, zero lot line housing, and alternative housing designs. Public spaces, bed-and-breakfasts, and single-family residential uses, subject to the existing R-2 zoning criteria, are also permitted.

The SCC (Senior Congregate Care) Zone provides areas of the Township that encourage the design and development of multifaceted, relatively self-contained living environments for individuals and families aged 55 and over. Prepared by recognized professionals in the field of senior life care facilities, this Zone encourages the use of contemporary land use planning and community development techniques consistent with the objectives of the New Jersey Municipal Land Use Law, which will provide the creation of functional environments in an environmentally acceptable way. This Zone and its densities reflect the desire to provide affordable housing to the Township's aging population.

The AHZ (Airport Hazard) Zone provides standards for the control of airport and aeronautical hazards, which is set out in N.J.A.C. 16:62 et seq. The following are permitted land uses within the AHZ: Residential single-family dwelling units which are situated on a lot at least four (4) acres in size, provided that all dwellings are physically located outside of the clear zone as defined by N.J.A.C. 16:62-3.5; Open space; Agriculture; and Airports.

Multigenerational Housing

P.L. 2021, c. 273 established the Multigenerational Family Housing Continuity Commission (the Commission) and assigned the Commission the responsibility of preparing and adopting, "...recommendations on how State government, local government, community organizations, private entities, and community members may most effectively advance the goal of enabling senior citizens to reside at the homes of their extended families, thereby preserving and enhancing multigenerational family continuity, through the modification of State and local laws and policies in the areas of housing, land use planning, parking and streetscape planning, and other relevant areas" (N.J.S.A. 52:27D-329.20f[1]). Municipalities are now required to provide an analysis of the extent to which local ordinances advance or detract from these recommendations. At the time this Housing Element and Fair Share Plan is being prepared, no such recommendations have been published by the Commission.

West Milford permits accessory apartments in commercial and residential zones subject to certain conditions. The Township should consider reviewing the conditions for accessory apartments to eliminate barriers that may exist to creating them. While not specifically deed restricted, the apartments offer an alternative housing type, where apartments are unlikely to be developed.

4. Fair Share Plan

4.1 Plan Purpose and Goals

The Fair Share Plan will describe specific projects, programs, strategies and funding sources to meet West Milford Township's affordable housing obligation while also complying with the Fourth Round Regulations, Fair Housing Act, and the Dispute Resolution Program Directive #14-24. The overriding goal of this Fair Share Plan is to present a framework for the Township to provide for its fair share of the present and prospective regional need for low- and moderate-income housing for the Fourth Round period of 2025 through 2035.

4.2 Determination of Housing Need

Prior Round Obligation

West Milford received Substantive Certification from COAH on October 6, 1999 (Resolution Granting Substantive Certification No. 138-99), for its second round Housing Element and Fair Share Plan, dated January 22, 1997. At that time, the Township's affordable housing obligation was 187 units, comprised of 98 units of new construction and 89 units in the rehabilitation program. However, significant revisions to COAH's rules and a shift away from both a "Town Center" approach and higher density residential because of the adoption of the Highlands Water and Protection and Planning Act in August 2004, all dramatically altered future development potential for West Milford. Three (3) "prior round" sites – Valley Ridge, Random Woods, and Stanford Village – designed to include both market and affordable housing included in the 1997 HEFSP and certified by COAH in anticipation of their eventual development did not go forward. COAH's recalculated prior round obligation for West Milford was **98 units** including a mandatory rental obligation which equated to 25 units. The Township applied 73 credits for units and bedrooms and a rental bonus credit of 25 to provide the required obligation of 98 units. The Prior Round was met as shown below in Table 20.

Table 20. Summary of West Milford's Prior Round Obligation⁶

| Units / Bedrooms / Credits Addressing Prior Round Obligation of 98 | | | | |
|---|--------------|------------|------------------------------|-----------------|
| Name | Block | Lot | # Units/ Bedrooms | Type |
| Lincoln Hill | 6401 | 6.02 | 13 | Age-restricted |
| Bald Eagle Manor | 5621 | 1, 2, 3 | 11 | Age-restricted |
| Bald Eagle Manor | 5301 | 21, 33 | 12 | Congregate care |
| 12 Meadow Trail* | 7521 | 8 | 1 | Family |
| 2 Kushaqua Trail** | 3008 | 1 | 1 | Family |
| Advo Serve | 2202 | 5.01 | ***20 | Group home |
| Wehrlen House | 9404 | 14 | ***5 | Group home |
| Center For Humanistic Change | 9101 | 45 | 3 | Group home |
| Puerto Rican Federation Services | 1611 | 20 | 3 | Group home |
| ALFA Development 22 Vine Street | 5604 | 1 | 3 | Group home |
| ALFA Development 240 Germantown Road | 13812 | 13 | 1 | Group home |
| Sub-total | | | 73 | |
| Rental bonus credits** | | | 25 | |
| Total | | | 98 | |

* Sold by Township to Salt & Light Co. Ord. 2002-17

** Sold by Township to Salt & Light Co. Ord. 2001-8

*** **Rental Bonus:** The prior round rental bonus cannot exceed the actual rental obligation which is 25 units/bedrooms. The maximum number of rental bonus credits is capped at 25.

Age-restricted units: The maximum number of age-restricted units eligible for credit in the prior round is capped in accordance with the formula set forth in N.J.A.C. 5:97-3.10, which calculates to **38 units**.

⁶ Retrieved from Table 24 of the Housing Plan Element Fair Share Plan, prepared by the West Milford Planning Board, and dated May 27, 2010.

Third Round Obligation

West Milford originally had a Third Round affordable housing obligation of 47 units and a rehabilitation obligation of 66 units. As of the Housing Plan Element Fair Share Plan, dated May 27, 2010, 14 affordable units (including bedrooms in a group home) were in place and 20 residential dwellings had undergone major rehabilitation work to qualify for credit thus, the Township needed to address a balance of 33 units of new construction and 46 units in the rehabilitation program.

West Milford planned to utilize municipally-owned properties in cooperation with experienced and qualified non-profit entities to facilitate the construction of the remaining affordable housing obligation. To meet the 33-unit new construction obligation, the Township planned to complete the following: 1) Two (2) accessory apartments (2 credits); 2) Eight (8) single-family dwellings (8 credits); 3) Eight (8) duplex units (16 credits); and 4) Two (2) supportive and special needs residences with a combined total of seven (7) bedrooms (7 credits). To meet the 46-unit rehabilitation obligation, the Township planned to disseminate information about the Passaic County Department of Community Development program through the Township's website, mailing with property tax bills, and notices and/or new articles in location circulation newspapers.

However, West Milford's present need obligation was revised to 70 units, and the total prospective need obligation was revised to 343 units under the 2018 "Statewide and Municipal Obligations under Jacobson Opinion." Furthermore, the Township ultimately did not seek approval for a Household Element and Fair Share Plan from the Court for the Third Round. As a result, 343 units of prospective need carry over into the Fourth Round. Those units were essentially durationally adjusted due to a lack of available public water and sewer to support inclusionary zoning during the Third Round.

Fourth Round Obligation

On October 18, 2024, NJDCA published local and regional affordable housing obligations pursuant to P.L.2024, c.2. proposing that West Milford Township has a Fourth Round present need, or rehabilitation obligation of **105 units** and a prospective need of **197 units**. On January 22, 2025, the Town Council adopted Resolution 2025-84 accepting the obligations as proposed by NJDCA. On January 24, 2025, the Township filed a Declaratory Judgment action requesting certification of the Township's Housing Element and Fair Share Plan proposed to be submitted to the Dispute Resolution Program by June 30, 2025.

Table 21. Fourth Round Credits

| Summary of Fourth Round Fair Share Plan Township of West Milford, Passaic County | | | | |
|---|--------------------------------|------------|----------|---------------|
| Project Name | Type | Units | Bonuses | Total Credits |
| Third Round Carryover of Units | | | | |
| Carryover Units | | 343 | 0 | 0 |
| Total Third Round Carryover | | 343 | 0 | 0 |
| Fourth Round | | | | |
| Obligation | Prospective Need | 197 | 0 | 0 |
| | Present Need | 105 | 0 | 0 |
| Total Prospective Need Obligation | | 540 | 0 | 0 |
| Total Present Need Obligation | | 105 | 0 | 0 |
| Realistic Development Potential (RDP) | | | | |
| RDP | Highlands Buildout Analysis | 0 | 0 | 0 |
| 25% Redevelopment of RDP | | 0 | 0 | 0 |
| Unmet Need | Remaining Units | 540 | 0 | 0 |
| Durational Adjustment | Durationally Adjust Unmet Need | 540 | 0 | 0 |
| Present Need Obligation | Rehabilitation Program | 105 | | |
| Total Fair Share Plan | | 105 | 0 | 0 |
| Fourth Round Fair Share Plan Total | | | | 105 |
| Fourth Round Obligation | | | | 540 |
| Durational Adjustment and RDP | | | | 540 |
| Total Remaining Prospective Need Obligation | | | | 0 |
| <i>Maximum Senior – 30%</i> | | | | |
| <i>Minimum Family Housing – 50%</i> | | | | |
| <i>Minimum Rental – 25%</i> | | | | |
| <i>Minimum Family Rental – 50% of Rental</i> | | | | |
| <i>Maximum Bonus Credits 25%</i> | | | | |

As shown in Table 21, the Township has a Third Round carryover of 343 durationally adjusted units. The Fourth Round obligation was established at 197 units of prospective need and 105 present need obligation. This resulted in a total Fourth Round Fair Share Plan prospective need obligation of 540 units and present need of 105 units.

The Township will adopt a mandatory set-aside ordinance for any development that may qualify for a Highlands Exemption and/or is able to obtain public sewer and water service to permit development at densities that qualify for inclusionary zoning.

For the present need or rehabilitation obligation of 105 units, the Township will continue to participate in the Passaic County rehabilitation program. The Township will also use the development fee ordinance to fund a Township rehabilitation program to assist low- and moderate-income homeowners in addressing code deficiencies on their properties.

The Township also agrees to the minimum obligations with respect to family units, senior units, rental units and family rental units. As discussed below, the Township conducted a build-out analysis for fully conforming Highlands municipalities, which resulted in a Realistic Development Potential (RDP) of zero (0). The unmet need, 540 units, is proposed to be durationally adjusted as also noted in the next section.

4.3 Lands Available for New Construction and Redevelopment

Build-Out Analysis and Vacant Land Adjustment

As part of the amendments to the Fair Housing Act (FHA) signed into law on March 20, 2024, the law now requires that conforming municipalities include in their Housing Element “consideration of the most recent Highlands Municipal Build Out report.” On April 18, 2024, the Highlands Council adopted, after public comment, an amendment to the Highlands Regional Master Plan (RMP) entitled Highlands Affordable Housing RMP Amendment. The amendment provides standards based on the RMP and the FHA as to where it is appropriate to locate affordable housing based on the Goals, Policies and Objectives of the RMP. Policy 607 of the RMP requires that conforming municipalities implement both the resource protection requirements of the RMP along with providing for a realistic opportunity for a fair share of its region’s needs for housing for low- and moderate-income households. Proposed affordable housing developments in conforming municipalities must therefore be consistent with the RMP Land Use Capability Zone designations while providing for the protection of individual resource protections.

The Highlands Build-Out Update 2024 provides guidance as to how municipalities can complete a Highlands Municipal Build-Out, addressing land, sewer, and water capacity issues in the context of Highlands conforming municipalities. The Highlands region, by the terms of the Highlands Act and the Highlands RMP, is an area of the state designated for limited growth, both in terms of overall scale of new development and the portions of the region that are suitable for development. Long-term management of the region for the protection of its vital resources requires that all future development, including affordable housing, be appropriate in scale, location, and design to ensure that those resources will be available for future generations of New Jersey’s residents and businesses.

West Milford Township conducted the build-out analysis update using the Highlands Build-Out Tool. The summary of findings is attached to this plan; however, the findings are very simple. Overall and throughout the Township, there were no lots found to be developable under the Highlands Build-Out Analysis. This means that the Township essentially has no development capacity under Highlands’ restrictions, to develop any additional housing at a scale that could

qualify for inclusionary zoning standards. As a result, there is no vacant developable land available in the Township and the Township's Realistic Development Potential is zero (0).

N.J.S.A. 52:27D-310.1, requires municipalities seeking a vacant land adjustment to adopt zoning for 25 percent of its adjusted prospective need. The adjusted prospective need, or RDP, is zero (0) units. The adjusted prospective need for redevelopment is zero (0) units. The total required number of units to be addressed is zero (0) units. Due to West Milford's location entirely in the Preservation Area of the Highlands, inclusionary zoning is not appropriate under the Highlands restrictions as discussed above; therefore, no redevelopment zones for inclusionary development are proposed.

Lack of Water and Sewer

As demonstrated by the Highlands Build-Out Analysis, the Township does not have any unrestricted land or any extra capacity for sewer to support inclusionary development and thus is entitled to a durational adjustment in accordance with N.J.A.C. 5:93-4.3. The Township lacks public sewer with extra capacity to utilize for inclusionary development. Further, sewer extensions or expansions are not permitted under the Highlands Act. Due to its location in the Highlands Preservation Area and the lack of developable land, it is unlikely that any sewer capacity would become available within the Fourth Round period.

Additionally, Highlands' regulations prevent development of multi-family inclusionary housing without existing sewer capacity. The Highlands Act authorized DEP to prepare special rules applying to the Preservation Area, which were adopted November 1, 2006 (N.J.A.C. 7:38-1.1 et seq.). Under these rules, all "major Highlands' development" must obtain a Highlands Preservation Area Approval ("HPAA"), N.J.A.C. 7:38-1.1(f). All residential development that requires an environmental or water permit or disturbs more than one acre of land is considered "major", N.J.A.C. 7:38-1.4. These rules also set very low septic densities, which greatly hinder the ability to zone for inclusionary development, as the Township lacks available public sewer capacity for new development. N.J.A.C. 7:38-3.4(b). Septic densities range from 1 per 25 acres to 1 per 88 acres, depending on whether the tract is forested or not. Additionally, these rules place limits on impervious surfaces (N.J.A.C. 7:38-3.5), open water buffer areas (N.J.A.C. 7:38-3.6), flood hazard areas (N.J.A.C. 7:38-3.7), lands with steep slopes (N.J.A.C. 7:38-3.8), and forested areas (N.J.A.C. 7:38-3.9).

For Round Three and now going into Round Four, the municipality agrees to comply with N.J.A.C. 5:93-4.3 as follows:

1. In accordance with N.J.A.C. 5:93-4.3(c), the requirement to address the remaining Third Round prospective need obligation of 343 units and the Fourth Round prospective need of 197 units shall be deferred until adequate sewer capacity is made available. The Township shall reserve and set aside new sewer capacity, if and when it becomes available, for low- and moderate-income housing on a priority basis. Municipal officials shall not oppose any applications to the Department of Environmental Protection (DEP) or its agent to provide water and/or sewer capacity.
2. The Township determined that, due to Highlands' regulations, there are no tracts within the Township where zoning for inclusionary development is appropriate. The Township will

adopt a mandatory set-aside ordinance in the event that land and/or sewer becomes available for properties that permit them to develop at inclusionary densities.

3. The Township has adopted a development fee ordinance and will create a rehabilitation program to address present need.
4. Additionally, in the event that Highlands Act regulations are repealed or amended in a significant manner to affect development in the Township, the Township will reexamine and, if necessary, amend its Housing Plan Element and Fair Share Plan.

Appendix A – Resolutions

Township of West Milford

Passaic County, New Jersey

~ Resolution 2025 – 084 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY ADOPTING THE TOWNSHIP OF WEST MILFORD'S AFFORDABLE HOUSING PRESENT AND PROSPECTIVE NEED OBLIGATION FOR THE PERIOD OF JULY 1, 2025 THRU JULY 1, 2035 IN ACCORDANCE WITH P.L. 2024 C.2 AND RESERVING ALL RIGHTS

WHEREAS, the Township of West Milford (hereinafter "the Township") has a demonstrated history of voluntary compliance with the Mount Laurel doctrine and the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, et seq.; and

WHEREAS, the Township is a fully conforming Highlands Region Municipality, where development is governed and restricted by the Highlands Water Protection and Planning Act, N.J.S.A. 13:20-1 et seq. ("Highlands Act") and the Highlands Regional Master Plan. All 51,848 acres of land within the Township is located entirely within the Highlands Region "Preservation Area", and the vast majority of this land (approximately 84 percent) is within the "Protection Zone"; and

WHEREAS, the Highlands Act and Regional Master Plan places significant constraints on development throughout the Township, including but not limited to affordable housing, for the purpose preserving the State's drinking water; and

WHEREAS, on March 20, 2024, Governor Murphy signed into law, P.L. 2024, c.2, which among other things, amended various provisions of the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq. ("FHA"), abolished the Council on Affordable Housing ("COAH") and established the Affordable Housing Dispute Resolution Program ("Program"); and

WHEREAS, P.L. 2024, c.2, sets forth that Fourth Round period of affordable housing obligations shall run from July 1, 2025 through June 30, 2035 ("Fourth Round" or "Round Four"); and

WHEREAS, pursuant to P.L. 2024, c.2, the Township is located in Housing Region 1, which is comprised of Bergen, Hudson, Passaic and Sussex counties; and

WHEREAS, the amendments to the FHA require the Department of Community Affairs ("DCA") to prepare and publish a report on the calculations of the regional need and each municipality's present and prospective need affordable housing obligations for the Fourth Round within seven months of March 20, 2024; and

WHEREAS, on October 18, 2024 the DCA published its report on the calculations with respect to Statewide regional need and municipal present and prospective need affordable housing obligations for the Fourth Round (the "DCA Report"); and

WHEREAS, pursuant to N.J.S.A. 52:27D-304.1e of the FHA, the calculations in the DCA Report are not binding on municipalities; and

WHEREAS, rather, pursuant to N.J.S.A. 52:27D-304.1e, each municipality is required to ultimately determine its respective Fourth Round present and prospective need fair share obligations, and adopt a binding resolution describing the basis for the municipality's determination on or before January 31, 2025; and

WHEREAS, P.L. 2024, c.2, directs that each municipality shall determine its Fourth-Round present and prospective need fair share obligations, in consideration of the calculations in the DCA Report, and in accordance with the formulas established in N.J.S.A. 52:27D-304.2 and -304.3 of the FHA using "necessary datasets that are updated to the greatest extent practicable"; and

WHEREAS, section 10 of P.L. 2024, c.2 amends N.J.S.A. 13:20-23 of the Highlands Act, to expressly require that the Highlands Regional Master Plan be taken into account as part of the determination of the allocation of prospective need fair share obligations; and

WHEREAS, section 7 of P.L. 2024, c.2 requires that a weighting factor of "0" shall be applied to property within the Highlands Preservation Area and conforming Highlands Planning Areas; and

WHEREAS, within the DCA Report, the DCA has calculated the total statewide prospective need obligation to be 84,698 units, which equates to a statewide new construction obligation of over 8,400 affordable units per year; and

WHEREAS, the DCA Report ultimately calculates the Township's non-binding Round 4 obligations as follows: 1) a Present Need or Rehabilitation obligation of "105"; and 2) a Prospective Need or New Construction Obligation of "197"; and

WHEREAS, the Township's Planner, Municipal Attorney and Tax Assessor have reviewed the DCA Report along with the underlying data and data sets relied upon by the DCA in reaching its non-binding calculations for the Township, and considered the most up-to-date land use approvals, site specific information, construction permits, and MOD-IV data maintained and on file with Township with regard to the land capacity and equalized non-residential valuation factor; and

WHEREAS, notwithstanding that such obligations are subject to Land Capacity Factors including but not limited to the Act, the Township accepts the estimate set forth in the DCA Report with a Present Need or Rehabilitation obligation of "105"; and a Prospective Need or New Construction Obligation of "197", except that such obligations are by operation both reduced to "zero" based upon the Township's Planner's vacant land adjustment; attached herein at Exhibit A; and

WHEREAS, N.J.S.A. 52:27D-304.1f(1)(b) provides that: "the municipality's determination of its fair share obligation shall have a presumption of validity, if established in accordance with sections 6 and 7 of P.L. 2024, c.2 ... [;]" and

WHEREAS, the Township's calculation of its Present Need and Prospective Need obligations is/are entitled to a "presumption of validity" because it complies with Sections 6 and 7 of P.L. 2024, c.2; and

WHEREAS, the Township specifically reserves the right to adjust its Present Need and Prospective Need Obligation, including for any of the foregoing adjustments: 1) a windshield survey or similar survey which accounts for a lower Present Need; 2) a Vacant Land Adjustment, as attached herein and as predicated upon a lack of vacant, developable and suitable land; 3) a Durational Adjustment (whether predicated upon lack of sewer or lack of water); and/or 4) an adjustment predicated upon regional planning entity formulas, inputs or considerations, including, but not limited to the Highlands Regional Master Plan and its build out; and

WHEREAS, in addition to the foregoing, the Township specifically reserves all rights to revoke this resolution and commitment in the event of: 1) a successful challenge to P.L. 2024, c.2 as a result of the pending litigation entitled: Borough of Montvale et al. v. State of New Jersey, et al., Docket No.: MER-L-1778-24; (2) any other such successful challenge P.L. 2024, c.2 or any directive or regulation adopted pursuant thereto; and/or (3) any subsequent legislative or regulatory enactment which alters or changes the deadlines, calculations, methodology and/or requirements of P.L. 2024, c.2; and

WHEREAS, the Township further specifically reserves the right to take a position that its Round 4 Present or Prospective Need Obligations are lower than described herein in the event that a third party challenges the calculations provided for in this Resolution (a reservation of all litigation rights and positions, without prejudice); and

WHEREAS, in addition to the foregoing, nothing in P.L. 2024, c. 2 requires or can require an increase in the Township's Round 4 Present or Prospective Need Obligations based on a successful downward challenge of any other municipality in the region since the plain language and clear intent of P.L. 2024, c.2, is to establish, for example, unchallenged numbers by default as of March 1, 2025; and

WHEREAS, in light of the above, the Mayor and Township Council of the Township of West Milford finds that it is in the best interest of the Township to declare its commitment to its above-listed Fourth Round obligations by resolution in accordance P.L. 2024, c.2.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Township Council of West Milford, in the County of Passaic, and State of New Jersey as follows:

1. All of the Whereas Clauses set forth above are hereby incorporated into the operative clauses of this resolution by reference.
2. The Mayor and Township Council of West Milford hereby commit to a Fourth Round Present Need Obligation of 105 and the Round 4 Prospective Need Obligation of 197, as described in this Resolution and which such commitment to the Township's Fourth Round Affordable Housing Obligations be and is hereby subject to the Township's reservation of all rights it may have, as described in this Resolution or otherwise, to revoke, repeal, suspend, amend or modify this Resolution by further action of the Township, including but not limited to, the following:
 - a) The right to adjust, modify, cancel, withdraw or revoke the Township's commitment to its Fourth Round Present Need and/or Prospective Need Obligations, and/or to otherwise revoke, repeal, suspend, amend, or modify this Resolution should additional information or evidence become available or discoverable to the Township in the future;
 - b) The right to adjust the Township's Present Need Obligation based on the results of a windshield survey;
 - c) The right to adjust the Township's Present and/or Prospective Need Obligation based on lack of available vacant and developable land, sewer, water, and/or due to regional planning inputs, formulas or considerations, including, but not limited to the Highlands Regional Master Plan and its build out, or any combination of the above;
 - d) All rights to revoke this Resolution in the event of a successful legal challenge to P.L. 2024, c.2, a legislative change to P.L. 2024, c. 2, or any successful challenge to any directive or regulation adopted pursuant to P.L. 2024, c.2, or any change or amendment to such directives or regulations;
 - e) All rights to take a position that Township's Fourth Round Present and/or Prospective Need Obligation(s) are lower than described herein in the event that a third party challenges the calculations provided for or relied upon in this Resolution; and/or
 - f) All rights to take a position that the Township's Fourth Round Present and/or Prospective Need Obligation(s) is/are lower than described herein in the event a third-party claims the Township's Round 4 Present and/or Prospective Need Obligations require an increase based on a reallocation or modification of the Regional Present or Prospective Need Obligations allegedly due from successful reduction of the allocated present and prospective need obligations assigned to another municipality in the Region.
3. The Township's calculation of Present and Prospective Need Obligations is/are entitled to a "presumption of validity" because the calculations comply with sections 6 and 7 of P.L. 2024, c.2.

4. In accordance with N.J.S.A. 52:27D-304.1, the Township hereby directs the Township Attorney to file an action with the Affordable Housing Dispute Resolution Program along with this Resolution and to take all necessary and proper steps to address any challenges to same by any interested parties.

5. The Township further commits to adopt its housing element and fair share plan pursuant to N.J.S.A. 52:27D-304.1f(2) based on this determination on or before June 30, 2025, and hereby further directs the Township Attorney, Township Planner and Township Engineer to begin taking steps to prepare same.

6. A copy of this resolution, along with filing date of Township's action with the Program, shall be placed on the Township's website.

7. A copy of this resolution shall remain on file in the Township Clerk's office and available for public inspection.

8. This resolution shall take effect immediately, according to law.

Adopted: January 22, 2025

Adopted this 22nd day of January, 2025
and certified as a true copy of an original.



William Senande, Township Clerk

Appendix B – Ordinances

Case No. PAS-L-0309-25:

**TOWNSHIP OF WEST MILFORD
COMPLAINT FOR DECLARATORY JUDGMENT
AND INJUNCTIVE RELIEF
IN
MUNICIPALITY OF WEST MILFORD
TOWNSHIP OF WEST MILFORD
2024-0309-25**

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – CIVIL PART
PASSAIC COUNTY
DOCKET NO. PAS-L-0309-25

Civil Action

**OBLIGATIONS FOR “PRESENT NEED”
AND “PROSPECTIVE NEED”**

TOWNSHIP OF WEST MILFORD, having come before the Court on its own motion, *sua sponte*, on the Complaint for Declaratory Judgment filed on January 24, 2025 (“DJ Complaint”) by the Petitioner, Township of West Milford (“Petitioner” or “Municipality”), pursuant to N.J.S.A. 52:27D-304.2, -304.3, and -304.1(f)(1)(c) of the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, *et seq.* (collectively, the “FHA”), and in accordance with Section II.A of Administrative Directive 14-24 (“Directive 14-24”) of the Affordable Housing Dispute Resolution Program (the “Program”), seeking a certification of compliance with the FHA;

AND THAT AFRICA, that on October 1, 2024, pursuant to the FHA (as amended), the New Jersey Department of Community Affairs (“DCA”) issued its report entitled *Affordable Housing Obligations for 2025-2035 (Fourth Round)*,¹ therein setting forth the present need and prospective need obligations of all New Jersey municipalities for the Fourth Round housing cycle (the “DCA’s Fourth Round Report”);

¹ See <https://nj.gov/dca/dlps/pdf/FourthRoundCalculationMethodology.pdf>

AND WHEREAS that, pursuant to the DCA’s Fourth Round Report, the **present need** obligation of the Petitioner has been calculated and reported as **105** affordable units, and its **prospective need** obligation of the Petitioner has been calculated and reported as **197** affordable units, and which calculations have been deemed presumptively valid for purposes of the FHA;

AND WHEREAS, having determined that no interested party has filed a challenge to the Petitioner’s DJ Complaint by way of an Answer thereto as provided for and in accordance with Section II.B of Directive #14-24 of the Program;

AND WHEREAS, having found and determined, therefore, that the present need and prospective need affordable housing obligations of the Petitioner for the Fourth Round housing cycle as calculated and reported in the DCA’s Fourth Round Report have been committed to by the Petitioner and are uncontested, and for good cause having otherwise been shown:

WE, the Board of Commissioners, on this **20th** day of **MAY** **2025** ORDER AND ADJUDGE AS FOLLOWS:

1. That the present need obligation of the Municipality, be, and hereby is fixed as **105** affordable units for the Fourth Round housing cycle.
2. That the prospective need obligation of the Municipality, be, and hereby is fixed as **197** affordable units for the Fourth Round Housing cycle; and
3. That the Petitioner is hereby authorized to proceed with preparation and adoption of its proposed Housing Element and Fair Share Plan for the Fourth Round, incorporating therein the present need and prospective need allocations aforesaid (and which plan shall include the elements set forth in the “Addendum” attached to Directive #14-24), by or before June 30, 2025,

§ 470-69. Mandatory development fees. [Added 12-18-2002 by Ord. No. 2002-44; amended 5-7-2008 by Ord. No. 2008-023]

- A. Purpose. The purpose of the mandatory development fee is to provide funding for the Township's Housing Element and Fair Share Plan approved by the Township Council of the Township of West Milford.
- B. Residential development fees - Amount: Prior to the issuance of a building permit, all developers of residential subdivisions or site plans of two or more units shall incur a mandatory development fee equal to 1% of the equalized assessed valuation for each residential unit constructed. This mandatory fee shall be calculated as follows: 1% x equalized assessed valuation x number of units.
- C. Nonresidential development fees - Amount: Prior to the issuance of a building permit, all nonresidential developers shall incur a mandatory development fee equal to 2 1/2% of the total equalized assessed valuation of the nonresidential development; provided, however, no development fee shall be required where the total equalized assessed value of the development is less than \$15,000 as established by the Tax Assessor. The mandatory fee shall be calculated as follows: 2 1/2% x total equalized assessed value. **[Amended 10-8-2008 by Ord. No. 2008-048]**
- D. Timing of payments.
- (1) Fifty percent of the total mandatory development fee owed to West Milford Township, whether for residential or nonresidential development, shall be paid prior to the issuance of any building permit required in connection with the development and shall be calculated as follows:
 - (a) For residential developments, the fifty-percent payment required prior to the issuance of any building permit shall be calculated using an estimated equalized valuation of each residential unit as determined by the West Milford Township Tax Assessor.
 - (b) For nonresidential developments, the fifty-percent payment required prior to the issuance of any building permit shall be calculated using an estimated total equalized assessed valuation of the nonresidential development as determined by the West Milford Township Tax Assessor.
 - (2) The remaining portion of the development fee shall be paid prior to the issuance of any certificate of occupancy for any development or any part thereof, whether residential or nonresidential, and shall be calculated using the actual assessed valuation of the development as determined by the West Milford Township Tax Assessor.
 - (3) Because the initial payment required prior to the issuance of a building permit is calculated using an estimated assessed valuation based on estimates for construction costs, the following adjustments are permitted to compensate for differences between the estimated assessed valuation and the actual assessed valuation:
 - (a) If the estimated assessed valuation used to calculate the initial fifty-percent payment was overestimated or underestimated, causing the actual assessed

valuation to be less than or greater than the estimated assessed valuation used to calculate the initial fifty-percent payment, the developer's certificate of occupancy payment shall be equal to the difference between the actual assessed valuation and the initial fifty-percent payment as determined by the West Milford Township Tax Assessor.

E. Exemption, eligible exactions and ineligible exactions.

- (1) Developments with on-site low- and moderate-income housing units as defined and accepted by the Council on Affordable Housing and credited towards the Township's Mount Laurel obligation are exempt from development fees.
- (2) Low- and moderate-income dwelling units as defined and accepted by the Council on Affordable Housing and credited towards the Township's Mount Laurel obligation shall be exempt from paying development fees.
- (3) Development that expands an existing structure shall pay a development fee. The development fee shall be calculated based on the increase in the equalized assessed value of the improved structure.
- (4) Developers of houses of worship and other not-for-profit institutions, including the Fire Department, rescue and first aid squads and the Board of Education, shall be exempt from paying a development fee.
- (5) Developments that have received preliminary or final approval prior to the imposition of a municipal development fee shall be exempt from development fees unless the developer seeks a substantial change in the approval.

F. Affordable Housing Trust Fund.

- (1) All mandatory development fees collected pursuant to this section shall be deposited in the interest-bearing escrow account entitled the "Affordable Housing Trust Fund: Mandatory Fee Account."
- (2) If the court determines that West Milford Township's spending is not in conformance with COAH's rules on development fees, the court is authorized to direct the manner in which all development fees collected pursuant to this section shall be expended.

G. Use of funds.

- (1) Money deposited in the Affordable Housing Trust Fund may be used for any activity approved for addressing the Township's low- and moderate-income housing obligation. Such activities may include, but are not limited to, housing rehabilitation; new construction; development of accessory apartments; regional contribution agreements; the purchase of land for low- and moderate-income housing; extensions and/or improvements of roads and infrastructure to low- and moderate-income housing sites; assistance designed to render units to be more affordable to low- and moderate-income people; and administrative costs necessary to implement the Township's housing element. The expenditure of all money shall conform to the approved spending plan.
- (2) No more than 20% of the revenues collected from development fees each year,

Township of West Milford, NJ

§ 470-69

§ 470-69

exclusive of the fees used to fund an RCA, shall be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a housing element and fair share plan, and/or an affirmative marketing program.

WEST MILFORD TOWNSHIP MANDATORY SET-ASIDE ORDINANCE

Section 500-91.4 - MANDATORY SET-ASIDE ORDINANCE

- (1) If the Township or Township Planning Board or Zoning Board of Adjustment permits the construction of multi-family or single-family attached residential development that is "approvable" and "developable," as defined at N.J.A.C. 5:93-1.3, the Township or the Township's Planning Board or Zoning Board of Adjustment shall require that a percentage of the residential units be set aside for low- and moderate-income households.
- (2) This requirement shall apply beginning with the effective date of this Ordinance to any multi-family or single-family attached residential development, including the residential portion of a mixed-use project, which consists of five (5) or more new residential units, whether permitted by a zoning amendment, a variance granted by the Township's Planning Board or Zoning Board of Adjustment, or adoption of a Redevelopment Plan or amended Redevelopment Plan in areas in need of redevelopment or rehabilitation.
- (3) For any such development for which the Township's land use ordinances (e.g., zoning or an adopted Redevelopment Plan) already permitted residential development as of the effective date of this Ordinance, this requirement shall only apply if the Township permits an increase in approvable and developable gross residential density to at least twice the permitted approvable and developable gross residential density as of the effective date of this Ordinance.
- (4) Nothing in this paragraph precludes the Township or the Township's Planning Board or Zoning Board of Adjustment from imposing an affordable housing set-aside in a development not required to have a set-aside pursuant to this paragraph consistent with N.J.S.A. 52:27D-311(h) and other applicable law.
- (5) For all inclusionary projects, the minimum set-aside percentage is twenty (20) percent.
- (6) This requirement does not create any entitlement for a property owner or applicant for a zoning amendment, variance, or adoption of a Redevelopment Plan or amended Redevelopment Plan in areas in need of redevelopment or rehabilitation, or for approval of any particular proposed project.
- (7) Furthermore, this section shall not apply to developments containing four (4) or less dwelling units. All subdivision and site plan approvals of qualifying residential developments shall be conditioned upon compliance with the provisions of this section. Where a developer demolishes existing dwelling units and builds new dwelling units on the same site, the provisions of this section shall apply only if the net number of dwelling units is five (5) or more.

Appendix C – Spending Plan

AFFORDABLE HOUSING TRUST FUND SPENDING PLAN

TOWNSHIP OF WEST MILFORD PASSAIC COUNTY, NEW JERSEY

June 5, 2025

Prepared by: Jessica C. Caldwell, P.P., A.I.C.P.
NJPP License #5944

SPENDING PLAN

INTRODUCTION

The Township of West Milford, Passaic County, has prepared a Housing Element and Fair Share plan that addresses its regional fair share of the present and prospective affordable housing need in accordance with the Municipal Land Use Law (MLUL), the Fair Housing Act (FHA), the regulations of the Council on Affordable Housing (COAH) and recent decisions by the Courts.

A development fee ordinance creating a dedicated revenue source for affordable housing following state guidelines was adopted in December 18, 2002, which was later amended in 2005 and 2015. The ordinance established a fee of 1% of equalized assessed value for new residential construction and 2.5% for new non-residential development. The ordinance will be updated to include 1.5 for new residential development for new commercial construction. The ordinance established the need for a Township of West Milford Affordable Housing Trust Fund. All development fees, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, and interest generated by affordable housing fees are deposited in a separate-interest-bearing affordable housing trust fund account for the purposes of affordable housing. This Spending Plan supersedes any previously adopted Spending Plans.

The Township of West Milford has prepared this Spending Plan (2025) to guide the allocation of funds within the Township of West Milford Affordable Housing Trust Fund. As of December 31, 2024, the Township of West Milford had no funds in its Affordable Housing Trust Fund. Any new funds collected shall be spent in accordance N.J.A.C. 5:97-8.7-8.9 as described in the sections that follow.

REVENUES FOR CERTIFICATION PERIOD

To calculate a projection of revenue anticipated during the period of Fourth Round substantive certification, the Township of West Milford considered the following:

- (a) Development fees:
 - 1. Nonresidential projects which have had development fees imposed upon them at the time of preliminary or final development approvals;
 - 2. All nonresidential projects currently before the planning and zoning boards for development approvals that may apply for building permits and certificates of occupancy; and
 - 3. Future development that is likely to occur based on historical rates of development.
- (b) Payments in Lieu (PIL): Payments in Lieu of development into the Township's Housing Trust are permitted under certain circumstances, particularly prior resolutions of approval for development.
- (c) Other funding sources: The Township reserves the option to pursue various public funding options to support its municipal rehabilitation program.
- (d) Projected interest: Interest on the projected revenue in the municipal affordable housing trust fund at the current average interest rate is 0.5% based on prevailing interest rates for savings accounts.

**Projected Revenue Schedule, 2025-2035
Township of West Milford Affordable Housing Trust Fund**

| Source of Funds | Up to 12/31/2024 | 2025 | 2026 | 2027 | 2028 | 2029 | 2030 | 2031 | 2032 | 2033 | 2034 | 2035 | Total |
|---|---------------------|----------|----------|----------|---------|---------|---------|---------|---------|---------|---------|---------|-----------|
| (a) Development Fees | \$0 | | | | | | | | | | | | |
| 1. Approved Residential and Nonresidential Development Projects | NA | \$2,500 | \$2,500 | \$2,500 | | | | | | | | | \$7,500 |
| 2. Projected Residential Development Projects Only | NA | \$7,500 | \$7,500 | \$7,500 | \$7,500 | \$7,500 | \$7,500 | \$7,500 | \$7,500 | \$7,500 | \$7,500 | \$7,500 | \$82,500 |
| 3. Projected Non-Residential Development Projects (New construction only) | NA | \$3,000 | \$3,000 | \$3,000 | \$3,000 | \$3,000 | \$3,000 | \$3,000 | \$3,000 | \$3,000 | \$3,000 | \$3,000 | \$33,000 |
| (b) Payments in lieu of Construction | NA | | | | | | | | | | | | |
| (c) Other Funds (specify source) | NA | | | | | | | | | | | | |
| Subtotal | \$0 | \$10,500 | \$10,500 | \$10,500 | \$8,000 | \$8,000 | \$8,000 | \$8,000 | \$8,000 | \$8,000 | \$8,000 | \$8,000 | \$123,000 |
| (d) Interest | NA | \$1,000 | \$1,000 | \$1,000 | \$1,000 | \$1,000 | \$1,000 | \$1,000 | \$1,000 | \$1,000 | \$1,000 | \$1,000 | \$11,000 |
| Total Revenue from Development Fees | \$0 | \$10,500 | \$10,500 | \$10,500 | \$8,000 | \$8,000 | \$8,000 | \$8,000 | \$8,000 | \$8,000 | \$8,000 | \$8,000 | \$134,000 |

The Township of West Milford projects a total of **\$134,000** to be collected between January 1, 2025 and December 31, 2035 for residential and non-residential new construction. There is an existing balance of \$0, resulting in a total of \$134,000 for use on affordable housing. Projections are based on projected development as it relates to permits issued within the Township over the last five years and revenues generated by the fund over the last ten years.

ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS

West Milford will follow the process for the collection and distribution of development fee revenues detailed below.

- (a) Collection of development fee revenues: West Milford will collect development fee revenues in a manner that is consistent with the Township's development fee ordinance for both residential and nonresidential development and in accordance with applicable regulations.
- (b) Distribution of development fee revenues: West Milford will distribute funds with the oversight of the Township Committee. The Committee will work with the Township Administration and the Municipal Housing Liaison to manage the projects outlined in this spending plan.

DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS

The Township of West Milford proposes to use the monies in its Affordable Housing Trust Fund for the following purposes:

- (a) **Rehabilitation Projects** (N.J.A.C. 5:97-6.2): the Township of West Milford will dedicate the following funds to Rehabilitation projects in order to meet its fair share affordable unit obligation:
Township Rehabilitation Program: At least \$12,500 per unit for a total of 10 units for a budget of \$125,000.
- (b) **Administrative Expenses** (N.J.A.C. 5:97-8.9) the Township of West Milford will dedicate no more than 20 percent of revenue from the affordable housing trust fund to be used for administrative purposes. **The current budget for administrative expenses is \$9,000, with any additional funds subject to the 20 percent cap are as follows:**
 - Administration of affordable housing programs;
 - Legal fees associated with affordable housing administration;
 - Planning fees for any necessary updates and/or revision to the Housing Element and Fair Share Plan; and
 - Other expenses associated with the development and implementation of the Housing and Fair Share Plan and the monitoring of current and future affordable housing programs within the Township of West Milford.
- (c) **Affordability Assistance** (N.J.A.C. 5:97-8.8) West Milford will dedicate **\$39,000** from the affordable housing trust fund to render units more affordable through its rehabilitation program, including at \$13,000 to render units more affordable to households earning 30% or less of median income by region. This will include the rehabilitation program and providing assistance to existing low-income and very low income homeowners and renters in West Milford Township.

- (d) Supportive Living and Special Needs (N.J.A.C. 5:97-6.10):** West Milford will dedicate funds to assist in the development and renovation of supportive and special needs homes as the budget permits.
- (e) Excess Funds:** Any excess funds will be dedicated to emergent projects such as municipally sponsored 100% affordable housing/ market to affordable program, accessory apartments and other permitted affordable housing programs.

SUMMARY

West Milford intends to spend affordable housing trust fund revenues pursuant to N.J.A.C. 5:97-8.7 through 8.9 and consistent with the affordable housing programs outlined in the Township's Housing Element and Fair Share Plan dated June 5, 2025.

**Spending Plan Summary
West Milford Affordable Housing Trust Fund**

| | |
|--|------------------|
| Trust fund balance as of 12/31/2024 | \$0 |
| | |
| Projected Revenue (2025-2035) | |
| Development fees | \$123,000 |
| Payments in lieu of construction | |
| Other funds | |
| Interest | \$11,000 |
| Total Revenue (Rounded) | \$134,000 |
| | |
| Expenditures | |
| Rehabilitation & Affordability Assistance | \$125,000 |
| Administration | \$9,000 |
| Other programs | \$* |
| Total Projected Expenditures | \$134,000 |
| | |

*WILL BE FUNDED WITH ANY ADDITIONAL FUNDS COLLECTED.

Appendix D – Marketing Plan

**TOWNSHIP OF WEST MILFORD
COUNTY OF PASSAIC, STATE OF NEW JERSEY**

Affordable Housing

Affirmative Marketing Plan

Township of West Milford Town Hall
1480 Union Valley Rd
West Milford, NJ 07480

Contents

| | |
|---|----|
| Overview | 1 |
| Regional Preference | 2 |
| Implementation | 2 |
| Sample Advertisement for Available Rental Units | 9 |
| Sample Public Service Announcement..... | 9 |
| Random Selection & Applicant Pool(s)..... | 10 |
| Initial Randomization..... | 12 |
| Randomization After Certification | 12 |

Overview

All affordable units are required to be affirmatively marketed using the Township of West Milford's Affirmative Marketing Plan. An Affirmative Marketing Plan is a regional marketing strategy designed to attract households 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 housing units which are being marketed by an Administrative Agent or a developer, sponsor, owner or property manager of affordable housing. The primary objectives of an Affirmative Marketing Plan are to target households who are least likely to apply for affordable housing, and to target households throughout the entire housing region in which the units are located.

The Township of West Milford provides this Affirmative Marketing Plan for any affordable housing within the Township. Individual projects may develop their own affirmative marketing plan in compliance with this plan.

Every Affirmative Marketing Plan must include all of the following:

1. Publication of at least one advertisement in a newspaper of general circulation within the housing region;
2. Broadcast of at least one advertisement by radio or television throughout the housing region; and
3. At least one additional regional marketing strategy such as a neighborhood newspaper, religious publication, organizational newsletter, advertisement(s) with major employer(s), or notification through community and regional organizations such as non-profit, religious, and civic organizations.

For each affordable housing opportunity within the municipality, the Affirmative Marketing Plan must include the following information:

1. The address of the project and development name, if any;
2. The number of rental units;
3. The price ranges of the rental units;
4. The name and contact information of the Municipal Housing Liaison, Administrative Agent, property manager, or landlord;
5. A description of the Random Selection method that will be used to select applicants for affordable housing; and
6. Disclosure of required application fees, if any.

Advertisements must contain the following information for each affordable housing opportunity:

1. Location of the units;

2. Directions to the units;
3. Range of prices for the units;
4. Size, as measured in bedrooms, of units;
5. The maximum income permitted to qualify for the housing units;
6. The locations of applications for the housing units;
7. The business hours when interested households may obtain an application for a housing unit; and
8. Application fees, if any.

Regional Preference

The Township of West Milford has provided that households that live or work in Housing Region #1 (comprised of Bergen, Hudson, Passaic, and Sussex Counties) shall be selected for an affordable housing unit before households from outside of this region. Units that remain unoccupied after households who live or work in the region are exhausted, may be offered to the households outside the region.

Implementation

The affirmative marketing process for affordable units shall begin at least four months prior to expected occupancy. In implementing the marketing program, the Administrative Agent shall undertake all of the strategies outlined in the Township of West Milford's Affirmative Marketing Plan. Advertising and outreach shall take place during the first week of the marketing program and each month thereafter until all the units have been sold. Applications for affordable housing shall be available in several locations in accordance with the Affirmative Marketing Plan. The time period when applications will be accepted will be posted with the applications. Applications shall be mailed to prospective applicants upon request.

All newspaper articles, announcements and requests for applications for low- and moderate-income units will appear in the following daily regional newspapers/publications when units are available and there is no wait list for existing units and when any new units may be constructed in the future:

1. The Record
2. Jersey Journal
3. Herald News
4. New Jersey Herald

The primary marketing will take the form of at least one (1) press release sent to the above publications and a paid display advertisement in each of the above newspapers. Additional advertising and publicity will be on an as-needed basis. The advertisement will include a description of the:

1. Location of the units;
2. Directions to the units;

3. Range of prices for the units;
4. Size, as measured in bedrooms, of units;
5. Maximum income permitted to qualify for the units;
6. Location of applications;
7. Business hours when interested households may obtain an application; and
8. Application fees.

All newspaper articles, announcements and requests for applications for low- and moderate-income housing will appear in the following neighborhood-oriented weekly newspapers, religious publications and organizational newsletters within the region:

1. Herald News
2. The Record
3. Star Ledger
4. Suburban Trends

The primary marketing shall take the form of at least one press release and a paid display advertisement in the above newspapers once a week for four consecutive weeks. Additional advertising and publicity shall be on an "as needed" basis. The developer/owner shall disseminate all public service announcements and pay for display advertisements. The developer/owner shall provide proof of all publications to the Administrative Agent. All press releases and advertisements shall be approved in advance by the Administrative Agent.

The following regional cable television stations or regional radio stations shall be used during the first month of advertising. The developer must provide satisfactory proof of public dissemination:

1. Station(s): Select two from the list in Attachment A.

The Administrative Agent shall develop, maintain and update a list of community contact person(s) and/or organizations(s) in Bergen, Hudson, Passaic, and Sussex Counties that will aid in the affirmative marketing program with particular emphasis on those contacts that are able to reach out to groups that are least likely to apply for housing within the region, including major regional employers identified in Attachment A, Part III, Marketing, Section 3d of COAH's Affirmative Fair Housing Marketing Plan for Affordable Housing in Region #1 (attached to and hereby made part of this Resolution) as well as the following entities:

1. Quarterly informational flyers and applications shall be sent to the Bergen, Hudson, Passaic, Sussex Counties' Boards of Realtors for publication in their journals and for circulation among their members; and
2. Quarterly informational circulars and applications shall be sent to the administrators of each of the following agencies within the municipalities and counties of Bergen, Hudson, Passaic, and Sussex.

Applications will be mailed to prospective applicants upon request.

The following is the location of applications, brochure(s), signs and/or poster(s) used as part of the affirmative program, including specific employment centers within the region:

1. Municipal Building: 1480 Union Valley Road, West Milford, NJ 07480
2. Municipal Library: 1470 Union Valley Road, West Milford, NJ 07480

The following is the community contact person who will aid the affirmative marketing program:

Municipal Housing Liaison
1480 Union Valley Road
West Milford, NJ 07480
(973) 728-7000

Additionally, quarterly informational circulars and applications for new units which may be constructed in the future will be sent to the chief administrative employees of each of the following agencies in the counties of Bergen, Hudson, Passaic, and Sussex:

1. Welfare or Social Service Board;
2. Rental assistance office (local office of DCA);
3. Office on Aging.
4. Housing Agency or Authority.
5. County Library.
6. Area community action agencies.

Applications, brochure(s), sign(s) and/or poster(s) used as part of the affirmative marketing program shall be available/posted in the following locations:

1. Township of West Milford Administrative Offices;
2. Township of West Milford website;
3. Developer's Sales/Rental Offices;
4. Bergen, Hudson, Passaic, and Sussex Counties' Administration Buildings;
5. Bergen, Hudson, Passaic, and Sussex Counties' Libraries (all branches); and
6. Other public buildings and agencies as deemed appropriate by the Administrative Agent.

Applications shall be mailed by the Administrative Agent and Municipal Housing Liaison to prospective applicants upon request. Also, applications shall be available at the developer's sales/rental office and multiple copies of application forms shall be mailed to Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, County

NAACP, Newark NAACP, East Orange NAACP, Housing Partnership for Morris County, Community Access Unlimited, Inc., Northwest New Jersey Community Action Program, Inc. (NORWESCAP), Homeless Solutions of Morristown, and the Supportive Housing Association for dissemination to their respective constituents. In addition, the foregoing entities shall be notified directly whenever an affordable housing unit(s) becomes available in the Township of West Milford.

The following is a listing of community contact person(s) and/or organizations in Bergen, Hudson, Passaic, and Sussex Counties that will aid in the affirmative marketing program and provide guidance and counseling services to prospective occupants of very low-, low-and moderate-income units:

1. CUMAC's The Place of Promise: 64 Clinton Street, Paterson (973) 742-5518
2. Family Promise of Passaic County, (973) 928-6007, <http://familypromise.org/>
3. Housing Authority of the City of Passaic (HACP), Administrative Office, 52 Aspen Place, Passaic (973) 365-6330, <http://www.passaichousing.org/>
4. New Jersey Community Development Corporation (NJCDC), P.O. Box 6976, Paterson (973) 413-1600 <http://www.njcdc.org/> Housing
5. NJ Housing Resource Center, <http://www.nj.gov/njhrc/>
6. Passaic Affordable Housing Coalition, 5 Eighth Avenue, Passaic (973) 473-2587
7. Passaic County Women's Center, PO Box 244, Paterson (973) 881-1450, <http://www.passaiccountywomenscenter.org/>
8. Paterson Coalition for Housing, 262 Main Street, Paterson (973) 684-5998

9. Paterson Habitat for Humanity 146 North 1st Street, Paterson (201) 697-6696, <https://www.patersonhabitat.org/>

10. Paterson Housing Authority, 60 Van Houten Street, P.O. Box H, Paterson (973) 345-5080, <http://patersonhousingauthority.org/>

A random selection method to select occupants of very low-, low- and moderate-income housing will be used by the Administrative Agent, in conformance with N.J.A.C. 5:80-26.16 (I). The Affirmative Marketing Plan shall provide a regional preference for very low-, low- and moderate-income households that live and/or work in Housing Region #1, comprised of Bergen, Hudson, Passaic, and Sussex Counties. Pursuant to the New Jersey Fair Housing Act (C.52:27D-311), a preference for very low-, low- and moderate-income veterans duly qualified under N.J.A.C. 54:4-8.10 may also be exercised, provided an agreement to this effect has been executed between the developer or landlord and the municipality prior to the affirmative marketing of the units.

The Administrative Agent shall administer the Affirmative Marketing Plan. The Administrative Agent has the responsibility to income qualify very low-, low- and moderate-income households; to place income-eligible households in very low-, low- and moderate-income units upon initial occupancy; to provide for the initial occupancy of very low, low and moderate income units with income qualified households; to continue to qualify households for re-occupancy of units as they become vacant during the period of affordability controls; to assist with outreach to very low-, low- and moderate-income households; and to enforce the terms of the deed restriction and mortgage loan as per N.J.A.C. 5:80-26-1, et seq.

The Administrative Agent shall provide or direct qualified very low-, low- and moderate-income applicants to counseling services on subjects such as budgeting, credit issues, mortgage qualifications, rental lease requirements and landlord/tenant law and shall develop, maintain and update a list of entities and lenders willing and able to perform such services. In addition, it shall be the responsibility of the Administrative Agent to inform owners of affordable units and prospective occupants of affordable units of the Borough's affordability assistance programs and to assist with the implementation of such programs.

All developers/owners of very low-, low- and moderate-income housing units shall be required to undertake and pay the costs of the marketing of the affordable units in their respective developments, subject to the direction and supervision of the Administrative Agent.

The implementation of the Affirmative Marketing Plan for a development that includes affordable housing shall commence at least 120 days before the issuance of either a temporary or permanent certificate of occupancy. The implementation of the Affirmative Marketing Plan shall continue until all very low-, low- and moderate-income housing units are initially occupied and thereafter upon the re-sale or re-rental of an affordable unit for as long as an affordable unit remains deed restricted.

The Administrative Agent shall provide the Affordable Housing Liaison with the information required to comply with monitoring and reporting requirements pursuant to the Borough's adopted Affordable Housing Ordinance.

An applicant pool will be maintained by the Administrative Agent for re-rentals.

1. When a re-rental affordable unit becomes available Administrative Agent will select applicants from the applicant pool and, if necessary, the unit will be affirmatively marketed as described above. The selection of applicants from the applicant pool is described in more detail in this manual under the section **Random Selection & Applicant Pool(s)**.

Sample Advertisement for Available Rental Units

The **Township/Borough** of **municipality** hereby announces that **# affordable housing units** will be available for rent in the **name of development/project**. The housing is under development by **developer** and is available for **type of income** households. **Development** is located at **address, description**.

The affordable housing available includes rents from **\$/,###/month** and includes **#-bedroom** units. Utilities are included (if applicable). Interested households will be required to submit **application, documentation if applicable, and any other requirements** in order to qualify. The maximum household incomes permitted are **\$41,471 for a one person household, \$47,395 for a two person household, \$53,320 for a three person household, \$59,244 for a four person household, \$63,984 for a five person household, and \$69,723 for a six person household**. Once certified, households will be matched to affordable units through a lottery system. All successful applicants will be required to demonstrate the ability to pay a security deposit (**requirements of security deposit**).

Applications are available at **Location(s), hours of operation**. Applications can also be requested via mail by calling **Realtor** at **Phone #**. Applications will be accepted until **mm/dd/yy** and there is a **\$5 fee for the credit check**.

Visit www.njhousing.gov or call 1-877-428-8844 for more affordable housing opportunities.

Although any income eligible households may apply, workers of **[Insert counties in the COAH Housing regional preference zone]**; Passaic County will be selected before residents of other counties or states.

Sample Public Service Announcement

10 second slot:

Affordability priced homes available in Mayberry Borough. Income restrictions apply. Call (800) 555-1234 for information.

30-35 second slot:

Affordably priced, brand new two, three, and four-bedroom attractive homes with nice amenities are available at the Equality at Mayberry Development in desirable Mayberry Borough. Call A Home For You at (800) 555-1234 for information on sales prices and income limits and to get a pre-application. The deadline to submit a pre-application is August 1, 2020, so don't delay. These homes are in accordance with State requirements for low- and moderate-income housing.

Random Selection & Applicant Pool(s)

The following is a description of the random selection method that will be used to select occupants for low- and moderate-income housing:

There will be a period in which to complete and submit applications. Households that have completed applications in that timeframe and have been determined that they are income eligible will be randomly selected to establish an order (service list) in which they will be evaluated by the Administrative Agent for the available unit(s). A copy of the first page of the applications will be folded and placed in a container of sufficient size to allow the applications to be randomly mixed. Once mixed, all applications will be drawn one by one from the container until none are left. The first application drawn will be the first position on the service list, and so on.

At least two people will be present during a random selection and both will sign the resulting service list as having participated and/or witnessed the random selection. Once the applicant is placed on the service list, they shall remain in that position until they are served or asked to be withdrawn from the list. Applicants on the service list shall not be a part of any future random selections. If the household on the list is not of an appropriate household size, income or does not live or work in the Housing Region, that applicant will be skipped and the next applicant household with sufficient income will be evaluated for the available unit. This will continue until a properly sized household with sufficient income or purchase or rent the unit is reached.

The applicant household will be required to submit a complete application to establish their eligibility as defined by the Fair Housing Act. If the end of the service list is reached before an appropriately-sized household that lives or works in the New Jersey Housing Region is identified the Administrative Agent will review skipped households in the order of the random selection. Households that live or work in the Housing Region that are smaller than the ideal household size, as defined by the Township's Affordable Housing Ordinance, will be considered next.

Any applicants that are skipped for size, income or regional preference will remain on the list and continue to be considered for future restricted units in the order in which they were selected in the random selection.

Unless applicants ask to be removed from the list or become ineligible for assistance, or are unresponsive to our communications, they will remain on the service list. Therefore, these applicants will not need to be in future random selections. Instead, the service order created by future random selections will be placed at the end of the service list set by all prior random selections.

If there are sufficient names remaining on the service list to fill two years of resales and rentals, the applicant pool may be closed by the Administrative Agent. The Administrative Agent will notify the Township in writing if it intends to close the waiting list. Any households calling or writing to express their interest in an affordable home will be directed to call back on a future date determined by the Administrative Agent. When the applicant pool is being depleted to a point where there is not a sufficient number of people to fill two (2) years of re-sales or rentals, the Administrative Agent will re-open the pool and conduct a new random selection process after fulfilling the affirmative marketing requirements. The service list established by subsequent random selection shall be added to the end of the previous service list.

Initial Randomization

Applicants are selected at random before income-eligibility is determined, regardless of household size or desired number of bedrooms. The process is as follows:

1. After advertising is implemented, applications are accepted for 120 days.
2. At the end of the period, sealed applications are selected one-by-one through a lottery (unless fewer applications are received than the number of available units, then all eligible households will be placed in a unit).
3. Households are informed of the date, time and location of the lottery and invited to attend.
4. An applicant pool is created by listing applicants in the order selected.
5. Applications are reviewed for income-eligibility.
6. Ineligible households are informed that they are being removed from the applicant pool or given the opportunity to correct and/or update income and household information.
7. Eligible households are matched to available units based upon the number of bedrooms needed (and any other special requirements, such as [regional preference or] the need for an accessible unit).
8. If there are sufficient names remaining in the pool to fill future re-rental, the applicant pool shall be closed.
9. When the applicant pool is close to being depleted, the Administrative Agent will re-open the pool and conduct a new random selection process after fulfilling the affirmative marketing requirements. The new applicant pool will be added to the remaining list of applicants.

Randomization After Certification

Random selection is conducted when a unit is available, and only certified households seeking the type and bedroom size of the available unit are placed in the lottery. The process is as follows:

1. After advertising is implemented, applications are accepted for 120 days.
2. All applications are reviewed and households are either certified or informed of non-eligibility. (The certification is valid for 180 days, and may be renewed by updating income-verification information.)
3. Eligible households are placed in applicant pools based upon the number of bedrooms needed (and any other special requirements, such as regional preference or the need for an accessible unit)
4. When a unit is available, only the certified households in need of that type of unit are selected for a lottery.

5. Households are informed of the date, time, and location of the lottery and invited to attend.
6. After the lottery is conducted, the first household selected is given 3 days to express interest or disinterest in the unit. (If the first household is not interested in the unit, this process continues until a certified household selects the unit.)
7. Applications are accepted on an ongoing basis, certified households are added to the pool for the appropriate household income and size categories, and advertising and outreach is ongoing, according to the Affirmative Marketing Plan.

Matching Households to Available Units

1. In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the Administrative Agent shall strive to implement the following policies:
 - a. Maximum of two person per bedroom;
 - b. Children of same sex in same bedroom;
 - c. Unrelated adults or persons of the opposite sex other than husband and wife in separate bedrooms;
 - d. Children not in same bedroom with parents;
 - e. Provide an occupant for each unit bedroom;
 - f. Provide children of different sex with separate bedrooms;
 - g. Require that all the bedrooms be used as bedrooms; and
 - h. Require that a couple requesting a two-bedroom unit provide a doctor's note justifying such request.

In no case shall a household be referred to an affordable housing unit that provides for more than one additional bedroom per household occupancy as stated in the policies above.

The Administrative Agent cannot require an applicant household to take an affordable unit with a greater number of bedrooms, as long as overcrowding is not a factor.

A household can be eligible for more than one unit category, and should be placed in the applicant pool for all categories for which it is eligible.

ATTACHMENT A
Affirmative Fair Housing Marketing Plan
For Affordable Housing in Region #1

AFFIRMATIVE FAIR HOUSING MARKETING PLAN

For Affordable Housing in **(REGION 1)**

I. APPLICANT AND PROJECT INFORMATION

(Complete Section I individually for all developments or programs within the municipality.)

| | | | |
|---|--|--|--|
| 1a. Administrative Agent Name, Address, Phone Number | | 1b. Development or Program Name, Address | |
| 1c. Number of Affordable Units: Number of Rental Units: Number of For-Sale Units: | 1d. Price or Rental Range From To | 1e. State and Federal Funding Sources (if any) | |
| 1f. <input type="checkbox"/> Age Restricted <input type="checkbox"/> Non-Age Restricted | 1g. Approximate Starting Dates Advertising: Occupancy: | | |
| 1h. County Bergen, Hudson, Passaic, Sussex | | 1i. Census Tract(s): | |
| 1j. Managing/Sales Agent's Name, Address, Phone Number | | | |
| 1k. Application Fees (if any): | | | |

(Sections II through IV should be consistent for all affordable housing developments and programs within the municipality. Sections that differ must be described in the approved contract between the municipality and the administrative agent and in the approved Operating Manual.)

II. RANDOM SELECTION

2. Describe the random selection process that will be used once applications are received.

III. MARKETING

3a. Direction of Marketing Activity: (indicate which group(s) in the housing region are least likely to apply for the housing without special outreach efforts because of its location and other factors)

- White (non-Hispanic) Black (non-Hispanic) Hispanic American Indian or Alaskan Native
- Asian or Pacific Islander Other group:

3b. **HOUSING RESOURCE CENTER** (www.njhousing.gov) A free, online listing of affordable housing

3c. Commercial Media (required) (Check all that applies)

| | DURATION & FREQUENCY OF OUTREACH | NAMES OF REGIONAL NEWSPAPER(S) | CIRCULATION AREA |
|---|----------------------------------|--------------------------------|---------------------------------|
| TARGETS ENTIRE HOUSING REGION 1 | | | |
| Daily Newspaper | | | |
| <input type="checkbox"/> | | Star-Ledger | Northern and Central New Jersey |
| TARGETS PARTIAL HOUSING REGION 1 | | | |
| Daily Newspaper | | | |
| <input type="checkbox"/> | | Record, The | Bergen |
| <input type="checkbox"/> | | Jersey Journal | Hudson |
| <input type="checkbox"/> | | Herald News | Passaic |
| <input type="checkbox"/> | | New Jersey Herald | Sussex |
| TARGETS PARTIAL HOUSING REGION 1 | | | |
| Non-Daily Newspaper | | | |
| | DURATION & FREQUENCY OF OUTREACH | NAMES OF REGIONAL NEWSPAPER(S) | CIRCULATION AREA |
| <input type="checkbox"/> | | Bayonne Community News | Hudson |
| <input type="checkbox"/> | | Northern Valley Suburbanite | Northern Bergen |
| <input type="checkbox"/> | | Teaneck Suburbanite | Teaneck, Bergen |
| <input type="checkbox"/> | | Twin Boro News | Northern Bergen |
| <input type="checkbox"/> | | Shopper News | Bergen |
| <input type="checkbox"/> | | The Ramsey Reporter | Ramsey, Bergen |
| <input type="checkbox"/> | | The Town Journal | Franklin Lakes, Bergen |

| | | | |
|--------------------------|--|-----------------------------------|----------------------------------|
| <input type="checkbox"/> | | The Village Gazette | Ridgewood, Bergen |
| <input type="checkbox"/> | | Messenger | Garfield, Bergen |
| <input type="checkbox"/> | | Observer | Hasbrouck Heights, Bergen |
| <input type="checkbox"/> | | Weekly News | Hasbrouck Heights, Bergen |
| <input type="checkbox"/> | | Hawthorne Press | Hawthorne, Passaic |
| <input type="checkbox"/> | | Journal America | Passaic |
| <input type="checkbox"/> | | Hoboken Reporter | Hoboken, Hudson |
| <input type="checkbox"/> | | Hudson Current | Hudson |
| <input type="checkbox"/> | | Jersey City Register | Hudson |
| <input type="checkbox"/> | | The Shoppers' Friend | Sussex |
| <input type="checkbox"/> | | The Commercial Leader | Lyndhurst, Bergen |
| <input type="checkbox"/> | | North Bergen Register | Hudson |
| <input type="checkbox"/> | | Secaucus Reporter | Secaucus, Hudson |
| <input type="checkbox"/> | | Weehawken Reporter | Weehawken, Hudson |
| <input type="checkbox"/> | | West New York/Union City Reporter | West New York/Union City, Hudson |
| <input type="checkbox"/> | | Observer | Hudson |
| <input type="checkbox"/> | | The Commercial Leader | Lyndhurst, Bergen |
| <input type="checkbox"/> | | The Leader Free Press | Lyndhurst, Bergen |
| <input type="checkbox"/> | | News Leader of Rutherford | Rutherford, Bergen |
| <input type="checkbox"/> | | North Arlington Leader | North Arlington, Bergen |

| | | | |
|--------------------------|--|-----------------------------------|--------------------------------|
| <input type="checkbox"/> | | Our Town | Maywood, Bergen |
| <input type="checkbox"/> | | The Ridgewood Times – Zone 2 | Midland Park/Ridgewood, Bergen |
| <input type="checkbox"/> | | The Villadom Times Midland Park | Midland Park/Ridgewood, Bergen |
| <input type="checkbox"/> | | The Palisadian | Bergen |
| <input type="checkbox"/> | | Aim Community News/Aim Action Ads | Passaic |
| <input type="checkbox"/> | | Shoppers Guide to Sussex County | Sussex |
| <input type="checkbox"/> | | Bergen News | Bergen |
| <input type="checkbox"/> | | Press Journal | Palisades Park, Bergen |
| <input type="checkbox"/> | | Korean Bergen News | Bergen |
| <input type="checkbox"/> | | Sun Bulletin | Bergen |
| <input type="checkbox"/> | | News Beacon | Paramus |
| <input type="checkbox"/> | | Slovak Catholic Falcon | (Slovak/English) Passaic |
| <input type="checkbox"/> | | Independence News | Passaic |
| <input type="checkbox"/> | | Home and Store News | Bergen |
| <input type="checkbox"/> | | Our Town | Northern Bergen |
| <input type="checkbox"/> | | The Glen Rock Gazette | Glen Rock, Bergen |
| <input type="checkbox"/> | | Ridgewood News | Ridgewood, Bergen |
| <input type="checkbox"/> | | Suburban News | Northern Bergen |
| <input type="checkbox"/> | | Town News | Northern Bergen |
| <input type="checkbox"/> | | Wyckoff Suburban News | Wyckoff, Bergen |

| | | | |
|--------------------------|--|----------------------------|------------------------|
| <input type="checkbox"/> | | The South Bergenite | Southern Bergen |
| <input type="checkbox"/> | | Secaucus Home News | Secaucus, Hudson |
| <input type="checkbox"/> | | The Advertiser | Sussex |
| <input type="checkbox"/> | | The Advertiser News | Sussex |
| <input type="checkbox"/> | | Sparta Independent | Sparta, Sussex |
| <input type="checkbox"/> | | Sussex County Chronicle | Sparta, Sussex |
| <input type="checkbox"/> | | The Connection Newspaper | Southern Bergen |
| <input type="checkbox"/> | | Jewish Community News | (Jewish) Bergen |
| <input type="checkbox"/> | | Jewish Standard | (Jewish) Bergen |
| <input type="checkbox"/> | | Avance | (Spanish) Hudson |
| <input type="checkbox"/> | | Continental | (Spanish) Hudson |
| <input type="checkbox"/> | | La Tribuna de North Jersey | (Spanish) Hudson |
| <input type="checkbox"/> | | The Argus | West Paterson, Passaic |
| <input type="checkbox"/> | | Suburban Life | Passaic |
| <input type="checkbox"/> | | Today Newspaper | Passaic |
| <input type="checkbox"/> | | Community Life | Northern Bergen |
| <input type="checkbox"/> | | Wood Ridge Independent | Wood Ridge |

TARGETS ENTIRE HOUSING REGION 1

| | DURATION & FREQUENCY OF OUTREACH | NAMES OF REGIONAL TV STATION(S) | CIRCULATION AREA AND/OR RACIAL/ETHNIC IDENTIFICATION OF READERS/AUDIENCE |
|--|---|--|---|
| | | | |

| | | | |
|--------------------------|--|---|--|
| <input type="checkbox"/> | | 2 WCBS-TV Cbs Broadcasting Inc. | NYC Metropolitan Area |
| <input type="checkbox"/> | | 4 WNBC NBC Telemundo License Co. (General Electric) | NYC Metropolitan Area |
| <input type="checkbox"/> | | 5 WNYW Fox Television Stations, Inc. (News Corp.) | NYC Metropolitan Area |
| <input type="checkbox"/> | | 7 WABC-TV American Broadcasting Companies, Inc (Walt Disney) | NYC Metropolitan Area |
| <input type="checkbox"/> | | 11 WPIX Wpix, Inc. (Tribune) | NYC Metropolitan Area |
| <input type="checkbox"/> | | 13 Wpix, Inc. (Tribune) Educational Broadcasting Corporation | NYC Metropolitan Area |
| <input type="checkbox"/> | | 25 WNYE-TV New York City Dept. Of Info Technology & Telecommunications | NYC Metropolitan Area |
| <input type="checkbox"/> | | 31 WPXN-TV Paxson Communications License Company, Llc | NYC Metropolitan Area |
| <input type="checkbox"/> | | 41 WXTV Wxtv License Partnership, G.p. (Univision Communications Inc.) | NYC Metropolitan Area, Spanish-language |
| <input type="checkbox"/> | | 47 WNJU NBC Telemundo License Co. (General Electric) | NYC Metropolitan Area, Spanish-language |
| <input type="checkbox"/> | | 50 WNJN New Jersey Public Broadcasting Authority | New Jersey |
| <input type="checkbox"/> | | 62 WRNN-TV Wrnn License Company, Llc | Hudson Valley |
| <input type="checkbox"/> | | 63 WMBC-TV Mountain Broadcating Corporation | Northern New Jersey, Various ethnic |

| | | | |
|---|--|--|--|
| <input type="checkbox"/> | | 66 WFME-TV Family Stations Of New Jersey, Inc. | Northern New Jersey, Christian |
| <input type="checkbox"/> | | 68 WFUT-TV Univision New York Llc | NYC Metropolitan Area, Spanish-language |
| TARGETS PARTIAL HOUSING REGION 1 | | | |
| <input type="checkbox"/> | | 8 WTNH Wtnh Broadcasting, Inc. (LIN TV Corp.) | Bergen |
| <input type="checkbox"/> | | 49 WEDW Connecticut Public Broadcasting, Inc. | Bergen |
| <input type="checkbox"/> | | 17 WEBR-CA K Licensee, Inc. | Bergen, Hudson (Christian) |
| <input type="checkbox"/> | | 26 WNXV-LP Island Broadcasting Company | Bergen, Hudson |
| <input type="checkbox"/> | | 32 WXNY-LP Island Broadcasting Company | Bergen, Hudson |
| <input type="checkbox"/> | | 35 WNYX-LP Island Broadcasting Company | Bergen, Hudson |
| <input type="checkbox"/> | | 39 WNYN-LP Island Broadcasting Company | Bergen, Hudson (Spanish) |
| <input type="checkbox"/> | | 21 WLIW Educational Broadcasting Corporation | Bergen, Hudson, Passaic |
| <input type="checkbox"/> | | 60 W60AI Ventana Television, Inc. | Bergen, Hudson, Passaic |
| <input type="checkbox"/> | | 6 WNYZ-LP Island Broadcasting Co. | Bergen, Sussex |
| <input type="checkbox"/> | | 22 WMBQ-CA Renard Communications Corp. | Hudson |
| <input type="checkbox"/> | | 34 WPXO-LP Paxson Communications License Company, Llc | Hudson |

| | | | |
|--------------------------|--|--|-----------------------|
| <input type="checkbox"/> | | 42 WKOB-LP Nave Communications, Llc | Hudson (Christian) |
| <input type="checkbox"/> | | 3 WBQM-LP Renard Communications Corp. | Hudson, Sussex |
| <input type="checkbox"/> | | 52 WNJT New Jersey Public Broadcasting Authority | Hudson, Sussex |
| <input type="checkbox"/> | | 28 WBRE-TV Nexstar Broadcasting, Inc. | Passaic, Sussex |
| <input type="checkbox"/> | | 36 W36AZ New Jersey Public Broadcasting Authority | Passaic, Sussex |
| <input type="checkbox"/> | | 16 WNEP-TV New York Times Co. | Sussex |
| <input type="checkbox"/> | | 22 WYOU Nexstar Broadcasting, Inc. | Sussex |
| <input type="checkbox"/> | | 23 W23AZ Centenary College | Sussex |
| <input type="checkbox"/> | | 38 WSWB Mystic Television of Scranton Llc | Sussex |
| <input type="checkbox"/> | | 39 WLVT-TV Lehigh Valley Public Telecommunications Corp. | Sussex |
| <input type="checkbox"/> | | 44 WVIA-TV Ne Pa Ed Tv Association | Sussex |
| <input type="checkbox"/> | | 49 W49BE New Jersey Public Broadcasting Authority | Sussex |
| <input type="checkbox"/> | | 56 WOLF-TV Wolf License Corp | Sussex |
| <input type="checkbox"/> | | 60 WBPH-TV Sonshine Family Television Corp | Sussex |

| | | | |
|--------------------------|--|--|--------|
| <input type="checkbox"/> | | 64 WQPX Paxson Communications License Company, Llc (Ion Media Networks) | Sussex |
| <input type="checkbox"/> | | 69 WFMZ-TV Maranatha Broadcasting Company, Inc. | Sussex |

| | DURATION & FREQUENCY OF OUTREACH | NAMES OF CABLE PROVIDER(S) | BROADCAST AREA |
|--|----------------------------------|----------------------------|----------------|
|--|----------------------------------|----------------------------|----------------|

TARGETS PARTIAL HOUSING REGION 1

| | | | |
|--------------------------|--|--|-----------------|
| <input type="checkbox"/> | | Time Warner Cable of Bergen & Hudson Counties | Partial Bergen |
| <input type="checkbox"/> | | Comcast of the Meadowlands | Partial Bergen |
| <input type="checkbox"/> | | Cablevision of New Jersey, Oakland, Ramapo, and Rockland | Partial Bergen |
| <input type="checkbox"/> | | US Cable of Paramus-Hillsdale | Partial Bergen |
| <input type="checkbox"/> | | Cablevision of NJ (Bayonne System), Hudson | Partial Hudson |
| <input type="checkbox"/> | | Comcast of Jersey City, Meadowlands, NJ (Union System) | Partial Hudson |
| <input type="checkbox"/> | | Time Warner Cable of Bergen & Hudson Counties | Partial Hudson |
| <input type="checkbox"/> | | Cablevision of Oakland, Paterson | Partial Passaic |
| <input type="checkbox"/> | | Hometown Online | Partial Passaic |

| | | | |
|--------------------------|--|--|-----------------|
| <input type="checkbox"/> | | Cable Vision of Morris, Warwick | Partial Sussex |
| <input type="checkbox"/> | | Hometown Online | Partial Sussex |
| <input type="checkbox"/> | | Service Electric Broadband Cable | Partial Sussex |
| <input type="checkbox"/> | | Time Warner Cable of Bergen & Hudson Counties | Partial Bergen |
| <input type="checkbox"/> | | Comcast of the Meadowlands | Partial Bergen |
| <input type="checkbox"/> | | Cablevision of New Jersey, Oakland, Ramapo, and Rockland | Partial Bergen |
| <input type="checkbox"/> | | US Cable of Paramus-Hillsdale | Partial Bergen |
| <input type="checkbox"/> | | Cablevision of NJ (Bayonne System), Hudson | Partial Hudson |
| <input type="checkbox"/> | | Comcast of Jersey City, Meadowlands, NJ (Union System) | Partial Hudson |
| <input type="checkbox"/> | | Time Warner Cable of Bergen & Hudson Counties | Partial Hudson |
| <input type="checkbox"/> | | Cablevision of Oakland, Paterson | Partial Passaic |
| <input type="checkbox"/> | | Hometown Online | Partial Passaic |
| <input type="checkbox"/> | | Cable Vision of Morris, Warwick | Partial Sussex |
| <input type="checkbox"/> | | Hometown Online | Partial Sussex |

| | | | |
|--------------------------|--|--|-----------------|
| <input type="checkbox"/> | | Service Electric Broadband Cable | Partial Sussex |
| <input type="checkbox"/> | | Time Warner Cable of Bergen & Hudson Counties | Partial Bergen |
| <input type="checkbox"/> | | Comcast of the Meadowlands | Partial Bergen |
| <input type="checkbox"/> | | Cablevision of New Jersey, Oakland, Ramapo, and Rockland | Partial Bergen |
| <input type="checkbox"/> | | US Cable of Paramus-Hillsdale | Partial Bergen |
| <input type="checkbox"/> | | Cablevision of NJ (Bayonne System), Hudson | Partial Hudson |
| <input type="checkbox"/> | | Comcast of Jersey City, Meadowlands, NJ (Union System) | Partial Hudson |
| <input type="checkbox"/> | | Time Warner Cable of Bergen & Hudson Counties | Partial Hudson |
| <input type="checkbox"/> | | Cablevision of Oakland, Paterson | Partial Passaic |
| <input type="checkbox"/> | | Hometown Online | Partial Passaic |
| <input type="checkbox"/> | | Cable Vision of Morris, Warwick | Partial Sussex |
| <input type="checkbox"/> | | Hometown Online | Partial Sussex |
| <input type="checkbox"/> | | Service Electric Broadband Cable | Partial Sussex |

| | DURATION & FREQUENCY OF OUTREACH | NAMES OF REGIONAL RADIO STATION(S) | BROADCAST AREA AND/OR RACIAL/ETHNIC IDENTIFICATION OF READERS/AUDIENCE |
|--|----------------------------------|------------------------------------|--|
| TARGETS ENTIRE HOUSING REGION 1 | | | |
| AM | | | |
| <input type="checkbox"/> | | WFAN 660 | |
| <input type="checkbox"/> | | WOR 710 | |
| <input type="checkbox"/> | | WABC 770 | |
| <input type="checkbox"/> | | WCBS 880 | |
| <input type="checkbox"/> | | WBBR 1130 | |
| FM | | | |
| <input type="checkbox"/> | | WFNY-FM 92.3 | |
| <input type="checkbox"/> | | WPAT-FM 93.1 | Spanish |
| <input type="checkbox"/> | | WNYC-FM 93.9 | |
| <input type="checkbox"/> | | WFME 94.7 | Christian |
| <input type="checkbox"/> | | WPLJ 95.5 | |
| <input type="checkbox"/> | | WQXR-FM 96.3 | |
| <input type="checkbox"/> | | WQHT 97.1 | |
| <input type="checkbox"/> | | WSKQ-FM 97.9 | Spanish |
| <input type="checkbox"/> | | WAWZ 99.1 | Christian |
| <input type="checkbox"/> | | WBAI 99.5 | |
| <input type="checkbox"/> | | WHTZ 100.3 | |

| | | | |
|---|--|---------------|--|
| <input type="checkbox"/> | | WHUD 100.7 | |
| <input type="checkbox"/> | | WCBS-FM 101.1 | |
| <input type="checkbox"/> | | WQCD 101.9 | |
| <input type="checkbox"/> | | WNEW 102.7 | |
| <input type="checkbox"/> | | WKTU 103.5 | |
| <input type="checkbox"/> | | WAXQ 104.3 | |
| <input type="checkbox"/> | | WWPR-FM 105.1 | |
| <input type="checkbox"/> | | WLTW 106.7 | |
| <input type="checkbox"/> | | WBLS 107.5 | |
| TARGETS PARTIAL HOUSING REGION 1 | | | |
| AM | | | |
| <input type="checkbox"/> | | WEEX 1230 | Bergen |
| <input type="checkbox"/> | | WKDM 1380 | Bergen, Hudson (Chinese/ Mandarin) |
| <input type="checkbox"/> | | WMCA 570 | Bergen, Hudson, Passaic (Christian) |
| <input type="checkbox"/> | | WNYC 820 | Bergen, Hudson, Passaic |
| <input type="checkbox"/> | | WRKL 910 | Bergen, Hudson, Passaic (Polish) |
| <input type="checkbox"/> | | WPAT 930 | Bergen, Hudson, Passaic (Caribbean, Mexican, Mandarin) |
| <input type="checkbox"/> | | WWDJ 970 | Bergen, Hudson, Passaic (Christian) |
| <input type="checkbox"/> | | WINS 1010 | Bergen, Hudson, Passaic |

| | | | |
|--------------------------|--|--------------|--|
| <input type="checkbox"/> | | WEPN 1050 | Bergen, Hudson, Passaic |
| <input type="checkbox"/> | | WVNJ 1160 | Bergen, Hudson, Passaic |
| <input type="checkbox"/> | | WLIB 1190 | Bergen, Hudson, Passaic (Christian) |
| <input type="checkbox"/> | | WADO 1280 | Bergen, Hudson, Passaic (Spanish) |
| <input type="checkbox"/> | | WWRV 1330 | Bergen, Hudson, Passaic (Spanish) |
| <input type="checkbox"/> | | WNSW 1430 | Bergen, Hudson, Passaic (Portuguese) |
| <input type="checkbox"/> | | WZRC 1480 | Bergen, Hudson, Passaic (Chinese/Cantonese) |
| <input type="checkbox"/> | | WQEW 1560 | Bergen, Hudson, Passaic |
| <input type="checkbox"/> | | WWRL 1600 | Bergen, Hudson, Passaic |
| <input type="checkbox"/> | | WWRU 1660 | Bergen, Hudson, Passaic (Korean) |
| <input type="checkbox"/> | | WMTR 1250 | Passaic |
| <input type="checkbox"/> | | WGHT 1500 | Passaic |
| <input type="checkbox"/> | | WNNJ 1360 | Sussex |
| FM | | | |
| <input type="checkbox"/> | | WSOU 89.5 | Bergen, Hudson |
| <input type="checkbox"/> | | WCAA 105.9 | Bergen, Hudson (Latino) |
| <input type="checkbox"/> | | WBGO 88.3 | Bergen, Hudson, Passaic |
| <input type="checkbox"/> | | WFDU 89.1 | Bergen, Hudson, Passaic |
| <input type="checkbox"/> | | WKCR-FM 89.9 | Bergen, Hudson, Passaic |

| | | | |
|--------------------------|--|----------------|-------------------------|
| <input type="checkbox"/> | | WNYU-FM 89.1 | Bergen, Hudson, Passaic |
| <input type="checkbox"/> | | WFUV 90.7 | Bergen, Hudson, Passaic |
| <input type="checkbox"/> | | WFMU 91.1 | Bergen, Hudson, Passaic |
| <input type="checkbox"/> | | WNYE 91.5 | Bergen, Hudson, Passaic |
| <input type="checkbox"/> | | WRKS 98.7 | Bergen, Hudson, Sussex |
| <input type="checkbox"/> | | WRTN 93.5 | Bergen, Hudson, Sussex |
| <input type="checkbox"/> | | WHCR-FM 90.3 | Bergen, Passaic |
| <input type="checkbox"/> | | WPSC-FM 88.7 | Passaic |
| <input type="checkbox"/> | | WRHV 88.7 | Passaic |
| <input type="checkbox"/> | | WNJP 88.5 | Sussex |
| <input type="checkbox"/> | | WNTI 91.9 | Sussex |
| <input type="checkbox"/> | | WCTO 96.1 | Sussex |
| <input type="checkbox"/> | | WSUS 102.3 | Sussex |
| <input type="checkbox"/> | | WNNJ-FM 103.7 | Sussex |
| <input type="checkbox"/> | | WDHA -FM 105.5 | Sussex |
| <input type="checkbox"/> | | WHCY 106.3 | Sussex |
| <input type="checkbox"/> | | WWYY 107.1 | Sussex |

3d. Other Publications (such as neighborhood newspapers, religious publications, and organizational newsletters) (Check all that applies)

| | NAME OF PUBLICATIONS | OUTREACH AREA | RACIAL/ETHNIC IDENTIFICATION OF READERS/AUDIENCE |
|--|----------------------|---------------|--|
| | | | |

| TARGETS ENTIRE HOUSING REGION 1 | | | | |
|---|--|----------------------|---|---------------------|
| Bi-weekly | | | | |
| <input type="checkbox"/> | | Al Manassah | | Arab-American |
| Monthly | | | | |
| <input type="checkbox"/> | | Sino Monthly | North Jersey/NYC area | Chinese-American |
| TARGETS PARTIAL HOUSING REGION 1 | | | | |
| Daily | | | | |
| <input type="checkbox"/> | | 24 Horas | Bergen, Essex, Hudson, Middlesex, Passaic, Union Counties | Portuguese-Language |
| Weekly | | | | |
| <input type="checkbox"/> | | Arab Voice Newspaper | North Jersey/NYC area | Arab-American |
| <input type="checkbox"/> | | La Voz | Hudson, Union, Middlesex Counties | Cuban community |
| <input type="checkbox"/> | | Italian Tribune | North Jersey/NYC area | Italian community |
| <input type="checkbox"/> | | Jewish Standard | Bergen, Passaic, Hudson Counties | Jewish community |
| <input type="checkbox"/> | | El Especialito | Union City | Spanish-Language |
| <input type="checkbox"/> | | El Nuevo | Hudson County | Spanish-Language |
| <input type="checkbox"/> | | La Tribuna Hispana | Basking Ridge, Bound Brook, Clifton, East Rutherford, Elizabeth, Fort Lee, Greebrook, Linden, Lydenhurst, Newark, North Plainfield, Orange, Passaic, Paterson, Plainfield, Roselle, Scotch Plains, Union, Union City, West NY | Spanish-Language |
| <input type="checkbox"/> | | Su Guia | Bergen and Passaic | Spanish-Language |

| | | | | |
|---|--|--------------------------------------|---|--------------------------|
| <input type="checkbox"/> | | Banda Oriental Latinoamérica | North Jersey/NYC area | South American community |
| <input type="checkbox"/> | | Ukranian Weekly | New Jersey | Ukranian community |
| 3e. Employer Outreach (names of employers throughout the housing region that can be contacted to post advertisements and distribute flyers regarding available affordable housing) (Check all that applies) | | | | |
| DURATION & FREQUENCY OF OUTREACH | | NAME OF EMPLOYER/COMPANY | | LOCATION |
| Hudson County | | | | |
| <input type="checkbox"/> | | United Parcel Service Inc. NY Corp | 492 County Ave, Secaucus | |
| <input type="checkbox"/> | | USPS | 80 County Road, Jersey City | |
| <input type="checkbox"/> | | Liz Claiborne Inc | 1 Claiborne Ave, North Bergen | |
| <input type="checkbox"/> | | Credit Suisse First Boston LLC | 1 Pershing Plz Jersey City | |
| <input type="checkbox"/> | | HealthCare Staffing and Consult | 26 Journal Square, Jersey City | |
| <input type="checkbox"/> | | Ritter Sysco Food Service | 20 Theodore Conrad Dr. Jersey City | |
| <input type="checkbox"/> | | Jersey City Medical Center Inc. | 50 Grand St, Secaucus | |
| <input type="checkbox"/> | | Marsh USA Inc. | 121 River St, Hoboken | |
| <input type="checkbox"/> | | National Retail Systems Inc. | 2820 16th St North Bergen | |
| <input type="checkbox"/> | | Community Corrections Corp | Lincoln Hwy Kearny | |
| <input type="checkbox"/> | | Marine Personnel & Provisioning Inc. | 1200 Harbor Blvd Weehawken | |
| <input type="checkbox"/> | | Port Authority of NY and NJ | 241 Erie St. Jersey City and 120 Academy St. Jersey City | |
| <input type="checkbox"/> | | Christ Hospital Health Service | 176 Palisade Ave, Jersey City | |
| <input type="checkbox"/> | | Bayonne Hospital | 29th Street and Ave E, Bayonne | |
| <input type="checkbox"/> | | Salson Logistics Inc. | 2100 88th St.and 7373 West Side Ave, North Bergen, NJ | |

| | | | |
|--------------------------|--|--|---------------------------------------|
| <input type="checkbox"/> | | National Financial Service | 1000 Plaza, Jersey City |
| <input type="checkbox"/> | | Fleet NJ Company Development Corp. | 10 Exchange Place, Jersey City |
| <input type="checkbox"/> | | Maidenform Inc | 154 Ave E, Bayonne |
| <input type="checkbox"/> | | Lord Abbett & Company | 90 Hudson City, Jersey City |
| <input type="checkbox"/> | | Liberty Health Plan Inc. | 50 Baldwin Ave Jersey City |
| <input type="checkbox"/> | | Port Imperial Ferry Corp. | Pershing Rd Secaucus |
| <input type="checkbox"/> | | Hudson News | 1305 Paterson Plank Rd, North Bergen |
| <input type="checkbox"/> | | Palisades General Hospital | 7600 River Rd North Bergen, NJ |
| <input type="checkbox"/> | | Equiserve Inc. | 525 Washington Blvd Jersey city |
| <input type="checkbox"/> | | Ciricorp Data Systems Incorporated | 1919 Park Ave Secaucus |
| <input type="checkbox"/> | | Meadowlands Hospital Medical Center | Meadowlands Pkwy Secaucus |
| <input type="checkbox"/> | | Retailers & Manufacturers Dist Marking Serv. | 50 Metro Way Secaucus |
| <input type="checkbox"/> | | Dynamic Delivery Corp | 125 Pennsylvania Ave Kearny, NJ |
| <input type="checkbox"/> | | Bowne Business Communications Inc. | 215 County Ave Secaucus |
| <input type="checkbox"/> | | North Hudson Community Action Corp. | 5301 Broadway West New York 07093 |
| <input type="checkbox"/> | | Goya Foods Inc. | 100 Seaview Dr. Secaucus |
| <input type="checkbox"/> | | Cristi Cleaning Service | 204 Paterson Plank Rd Union, NJ |
| Bergen County | | | |
| <input type="checkbox"/> | | Hackensack University Medical Center | 30 Prospect Ave, Hackensack, NJ 07601 |
| <input type="checkbox"/> | | Professional Employer Group Service | 2050 Center Ave Ste 336 Fort Lee |

| | | | |
|--------------------------|--|--|---|
| <input type="checkbox"/> | | County of Bergen, NJ | 1 Bergen County Plaza Hackensack, NJ 07601 |
| <input type="checkbox"/> | | Society of the Valley Hospital | 223 N Van Dien Ave Ridgewood |
| <input type="checkbox"/> | | NJ Sports & Expo Authority | 50 State Highway 120 East Rutherford |
| <input type="checkbox"/> | | Merck-Medco Managed Care LLC | 100 Parsons Pond Dr. Franklin Lakes 07417 |
| <input type="checkbox"/> | | Quest Diagnostics Incorporated | 1 Malcolm Ave Teterboro ,NJ 07608 |
| <input type="checkbox"/> | | AT&T | 15 E Midland Ave Paramus |
| <input type="checkbox"/> | | Englewood Hospital and Medical Center | 350 Engle St. Englewood |
| <input type="checkbox"/> | | Aramark Svcs Management of NJ Inc | 50 Route 120 East Rutherford |
| <input type="checkbox"/> | | Holy Name Hospital | 718 Teaneck Road Teaneck |
| <input type="checkbox"/> | | Doherty Enterprises Inc | 7 Pearl Ct Allendale |
| <input type="checkbox"/> | | Bergen Regional Medical Center | 230 East Ridgewood Ave Paramus |
| <input type="checkbox"/> | | Inserra supermarkets, Inc. | 20 Ridge Rd Mahwah |
| <input type="checkbox"/> | | Howmedica Osteonics Corp | 59 Route 17 Allendale |
| <input type="checkbox"/> | | Becton Dickinson & Company Corp | 1 Becton Dr. Franklin Lakes |
| <input type="checkbox"/> | | Pearson Education, Inc. | 1 Lake St. Upper Saddle River |
| Passaic County | | | |
| <input type="checkbox"/> | | D&E Pharmaceutical Co. | 206 Macoprin Rd Bloomingdale, NJ 07403 |
| <input type="checkbox"/> | | Acme Markets | 467 AllWood Rd Clifton, NJ 07012 |
| <input type="checkbox"/> | | St. Mary's Hospital | 350 Boulevard Passaic, NJ 07055 |
| <input type="checkbox"/> | | Merry Maids | 14 Riverside Square Mall, Bloomingdale, NJ 07403 |

| | | | |
|--------------------------|--|------------------------------------|--|
| <input type="checkbox"/> | | Health Center at Bloomingdale | 255 Union Ave Bloomingdale, NJ 07403 |
| <input type="checkbox"/> | | Sommers Plastic Product Co. Inc. | 31 Styertowne Rd Clifton, NJ 07012 |
| <input type="checkbox"/> | | St. Joseph's Hospital | 703 Main St. Paterson, NJ 07503 |
| <input type="checkbox"/> | | BAE Systems | 164 Totowa Rd, Wayne, NJ 07470 |
| <input type="checkbox"/> | | Drake Bakeries Inc | 75 Demarest Dr, Wayne, NJ 07470 |
| <input type="checkbox"/> | | Toys R Us National Headquarters | 1 Geoffrey Way, Wayne, NJ 07470 |
| <input type="checkbox"/> | | GAF Materials Corporation | 1361 Alps Rd, Wayne, NJ 07470 |
| <input type="checkbox"/> | | Valley National Bank Headquarters | 1455 Valley Road Wayne, New Jersey 07470 |
| Sussex County | | | |
| <input type="checkbox"/> | | Selective Insurance | 40 Wantage Ave, Branchville, NJ |
| <input type="checkbox"/> | | Andover Subacute and Rehab Center | 99 Mulford Rd Bldg 2, Andover, NJ |
| <input type="checkbox"/> | | Mountain Creek Resorts | 200 State Rt 94, Vernon, NJ |
| <input type="checkbox"/> | | County of Sussex | One Spring Street, Newton, NJ 07860 |
| <input type="checkbox"/> | | Newton Memorial Hospital Inc. | 175 High St, Newton, NJ |
| <input type="checkbox"/> | | Vernon Township Board of Education | 539 State Rt 515, Vernon, NJ |
| <input type="checkbox"/> | | F.O. Phoenix (Econo-Pak) | 1 Wiebel Plz, Sussex, NJ |
| <input type="checkbox"/> | | Hopatcong Board of Education | 2 Windsor Ave, Hopatcong, NJ |
| <input type="checkbox"/> | | Saint Clare's Hospital | 20 Walnut St, Sussex, NJ |
| <input type="checkbox"/> | | Ames Rubber Corp | 19 Ames Blvd, Hamburg, NJ |

| | | | |
|--|---------------|--|----------------------------------|
| 3f. Community Contacts (names of community groups/organizations throughout the housing region that can be contacted to post advertisements and distribute flyers regarding available affordable housing) | | | |
| Name of Group/Organization | Outreach Area | Racial/Ethnic Identification of Readers/Audience | Duration & Frequency of Outreach |
| | | | |
| | | | |
| | | | |

IV. APPLICATIONS

| Applications for affordable housing for the above units will be available at the following locations: | | | | | | | | | | | |
|--|---|----------|----------|---|---------------------------------------|--|--|---|--|--|---|
| 4a. County Administration Buildings and/or Libraries for all counties in the housing region (list county building, address, contact person) (Check all that applies) | | | | | | | | | | | |
| | <table border="1"> <thead> <tr> <th>BUILDING</th> <th>LOCATION</th> </tr> </thead> <tbody> <tr> <td><input type="checkbox"/> Sussex County Main Library</td> <td>125 Morris Turnpike, Newton, NJ 07860</td> </tr> <tr> <td><input type="checkbox"/> Hudson County Administration Building</td> <td>595 Newark Avenue, Jersey City, NJ 07306</td> </tr> <tr> <td><input type="checkbox"/> Passaic County Administration Building</td> <td>401 Grand Street, Paterson, NJ 07505 (973) 225-3632</td> </tr> <tr> <td><input type="checkbox"/> Bergen County Administration Building</td> <td>One Bergen County Plaza, Hackensack, NJ 07601 (201)336-6000</td> </tr> </tbody> </table> | BUILDING | LOCATION | <input type="checkbox"/> Sussex County Main Library | 125 Morris Turnpike, Newton, NJ 07860 | <input type="checkbox"/> Hudson County Administration Building | 595 Newark Avenue, Jersey City, NJ 07306 | <input type="checkbox"/> Passaic County Administration Building | 401 Grand Street, Paterson, NJ 07505 (973) 225-3632 | <input type="checkbox"/> Bergen County Administration Building | One Bergen County Plaza, Hackensack, NJ 07601 (201)336-6000 |
| BUILDING | LOCATION | | | | | | | | | | |
| <input type="checkbox"/> Sussex County Main Library | 125 Morris Turnpike, Newton, NJ 07860 | | | | | | | | | | |
| <input type="checkbox"/> Hudson County Administration Building | 595 Newark Avenue, Jersey City, NJ 07306 | | | | | | | | | | |
| <input type="checkbox"/> Passaic County Administration Building | 401 Grand Street, Paterson, NJ 07505 (973) 225-3632 | | | | | | | | | | |
| <input type="checkbox"/> Bergen County Administration Building | One Bergen County Plaza, Hackensack, NJ 07601 (201)336-6000 | | | | | | | | | | |
| 4b. Municipality in which the units are located (list municipal building and municipal library, address, contact person) | | | | | | | | | | | |
| | | | | | | | | | | | |
| | | | | | | | | | | | |
| 4c. Sales/Rental Office for units (if applicable) | | | | | | | | | | | |
| | | | | | | | | | | | |

V. CERTIFICATIONS AND ENDORSEMENTS

I hereby certify that the above information is true and correct to the best of my knowledge. I understand that knowingly falsifying the information contained herein may affect the (select one: Municipality's substantive certification or DCA Balanced Housing Program funding or HMFA UHORP/MONI/CHOICE funding).

–
Name (Type or Print)

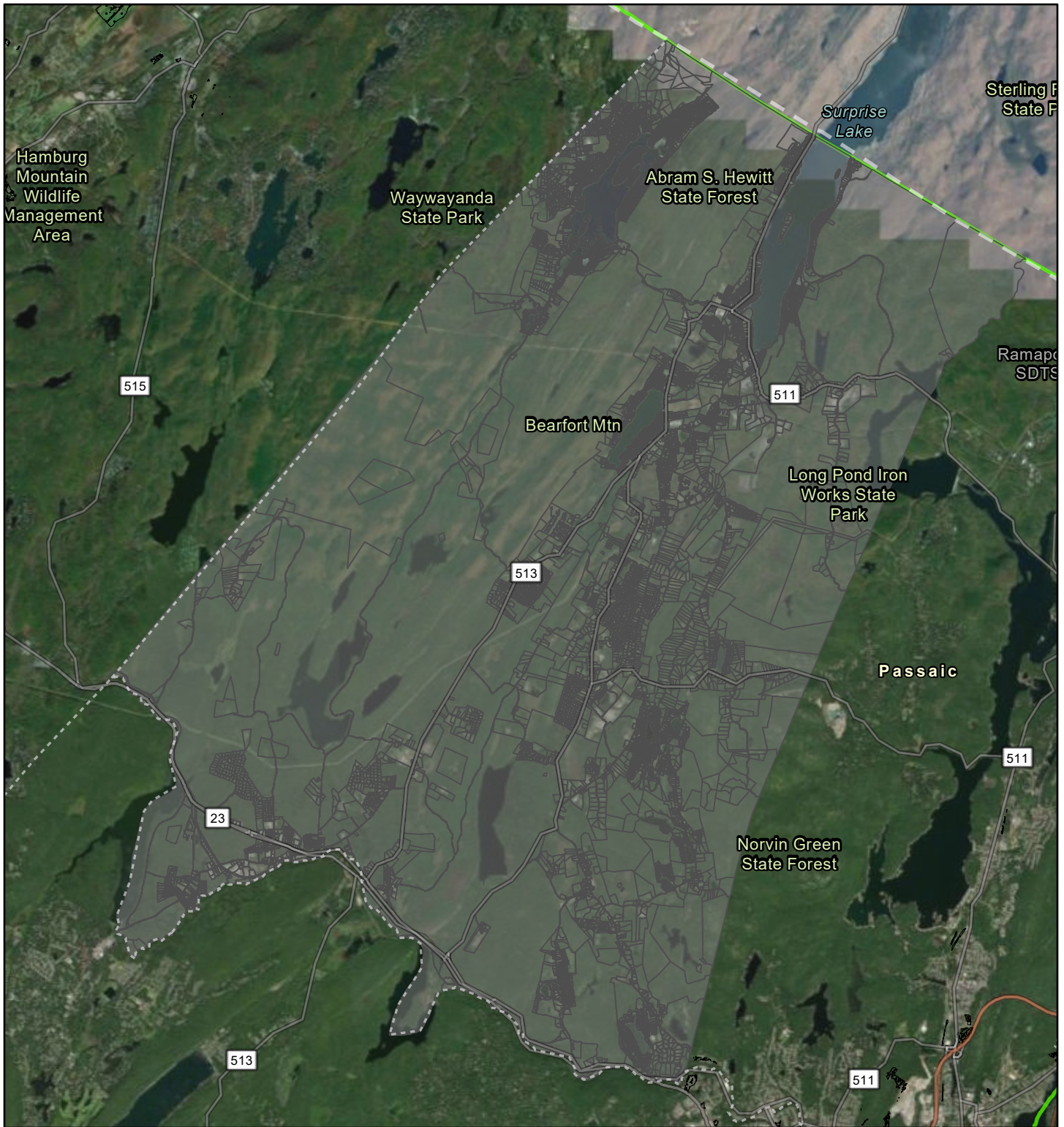
–
Title/Municipality

–
Signature Date

Appendix E – Deed Restrictions

Appendix F – HIGHLANDS BUILDOUT

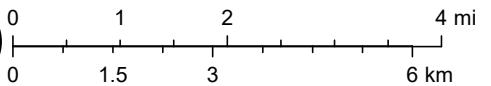
Build-Out Map



1/14/2025

-  Developable Land
- Build-Out Analysis Review
-  NO
-  Highlands Boundary
- World Imagery

- Low Resolution 15m Imagery
- High Resolution 60cm Imagery
- High Resolution 30cm Imagery
- Citations
- 38m Resolution Metadata



1:150,485

Earthstar Geographics, County of Sussex, NJ, New Jersey Office of GIS, Esri, TomTom, Garmin, SafeGraph, METI/NASA, USGS, EPA, NPS, USDA, USFWS



New Jersey Highlands

2024 Municipal Build-Out Update

The Highlands region, by the terms of the Highlands Act and the Highlands RMP, is an area of the state designated for limited growth, both in terms of overall scale of new development and the portions of the region that are suitable for development. Long-term management of the region for the protection of its vital resources requires that all future development, including affordable housing, be appropriate in scale, location, and design to ensure that those resources will be available for future generations of New Jersey's residents and businesses.

Parcels

In Municipality

12,108

Parcels

Need Review

0

Parcels

Developable

0

Acres

Developable

0

This Review Portal provides an application to access and review the 2024 GIS vacancy and build-out analysis conducted in accordance with the Highlands Affordable Housing RMP 2024 Amendment.

[Go to the Review Portal](#)

[Go to Resources](#)

[Access the Datasets](#)

EXHIBIT P-2

Township of West Milford

Passaic County, New Jersey

~ Ordinance 2026 – 007 ~

ORDINANCE AMENDING CHAPTER 500 ZONING TO ADD SECTION 500-23.1 MANDATORY SET-ASIDE ORDINANCE TO COMPLY WITH THE NEW JERSEY FAIR HOUSING ACT AND AFFORDABLE HOUSING OBLIGATIONS

WHEREAS, the Mayor and Township Council endorsed a Housing Element and Fair Share Plan dated June 5, 2025; and

WHEREAS, the Mayor and Township Council submitted the approved Housing Element and Fair Share Plan to the New Jersey Dispute Resolution Program for judicial review under the Fair Housing Act for Round 4 Affordable Housing Obligations; and

WHEREAS, no challenges to the Township's Housing Element and Fair Share Plan were filed with Dispute Resolution Program; and

WHEREAS, the Fair Housing Act requires all implementing ordinances and associated documents be adopted by March 15, 2026;

NOW THEREFORE, BE IT ORDAINED, by the Township Council of the Township of West Milford, in the County of Passaic, and State of New Jersey as follows:

SECTION 1. Chapter 500 "Zoning" Section 500-23.1 Mandatory Set-Aside Ordinance is added as follows:

§500-23.1 - MANDATORY SET-ASIDE ORDINANCE

- A. If the Township or Township Planning & Zoning Board permits the construction of multi-family or single-family attached residential development that is "approvable" and "developable," as defined at N.J.A.C. 5:93-1.3, the Township or the Township's Planning & Zoning Board shall require that a percentage of the residential units be set aside for low- and moderate-income households.
- B. This requirement shall apply beginning with the effective date of this Ordinance to any multi-family or single-family attached residential development, including the residential portion of a mixed-use project, which consists of five (5) or more new residential units at a density of six (6) units to the acre or more, whether permitted by a zoning amendment, a variance granted by the Township's Planning & Zoning Board, or adoption of a Redevelopment Plan or amended Redevelopment Plan in areas in need of redevelopment or rehabilitation.
- C. For any such development for which the Township's land use ordinances (e.g., zoning or an adopted Redevelopment Plan) already permitted residential development as of the effective date of this Ordinance, this requirement shall only apply if the Township permits an increase in approvable and developable gross residential density to at least twice the permitted approvable and developable gross residential density as of the effective date of this Ordinance.
- D. Nothing in this paragraph precludes the Township or the Township's Planning & Zoning Board from imposing an affordable housing set-aside in a development not required to have a set-aside pursuant to this paragraph consistent with N.J.S.A. 52:27D-311(h) and other applicable law.
- E. For all inclusionary projects, with the low- and moderate-income units, the minimum set-aside is twenty (20) percent, regardless of tenure.
- F. This requirement does not create any entitlement for a property owner or applicant for a zoning amendment, variance, or adoption of a Redevelopment Plan or amended Redevelopment Plan in areas in need of redevelopment or rehabilitation, or for approval of any particular proposed project.

G. Furthermore, this section shall not apply to developments containing four (4) or less dwelling units. All subdivision and site plan approvals of qualifying residential developments shall be conditioned upon compliance with the provisions of this section. Where a developer demolishes existing dwelling units and builds new dwelling units on the same site, the provisions of this section shall apply only if the net number of dwelling units is five (5) or more.

SECTION 2. All ordinances of the Township of West Milford, which are inconsistent with the provisions of this Ordinance, are hereby repealed to the extent of such inconsistency.

SECTION 3. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.


SECTION 4. This Ordinance shall take effect immediately upon final passage, approval, and publication as required by law.

SECTION 5. This Ordinance may be renumbered for codification purposes.

Introduced: February 11, 2026
Adopted: March 4, 2026
Effective Date: March 24, 2026

ATTEST:

TOWNSHIP OF WEST MILFORD
COUNTY OF PASSAIC
STATE OF NEW JERSEY



William Senande, Township Clerk

By: 

Michele Dale, Mayor

Township of West Milford

Passaic County, New Jersey

~ Ordinance 2026 - 008 ~

ORDINANCE AMENDING CHAPTER 470 SUBDIVISION AND SITE PLAN TO REPEAL AND REPLACE ARTICLE XIII AFFORDABLE HOUSING ORDINANCE TO COMPLY WITH THE NEW JERSEY FAIR HOUSING ACT AND AFFORDABLE HOUSING OBLIGATIONS

WHEREAS, the Mayor and Township Council endorsed a Housing Element and Fair Share Plan dated June 5, 2025; and

WHEREAS, the Mayor and Township Council submitted the approved Housing Element and Fair Share Plan to the New Jersey Dispute Resolution Program for judicial review under the Fair Housing Act for Round 4 Affordable Housing Obligations; and

WHEREAS, no challenges to the Township's Housing Element and Fair Share Plan were filed with Dispute Resolution Program; and

WHEREAS, the Fair Housing Act requires all implementing ordinances and associated documents be adopted by March 15, 2026;

NOW THEREFORE, BE IT ORDAINED, by the Township Council of the Township of West Milford, in the County of Passaic, and State of New Jersey as follows:

SECTION 1. Chapter 470 "Subdivision and Site Plan" Article XIII Affordable Housing is added as follows:

Article XIII, Affordable Housing

§ 470-48 Purpose; legislative authority.

- A. This article is intended to assure that low- and moderate-income units ("affordable units") are created with controls on affordability over time and that low- and moderate-income households shall occupy these units. This article shall apply except where inconsistent with applicable law.

§ 470-48.1 Definitions.

ACT

Means the Fair Housing Act, N.J.S.A. 52:27D-301 et seq.

ADMINISTRATIVE AGENT

Means the entity responsible for administering the affordability controls of this subchapter with respect to specific restricted units, as designated pursuant to N.J.S.A. 52:27D-321, N.J.A.C. 5:80-26.15, and 5:99-7.

AFFIRMATIVE MARKETING

Means a regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

AFFORDABILITY AVERAGE

Means the average percentage of regional median income at which restricted units in an affordable housing development are affordable to low- and moderate-income households.

AFFORDABLE

Means, in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth at N.J.A.C. 5:80-26.7 and, in the case of a rental unit that the rent for the unit conforms to the standards set forth at N.J.A.C. 5:80-26.13.

AFFORDABLE HOUSING DEVELOPMENT

Means a housing development all or a portion of which consists of restricted units.

AFFORDABLE HOUSING DEVELOPMENT

Means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development

AFFORDABLE HOUSING PROGRAM(S)

Means any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

AFFORDABLE HOUSING TRUST FUND or AHTF

Means that non-lapsing, revolving trust fund established in DCA pursuant to N.J.S.A. 52:27D-320 and N.J.A.C. 5:43 to be the repository of all State funds appropriated for affordable housing purposes. All references to the "Neighborhood Preservation Nonlapsing Revolving Fund" and "Balanced Housing" mean the AHTF.

AFFORDABLE UNIT

Means a housing unit proposed or created pursuant to the Act and approved for crediting by the Court and/or funded through an affordable housing trust fund.

AGE-RESTRICTED UNIT

Means a housing unit designed to meet the needs of, and intended exclusively for, the residents of an age-restricted segment of the population where the adult member of the family who is the head of the household for the purposes of determining income eligibility and rent is a minimum age of either 62 years, or 55 years and meets the provisions of 42 U.S.C. §§ 3601 through 3619, except that due to death, a surviving spouse of less than 55 years of age is permitted to continue to reside in the unit.

AGENCY

Means the New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c.530 (N.J.S.A. 55:14K-1 through 44) in, but not of, DCA.

ALTERNATIVE LIVING ARRANGEMENT

Means a structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangements include, but are not limited to: transitional facilities for the homeless; Class A, B, C, D and E boarding homes as regulated by the State of New Jersey Department of Community Affairs; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

ASSISTED LIVING RESIDENCE

Means a facility that is licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

CERTIFIED HOUSEHOLD

Means a household that has been certified by an administrative agent as a very-low-income household, a low-income household, or a moderate-income household

CHOICE

Means the no-longer-active Choices in Homeownership Incentives for Everyone Program, as it was authorized by the Agency.

COAH

Means the Council on Affordable Housing established in, but not of, DCA by the Act and that was abolished effective March 20, 2024 by section 3 of P.L. 2024, c.2 (N.J.S.A. 52:27D304.1).

COMPLIANCE CERTIFICATION

Means the certification issued to a municipality by the Dispute Resolution Program or by a county-level housing judge pursuant to section 3 at P.L. 2024, c.2, that protects the municipality from exclusionary zoning litigation during the current round of present and prospective need and through July 1 of the year the next affordable housing round begins, which is also known as a "judgment of compliance" resulting in an "order for repose." The term "compliance certification" includes a judgment of repose granted in an action filed pursuant to section 13 at P.L. 1985, c. 222 (N.J.S.A. 52:27D-313).

COUNTY-LEVEL HOUSING JUDGE

Means a judge appointed pursuant to section 5 of P.L. 2024, c.2 (N.J.S.A. 52:27D-313.2), to resolve disputes over the compliance of municipal fair share affordable housing obligations and municipal fair share plans and housing elements with the Act.

DCA or DEPARTMENT

Means the State of New Jersey Department of Community Affairs.

DEFICIENT HOUSING UNIT

Means a housing unit with health and safety code violations that requires the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load bearing structural systems.

DEVELOPER

Means any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land included in a proposed development including the holder of an option to contract to purchase, or other person having an enforceable proprietary interest in such land.

DEVELOPMENT

Means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1, et seq.

DISPUTE RESOLUTION PROGRAM

Means the Affordable Housing Dispute Resolution Program, established pursuant to section 5 of P.L. 2024, c.2 (N.J.S.A. 52:27D-313.2).

DIVISION

Means the Division of Local Planning Services in DCA.

EXIT SALE

Means the first authorized non-exempt sale of a restricted unit following the end of the control period, which sale terminates the affordability controls on the unit.

FAIR SHARE PLAN

Means the plan or proposal, with accompanying ordinances and resolutions, by which a municipality proposes to satisfy its constitutional obligation to create a realistic opportunity to meet its fair share of low- and moderate-income housing needs of its region and which details the affirmative measures the municipality proposes to undertake to achieve its fair share of low- and moderate-income housing, as provided in the municipal housing element, and which addresses the development regulations necessary to implement the housing element, including, but not limited to, inclusionary requirements and development fees, and the elimination of unnecessary housing cost-generating features from the municipal land use ordinances and regulations.

HOUSEHOLD INCOME

Means a household's gross annual income calculated in a manner consistent with the determination of annual income pursuant to section 8 of the United States Housing Act of 1937 (Section 8), not in accordance with the determination of gross income for Federal income tax liability.

HOUSING REGION

Means a geographic area established pursuant to N.J.S.A. 52:27D-304.2b.

INCLUSIONARY DEVELOPMENT

Means a development containing both affordable units and market rate units. This term includes, but is not limited to: new construction, the conversion of a non-residential structure to residential use and the creation of new affordable units through the gut rehabilitation or reconstruction of a vacant residential structure.

LOW-INCOME HOUSEHOLD

Means a household with a total gross annual household income equal to 50% or less of the median household income.

LOW-INCOME UNIT

Means a restricted unit that is affordable to a low-income household.

MAJOR SYSTEM

Means the primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building which include but are not limited to, weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and load bearing structural systems.

MARKET-RATE UNITS

Means housing not restricted to low- and moderate-income households that may sell or rent at any price.

MEDIAN INCOME

Means the median income by household size for the applicable housing region, as adopted annually by COAH or a successor entity approved by the Court.

MODERATE-INCOME HOUSEHOLD

Means a household with a total gross annual household income in excess of 50% but less than 80% of the median household income.

MODERATE-INCOME UNIT

Means a restricted unit that is affordable to a moderate-income household.

MULTIFAMILY DEVELOPMENT

Means a housing development with five or more dwelling units.

MUNICIPAL HOUSING LIAISON or MHL

Means an appointed municipal employee who is, pursuant to N.J.A.C. 5:99-6, responsible for oversight and/or administration of the affordable units created within the municipality.

NEW JERSEY HOUSING RESOURCE CENTER or HOUSING RESOURCE CENTER

Means the online affordable housing listing portal, or its successor, overseen by the Agency pursuant to N.J.S.A. 52:27D-321.3 et seq.

95/5 UNIT

Means a restricted ownership unit that is part of a housing element that received substantive certification from COAH pursuant to N.J.A.C. 5:93, as it was in effect at the time of the receipt of substantive certification, before October 1, 2001.

NON-EXEMPT SALE

Means any sale or transfer of ownership of a restricted unit to one's self or to another individual other than the transfer of ownership between spouses or civil union partners; the transfer of ownership between former spouses or civil union partners ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor's deed to a class A beneficiary; and the transfer of ownership by court order.

NONPROFIT

Means an organization granted nonprofit status in accordance with section 501(c)(3) of the Internal Revenue Code.

PRICE DIFFERENTIAL

Means the difference between the controlled sale price of a restricted unit and the fair market value of the unit minus reasonable real estate broker fees, determined as of the date of a proposed contract of sale for the unit.

PRIOR ROUND UNIT

Means "Prior round unit" means a housing unit that addresses a municipality's fair share obligation from a round prior to the fourth round of affordable housing obligations, including any unit that: (1) received substantive certification from COAH; (2) is part of a third-round settlement agreement or judgment of compliance approved by a court of competent jurisdiction, inclusive of units created pursuant to a zoning designation adopted as part of the settlement agreement or judgment of compliance to create a realistic opportunity for development; (3) is subject to a grant agreement or other contract with either the State or a political subdivision thereof entered into prior to July 1, 2025, pursuant to either item (1) or (2) above; or (4) otherwise addresses a municipality's fair share obligation from a round prior to the fourth round of affordable housing obligations. A unit created after the enactment of P.L. 2024, c. 2 (N.J.S.A. 52:27D-304.1) on March 20, 2024, is not a prior round unit unless: (1) it is created pursuant to a prior round development plan or zoning designation that received COAH or court approval on or before the cutoff date of June 30, 2025, or the date that the municipality adopts the implementing ordinances and resolutions for the fourth round of affordable housing obligations, whichever occurs sooner; and (2) its siting and creation are consistent with the form of the prior round development plan or zoning designation in effect as of the cutoff date, without any amendment or variance.

RANDOM SELECTION PROCESS

Means a lottery process by which currently income-eligible applicant-households are selected, at random, for placement in affordable housing units such that no preference is given to one applicant over another, except in the case of a veterans' preference where such an agreement exists; for purposes of matching household income and size with an appropriately priced and sized affordable unit; or another purpose allowed pursuant to N.J.A.C. 5:80-26.17(k)3.

REGIONAL ASSET LIMIT

Means the maximum housing value in each housing region affordable to a four-person household with an income at 80 percent of the regional median as defined by the Department's adopted Regional Income Limits published annually by the Department.

REHABILITATION

Means the repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

RENT

Means the gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. With respect to units in assisted living residences, rent does not include charges for food and services.

RESTRICTED UNIT

Means a dwelling unit, whether a rental unit or ownership unit, that is subject to the affordability controls of this subchapter, but does not include a market-rate unit that was financed pursuant to UHORP, MONI, or CHOICE.

SINGLE-FAMILY DEVELOPMENT

Means a housing development with one to four dwelling units that does not meet the definition of "project" as defined in the Hotel and Multiple Dwelling Unit Law (N.J.S.A. 55:13A-1 through 13A-31).

UHAC

Means the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26, et seq.

VERY-LOW-INCOME HOUSEHOLD

Means a household with a household income less than or equal to 30 percent of the regional median income.

VERY-LOW-INCOME UNIT

Means a restricted unit that is affordable to a very low-income household.

VETERAN

Means a veteran as defined at N.J.S.A. 54:4-8.10.

VETERANS' PREFERENCE

Means the agreement between a municipality and a developer or residential development owner that allows for low- to moderate-income veterans to be given preference for up to 50 percent of units in relevant projects, as provided for at N.J.S.A. 52:27D-311j.

WEATHERIZATION

Means building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for purposes of a rehabilitation program.

§ 470-48.2 Affordable housing programs.

West Milford Township has determined that it will use the following mechanisms to satisfy its affordable housing obligations.

A. A rehabilitation program.

- (1) West Milford Township's rehabilitation program shall be designed to renovate deficient housing units occupied by low- and moderate-income households such that, after rehabilitation, these units will comply with the New Jersey State Housing Code pursuant to N.J.A.C. 5:28.
- (2) Both owner occupied and renter occupied units shall be eligible for rehabilitation funds.
- (3) All rehabilitated units shall remain affordable to low- and moderate-income households for a period of 10 years (the control period). For owner occupied units the control period will be enforced with a lien and for renter occupied units the control period will be enforced with a deed restriction.
- (4) The Township shall dedicate a minimum of \$10,000 for each unit to be rehabilitated through this program, reflecting the minimum hard cost of rehabilitation for each unit.
- (5) The Township shall adopt a resolution committing to fund any shortfall in the rehabilitation programs for the Township.
- (6) The Township shall designate, subject to the approval of the Department, one or more Administrative Agents to administer the rehabilitation program in accordance with N.J.A.C. 5:96 and N.J.A.C. 5:97. The Administrative Agent(s) shall provide a rehabilitation manual for the owner occupancy rehabilitation program and a rehabilitation manual for the rental occupancy rehabilitation program to be adopted by resolution of the governing body and subject to approval of the Department. Both rehabilitation manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the Administrative Agent(s).
- (7) Units in a rehabilitation program shall be exempt from N.J.A.C. 5:97-9 and Uniform Housing Affordability Controls (UHAC), but shall be administered in accordance with the following:
 - (a) If a unit is vacant, upon initial rental subsequent to rehabilitation, or if a renter-occupied unit is re-rented prior to the end of controls on affordability, the deed restriction shall require the unit to be rented to a low- or moderate-income household at an affordable rent and affirmatively marketed pursuant to N.J.A.C. 5:97-9 and UHAC.
 - (b) If a unit is renter-occupied, upon completion of the rehabilitation, the maximum rate of rent shall be the lesser of the current rent or the maximum permitted rent pursuant to N.J.A.C. 5:97-9 and UHAC.
 - (c) Rents in rehabilitated units may increase annually based on the standards in N.J.A.C. 5:97-9.
 - (d) Applicant and/or tenant households shall be certified as income-eligible in accordance with N.J.A.C. 5:97-9 and UHAC, except that households in owner occupied units shall be exempt from the regional asset limit.
- (8) Passaic County Rehabilitation Program.
 - (a) The Township will participate in Passaic County's Housing Rehabilitation Program, which is funded through the Passaic County Community Development Block Grant Program.

- (b) The objective of the Passaic County CDBG Urban County program is to assist low- and moderate-income residents and individuals with special needs in the County of Passaic in the twelve (12) communities participating in the Urban County CDBG program: Bloomingdale, Haledon, Hawthorne, Little Falls, North Haledon, Pompton Lakes, Prospect Park, Totowa, Ringwood, Wanaque, West Milford and Woodland Park.
- (c) The application can be found online at:
<https://www.passaiccountynj.org/departments/planning-economic-development/community-development-block-grant-program>

B. An alternative living arrangements program.

- (1) Alternative living arrangements include, but are not limited to: transitional facilities for the homeless; residential health care facilities as regulated by the New Jersey Department of Health and Senior Services; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements. Long term health care facilities including nursing homes, and Class A, B, C, D, and E boarding homes do not qualify as alternative living arrangements.
- (2) Pursuant to N.J.A.C. 5:94-4.8, the Township will provide the following for each project:
 - (a) Proof that the alternative living facility is regulated by the New Jersey Department of Health and Senior Services or the New Jersey Department of Human Services, and
 - (b) Validation of the number of bedrooms in which low- or moderate-income occupants reside.
 - (c) Alternative living arrangements that are age-restricted shall be included with the maximum number of units that may be age-restricted pursuant to N.J.A.C. 5:94-4.19.
 - (d) With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have the appropriate controls on affordability in accordance with N.J.A.C. 5:94-7.
 - (e) The municipality shall submit documentation demonstrating source(s) of funding.
 - (f) The Township shall comply with all provisions of N.J.A.C. 5:94-4.8.

§ 470-48.3 New Construction.

A. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:

- 1. The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit. At least 13% of all restricted rental units shall be very-low-income units (affordable to a household earning 30% or less of median income). The very-low-income units shall be counted as part of the required number of low-income units within the development. At least 25% of the obligation shall be met through rental units, including at least half in rental units available to families. A maximum of 30% may be age-restricted. At least half of the units in total shall be available to families.

2. In each affordable development, at least 50% of the restricted units within each bedroom distribution shall be low-income units.
3. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - (a). The combined number of efficiency and one-bedroom units shall be no greater than 20% of the total low- and moderate-income units;
 - (b). At least 30% of all low- and moderate-income units shall be two-bedroom units;
 - (c). At least 20% of all low- and moderate-income units shall be three-bedroom units; and
 - (d). The remaining units may be allocated among two- and three-bedroom units at the discretion of the developer.
4. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. This standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit

B. Accessibility Requirements:

1. The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free SubCode, N.J.A.C. 5:23-7 and the following:
2. All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features
 - (a). An adaptable toilet and bathing facility on the first floor; and
 - (b). An adaptable kitchen on the first floor; and
 - (c). An interior accessible route of travel on the first floor; and
 - (d). An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
 - (e). If not all of the foregoing requirements in 2(a) through 2(d) can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of Subsections 2(a) through 2(d) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and
 - (f). An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a, et seq.) and the Barrier Free SubCode, N.J.A.C. 5:23-7, or evidence that West Milford has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:
 - (1) Where a unit has been constructed with an adaptable entrance, upon the request of a person with disabilities who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.

- (2) To this end, the builder of restricted units shall deposit funds within the Township of West Milford's Affordable Housing Trust Fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.
 - (3) The funds deposited under Subsection (f)(2) above shall be used by the Township of West Milford for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
 - (4) The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the Township of West Milford for the conversion of adaptable to accessible entrances.
 - (5) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free SubCode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Township's Affordable Housing Trust Fund in care of the Township Chief Financial Officer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.
- (g). Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site impracticable" to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free SubCode, N.J.A.C. 5:23-7.

C. Design:

1. In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.
2. In inclusionary developments, low- and moderate-income units shall have access to all of the same common elements and facilities as the market units.

D. Utilities:

1. Affordable units shall utilize the same type of heating source as market units within an inclusionary development.
2. Tenant-paid utilities included in the utility allowance shall be set forth in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.

E. Maximum Rents and Sales Prices:

1. In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the regional income limits established by COAH or a successor entity.
2. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60% of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52% of median income.

3. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 13% of all low- and moderate-income rental units shall be affordable to very low-income households, earning 30% or less of the regional median household income.
4. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70% of median income, and each affordable development must achieve an affordability average of 55% for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type, and low-income ownership units must be available for at least two different sales prices for each bedroom type.
5. In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:
 - (a). A studio shall be affordable to a one-person household;
 - (b). A one-bedroom unit shall be affordable to a 1 1/2 person household;
 - (c). A two-bedroom unit shall be affordable to a three-person household;
 - (d). A three-bedroom unit shall be affordable to a 4 1/2 person household; and
 - (e). A four-bedroom unit shall be affordable to a six-person household.
6. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:
 - (a). A studio shall be affordable to a one-person household;
 - (b). A one-bedroom unit shall be affordable to a 1 1/2 person household; and
 - (c). A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
7. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95% of the purchase price and the Federal Reserve H. 15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28% of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
8. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30% of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

9. The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the Administrative Agent be lower than the last recorded purchase price.
10. The rent of low- and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for New Jersey. This increase shall not exceed 9% in any one year. Rents for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.
11. All deed restricted affordable rental units will be subject to an annual rental recertification process to ensure that income eligible households continue to reside in the Township's portfolio of rental units.

F. Affordable Housing Set-Asides.

1. Any residential or mixed-use development, within the public sewer service area of the municipality, that produces five or more housing units, shall be required to provide for affordable housing set-asides of at least 20% of the total housing units in a development. When any calculation of the percentage of affordable units required to be divided results in a fractional unit of 1/2 or more, the fraction shall be rounded up to the next whole unit. When a calculation results in a fraction of less than 1/2, the fraction shall be rounded down to the previous whole unit.
2. Residential development with between six and 10 units may make a payment-in-lieu of on-site construction of affordable units. For purposes of this section, the payment-in-lieu of affordable housing shall initially be established as \$180,000 per unit. The payment-in-lieu of affordable housing is presumptively the cost of constructing an affordable unit and is based on the now expired COAH rule, set forth at N.J.A.C. 5:97-6.4 which was \$145,903 for Region 3 in 2009, as adjusted for inflation. When any calculation of the percentage of affordable units required to be divided results in a fractional unit of 1/2 or more, the fraction shall be rounded up to the next whole unit. When a calculation results in a fraction of less than 1/2, the fraction shall be rounded down to the previous whole unit. The payment-in-lieu of affordable housing is presumptively the cost of constructing an affordable unit in the Township. The Township Council may adjust the presumptive amount based upon appropriate evidence."

§ 470-48.4 Minimum Floor Area Requirements and Standards for Low- and Moderate-Income Housing Units.

Developments approved as part of a compliance certification or that otherwise contain restricted units subject to the UHAC regulations shall satisfy the following occupancy standards:

- A. For any 100-percent affordable development comprising one or more restricted units:
 1. Restricted units must meet the minimum square footage required for the number of inhabitants for which the unit is marketed and the minimum square footage required for each bedroom, as set forth in the applicable municipal code or the Neighborhood Preservation Balanced Housing rules at N.J.A.C. 5:43-2.4, whichever is greater.
 2. Each bedroom in each restricted unit must have at least one window; and
 3. Restricted units must include adequate air conditioning and heating.

- B. For developments comprising market-rate rental units and restricted rental units:
1. Restricted units must use the same building materials and architectural design elements (for example, plumbing, insulation, or siding) as market-rate units of the same unit type (for example, flat or townhome) within the same development, except that restricted units and market-rate units may use different interior finishes;
 2. Restricted units and market-rate units within the same affordable development must be sited such that restricted units are not concentrated in less desirable locations;
 3. Restricted units may not be physically clustered so as to segregate restricted and market-rate units within the same development or within the same building, but must be interspersed throughout the development, except that age-restricted and supportive housing units may be physically clustered if the clustering facilitates the provision of on-site medical services or on-site social services;
 4. Residents of restricted units must be offered the same access to communal amenities as residents of market-rate units within the same affordable development. Examples of communal amenities include, but are not limited to, community pools, fitness and recreation centers, playgrounds, common rooms and outdoor spaces, and building entrances and exits;
 5. Restricted units must include adequate air conditioning and heating and, if market-rate units provide cooling and heating, restricted units must use the same type of cooling and heating sources as market-rate units of the same unit type;
 6. Each bedroom in each restricted unit must have at least one window;
 7. Restricted units must be of the same unit type as market-rate units within the same building; and
 8. Restricted units and bedrooms must be no less than 90 percent of the minimum size prescribed by the Neighborhood Preservation Balanced Housing rules at N.J.A.C. 5:43-2.4.
- C. For developments containing for-sale units, including those with a mix of rental and for-sale units, subsection b above shall govern the rental units, while for-sale units shall adhere to the following:
1. Restricted units must use the same building standards as market-rate units of the same unit type (for example, flat, townhome, or single-family home), except that restricted units and market-rate units may use different interior finishes;
 2. Restricted units may be clustered, provided that the buildings or housing product types containing the restricted units are integrated throughout the development and are not concentrated in an undesirable location or in undesirable locations;
 3. Restricted units may be of different housing product types than market-rate units, provided that developments containing market-rate duplexes, townhomes, and/or single-family homes offer restricted housing options that also include duplexes, townhomes, and/or single-family homes;
 4. Restricted units must meet the minimum square footage required for the number of inhabitants for which the unit is marketed and the minimum square footage required for each bedroom, as set forth in the Neighborhood Preservation Balanced Housing rules at N.J.A.C. 5:43-2.4;

5. Penthouse and end units may be reserved for market-rate sale, provided that the overall number, value, and distribution of affordable units across the development is not negatively impacted by such reservation(s);
6. Residents of restricted units must be offered the same access to communal amenities as residents of market-rate units within the same affordable development. Examples of communal amenities include, but are not limited to, community pools, fitness and recreation centers, playgrounds, common rooms and outdoor spaces, and building entrances and exits;
7. Each bedroom in each restricted unit must have at least one window; and
8. Restricted units must include adequate air conditioning and heating.

§ 470-48.5 Occupancy Standards.

In referring certified households to specific restricted units, the administrative agent shall strive, to the extent feasible and without causing an undue delay in occupying the unit to:

- A. Ensure each bedroom is occupied by at least one person, except for age-restricted units;
- B. Provide a bedroom for every two adult occupants;
- C. Provide a bedroom for every occupant under the age of 18, unless the household requests a different arrangement, which arrangement may not result in more than two occupants under the age of 18 occupying any bedroom; and
- D. Avoid placing a one-person household into a unit with more than one bedroom.

§ 470-48.6 Control Periods for Restricted Ownership Units and Enforcement Mechanisms.

- A. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.6, as may be amended and supplemented, and each restricted ownership unit must remain subject to the requirements of this subchapter until the end of the control period specified in the deed restriction unless the municipality in which the unit is located elects to extend the unit's restriction in compliance with subsection 1 below. A restricted ownership unit must remain subject to the requirements of this subchapter for a period of at least 30 years; provided, however, that:
 1. Any unit that, prior to the effective date of the amendments to this subchapter as promulgated pursuant to P.L. 2024, c.2 (N.J.S.A. 52:27D-304.1), received substantive certification from COAH, was part of a judgment of compliance from a court of competent jurisdiction, or became subject to a grant agreement or other contract with either the State or a political subdivision thereof, will have its control period governed by such grant of substantive certification, judgment, grant agreement, or contract; and
 2. 95/5 units are subject to the option and price restriction rules set forth a N.J.A.C. 5:80-26.21 through 26.27; and
 3. Units for which affordability controls have been extended are subject to a minimum period of extension of 30 years, except that the extension period may be limited to 20 years if the original and extended terms of affordability controls, in combination, are at least 60 years.

4. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit and terminates at the first non-exempt sale after the end of the deed-restricted affordability period, if and only if the municipality does not exercise the right of first refusal to extend the control period in accordance with N.J.A.C. 5:80-26.6(h), and if and only if the seller has provided the municipality with at least 60 days' notice of the seller's intention to make the first nonexempt sale.

§ 470-48.7 Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices.

- A. Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.17, as may be amended and supplemented.

§ 470-48.8 Buyer Income Eligibility.

- A. When reviewing an applicant household's income to determine eligibility, the administrative agent shall compare the applicant household's annual income to the regional low- and moderate-income limits calculated pursuant to N.J.A.C. 5:80-26.3.
- B. For the purposes of this section, the administrative agent shall determine household income in accordance with the procedure for calculating annual income at the time of initial occupancy and assistance, stipulated at 24 CFR § 5.609, as it may be updated from time to time, and described in Chapter 5 of HUD Handbook 4350.3: Occupancy Requirements of Subsidized Multifamily Housing Programs, which is available at https://www.hud.gov/program_offices/administration/hudclips/handbooks/hsg/4350.3.

§ 470-48.9 Limitations on Indebtedness Secured By Ownership Unit; Subordination.

- A. Prior to incurring any indebtedness to be secured by an ownership unit, the owner shall submit to the administrative agent a notice of intent to incur such indebtedness (for example, a home equity loan or solar loan), in such form and with such documentary support as determined by the administrative agent, and the owner may not incur any such indebtedness unless and until the administrative agent has determined and confirmed in writing that the proposed indebtedness complies with the provisions of this section.
- B. With the exception of original purchase money mortgages, during a control period, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by an ownership unit to exceed 95 percent of the maximum allowable resale price of that unit, as such price is determined by the administrative agent in accordance with N.J.A.C. 5:8026.7(c).

§ 470-48.10 Capital Improvements to Ownership Units.

- A. The owner of an ownership unit may apply to the administrative agent to increase the maximum sales price for the unit to reflect eligible capital improvements made since they purchased the unit. Eligible capital improvements are limited to those that make the unit suitable for a larger household or that add an additional bathroom. However, the maximum sale price of an improved housing unit may not exceed the limits of affordability for the larger household.
- B. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) are included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the administrative agent at the time of signing the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the

base price may be made a condition of the unit resale provided the price, subject to 10-year, straight-line depreciation, has been approved by the administrative agent. Unless otherwise approved by the administrative agent, the purchase of any property other than central air conditioning may not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at resale.

- C. Capital expenditures approved in writing by the administrative agent for non-cosmetic replacement of existing items of property or non-cosmetic improvement to the property (for example, replacement of a leaky roof, installation of a solar energy system owned by the homeowner, installation of energy-efficient windows, or replacement of broken appliances with ENERGY STAR-labeled products) do not affect the maximum sale price, but will be factored into calculating reductions to the recapture amount pursuant to N.J.A.C. 5:80-26.6(c)1.

§ 470-48.11 Control Period for Restricted Rental Units.

- A. Each restricted rental unit must remain subject to the requirements of this subchapter until the end of the control period specified in the unit deed restriction, unless the unit's restriction is extinguished in compliance with (e) below or extended in compliance with (f) below. A restricted rental unit must remain subject to the requirements of this subchapter for a period of at least 40 years; provided, however, that the control period of any unit that, prior to the effective date of the amendments to this subchapter as promulgated pursuant to P.L. 2024, c.2 (N.J.S.A. 52:27D-304.1), received substantive certification from COAH, was part of a judgment of compliance from a court of competent jurisdiction, or became subject to a grant agreement or other contract with either the State or a political subdivision thereof will be governed by such grant of substantive certification, judgment, grant agreement, or contract.
1. Rental units created on or after January 1, 2025, and which are subject to affordability controls for low- and/or moderate-income families pursuant to this subchapter are subject to a deed restriction of not less than 40 years.
 2. Any project composed entirely of rental units subject to the affordability controls of this section that does not participate in a State-administered preservation program may elect to extinguish the existing deed restriction beginning 30 years following the start of the deed restriction, regardless of original length, provided that the project enters into a new deed restriction of at least 30 years and that the project has applied for and obtained a refinancing and/or has commenced an approved rehabilitation for the purpose of preservation.
 3. Any project composed entirely of rental units subject to the affordability controls of this section that participates in a State-administered preservation program may elect to extinguish the existing deed restriction prior to the 30th year, regardless of original length, provided that the project enters into a new deed restriction that, in combination with the original deed restriction, totals at least 60 years.
- B. The affordability control period for the restricted rental units in a development commences on the first date that a unit is issued a certificate of occupancy and terminates only at the end of the control period specified in the deed restriction or at such time that the municipality releases the unit from the requirements in N.J.A.C. 5:80-26.12(e). For any restricted rental units occupied at the end of the control period specified in the deed restriction or the time at which the municipality releases the unit from the requirements, the affordability controls set forth in this subchapter remain in effect until the date on which the occupant household vacates the rental unit provided that the occupant household continues to earn a household income of less than 80 percent of the applicable regional median income. If, at that time, a rental household's income exceeds 80 percent of the regional median income, the rental rate restriction will expire at the later of either the next scheduled lease renewal or in 60 days.

- C. Deeds of all real property that include restricted rental units must contain deed restriction language that conforms with the requirements of N.J.A.C. 5:80-26.12.
- D. A restricted rental unit remains subject to the affordability controls above despite the occurrence of any of the following events:
 - 1. Sublease or assignment of the lease of the unit;
 - 2. A sale or other voluntary transfer of [the] ownership of the unit;
 - 3. The entry and enforcement of any judgment of foreclosure or grant of a deed in lieu of foreclosure; or
 - 4. The release from affordability restrictions at the end of the affordability control period, until occupancy by the first new tenant subsequent to the release of controls.

§ 470-48.12 Rent Restrictions For Rental Units; Leases.

- A. Rent restrictions shall comply with N.J.A.C. 5:80-26.13. The administrative agent shall set the initial rent for a restricted rental unit. If the unit is receiving assistance pursuant to the AHTF, the initial rent must be consistent with the AHTF grant agreement. The initial rent must be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate household size as determined pursuant to N.J.A.C. 5:80-26.5; provided, however, that the rent is subject to the affordability average requirement at N.J.A.C. 5:80-26.4.

§ 470-48.13 Tenant Income Eligibility.

- A. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.14, and is determined as follows:
 - 1. Very-low-income rental units shall be reserved for households with a gross household income less than or equal to 30% of the regional median income.
 - 2. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of the regional median income.
 - 3. Moderate-income rental units shall be reserved for households with a gross household income less than 80% of the regional median income.
- B. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income household, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
 - 1. The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
 - 2. The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 - 3. The household is currently in substandard or overcrowded living conditions;

4. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 5. The household documents proposed third-party assistance from an outside source, such as a family member, in a form acceptable to the administrative agent and the owner of the unit.
- C. The applicant shall file documentation sufficient to establish the existence of the circumstances in a1 through b5 above with the Administrative Agent, who shall counsel the household on budgeting.

§ 470-48.14 Municipal Housing Liaison.

- A. The Township of West Milford shall appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for administering the affordable housing program, including affordability controls, the Affirmative "Marketing Plan, monitoring and reporting, and, where applicable, supervising any contracted Administrative Agent. West Milford shall adopt an Ordinance creating the position of Municipal Housing Liaison. The Municipal Housing Liaison shall be appointed by the governing body and may be a full or part time municipal employee. The Municipal Housing Liaison shall be approved by the Court and shall be duly qualified through a training program sponsored by Affordable Housing Professionals of New Jersey before assuming the duties of Municipal Housing Liaison.
- B. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for West Milford, including the following responsibilities which may not be contracted out to the Administrative Agent:
1. Serving as West Milford's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
 2. Monitoring the status of all restricted units in West Milford's Fair Share Plan;
 3. Compiling, verifying and submitting annual monitoring reports as may be required by the Court;
 4. Coordinating meetings with affordable housing providers and Administrative Agents, as needed; and
 5. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing at least annually and more often as needed.
- C. Subject to the approval of the Court, the Township of West Milford shall designate one or more Administrative Agent(s) to administer newly constructed affordable units in accordance with UHAC. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of the Court. The Operating Manual(s) shall be available for public inspection in the office of the Township Clerk, in the office of the Municipal Housing Liaison, and in the office(s) of the Administrative Agent(s). The Municipal Housing Liaison shall supervise the contracting Administrative Agent(s).

§ 470-48.15 Administrative Agent

- A. The Administrative Agent shall be an independent entity serving under contract to and reporting to the municipality, and in accordance with the requirements of the Act, the Dispute Resolution Program, and N.J.A.C. 5:99-7.

- B. The administrative agent shall administer and enforce the affordability controls set forth in this subsection, which actions are reviewable by the Municipal Housing Liaison pursuant to N.J.S.A. 52:27D-321. The primary responsibility of the administrative agent is to ensure that the restricted units under administration are sold or rented, as applicable, only to very-low-, low-, and moderate-income households. The administrative agent shall also fulfill the requirements and responsibilities identified at N.J.A.C. 5:99-7. Pursuant to N.J.A.C. 5:99-7.2, the administrative agent shall have the authority to discharge and release any or all instruments, as set forth at N.J.A.C. 5:80-26 appendices, filed of record to establish affordability controls.
- C. The municipality is ultimately responsible for the proper administration of the affirmative marketing program, including initial sales, rentals, resales, and re-rentals. The municipality shall also ensure that all affordable unit, applicant, sales records, and other relevant files are returned to the municipality for reporting purposes and to aid with future resales.
- D. The administrative agent is responsible for the affirmative marketing of affordable units, including accepting applications and maintaining a list of applicants for each affordable development. The administrative agent shall document and report the affirmative marketing plan for the municipality and the affirmative marketing activities undertaken for each of the units within their purview to the municipal housing liaison, who shall ensure that developers and administrative agents are marketing units in accordance with the provisions in this section.

§ 470-48.16 Affirmative Marketing Requirements.

- A. The affirmative marketing plan and all advertisements for the affordable units, must contain the following information:
 - 1. The name and location of the housing project;
 - 2. An address sufficient to find directions to the housing units;
 - 3. A range of prices or rent for the affordable housing units;
 - 4. The sizes, as measured in number of bedrooms and square footage, of the affordable housing units;
 - 5. The types (that is, family, age-restricted, or supportive) and number of affordable units available;
 - 6. The number of units available to very-low-, low-, and moderate-income households within the pertinent eligible income ranges;
 - 7. The accessibility features, if any, of the affordable housing units;
 - 8. The maximum income permitted to qualify for the affordable housing units;
 - 9. The population(s), if any, given preference in the selection process pursuant to N.J.A.C. 5:80-26.17(k)2;
 - 10. Where applications (paper and online) for the affordable housing units may be found;
 - 11. The expected lease-up/closing date(s) for the affordable housing units;
 - 12. A description of the random selection process that will be used to select occupants of affordable housing units and the expected date of the random selection;

13. The business hours when interested households may obtain paper applications for the affordable housing units;
 14. Contact information, including an email address and phone number that are regularly monitored by the administrative agent;
 15. The name of the sales agent and/or rental manager; and
 16. Application fees, if any.
- B. In implementing the marketing program, the administrative agent shall:
1. Post a listing of the available affordable housing units to the New Jersey Housing Resource Center at least 60 days before the random selection process or within one day following the date the owner, developer, property manager, or other administrative entity provides information regarding the application process to prospective applicants or solicits any applications from potential applicants through any other means pursuant to N.J.S.A. 52:27D-321.6. It is the responsibility of the Municipal Housing Liaison, in coordination with the administrative agent(s), to ensure compliance with all provisions of N.J.S.A. 52:27D-321.3 through 321.6;
 2. Within one business day of listing the affordable housing units on the New Jersey Housing Resource Center, notify the local Continuum of Care of any supportive housing rental units that are reserved for individuals and families that are homeless and of any permanent supportive housing rental units;
 3. Publish at least one advertisement in a regional print or digital newspaper;
 4. Advertise the units on at least one housing search website, in addition to the Housing Resource Center;
 5. Undertake at least two additional regional marketing strategies;
 6. Designate an experienced staff person to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law. Alternatively, the administrative agent or municipality may contract with a HUD-certified housing counselor or an otherwise experienced entity approved by the Division to provide such counseling services.
- C. The affirmative marketing process must begin at least four months prior to expected occupancy and may begin before construction commences. All affirmative marketing advertising and outreach activities employed pursuant to (f) above must be employed at the start of the marketing program. For for-sale units, affirmative marketing advertising and outreach activities must continue until all of the marketed units have been sold, except that paid advertising may cease when the number of applications received is at least three times the number of units to be sold. For rental units, affirmative marketing advertising and outreach activities must continue, as long as applications are being accepted, except that paid advertising may cease when the number of applications received is at least three times the number of units to be filled. Applications must be accepted for no less than 45 days following the initial advertisement on the New Jersey Housing Resource Center, except for the resale of for-sale units, in which case, applications must be accepted for no less than 30 days.
- D. No (h) No random selection may be conducted prior to 60 days following the initial advertisement on the New Jersey Housing Resource Center.

- E. Applications for affordable housing or notices thereof, if offered online, must be available in multiple locations, including, if they exist, the county administration building and the county library for each county within the housing region; the municipal administration building(s) and the municipal library in the municipality in which the units are located; and the developer's sales office. The municipality shall post the application links and/or notices of affordable housing either directly on the home page of the municipality's official website or on a landing page directly, clearly, and conspicuously linked to from the home page of the municipality's official website. The developer shall mail applications to prospective applicants upon request and shall make applications available through a secure online website address.
- F. If the municipality intends to require affordable housing developers to incur the cost of affirmative marketing and advertising for affordable units, the municipality must adopt such policy and make the requirement a condition of the project's planning and zoning board approvals.
- G. In carrying out the affirmative marketing process, the administrative agent shall comply with all provisions of the Fair Chance in Housing Act, N.J.S.A. 46:8-52 through 64.

§ 470-48.17 Enforcement of Affordable Housing Regulations.

- A. The municipal housing liaison is responsible for oversight and coordination of all the activities of the municipal government as they relate to the creation, preservation, and administration of affordable housing programs, affordable units, and reporting. Pursuant to N.J.A.C. 5:99-6.2, such oversight activities include ensuring that administrative agents execute the practices, procedures, and standards set forth in this N.J.A.C. 5:80-26.19, identified in this subsection.
- B. The administrative agent's enforcement responsibility for implementing such practices and procedures may not be delegated or otherwise transferred to any other party, except to a successor administrative agent. Anything in this subchapter to the contrary notwithstanding, the Agency and DCA each may, in its discretion, contract with for-profit and nonprofit organizations to carry out delegated administrative agent functions, provided, however, that in any such case the Agency or DCA shall maintain primary responsibility for the delegated functions.
- C. As part of a municipality's ongoing compliance with the Act, the municipality, through the municipal housing liaison, shall:
 1. Provide to the administrative agent the name, title, email address, and telephone number of the municipal housing liaison who will be responsible for oversight of the administrative agent on all matters related to this subchapter;
 2. If necessary, retain or otherwise designate legal counsel for the purposes of representing any municipal entity acting as administrative agent and of enforcing the controls set forth in this subsection;
 3. Ensure that all restricted units are identified as affordable within the tax assessor's office and any municipal utility authority (MUA). The municipality and MUA shall promptly notify the administrative agent of a change in billing address, payment delinquency of two consecutive billing cycles, transfer of title, or institution of a foreclosure action, foreclosure judgment, or deed in lieu of foreclosure as to all affordable units;
 4. Work with the administrative agent to ensure that affordable housing opportunities are posted to the New Jersey Housing Resource Center pursuant to N.J.S.A. 52:27D-321.3 through 321.6, including, if necessary, levying fines through the process outlined at N.J.A.C. 5:99-5.6(c)4;
 5. Maintain a list of all affordable units within its jurisdiction, including the date of deed restriction expiration, income limits, and the administrative agent for each unit;

6. Report the information at (c)6 above to the Division each year; and
 7. Publish on the municipality's website the affordable housing operating manual(s) required pursuant to N.J.A.C. 5:99-7.2, the affirmative marketing plan required pursuant to N.J.A.C. 5:80-26.16, and contact information for the administrative agent for each project within the municipality's jurisdiction with an affordable housing component for which affirmative marketing is required.
- D. In addition to those listed at N.J.A.C. 5:99-7.2, administrative agent practices and procedures include, but are not limited to, the following:
1. Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit be offered, or in any other way committed, to any person other than a household duly certified to the unit by the administrative agent;
 2. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificate set forth at N.J.A.C. 5:80-26 Appendix D-3, J, or K;
 3. Working with the MHL to ensure that affordable housing opportunities are posted to the New Jersey Housing Resource Center pursuant to N.J.S.A. 52:27D-321.3 through 321.6, including, if necessary, levying fines for noncompliance and requiring new lotteries;
 4. Sending annual mailings to all owners of affordable dwelling units, reminding them of the requirements of N.J.A.C. 5:80-26.19-4(i) through 4(ix).
 5. Securing from municipalities lists of all affordable units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back into or sell their unit;
 6. Establishing a program for diverting unlawful rent payments to the municipality's affordable housing trust fund or other appropriate municipal fund approved by the Department.
 7. Establishing a rent-to-equity program, to be implemented in situations where an affordable unit owner has unlawfully rented their unit, and where the tenant has entered into a tenancy without knowledge of its unlawful nature. Under such a rent-to-equity program, the tenant, including the immediate family of the tenant, shall be given an opportunity to purchase the unit from the affordable unit owner, and the affordable unit owner shall be compelled to sell the unit to the tenant, with the total of all rent paid to the owner being credited to the tenant as down payment money paid to the affordable unit owner. Anything in this subchapter to the contrary, notwithstanding, any person offered a unit under such a rent-to-equity program must first be certified as eligible pursuant to N.J.A.C. 5:80-26.17.
- E. It is the responsibility of the municipal housing liaison and the administrative agent(s) to ensure that affordable housing units are administered properly. All affordable units must be occupied within a reasonable amount of time and be re-leased within a reasonable amount of time upon the vacating of the unit by a tenant. If an administrative agent or municipal housing liaison becomes aware of or suspects that a developer, landlord, or property manager has not complied with these regulations, it shall report this activity to the Division. The Division must notify the developer, landlord, or property manager, in writing, of any violation of these regulations and provide a 30-day cure period. If, after the 30-day cure period, the developer, landlord, or property manager remains in violation of any terms of this subchapter, including by keeping a unit vacant,

the developer, landlord, or property manager may be fined up to the amount required to construct a comparable affordable unit of the same size and the deed-restricted control period will be extended for the length of the time the unit was out of compliance, in addition to the remedies provided for in this section. For the purposes of this subsection, a reasonable amount of time shall presumptively be 60 days, unless a longer period of time is required due to demonstrable market conditions and/or failure of the municipal housing liaison or the administrative agent to refer a certified tenant.

§ 470-48.18 Appeals.

Appeals from all decisions of an administrative agent appointed pursuant to this subchapter must be filed, in writing, with the municipal housing liaison for the jurisdiction. A decision by the municipal housing liaison may be appealed to the Division. A written decision of the Division Director upholding, modifying, or reversing an administrative agent's decision is a final administrative action.

§ 470-48.19 95/5 Restrictions.

- A. Each existing unit governed by a 95/5 restriction shall be governed according to its deed restriction for the duration of the control period identified in the deed restriction or the municipal resolution extending affordability controls, or, if no control period is identified, until the start of the Fifth Round on July 1, 2035. Following the expiration or release of the 95/5 deed restriction, any extension of affordability controls on the unit must be carried out in accordance with the procedures and instruments outlined at N.J.A.C. 5:80-26.6(h) to receive credit pursuant to the Act.
- B. The owner of a unit governed by a 95/5 restriction shall notify the administrative agent and municipal housing liaison by certified mail and by email of any intent to sell the unit 90 days prior to entering into an agreement for the first authorized non-exempt sale after controls have been in effect on the housing unit for the period specified at N.J.A.C. 5:80-26.6.
- C. Upon receipt of a notice specified at (b) above, the option to buy the unit at the maximum allowable restricted sale price or any mutually agreed upon sale price that does not exceed the maximum allowable restricted sale price will be available for 90 days. The administrative agent shall notify the municipal housing liaison and the Division that the unit is for sale. The municipality shall have the right of first refusal to purchase the unit. If the municipality exercises this option, it may enter into a contract of sale for the unit. If the municipality does not exercise this option within 90 days, the first of the other entities giving notice to the seller of its intent to purchase during the 90-day period may purchase the unit. If the option to purchase the unit at the maximum allowable restricted sale price is not exercised by one of the above entities by a written offer to purchase the housing unit within 90 days of receipt of notice of the intent to sell, the owner may proceed to sell the housing unit pursuant to N.J.A.C. 5:80-26.22. If the owner does not sell the unit within one year of the date of the delivery of the notice of intent to sell, the option to buy the unit will be restored and the owner will be required to submit a new notice of intent to sell 90 days prior to any future proposed date of sale.
- D. Any option to buy a housing unit at the maximum allowable restricted sale price must be exercised by certified mail and, if known, by email and will be deemed to have been exercised three days following the earlier of the postmark of the certified mail or the transmission of the email.

§ 470-48.20 Seller Option on 95/5 Restrictions.

- A. An eligible seller of a unit governed by a 95/5 restriction that has been controlled for the period established in the governing deed restriction who has provided the requisite notice of an intent to sell may proceed with the sale if no eligible entity exercises its option to purchase within 90 days. The seller may sell the unit to a certified household at an affordable price or to any purchaser at market price.
- B. Subject to this subchapter, the seller may:
 - 1. Sell to a certified household at a price not to exceed the maximum permitted sale price in accordance with N.J.A.C. 5:80-26.7; provided that the unit is regulated by the deed restriction and lien in accordance with N.J.A.C. 5:80-26.6. The administrative agent shall certify the income qualifications of the purchaser and shall ensure that the housing unit is regulated by the deed restriction and lien in accordance with N.J.A.C. 5:80-26.6; or
 - 2. Exercise the repayment option and sell to any purchaser at market price, provided that 95 percent of the price differential, or another amount determined by an ordinance of the municipal governing body, not to exceed 95 percent of the price differential, is paid to the Municipal Affordable Housing Trust Fund, through the administrative agent, as an instrumentality of the municipality, at closing. Any alternative amount or formula for calculating the alternative amount determined by such ordinance must be uniformly available to all sellers exercising the repayment option within the municipality.
- C. The administrative agent shall examine any contract of sale containing a repayment option to determine if the proposed sale price bears a reasonable relationship to the housing unit's fair market value. In making this determination, the administrative agent may rely on comparable sales data or an appraisal. The administrative agent shall not approve any contract of sale where there is a determination that the sale price does not bear a reasonable relationship to fair market value. The administrative agent shall make such a determination within 20 days of receipt of the contract of sale and shall calculate the repayment option payment.
- D. The administrative agent shall adopt an appeal procedure by which a seller may submit written documentation requesting the administrative agent to recompute the repayment obligation if the seller believes an error has been made, or to reconsider a determination that a sale price does not bear a reasonable relationship to fair market value. A repayment obligation determination made as a result of an owner's appeal is a final determination of the administrative agent appealable pursuant to N.J.A.C. 5:80-26.20.
- E. The repayment will occur at the date of closing and transfer of title for the first non-exempt transaction after the expiration of controls on affordability.
- F. The administrative agent shall deposit all repayment proceeds into the Municipal Housing Trust Fund, which may be used as specified at N.J.S.A. 52:27D-329.2. Money deposited in housing trust funds may not be expended until the municipality submits and the Division or the county-level housing judge approves a spending plan. See N.J.A.C. 5:99-2 and N.J.S.A. 52:27D-329.2.

§ 470-49 Development Fees.

A. Purpose; legislative authority.

- (1) This section establishes standards for the collection, maintenance, and expenditure of development fees in accordance with P.L.2024, c.2, Sections 8 and 32-38. Fees collected pursuant to this section shall be used for the sole purpose of providing low- and moderate-income housing. This section shall be interpreted within the framework of the DCA's rules on development fees, codified at N.J.A.C. 5:97-8.
- (2) The collection of development fees from builders of residential and non-residential properties has been authorized by the court through the powers established pursuant to the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.). Due to the Legislature's determination that the role of the Council on Affordable Housing has not developed in practice as intended, the Legislature further determines that authority relating to rulemaking on the collection of residential and non-residential development fees is appropriately delegated to the Department of Community Affairs (the Department), given the department's existing roles related to local government finance and the funding and financing of affordable housing throughout the State.

B. Basic requirements

- (1) This section shall not be effective until approved by the Department pursuant to N.J.A.C. 5:96-5.1.
- (2) West Milford Township shall not spend development fees until the Department has approved a plan for spending such fees in conformance with N.J.A.C. 5:97-8.10 and N.J.A.C. 5:96-5.3.

C. Definitions. The following terms, as used in this section, shall have the following meanings:

AFFORDABLE HOUSING DEVELOPMENT — A development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a one-hundred-percent affordable development.

COAH or COUNCIL — means the Council on Affordable Housing established in, but not of, DCA by the Act and that was abolished effective March 20, 2024 by section 3 of P.L. 2024, c.2 (N.J.S.A. 52:27D-304.1).

CONSTRUCTION — Means new construction and additions, but does not include alterations, reconstruction, renovations, and repairs as those terms are defined under the State Uniform Construction Code promulgated pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (N.J.A.C. 52:27D-119 et seq.)

COMMISSIONER — means the Commissioner of Community Affairs.

DEPARTMENT — means the Department of Community Affairs.

PROGRAM — The Affordable Housing Dispute Resolution Program, established pursuant to section 5 of P.L.2024, c.2 (N.J.A.C. 52:27D-313.2). The Program has the purpose of efficiently resolving disputes involving the Fair Housing Act.

DEVELOPER — The legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

DEVELOPMENT FEE — Money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:97-8.3.

EQUALIZED ASSESSED VALUE — The assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L.1973, c.123 (N.J.S.A. 54:1-35a through N.J.S.A. 54:1-35c).

GREEN BUILDING STRATEGIES — Those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services

MIXED-USE DEVELOPMENT — Means any development which includes both a non-residential development component and a residential development component, and shall include developments for which (1) there is a common developer for both the residential development component and the non-residential development component, provided that for purposes of this definition, multiple persons and entities may be considered a common developer if there is a contractual relationship among them obligating each entity to develop at least a portion of the residential or non-residential development, or both, or otherwise to contribute resources to the development; and (2) the residential and non-residential developments are located on the same lot or adjoining lots, including but not limited to lots separated by a street, a river, or another geographical feature.

AGENCY — The New Jersey Housing and Mortgage Finance Agency.

NON-RESIDENTIAL DEVELOPMENT — Means: (1) any building or structure, or portion thereof, including but not limited to any appurtenant improvements, which is designated to a use group other than a residential use group according to the State Uniform Construction Code promulgated to effectuate the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), including any subsequent amendments or revisions thereto; (2) hotels, motels, vacation timeshares, and child-care facilities; and (3) the entirety of all continuing care facilities within a continuing care retirement community which is subject to the "Continuing Care Retirement Community Regulation and Financial Disclosure Act," P.L.1986, c.103 (C.52:27D-330 et seq.).

NON-RESIDENTIAL DEVELOPMENT FEE — means the fee authorized to be imposed pursuant to sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1 through C.40:55D-8.7).

UHAC — The Uniform Housing Affordability Controls. UHAC governs how a municipality meets its housing need once defined, and how affordable housing units in that town's plan are administered.

D. Residential development fees.

(1) Imposed fees.

- i. Within West Milford Township's affordable housing district(s), residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1.5% of the equalized assessed value for residential development, provided no increased density is permitted.
- ii. When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d" variance) has been permitted, developers may be required to pay a development fee of 6% of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing

of the variance application. Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal 1 1/2 of the equalized assessed value on the first two units; and the specified higher percentage up to 6% of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

- iii. Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
- iv. Single-family additions less than 1,000 square feet shall be exempt from paying a development fee.
- v. One- and two-family owner-occupied residential structures demolished and replaced as a result of a fire, flood, or natural disaster shall be exempt from paying a development fee.

E. Nonresidential development fees.

(1) Imposed fees.

- i. Within all zoning districts, nonresidential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to 2.5% of the equalized assessed value of the land and improvements, for all new nonresidential construction on an unimproved lot or lots.
- ii. Nonresidential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to 2.5% of the increase in equalized assessed value resulting from any additions to existing structures to be used for nonresidential purposes.
- iii. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2.5% shall be calculated on the difference between the equalized assessed value of the preexisting land and improvement and the equalized assessed value of the newly improved structure, i.e., land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the nonresidential development fee shall be zero.

(2) Eligible exactions ineligible exactions, and exemptions for nonresidential development.

- i. The nonresidential portion of a mixed-use inclusionary or market rate development shall be subject to the development fee of 2.5%, unless otherwise exempted below.
- ii. The fee of 2.5% shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.

- iii. Nonresidential developments shall be exempt from the payment of nonresidential development fees in accordance with the exemptions required pursuant to P.L.2008, c.46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption." Any exemption claimed by a developer shall be substantiated by that developer.
- iv. A developer of a nonresidential development exempted from the nonresidential development fee pursuant to P.L.2008, c.46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the nonresidential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the nonresidential development, whichever is later.
- v. If a property which was exempted from the collection of a nonresidential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid nonresidential development fees under these circumstances may be enforceable by West Milford Township as a lien against the real property of the owner.

(3) Collection procedures.

- i. Upon the granting of a preliminary, final or other applicable approval for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.
- ii. For nonresidential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/ Exemption" to be completed as per the instructions provided. The developer of a nonresidential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the nonresidential developer as per the instructions provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- iii. The construction official responsible for the issuance of a building permit shall notify the local Tax Assessor of the issuance of the first building permit for a development which is subject to a development fee.
- iv. Within 90 days of receipt of that notice, the municipal Tax Assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- v. The construction official responsible for the issuance of a final certificate of occupancy notifies the local assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
- vi. Within 10 business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.

- vii. Should West Milford Township fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b. of section 37 of P.L.2008, c.46 (N.J.S.A. 40:55D-8.6).
- viii. Fifty percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.
- ix. Appeal of development fees.
 - [1] A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest-bearing escrow account by West Milford Township. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
 - [2] A developer may challenge nonresidential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by West Milford Township. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

F. Affordable Housing Trust Fund.

- (1) There hereby created a separate, interest-bearing housing trust fund to be maintained by the chief financial officer for the purpose of depositing development fees collected from residential and nonresidential developers and proceeds from the sale of units with extinguished controls.
- (2) The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - i. Payments in lieu of on-site construction of affordable units;
 - ii. Developer-contributed funds to make 10% of the adaptable entrances in a townhouse or other multistory attached development accessible;
 - iii. Rental income from municipally operated units; Repayments from affordable housing program loans; Recapture funds;
 - iv. Proceeds from the sale of affordable units; and

- v. Any other funds collected in connection with West Milford Township's affordable housing program.
- (3) Within seven days from the opening of the trust fund account, West Milford Township shall provide DCA with written authorization, in the form of a three-party escrow agreement between the municipality, the bank and DCA to permit DCA to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).
 - (4) All interest accrued in the Housing Trust Fund shall only be used on eligible affordable housing activities approved by DCA.
 - (5) Use of funds.
 - i. The expenditure of all funds shall conform to a spending plan approved by DCA. Funds deposited in the Housing Trust Fund may be used for any activity approved by DCA to address the West Milford Township's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to, preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing nonresidential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:97-8.7 through 8.9 and specified in the approved spending plan.
 - ii. Funds shall not be expended to reimburse West Milford Township for past housing activities.
 - iii. At least 30% of all development fees collected or such amount as approved through the DCA waiver process and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30% or less of median income by region.
 - [1] Affordability assistance programs may include down-payment assistance, security-deposit assistance, low-interest loans, rental assistance, assistance with homeowners' association or condominium fees and special assessments, and assistance with emergency repairs.
 - [2] Affordability assistance to households earning 30% or less of median income may include buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30% or less of median income.
 - (6) Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement

- (7) West Milford Township may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.
- (8) No more than 20% of all revenues collected from development fees may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20% of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with DCA's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the DCA's regulations and/or action are not eligible uses of the affordable housing trust fund.

G. Monitoring.

- (1) West Milford Township shall complete and return to DCA all monitoring forms included in monitoring requirements related to the collection of development fees from residential and nonresidential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with West Milford Township's housing program, as well as to the expenditure of revenues and implementation of the plan certified by the Program. Monitoring will be completed through the Affordable Housing Monitoring System (AHMS).

H. Ongoing collection of fees.

- (1) The ability for West Milford Township to impose, collect and expend development fees shall expire with its substantive certification unless West Milford Township has filed an adopted Housing Element and Fair Share Plan with DCA, has petitioned for substantive certification, and has received DCA's approval of its Development Fee Ordinance. If West Milford Township fails to renew its ability to impose and collect development fees prior to the expiration of substantive certification, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L. 1985, c.222 (N.J.S.A. 52:27D-320). West Milford Township shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive certification or judgment of compliance; nor shall West Milford Township retroactively impose a development fee on such a development. West Milford Township shall not expend development fees after the expiration of its substantive certification.

SECTION 2. All ordinances of the Township of West Milford, which are inconsistent with the provisions of this Ordinance, are hereby repealed to the extent of such inconsistency.

SECTION 3. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.


SECTION 4. This Ordinance shall take effect immediately upon final passage, approval, and publication as required by law.

SECTION 5. This Ordinance may be renumbered for codification purposes.

Introduced: February 11, 2026
Adopted: March 4, 2026
Effective Date: March 24, 2026

ATTEST:

TOWNSHIP OF WEST MILFORD
COUNTY OF PASSAIC
STATE OF NEW JERSEY



William Senande, Township Clerk

By: 

Michele Dale, Mayor

Township of West Milford
Passaic County, New Jersey

~ Resolution 2026 – 091 ~

**RESOLUTION ADOPTING THE “REHABILITATION PROGRAM MANUAL” FOR THE
TOWNSHIP OF WEST MILFORD**

WHEREAS, in accordance with the Fair Housing Act and the New Jersey Uniform Housing Affordability Controls (N.J.A.C. 5:80-26-1, et seq.), the Township of West Milford is required to adopt a Rehabilitation Program Manual to ensure that all affordable housing units rehabilitated through the Town's Rehabilitation Program, are rehabilitated according to all rules and regulations applicable to rehabilitation programs and participants meet income requirements, particularly those living and/or working within Housing Region 1, the Affordable Housing Region encompassing the Township of West Milford .

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Governing Body of the Township of West Milford, County of Passaic, State of New Jersey, do hereby adopt the Rehabilitation Program Manual that is on file in the Clerk's Office

This Resolution shall take effect immediately.

Adopted: February 11, 2026

Adopted this 11th day of February, 2026
and certified as a true copy of an original.



William Senande, Township Clerk

Township of West Milford

Passaic County, New Jersey

~ Resolution 2026 – 090 ~

RESOLUTION ADOPTING FOURTH ROUND AFFORDABLE HOUSING SPENDING PLAN

WHEREAS, on March 20, 2024, Governor Murphy signed into law P.L. 2024, c.2 which amended various provisions of the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq. (“Amended FHA”); and

WHEREAS, the Amended FHA sets forth that the Fourth Round period of affordable housing obligations shall run from July 1, 2025 through June 30, 2035 (“Fourth Round” or “Round Four”); and

WHEREAS, A municipality may not spend or commit to spend any affordable housing development fees, without first obtaining the approval of the expenditure as part of its compliance certification or by the New Jersey Department of Community Affairs (DCA); and

WHEREAS, the Governing Body of the Township of West Milford, County of Passaic, State of New Jersey, adopted a development fee ordinance on July 28, 2008; and

WHEREAS, the development fee ordinance establishes an affordable housing trust fund that includes development fees, payments from developers in lieu of constructing affordable units on-site, barrier free escrow funds, rental income, repayments from affordable housing program loans, recapture funds, proceeds from the sale of affordable units, and/or any other funds collected for affordable housing purposes; and

WHEREAS, the Township of West Milford has prepared a Fourth Round Affordable Housing Trust Fund Spending Plan, dated January 2026.

NOW THEREFORE, BE IT RESOLVED, by the Governing Body of the Township of West Milford, County of Passaic, New Jersey, that the Township of West Milford hereby adopts the Fourth Round Affordable Housing Trust Fund Spending Plan for the Township of West Milford, dated February 2026, prepared by J. Caldwell & Associates, LLC, which is on file in the Clerk’s Office.

This Resolution shall take effect immediately.

Adopted: February 11, 2026

Adopted this 11th day of February, 2026
and certified as a true copy of an original.



William Senande, Township Clerk

Township of West Milford
Passaic County, New Jersey

~ Resolution 2026 – 089 ~

**RESOLUTION ADOPTING THE “AFFIRMATIVE MARKETING PLAN” FOR
THE TOWNSHIP OF WEST MILFORD**

WHEREAS, in accordance with the Fair Housing Act and the New Jersey Uniform Housing Affordability Controls (N.J.A.C. 5:80-26-1, *et seq.*), the Township of West Milford is required to adopt an Affirmative Marketing Plan to ensure that all affordable housing units created, including those created by the Housing Element and Fair Share Plan within the Township of West Milford, are affirmatively marketed to very low, low and moderate income households, particularly those living and/or working within Housing Region #1, the Affordable Housing Region encompassing the Township of West Milford .

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Governing Body of the Township of West Milford, County of Passaic, State of New Jersey, do hereby adopt the Affirmative Marketing Plan on file in the Clerk’s Office.

This Resolution shall take effect immediately.

Adopted: February 11, 2026

Adopted this 11th day of February, 2026
and certified as a true copy of an original.



William Senande, Township Clerk

Township of West Milford

Passaic County, New Jersey

~ Resolution 2026 – 116 ~

RESOLUTION OF THE MAYOR AND COUNCIL APPOINTING A MUNICIPAL HOUSING LIAISON

WHEREAS, on March 20, 2024, Governor Murphy signed into law P.L. 2024, c.2 which amended various provisions of the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) (“Amended FHA”); and

WHEREAS, under authorization of the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, et seq.) the Municipality is implementing a program to provide affordable housing units to low and moderate-income households desiring to live within the Municipality; and

WHEREAS, at Title 5, Chapter 80, Subchapter 26 of the New Jersey Administrative Code, the State has promulgated affordability controls in regulations designed to implement the Act, by assuring that low and moderate-income units that are created under the Act are occupied by low and moderate-income households for an appropriate period of time (the “Rules”); and

WHEREAS, pursuant to N.J.A.C. 5:94-7 and N.J.A.C. 5:80-26.1 et. seq., the Township of West Milford is required to appoint a Municipal Housing Liaison for the administration of the Township of West Milford’s affordable housing program to enforce the requirements of N.J.A.C. 5:94-7 and N.J.A.C. 5:80-26.1 et. seq.

NOW THEREFORE BE IT RESOLVED, by the Governing Body of the Township of West Milford in the County of Passaic, and the State of New Jersey that William Senande, Municipal Administrator, is hereby appointed by the Governing Body as the Municipal Housing Liaison for the administration of the affordable housing program.

Adopted: February 11, 2026

Adopted this 11th day of February, 2026
and certified as a true copy of an original



William Senande, Township Clerk