

Township of West Milford

Passaic County, New Jersey

~ Resolution 2019 – 298 ~

A RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING THE FILING OF A COMPLAINT WITH THE NEW JERSEY COUNCIL ON LOCAL MANDATES THAT THE HIGHLANDS WATER PROTECTION AND PLANNING ACT, N.J.S.A. 13:20-1 THROUGH -35, AND N.J.A.C. 7:38-1 THROUGH -14.2, AS APPLIED TO WEST MILFORD TOWNSHIP, CONSTITUTES AN UNFUNDED MANDATE IN VIOLATION OF ARTICLE VIII, SECTION II, PARAGRAPH V OF THE NEW JERSEY CONSTITUTION

WHEREAS, as applied to the Township of West Milford, the Highlands Water Protection and Planning Act and its implementing rules (hereinafter collectively “Highlands Act”) and it imposes upon the municipal government an undue financial hardship in violation of the New Jersey Constitution; and

WHEREAS, pursuant to the Highlands Act, areas impacted by the Act are divided into the Preservation Area and the Planning Area; and

WHEREAS, there is a strict approval process for any major development to be permitted within the Preservation Area; and

WHEREAS, the Township of West Milford is geographically one of the largest communities in the State of New Jersey at over 80 square miles; and

WHEREAS, the Township of West Milford is located 100% within the Highlands Preservation Area, thus restricting all development opportunities and causing a permanent loss in ratables; and

WHEREAS, the New Jersey Council on Local Mandates is responsible for resolving disputes on whether a law, rule or regulation adopted after 1996 constitutes an unfunded mandate; and

WHEREAS, an unfunded mandate upon municipalities is a law, rule or regulation that does not authorize resources, other than the property tax, to offset additional direct expenditures required to implement said law, rule or regulation; and

WHEREAS, no funding has been provided for in connection with the Highlands Act other than N.J.S.A. 54:1-85, known as the “Highlands Property Stabilization Board and Fund”; and

WHEREAS, the Highlands Property Stabilization Board and Fund was intended to be an integral funding source for the Highlands Act; however, it has since been depleted and abandoned and is no longer a funding source for the Highlands Act and municipalities such as the Township of West Milford in violation of the New Jersey Constitution.

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

1. That the Governing Body does hereby authorize the filing of a complaint on behalf of the Township with the New Jersey Council on Local Mandates that the Highlands Act constitutes an unfunded State mandate in violation of Article VIII, Section II, Paragraph V of the New Jersey Constitution.
2. That a certified copy of this resolution be provided to the Township Attorney for inclusion in the filing with the Council on Local Mandates.
3. This Resolution shall take effect immediately.

Adopted: October 16, 2019

Adopted this 16th day of October 2019
and certified as a true copy of an original.

Diane Curcio, Acting Township Clerk