

**RESOLUTION OF THE PLANNING BOARD OF THE TOWNSHIP OF  
UPPER ADOPTING A FOURTH ROUND HOUSING ELEMENT AND FAIR  
SHARE PLAN - PB SP 06-2025**

**WHEREAS**, the Township of Upper (hereinafter the “Township” or “Upper”) 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 or around July 2, 2015, the Township of Upper 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 Judgment of Compliance and Repose, which precludes all Mount Laurel lawsuits, including builder’s remedy lawsuits, until July 1, 2025; and

**WHEREAS**, the Township 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 Township adopted a “binding resolution” accepting the DCA-calculated Present Need and Prospective Need, as required by the Amended FHA, on January 27, 2025, establishing its Fourth Round Present Need of 0 and Prospective Need of 47; and

**WHEREAS**, in accordance with the Amended FHA and the Administrative Office of the Court’s Directive No. 14-24, the Township filed a timely Fourth Round Declaratory Judgment complaint (“DJ Complaint”) with the Affordable Housing Dispute Resolution Program (“the Program”), along with its binding resolution, on January 28, 2025; and

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

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

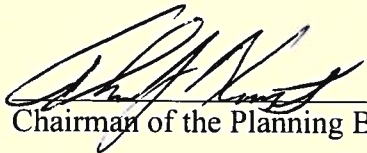
**WHEREAS**, now that the Township has its Fourth Round Obligations, the Amended FHA requires the municipality to adopt and endorse a Fourth Round Housing Element and Fair Share Plan by June 30, 2025; and

**WHEREAS**, in accordance with the Amended FHA, the Township’s affordable housing planner drafted a Fourth Round Housing Element and Fair Share Plan; and

**WHEREAS**, upon notice duly provided pursuant to N.J.S.A. 40:55D-13, the Planning Board held a public hearing on the Fourth Round Housing Element and Fair Share Plan on June 26, 2025; and

**WHEREAS**, the Planning Board determined that the attached Fourth Round Housing Element and Fair Share Plan is consistent with the goals and objectives of the Township's current Master Plan, and that adoption and implementation of the Fourth Round Housing Element and Fair Share Plan is in the public interest and protects public health and safety and promotes the general welfare.

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Board of the Township of Upper, County of Cape May, State of New Jersey, that the Planning Board hereby adopts the Fourth Round Housing Element and Fair Share Plan attached hereto as Exhibit A.

  
Chairman of the Planning Board

**CERTIFICATION**

I certify that the foregoing Resolution was duly adopted by the Planning Board of Township of Upper at a regular meeting held on the 26th day of June 2025.

  
Planning Board Secretary