

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