

**BOROUGH OF MENDHAM**  
Morris County, New Jersey

**RESOLUTION #124-2025**

**RESOLUTION OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS, STATE  
OF NEW JERSEY CONDITIONALLY APPROVING THE BOROUGH'S FOURTH  
ROUND AFFORDABLE HOUSING TRUST FUND SPENDING PLAN**

**WHEREAS**, the Borough of Mendham (hereinafter "Borough" or "Mendham") has an approved Development Fee Ordinance which sets forth standards for the collection, maintenance, and expenditure of development fees; and

**WHEREAS**, the Development Fee Ordinance established 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 for affordable housing program loans, recapture funds, proceeds from the sale of affordable units, and/or funds collected in connection with the Borough's affordable housing program; and

**WHEREAS**, the Borough's current Affordable Housing Trust Fund Spending Plan was approved by the Court in 2020 as part of the Borough's Third Round Affordable Housing declaratory judgment action entitled: In the Matter of the Application of the Borough of Mendham, under Docket No.: MRS-L-1637-15 (the "2015 Action"); and

**WHEREAS**, on March 20, 2024, Governor Murphy signed into law P.L. 2024, c.2, which amended the 1985 New Jersey Fair Housing Act (hereinafter the "FHA-2") which governs how municipalities will comply with their affordable housing obligations for the Fourth Round (2025-2035); and

**WHEREAS**, the Administrative Office of the Courts issued Directive #14-24 ("AOC Directive #14-24"), setting forth additional instructions as to how municipalities file their compliance documents with the Affordable Housing Dispute Resolution Program ("the Program"); and

**WHEREAS**, the Borough has prepared a proposed Fourth Round Spending Plan consistent with the FHA-2, AOC Directive #14-24, and applicable regulations, which projects anticipated revenues to the Borough's Affordable Housing Trust Fund and describes the anticipated expenditures of funds; and

**WHEREAS**, presently the State of New Jersey, Department of Community Affairs, Division of Local Planning Services, has proposed new rules, entitled the "Fair Housing Act Rules" which regulate affordable housing trust funds and what is deemed acceptable and unacceptable uses of such funds, however, the statutory required rulemaking process for these rules remains ongoing and final adoption, publication and the effective date for same has not yet occurred; and

**WHEREAS**, on June 12, 2025 the New Jersey Housing and Mortgage Finance Agency apparently approved new revisions to the current version of the emergency amendments to the Housing Affordability Controls previously adopted on December 20, 2024, and which sets forth monetary ranges related to the expenditure of affordable housing trust funds for the continued preservation of each municipality's existing affordable housing stock, and which regulations have yet to be made available to the public and are unpublished; and

**WHEREAS**, at the same time the Borough remains obligated to meet a June 30<sup>th</sup> deadline imposed by the State to adopt a spending plan that complies with the very same regulations that the above-referenced State agencies have failed to timely publish and adopt in accordance with the statutorily mandated rulemaking process, which has led to great deal of uncertainty and confusion at the local government level.

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Mendham, in the County of Morris, and State of New Jersey, as follows:

1. The Borough Council of the Borough of Mendham hereby conditionally approves the Fourth Round Spending Plan that is annexed to the Borough's 2025 Housing Element and Fair Share Plan, subject to the Borough's reservation of its right to amend same following completion of the statutorily mandated rulemaking process, including publication, public comment and final adoption of the "Fair Housing Act Rules" and "Housing Affordability Controls" by the Division of Local Planning Services and the Housing and Mortgage Finance Agency, respectively.
2. The Borough Municipal Attorney is hereby directed to file this resolution and the Borough's proposed Fourth Round Spending Plan with the Program and the Court in the Borough's pending declaratory judgment action entitled: In re Application of the Borough of Mendham, Docket No.: MRS-L-000254-25 (Borough's "2025 Action").
3. The Borough Municipal Attorney, Municipal Planner/Engineer, and all other appropriate officials, employees and other professionals of the Borough are hereby authorized and directed to take any and all steps necessary to effectuate the purposes of this Resolution such that the Borough maintains its immunity from exclusionary zoning and builder's remedy litigation.
4. The Borough further reserves the right to amend and supplement its Fourth Round Spending Plan in accordance with applicable law should such further amendments be required or necessary.
5. This Resolution shall take effect immediately.

DATED: June 25, 2025

ATTEST:

BOROUGH OF MENDHAM

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Lauren McBride, Acting Borough Clerk

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James Kelly, Mayor

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C E R T I F I C A T I O N

I, Lauren McBride, Acting Clerk of the Borough of Mendham in the County of Morris and State of New Jersey, do hereby certify that the foregoing is a correct and true copy of a resolution adopted by the Mayor and Council of the Borough of Mendham at a meeting duly convened of said Body on the 25<sup>th</sup> day of June, 2025

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Lauren McBride, Acting Borough Clerk