

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

**RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF
BERKELEY HEIGHTS ENDORSING A FOURTH ROUND HOUSING
ELEMENT AND FAIR SHARE PLAN**

WHEREAS, the Township of Berkeley Heights (hereinafter the “Township” or “Berkeley Heights”) 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 2, 2015, the Township of Berkeley Heights 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 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” challenging the DCA-calculated Present Need and Prospective Need, as required by the Amended FHA, on January 21, 2025, establishing a Present Need (Rehabilitation) Obligation of Zero (0) and a Fourth Round Prospective Need Obligations of 208; 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 Court and the Affordable Housing Dispute Resolution Program (“the Program”), along with its binding resolution, on January 23, 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 received objections to its Fourth Round affordable housing obligations established in the DJ Complaint and resolution on February 27, 2025 from the New Jersey Builder’s Association (NJBA) and February 28, 2025 from Fair Share Housing Center (FSHC), which required settlement negotiations between the Township and the objectors; and

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WHEREAS, the settlement negotiations resulted in the entering into of a Mediation Agreement between the Township and FSHC that established agreed upon adjusted Fourth Round obligations, which was subsequently approved via a resolution adopted by the Township on March 18, 2025; and

WHEREAS, on April 14, 2025, the Court entered an order establishing the Township's Present Need Obligation of Zero (0) and Fourth Round Prospective Need Obligation of 240; and

WHEREAS, now that the Township has its Fourth Round Obligations, the Amended FHA requires the 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 Township'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 25, 2025 and adopted the Fourth Round Housing Element and Fair Share Plan via a resolution on that same night; and

WHEREAS, the Township 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 Township of Berkeley Heights, County of Union, State of New Jersey, as follows:

1. The Township Council hereby endorses the Fourth Round Housing Element and Fair Share Plan attached hereto as Exhibit A, which was adopted by the Township's Planning Board on June 25, 2025.
2. The Township Council hereby directs the Township'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 Township's immunity from all Mount Laurel exclusionary zoning lawsuits.
3. The Township reserves the right to further amend the Fourth Round Housing Element and Fair Share Plan, should that be necessary.

Approved this 26th day of June, 2025.

ATTEST:


Angela Lazzari
Township Clerk

ROLL CALL	Aye	Nay	Abstain	Absent
COUTO	✓			
FOSTER	✓			
ILLIS	✓			
MACHADO	✓			
MORAN	✓			
POAGE				✓
TIE:				
MAYOR DEVANNEY				