**RESOLUTION NO. 2025-**

**OF THE GOVERNING BODY OF**

**THE BOROUGH OF BLOOMINGDALE**

**RESOLUTION OF THE BOROUGH OF BLOOMINGDALE, COUNTY OF PASSAIC, AND STATE OF NEW JERSEY CONDITIONALLY APPROVING THE BOROUGH’S FOURTH ROUND AFFORDABLE HOUSING TRUST FUND SPENDING PLAN.**

**WHEREAS**, the Borough of Bloomingdale (hereinafter “Borough” or “Bloomingdale”) has an approved Development Fee Ordinance, last adopted in 2023 which sets forth standards for the collection, maintenance, and expenditure of development fees; and

**WHEREAS**, the Borough’s 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**, 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 subsequently issued Directive #14-24 (“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**, in accordance with the requirements of Directive #14-24 and FHA-2 the Borough Municipal Planner prepared the Borough’s Fourth Round Housing Element and Fair Share Plan and on prior notice to the public on June 4, 2025, the Borough of Bloomingdale Planning Board adopted the Borough’s 2025 Housing Element and Fair Share Plan following a public hearing thereon all in accordance with the requirements of the New Jersey Open Public Meetings Act, N.J.S.A. 10:4-6 et seq., and the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq; and

**WHEREAS**, during a public meeting of the Borough Council of the Borough of Bloomingdale on June 17, 2025, held in accordance with the requirements of the New Jersey Open Public Meetings Act, N.J.S.A. 10:4-6 et seq., the Borough Council adopted Resolution 2025-6.17, whereby the Borough Council endorsed the Borough’s 2025 Housing Element and Fair Share Plan, including all supporting documentation and exhibits annexed thereto, and directed the Borough Municipal Attorney to file the Borough’s 2025 Housing Element and Fair Share Plan, and all relevant supporting documentation and exhibits with the Court and the Program in the Borough’s 2025 pending declaratory judgment action entitled: entitled: In The Matter of The Declaratory Judgment Action of the Borough of Bloomingdale, Docket No: PAS-L-283-25 (Borough’s “2025 Action”); and

**WHEREAS**, due to statutory imposed deadlines set forth in FHA-2, on June 6, 2025, the Borough Municipal Attorney timely filed the Borough’s 2025 Housing Element and Fair Share Plan, along with all supporting documentation, with the Court and the Program in the Borough’s 2025 Action; and

**WHEREAS**, in addition to same, the Borough Municipal Planner has since prepared a proposed Fourth Round Affordable Housing Trust Fund Spending Plan consistent with the FHA-2, Directive #14-24 and applicable regulations, which projects anticipated revenues for the Borough’ Affordable Housing Trust Fund and describes the anticipated expenditures of funds; and

**WHEREAS**, at the same time, various affordable housing regulations have been proposed for adoption by separate State agencies, which directly regulate and otherwise impact the collection and expenditure of affordable housing trust fund monies by municipalities; and

**WHEREAS**, in particular, in March 2025 the State of New Jersey, Department of Community Affairs, Division of Local Planning Services, 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 related to these rules remains ongoing and the final adoption, publication and the effective date for same has not yet occurred; and

**WHEREAS**, on July 21, 2025 the New Jersey Housing and Mortgage Finance Agency apparently approved new proposed amendments and revisions to the current version of the emergency amendments to the “Housing Affordability Controls” previously adopted on December 20, 2024, which amongst other things, 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 remain unadopted; and

**WHEREAS**, the failure of the above-referenced State agencies to take into consideration the statutory mandated deadlines municipalities must adhere to under the FHA-2, and to otherwise timely publish and adopt regulations in accordance with the statutorily mandated rulemaking process, has led to great deal of uncertainty and confusion at the local government level, as these regulations will inevitably impact the Borough’s Affordable Housing Trust Fund Spending Plan, and therefore it would be fiscally responsible for the Borough to authorize and approve same on the condition that the Borough reserve the right to amend same at a later date.

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

1. The Borough Council of the Borough of Bloomingdale hereby conditionally approves the Fourth Round Affordable Housing Trust Fund Spending Plan attached hereto as Exhibit A, 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; and
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 Court in the Borough’s “2025 Action”; and
3. The Borough Municipal Attorney, Municipal Planner, 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; and
4. A certified copy of this Resolution and the Borough’s Fourth Round Affordable Housing Trust Fund Spending Plan shall remain on file with the Borough for the purpose of public inspection and shall be uploaded to the Borough’s website; and
5. The Borough further reserves the right to amend and supplement its Fourth Round Affordable Housing Trust Fund Spending Plan in accordance with applicable law should such further amendments be required or necessary; and
6. This Resolution shall take effect immediately.

Adopted: August 19, 2025

Breeanna Smith, RMC John D’Amato, Mayor

Municipal Clerk, Borough of Bloomingdale

I hereby certify the foregoing to be a true copy of a Resolution adopted by the Borough Council of the Borough of Bloomingdale at an Official Meeting held on August 19, 2025.

Breanna Smith, Municipal Clerk

Borough of Bloomingdale