

CITY OF CAPE MAY, COUNTY OF CAPE MAY, STATE OF NEW JERSEY

RESOLUTION NO. 223-07-2025

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPE MAY
ENDORSING A FOURTH ROUND HOUSING ELEMENT AND FAIR
SHARE PLAN**

WHEREAS, the City of Cape May (hereinafter the “City” or “Cape May”) has a demonstrated history of voluntary compliance as evidenced by its Third Round record; and

WHEREAS, pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (Mount Laurel IV), on July 8, 2015, the City of Cape May filed a Declaratory Judgment Complaint in Superior Court, Law Division seeking, among other things, a judicial declaration that its Third Round Housing Element and Fair Share Plan, to be amended as necessary, satisfied its “fair share” of the regional need for low and moderate income housing pursuant to the “Mount Laurel doctrine;” and

WHEREAS, that culminated in a Court-approved Third Round Housing Element and Fair Share Plan and a Final Judgment of Compliance and Repose, which precludes all Mount Laurel lawsuits, including builder’s remedy lawsuits, until July 1, 2025; and

WHEREAS, the City continues to actively implement its Court-approved Third Round Housing Element and Fair Share Plan; 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 “Amended FHA”); and

WHEREAS, the City adopted a “binding resolution” accepting the DCA-calculated Present Need and Prospective Need, as required by the Amended FHA, on January 22, 2025, establishing its Fourth Round Present Need of 46 and Prospective Need of 48; and

WHEREAS, in accordance with the Amended FHA and the Administrative Office of the Court’s Directive No. 14-24, the City filed a timely Fourth Round Declaratory Judgment complaint (“DJ Complaint”) with the Court and the Affordable Housing Dispute Resolution Program (“the Program”), along with its binding resolution, on January 24, 2025; and

WHEREAS, the filing of the DJ Complaint gave the City automatic, continued immunity from all exclusionary zoning lawsuits, including builder’s remedy lawsuits, which is still in full force and effect; and

WHEREAS, the City did not receive any objections to its Present and Prospective Need Obligations by February 28, 2025, resulting in the statutory automatic acceptance of the City’s Fourth Round obligations on March 1, 2025; and

WHEREAS, on March 27, 2025, the Court entered an order establishing the City’s Fourth Round Present Need of 46 and Prospective Need of 48; and

WHEREAS, the Amended FHA requires a municipality to adopt and file a Fourth Round Housing Element and Fair Share Plan by June 30, 2025; and

WHEREAS, in accordance with the Amended FHA, the City's affordable housing planner drafted a Fourth Round Housing Element and Fair Share Plan, which is attached hereto as Exhibit A; and

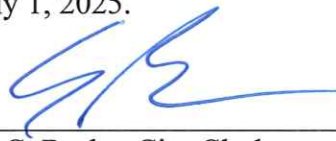
WHEREAS, the Planning Board held a public hearing on the Fourth Round Housing Element and Fair Share Plan on June 24, 2025 and adopted the Fourth Round Housing Element and Fair Share Plan via a resolution on that same night, and both were subsequently filed with the Program and the Court within 48 hours of adoption; and

WHEREAS, the City Council wishes to endorse the Fourth Round Housing Element and Fair Share Plan that was adopted by the Planning Board.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cape May, County of Cape May, State of New Jersey, as follows:

1. The City Council hereby endorses the Fourth Round Housing Element and Fair Share Plan attached hereto as Exhibit A, which was adopted by the City's Planning Board on June 24, 2025.
2. The City Council hereby directs the City's Affordable Housing Counsel to seek Program and Court approval of the Fourth Round Housing Element and Fair Share Plan via a Compliance Certification, and to take whatever actions are necessary to maintain the City's immunity from all Mount Laurel exclusionary zoning lawsuits.
3. The City reserves the right to further amend the Fourth Round Housing Element and Fair Share Plan, should that be necessary.

I, Erin C. Burke, City Clerk of the City of Cape May, County of Cape May, State of New Jersey, do hereby certify the foregoing is a correct and true original Resolution adopted by the City Council of the City of Cape May at a meeting held on July 1, 2025.


Erin C. Burke, City Clerk

Roll Call	Ayes	Nays	Absent	Abstain	Motion	Second
Meier			X			
McDade	X					X
Bodnar	X					
Baldwin	X				X	
Mullock	X					