Resolution of the Demarest Governing Body

Resolution No. 117-26

June 8, 2026

Council Member	Motion	Second	Yes	No	Abstain	Absent
Slowikowski	✓		✓			
Carmeli			✓			
Collins			✓			
Jiang			✓			
Marks			✓			
Reiss		✓	✓			

TITLE: A RESOLUTION OF THE BOROUGH OF DEMAREST 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 Borough of Demarest, County of Bergen, State of New Jersey, adopted a development fee ordinance on September 27, 2001; 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 Borough has prepared an Affordable Housing Trust Fund Fourth Round Spending Plan, dated May 2026; and

NOW THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Demarest, Bergen County, New Jersey, that the Borough hereby adopts the 2026 Affordable Housing Trust Fund Spending Plan, dated May 2026, prepared by Colliers Engineering & Design, which is attached hereto and incorporated herein.

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately.

APPROVED:

Brian Bernstein, Mayor

CERTIFICATION OF CFO

I, Andrea Diekmann Johe, do hereby certify the availability of funds for the expenditure referenced herein.

Andrea Diekmann Johe

Andrea Diekmann Johe, CFO

CERTIFICATION

I, Julie Falkenstern, Borough Clerk of the Borough of Demarest, in the County of Bergen and the State of New Jersey do hereby certify that the foregoing Resolution is a true copy of the original resolution duly passed and adopted by the Governing Body at the meeting on.

Julie Falkenstern, RMC
Borough Clerk

2026 AFFORDABLE HOUSING TRUST FUND SPENDING PLAN

Borough of Demarest

June 2026

Council Approval: _______, 2026

I. INTRODUCTION

The Borough of Demarest, Bergen County has prepared a Housing Element and Fair Share Plan in accordance with the Municipal Land Use Law (NJSA 40:55D-1 et seq.), the Amended Fair Housing Act (NJSA 52:27D-301), and the applicable affordable housing regulations (NJAC 5:91-1 et seq., NJAC 5:93-1 et seq., NJAC 5:97 et seq., and NJAC 5:99 et seq.). The Borough adopted a development fee ordinance on August 20, 2001. This original development fee ordinance was approved by COAH on September 27, 2001. The development fee ordinance was then updated in April of 2010 via Ordinance #971. COAH approved this updated ordinance with the Borough's Third Round petition. Demarest then adopted a new Development Fee Ordinance in accordance with the Settlement Agreement via Ordinance #1067-19 on July 29, 2019.[1] The ordinance establishes the Borough of Demarest's affordable housing trust fund for which this spending plan is prepared.

II. REVENUES FOR CERTIFICATION PERIOD

As of December 31, 2024, the Borough of Demarest has collected $4,926,058.06 and expended $1,035,517.77, resulting in a balance of $3,890,540.29. 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 the fees are deposited in a separate interest-bearing affordable housing trust fund in Citizens Bank for the purposes of affordable housing. These funds shall be spent in accordance with NJAC 5:99-2.3, as described in the sections that follow.

To calculate a projection of revenue anticipated during the period of Fourth Round (2025-2035), the Borough of Demarest considered the following:

(a) Development fees:

- Residential and non-residential projects which have had development fees imposed upon them at the time of preliminary or final development approvals;
- All projects currently before the planning and zoning boards for development approvals that may apply for building permits and certificates of occupancy; and
- Future development that is likely to occur based on historical rates of development.

[1] Historic adoption dates sourced from the Affordable Housing Monitoring System Website.

(b) Payment in lieu (PIL):

- Actual and committed payments in lieu (PIL) of construction from developers as follows: Payment in lieu from Sylco Investments 6, 8, 9, and 10, LLC ("Sylco"). Sylco committed to pay a total of $1 million in lieu of five affordable units. The payment was structured to be received in three installments, $250,000 when site work commences, $250,000 when the first building permit is issued, and $500,000 when the tenth Certificate of Occupancy is issued. The first two payments have been received and the $500,000 is expected to be paid in 2025 or 2026.[2]

(c) Other funding sources:

- Funds from other sources, including, but not limited to, the sale of units with extinguished controls, repayment of affordable housing program loans, rental income and proceeds from the sale of affordable units. A subsidy payment of 0.4 of an affordable unit is anticipated from 232 County Road. It is estimated this subsidy payment will be $104,901.79.

(d) Projected interest:

- Interest on the projected revenue in the municipal affordable housing trust fund at the current average interest rate. The Borough projects collecting $39,176.91 between 2025 and 2035.

The Borough of Demarest projects a total of $1,671,548.20 in revenue to be collected between January 1, 2025 and December 31, 2035. This projected amount, when added to the Borough of Demarest's trust fund balance as of December 31, 2024, results in an anticipated total revenue of $5,562,088.49 available to fund and administer its affordable housing plan. All interest earned on the account shall be used only for the purposes of affordable housing. See the table on the following page for the projected revenues.

[2] The Fair Housing Act provisions that permitted payments-in-lieu of constructing affordable housing units were repealed via P.L. 2024, c.2. The payment-in-lieu included in this Spending Plan was a Third Round payment that was included in the Borough's Third Round Judgement of Compliance and Repose.

PROJECTED REVENUES - AFFORDABLE HOUSING TRUST FUND												
Source of Funds	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	Total
(a) Development fees:												
Development Pending Approval	$0	$0	$86,802	$0	$0	$0	$0	$0	$0	$0	$0	$86,802.00
Approved Development**	$257,102	$65,102	$10,850	$0	$0	$0	$0	$0	$0	$0	$0	$333,053.50
Projected Residential Development	$0	$0	$0	$86,802	$65,102	$86,802	$65,102	$86,802	$65,102	$86,802	$65,102	$607,614.00
Projected Non-Res. Development												$0.00
(b) Payments in Lieu of Construction	$500,000											$500,000.00
(c) Other Funds				$104,902								$104,901.79
(d) Interest	$18,170	$1,562	$2,344	$4,601	$1,562	$2,083	$1,562	$2,083	$1,562	$2,083	$1,562	$39,176.91
Total	$775,272	$66,664	$99,996	$196,305	$66,664	$88,885	$66,664	$88,885	$66,664	$88,885	$66,664	$1,671,548.20

*For purposes of projecting revenues, we have utilized historic residential Certification of Occupancy data that occured between 2013 and 2024. Projections assume the estimated value of a new home is $1,446,700. The average asessed value was provided by the Borough's CFO. The value is then multipled by 1.5%.

**2025 Approved Development also includes $137,749 collected between Janary and April.

III. ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS

The following procedural sequence for the collection and distribution of development fee revenues shall be followed by the Borough of Demarest:

(a) Collection of development fee revenues:

- Collection of development fee revenues shall be consistent with the Borough of Demarest's development fee ordinance for both residential and non-residential developments in accordance with NJAC 5:91, 5:93, and 5:99, the Amended Fair Housing Act, and the Municipal Land Use Law.

(b) Distribution of development fee revenues:

- The Administration forwards a resolution to the governing body recommending the expenditure of development fee revenues as set forth in this spending plan. The governing body reviews the request for consistency with the spending plan and adopts the recommendation by resolution. The release of the funds requires the adoption of the governing body resolution in accordance with the Court- and/or Program-approved spending plan. Once a request is approved by resolution, the Chief Financial Officer releases the requested revenue from the trust fund for the specific use approved in the governing body's resolution.

IV. DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS

(a) Municipally Sponsored Projects (NJAC 5:93-5.5)

- See section (d) below for a description of municipally sponsored projects where the funding will enable the construction of the project.

(b) Alternative Living Arrangement (NJAC 5:93-5.8)

- See section (d) below for a description of alternative living arrangements (supportive/special needs housing) where the funding will enable the construction of the project.

(c) Accessory Apartment Program (NJAC 5:93-5.9)

- The Borough of Demarest has an accessory apartment program. The Borough will be increasing the subsidy from $25,000 to $75,000 to incentivize the creation of accessory apartments. This document has set aside funding for five units. If more than five units apply for the program, the Borough will reduce the funding allocated to the "future affordable housing opportunities" line item.

(d) Affordability Assistance (NJAC 5:99-2.5(a))

- Municipalities are required to "set aside a portion of all development fees collected and interest earned for the purpose of providing affordability assistance to very-low, low-, and moderate-income households in affordable units included in the municipality's fair share plan". The regulations do not specify a certain percentage that must be attained, but for purposes of this document, a goal of 20% has been set. The actual affordability assistance expenditures are calculated on an ongoing basis in the online Affordable Housing Monitoring System platform.

- According to the following chart, the Borough of Demarest has set a goal of 20% of all fees and interest earned to be reserved for affordability assistance. This goal translates to $1,140,180.57. Through December 31, 2024 the Borough has spent $0 from the affordable housing trust fund to render units more affordable.

- The Borough proposes the following affordability assistance programs:

  - **127 Hardenburgh Avenue.** The Third Round Spending Plan included $530,000 for the 100% affordable project located at 127 Hardenburgh Avenue. Portions of this funding were tied to certain project milestones. BCUW has received Planning Board approval to construct a 17-unit building. To date the Borough has paid BCUW $214,387.36. Therefore, $315,612.64 remains to be paid.

  - **127 Hardenburgh Avenue Very-Low Income Unit.** Pursuant to the Court-approved Third Round Spending Plan, this site was required to contain at least one very-low-income unit. To help balance the development's pro-forma, the Borough will pay the developer a one-time payment of up to $400,000 once the very-low-income unit receives its certificate of occupancy. At the Borough's option, half of this payment may be released when the building permit is issued.

  - **127 Hardenburgh Avenue, Additional Funds for Shortfall in Funding.** Due to outside forces beyond the Borough and BCUW's control, some of the envisioned State funding is no longer available to assist the project. Therefore, Demarest is reserving $3,296,248 to fill the funding gap. Of this total $2,326,768 is to assist the 12 low- and moderate-income units and $969,480 is to assist the five very-low-income units.

  - **Supportive/Special Needs Units.** Demarest is seeking a vacant land adjustment as part of its Fourth Round housing compliance. However, if the opportunity arises over the next decade to partner with an entity to construct supportive / special needs affordable housing opportunities, Demarest would like to reserve funds to aid in bringing said units to fruition. It is anticipated that the program would be structured to provide funding per unit or bed in exchange for a deed restricted unit / bed. A total of $475,227.85 is anticipated, which is ultimately based on the development fees collected over the next ten years.

AFFORDABILITY ASSISTANCE CALCULATION		
Actual development fees through 12/31/2024		$ 4,397,377.01
Actual interst earned through 12/31/2024		$ 239,397.08
Development fees projected 2025-2035	+	$ 1,027,469.50
Interest projected 2025-2035	+	$ 36,659.27
Total	=	$ 5,700,902.86
Calculate 20 percent	x .20 =	$ 1,140,180.57
Less Affordability assistance expenditures through 12/31/2024	-	$ -
Projected Minimum Affordability Assistance Requirement 1/1/2025 through 12/31/2035	=	$ 1,140,180.57

(e) Administrative Expenses (NJAC 5:99-2.4(a))

Municipalities are permitted to use affordable housing trust fund revenue for related administrative costs up to a 20% limitation, exclusive of funds collected to fund an RCA. The actual administrative expense maximum is calculated on an ongoing basis in the online Affordable Housing Monitoring System platform based on actual revenues.

The Borough of Demarest projects that $710,292.98 will be available from the affordable housing trust fund to be used for administrative purposes. Projected administrative expenditures, subject to the 20% cap, are as follows:

- Affordable Housing Attorney, Engineer, Planner and Administrative Agent fees related to attaining affordable housing compliance as well as consulting fees related to the administration and implementation of the Borough's affordable housing programs.

- Salaries and benefits for municipal employees for administration and implementation of the housing plan and programs.

- Municipal Housing Liaison training and on-going education.

ADMINISTRATIVE EXPENSE CALCULATION		
Actual dev fees and interest thru 12/31/2024		$4,636,774.09
Projected dev fees and interest 2025 thru 2035	+	$1,066,646.41
Payments-in-lieu of construction and other deposits thru 12/31/2024	+	$289,283.97
Projected payments-in-lieu of construction and other desposits 2025 thru 2035	+	$604,901.79
Total	=	$6,597,606.26
Calculate 20 percent	x .20 =	$1,319,521.25
Less admin expenditures thru 12/31/2024	-	$ 609,228.27
Projected Maximum available for administrative expenses 2025 thru 2035	=	$710,292.98

V. EXPENDITURE SCHEDULE

The Borough of Demarest intends to use affordable housing trust fund revenues for the creation of affordable housing units. It should be noted that the amount spent in a given year for any line item may actually span multiple years in reality. Money may be spent slower or faster than anticipated in the table below. This information is an educated guess on the timing of the various programs. The table below provides an estimated timeline for expenditure and does not restrict the Borough from spending the money sooner or later in the Fourth Round period.

Projects/Programs	Number of Units Projected	Projected Expenditure Schedule 2025-2035											
		2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	Total
Accessory Apartment Ord.	5		$75,000		$75,000		$75,000		$75,000		$75,000		$375,000.00
Affordability Assistance													
127 Hardenburgh Avenue	12		$315,613										$315,612.64
127 Hardenburgh VLI	5		$400,000										$400,000.00
127 Hardenburgh - Addt Funds for Shortfall in Funding	12		$2,326,768										$2,326,768.00
127 Hardenburgh - Addt Funds for Shortfall in Funding VLI Units	5		$969,480										$969,480.00
Future Special Needs/Supportive Housing Units	TBD										$200,000	$275,228	$475,227.85
Administration		$100,000	$100,000	$50,000	$50,000	$50,000	$50,000	$50,000	$50,000	$50,000	$50,000	$100,000	$700,000.00
Total		$100,000	$4,186,861	$50,000	$125,000	$50,000	$125,000	$50,000	$125,000	$50,000	$325,000	$375,228	$5,562,088.49

VI. EXCESS OR SHORTFALL OF FUNDS

In the event of any unexpected revenue shortfall, where funds are not sufficient to implement the plan, the Borough of Demarest will approve a resolution of intent to bond.

In the event more funds than anticipated are collected, projected funds exceed the amount necessary to implement the Fair Share Plan, or the Borough of Demarest is reserving funds for affordable housing projects to meet a future affordable housing obligation, these excess funds will be used to offer additional group home assistance for new providers within the community.

VII. SUMMARY

The Borough of Demarest intends to spend affordable housing trust fund revenues pursuant to NJAC 5:99-2.6 and consistent with the housing programs outlined in the Fourth Round Housing Plan Element and Fair Share Plan.

The Borough of Demarest has a balance of $3,890,540.29 as of December 31, 2024 and anticipates an additional $1,671,548.20 in revenues through 2035 for a total of $5,562,088.49. This Spending Plan demonstrates the Borough's commitment to expend $5,562,088.49 through December 31, 2035, including a commitment to expend with respect to the following:

- Commitment to expend up to $375,000.00 toward the creation of accessory apartments;
- Commitment to expend up to $4,011,860.64 to incentivize the construction of 127 Hardenburgh Avenue;
- Commitment to expend up to $475,227.85 for future special needs/supportive housing units; and
- Commitment to expend up to $700,000.00 on administration.

SPENDING PLAN SUMMARY		
Balance as of December 31, 2024		$3,890,540.29
Projected Revenue 2025-2035		
Development fees	+	$1,027,469.50
Payments in lieu of construction	+	$500,000.00
Other funds	+	$104,901.79
Interest	+	$39,176.91
TOTAL REVENUE	=	$5,562,088.49
Projected Expenditures 2025-2035		
Funds used for Projects		
1. Accessory Apartment Ordinance	-	$375,000.00
Affordability Assistance	-	$4,487,088.49
Administration	-	$700,000.00
Total Projected Expenditures	=	$5,562,088.49
Remaining Balance	=	$0.00