

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

**ORDINANCE NO. 364 - 2018**

**AN ORDINANCE AMENDING CHAPTER 247 OF THE CAPE MAY CITY  
MUNICIPAL CODE, GOVERNING FIRE PREVENTION**

**MOTION:**

**SECOND:**

**WHEREAS**, Chapter 247 of the Cape May Municipal Code governs the operation of the Fire Prevention Bureau in the City of Cape May; and

**WHEREAS**, after review by the City Administration and the City Solicitor, the Cape May City Council believes that Chapter 247 should be revised to eliminate duplication, clarify certain ambiguities, and update the fee schedule.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Cape May in the County of Cape May and State of New Jersey as follows:

**SECTION 1.** Chapter 247 of the Cape May City Code is hereby amended to read as follows [additions are underlined; deletions are struck through]:

**Article I General Provisions**

**§ 247-1. Local enforcement.**

Pursuant to Section 11 of the Uniform Fire Safety Act, the New Jersey Uniform Fire Code shall be locally enforced in the City of Cape May.

**§ 247-2. Agency designation.**

The Local Enforcing Agency (LEA) shall be the Bureau of Fire Prevention, hereby established. Enforcement shall be undertaken by the local Fire Official, who shall be appointed by, and shall be answerable to, the City Manager.

**§ 247-3. Duties.**

The local Fire Official shall enforce the Uniform Fire Safety Act and the codes and regulations adopted under it in all buildings, structures and premises within the City, other than 1) solely owner-occupied one- and two-family dwellings used exclusively for dwelling purposes; and 2) buildings, structures and premises operated by the Federal Government, Interstate Agencies, or the State. Owner-occupied one- or two-family dwellings in which a portion is rented are subject to enforcement under this section. The local Fire Official shall faithfully comply with the requirements of the Uniform Fire Safety Act and the Uniform Fire Safety Code.

**§ 247-4. Life hazard uses.**

The LEA shall carry out the periodic inspection of life hazard uses required by the Uniform Fire Safety Code on behalf of the Commissioner of the New Jersey Department of Community Affairs.

**§ 247-5. Term; Inspectors.**

The Fire Official shall be appointed by the City Manager for an indefinite term. The Fire Official shall be certified by the State Bureau of Fire Safety. The Fire Official shall recommend

appointment of inspectors to the City Manager, as may be necessary. Inspectors shall be under the supervision and control of the Fire Official.

**§ 247-6. Removal.**

The Fire Official, Inspectors, and other LEA employees shall be subject to removal by the City Manager for inefficiency or misconduct.

**§ 247-7. Board of Appeals.**

Pursuant to Sections 15 and 17 of the Uniform Fire Safety Act, any person aggrieved by an order of the LEA shall have to right of appeal to the Construction Board of Appeals of Cape May County.

**Article II Sales, and Rental Properties; ~~& Non-Hazard Life Uses~~ Non-Life Hazard Uses; Fees**

**§ 247-8. ~~Sale and rental properties. Sales of 1 & 2 Family Dwellings (Certificate of Smoke Alarm, Carbon Monoxide Alarm and Portable Fire Extinguisher Compliance, CSACMAPFEC.)~~ Sales of 1 & 2 Family Dwellings (Certificate of Smoke Alarm, Carbon Monoxide Alarm and Portable Fire Extinguisher Compliance, CSACMAPFEC.)**

- A. Beginning in 2018, and continuing for each year thereafter, all ~~properties~~ 1 & 2 Family Dwellings shall be inspected ~~upon prior to the sale of property and rental properties upon the change of tenant for yearly rentals no later than May 15 with necessary adjustments made for the May 1 deadline for mercantile licenses. All rental properties shall be registered with and inspected by the Bureau of Fire Prevention, prior to tenant occupancy. The seasonal rental period shall be from May 15 through December 31 of any given year. There shall be a penalty of not less than \$250 and not more than \$1,200 for any rental property occupied but not registered and inspected as required. [Amended 3-6-2018 by Ord. No. 340-2018]~~ upon prior to the sale of property and rental properties upon the change of tenant for yearly rentals no later than May 15 with necessary adjustments made for the May 1 deadline for mercantile licenses. All rental properties shall be registered with and inspected by the Bureau of Fire Prevention, prior to tenant occupancy. The seasonal rental period shall be from May 15 through December 31 of any given year. There shall be a penalty of not less than \$250 and not more than \$1,200 for any rental property occupied but not registered and inspected as required. [Amended 3-6-2018 by Ord. No. 340-2018]
- B. For the sale of property ~~or rental property inspections~~, the fee shall be \$110 dollars. ~~This fee shall include only the sale of property or rental property inspection application if received in the Fire Bureau office more than 10 working days from the settlement or tenant occupancy date. For all sale of property or rental property inspection applications received in the Fire Bureau office within less than 10 business days to settlement or tenant occupancy, the fee shall be \$220 dollars.~~
- C. ~~Certificates of smoke detector and carbon monoxide compliance~~ Certificates of Smoke Alarm, Carbon Monoxide Alarm and Portable Fire Extinguisher Compliance (CSACMAPFEC), issued by the Bureau of Fire Prevention, are valid for 180 days from the time of inspection and are not transferrable.

**§ 247-9. Residential Rentals & Non-life-hazard Uses.**

- A. In addition to the registration required by the Uniform Fire Code, the following Residential Rentals Non-life-hazard uses shall register with the Bureau of Fire Prevention. These uses shall be inspected once per year. ~~and These uses shall register, pay their applicable fee, and schedule their inspection by the May 1<sup>st</sup> deadline. The fee schedule is as follows: shall pay an annual fee as set forth below:~~

<b>FEE SCHEDULE</b> [Amended 3-6-2018 by Ord. No. 340-2018]	
<b>Retail/Mercantile/Business/Eating establishments and other uses not classified as a LHU</b>	
0-499 "kiosk"	\$50
500-2,500 sq. ft.	\$125
2,501-7,500 sq. ft.	\$250
7,501-12,000	\$375
<b>Hotel/Motel/Multi-family dwellings not classified as a LHU</b>	
<b>Hotel or Motels not classified as LHUs</b>	
Up to 6 units <u>Up to 9 units</u>	\$125 per bldg.
7 to 11 units	\$150
12 to 30 units <u>10 and/or more units</u>	\$225-\$250 per bldg.
30 to 100 units	\$300
<b>Permits</b>	
Type 1	\$60-\$75
Type 2	\$200
Type 3	\$425
Type 4	\$600
<b>Residential Rentals not classified as Hotel/Motel/Multifamily and/or LHUs</b>	
<del>One or two family dwellings, townhouse, condo unit</del> <u>Single Dwelling Unit</u>	\$110
<u>Multiple Dwelling Units</u>	\$110 for the first unit +\$35 each additional unit
<b>Miscellaneous</b>	
Condo Association w/ Common Area and/or Common Fire Detection/Suppression Systems	\$125
<u>Certificate of Fire Code Status</u>	\$25
<u>Sale of Property</u>	-
<del>One or two family dwellings, townhouse, condo unit</del>	\$110

- B. Uses not classified above that are subject to the Uniform Fire Code will be classified as retail stores.
- C. Uses required to register with the state as life-hazard uses shall not be required to register under this section.
- D. In the discretion of the Fire Official, vacant buildings will be charged and inspected according to the previous use of the building.

- E. There shall be a penalty of not less than \$250 and not more than \$1,200 for any rental property occupied but not registered and inspected as required. [Amended 3-6-2018 by Ord. No. 340-2018]
- F. Certificates expire 12/31 each year and are non-transferrable.

**Article III ~~Permits and Certificates; Smoke Detectors and Fire Extinguishers;~~  
Enforcement; Violations and Penalties**

**~~§ 247-10. Permits and certificate of fire code status.~~**

- A. ~~The application fees for the permits listed in N.J.A.C. 5:70-2.9(c) are as provided therein.~~
- B. ~~The cost for the issuance of a certificate of fire code status shall be \$25.~~

**~~§ 247-11. Smoke detectors and fire extinguishers.~~**

- A. ~~The Bureau of Fire Prevention shall, upon the sale of a property and occupancy of a rental property including one and two family dwellings, conduct a fire inspection prior to settlement and/or occupancy for the purpose of:~~
- ~~(1) Establishing that the occupancy has not been changed unless the structure has been upgraded to the new use as required under the New Jersey Administrative Code 5:23-2: 6 (b), change of use group;~~
  - ~~(2) Ensuring that the property is in compliance with the New Jersey Uniform Fire Code N.J.A.C. He 5:70-4.19 and other fire safety requirements;~~
  - ~~(3) Ensuring that the required fire extinguisher is properly located within the property and is maintained as per National Fire Prevention Association Standard No.10;~~
  - ~~(4) Ensuring that any fossil fuel heat source is inspected and certified safe by a professional prior to the Fire Prevention Bureau inspection;~~
  - ~~(5) Ensuring that hood protection is being provided under combustible cabinets that are installed directly over cooking appliances.~~
- B. ~~Whenever it becomes necessary for the Bureau of Fire Prevention to perform a re-inspection of a sale property or a rental property for a violation two or more times, there shall be an additional re-inspection fee of \$50.00 per re-inspection commencing with the third re-inspection and each subsequent re-inspection.~~
- C. ~~The owner of any structure requesting issuance of a certificate of smoke detector and carbon monoxide alarm compliance (CSDCMAC) pursuant to the provisions of N.J.A.C. 5:70-2.3 shall pay an inspection fee in accordance with the schedule of fees that is set forth in N.J.A.C. 5:70-2.9(d) prior to the issuance of a CSDCMAC.~~

**~~§ 247-10. Enforcement; violations and penalties.~~**

- A. ~~Enforcement and violations and penalties shall be managed in conformity with the Uniform Fire Safety Act, the Uniform Fire Code and all other laws of the State of New Jersey.~~

**Article IV Key Boxes, Compliance, Violations and Penalties**

**~~§ 247-11. Requirements.~~**

Key box requirements are referenced in the City Code §130-10.

**§ 247-12. Time for compliance.**

- A. All existing structures for which a certificate of occupancy has been issued shall be brought into compliance by the structure owner within six months of the effective date of this article and, thereafter, shall remain at all times in compliance with this article.
- B. All structures that have not been issued a certificate of occupancy shall be brought into compliance with this article by the structure owner as a condition for issuance of a certificate of occupancy and, upon issuance of a certificate of occupancy, shall remain in compliance with this article at all times.

**§ 247-15. Violations and penalties.**

- ~~A. Notice of violation. No structure owner shall be charged with a violation of this article unless written notice of a violation personally is delivered to the structure owner or is sent by regular first class mail and simultaneously by certified mail, return receipt requested, to the structure owner at the structure owner's address as it appears on the tax records of the City of Cape May and the structure owner then is afforded 10 calendar days (weekends and legal holidays included) from the date of the personal delivery of the notice of violation to the structure owner or from the date of the mailing of the notice of violation to the structure owner, as the case may be, to bring the subject structure into compliance.~~
- ~~B. Penalties. Any structure owner who violates any provisions of this article, upon conviction thereof, shall be subject to a fine of up to \$1,250 plus costs for each offense or violation. Each day that a violation continues after the ten-day notification period expires shall constitute a separate violation. [Amended 3-6-2018 by Ord. No. 340-2018]~~

**SECTION 2.** All other ordinances in conflict or inconsistent with this Ordinance are hereby repealed, to the extent of such conflict or inconsistency.

**SECTION 3.** Should any section, paragraph, sentence, clause or phase of this Ordinance be declared unconstitutional or invalid for any reason, the remaining portions of this Ordinance shall not be affected thereby and shall remain in full force and effect, and to this end the provisions of this Ordinance are hereby declared to be severable.

**SECTION 4.** This Ordinance shall become effective 20 days after final passage and publication, according to law.

ATTEST:

CITY OF CAPE MAY, a municipal corporation  
of the State of New Jersey

\_\_\_\_\_  
Patricia Harbora, City Clerk

BY: \_\_\_\_\_  
Clarence F. Lear III, Mayor

**NOTICE**

Ordinance 364-2018 was introduced at a regular meeting of the City Council of the City of Cape May, held on November 20, 2018 and will be further considered for final passage during a meeting of the City Council, to be held at the Cape May City Hall Auditorium, 643 Washington Street, Cape May, New Jersey, on December 18, 2018 6:00 P.M. at which time a Public Hearing will be held.

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Patricia Harbora, City Clerk

<b>Roll Call</b>	<b>Ayes</b>	<b>Nays</b>	<b>Absent</b>	<b>Abstain</b>
<b>Pessagno</b>				
<b>Meier</b>				
<b>Hendricks</b>				
<b>Furlin</b>				
<b>Lear</b>				

Introduced: November 20, 2018  
First Publication: November 28, 2018  
2nd Reading & Adoption: December 18, 2018  
Final Publication: December 26, 2018  
Effective Date: January 15, 2019

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

**ORDINANCE NO. 365-2018**

**AN ORDINANCE OF THE CITY OF CAPE MAY REPEALING CERTAIN  
INSPECTION REQUIREMENTS FOR BED-AND-BREAKFAST ESTABLISHMENTS  
IN THE CITY OF CAPE MAY**

**MOTION:**

**SECOND:**

**WHEREAS**, Section 284-6 of the Revised General Ordinances of the City of Cape May currently authorizes the Cape May County Department of Health to conduct inspections of certain bed-and-breakfast establishments for compliance with applicable health regulations; and

**WHEREAS**, that code section is unnecessary and redundant, in that the City currently inspects bed-and-breakfast establishments and can notify the County Health Department about any health-related matters discovered during the City's regular inspections; and

**WHEREAS**, the code section imposes an unnecessary expense on those bed-and-breakfast establishments that are currently subject to it; and

**WHEREAS**, having reviewed the matter, the Cape May City Council has concluded that Section 284-6 of the Cape May City Code is superfluous and should be repealed.

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

**Section 1.** Section 284-6 of the Cape May City Code is hereby **REPEALED** in its entirety.

**Section 2.** All other ordinances in conflict or inconsistent with this Ordinance are hereby repealed to the extent of such conflict or inconsistency.

**Section 3.** Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remaining portions of this Ordinance shall not be affected thereby and shall remain in full force and effect, and to this end the provisions of this Ordinance are hereby declared to be severable.

**Section 4** This Ordinance shall take effect within twenty (20) days of final passage and publication, as provided by law.

ATTEST:

CITY OF CAPE MAY, a municipal corporation  
of the State of New Jersey

\_\_\_\_\_  
Patricia Harbora, City Clerk

BY: \_\_\_\_\_  
Clarence F. Lear III, Mayor

**NOTICE**

Ordinance 365-2018 was introduced at a regular meeting of the City Council of the City of Cape May, held on November 20, 2018 and will be further considered for final passage during a meeting of the City Council, to be held at the Cape May City Hall Auditorium, 643 Washington Street, Cape May, New Jersey, on December 18, 2018 6:00 P.M. at which time a Public Hearing will be held.

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Patricia Harbora, City Clerk

<b>Roll Call</b>	<b>Ayes</b>	<b>Nays</b>	<b>Absent</b>	<b>Abstain</b>
<b>Pessagno</b>				
<b>Meier</b>				
<b>Hendricks</b>				
<b>Furlin</b>				
<b>Lear</b>				

Introduced: November 20, 2018  
First Publication: November 28, 2018  
2nd Reading & Adoption: December 18, 2018  
Final Publication: December 26, 2018  
Effective Date: January 15, 2019



**§ 284-6. Inspection of bed-and-breakfast guesthouses and homestays. [Added 8-21-2007 by Ord. No. 114-2007]**

A. The Cape May County Department of Health is authorized to conduct inspections of bed-and-breakfast guesthouses and bed-and-breakfast homestays and to enforce all applicable health laws, regulations and ordinances.

B. For the purposes of this chapter, the following definitions apply:

BED-AND-BREAKFAST — Shall have the meaning as set forth in N.J.A.C. 5:70-1.5.

BED-AND-BREAKFAST GUESTHOUSE — A bed-and-breakfast designed to accommodate at least six guests, but not more than 25 guests, that prepares and offers food to guests if the home is owner-occupied, and breakfast is the only meal offered.

BED-AND-BREAKFAST HOMESTAY — A bed-and-breakfast designed to accommodate five or fewer guests, that prepares and offers food to guests if the home is owner-occupied, and breakfast is the only meal offered.

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

**RESOLUTION NO. 241-11-2018**

**RESOLUTION APPOINTING A MEMBER TO THE HOUSING AUTHORITY  
OF THE CITY OF CAPE MAY**

**MOTION:**

**SECOND:**

**BE IT RESOLVED** by the City Council of the City of Cape May, pursuant to New Jersey Statutes Annotated 40A:12A-17, that the following appointment be made:

**HOUSING AUTHORITY**

**Member**

**Patricia A. Martz, MD FACS**  
(filling Thomas Hynes unexpired term)

**Term**

5 years

**Term Expires**

09/15/2019

This Resolution shall take effect immediately, according to law.

I, Patricia Harbora, 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 November 20, 2018.

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Patricia Harbora, City Clerk

<b>Roll Call</b>	<b>Ayes</b>	<b>Nays</b>	<b>Absent</b>	<b>Abstain</b>
<b>Pessagno</b>				
<b>Meier</b>				
<b>Hendricks</b>				
<b>Furlin</b>				
<b>Lear</b>				

cc: City Manager/CFO  
MHL  
City Solicitor  
Housing Authority  
Members

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

**RESOLUTION NO. 242-11-2018**

**RESOLUTION ENDORSING A REVISED HOUSING ELEMENT AND FAIR SHARE  
HOUSING PLAN FOR THE CITY OF CAPE MAY**

**MOTION:**

**SECOND:**

**WHEREAS**, on July 8, 2015, pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015), the City of Cape May filed a Declaratory Judgment Action in the Superior Court of New Jersey, Law Division, seeking judicial approval of its efforts to satisfy its state constitutional obligation to provide its “fair share” of the regional need for low- and moderate-income housing; and

**WHEREAS**, as a result of negotiations between the City and intervenor Fair Share Housing Center (FSHC), that lawsuit resulted in Orders of Fairness and Compliance dated May 16, 2018, and August 30, 2018, signed by the Hon. Nelson Johnson; and

**WHEREAS**, as a condition of the City’s COAH compliance, those Orders required the Cape May Planning Board to adopt, and the Cape May City Council to endorse, a revised Housing Element and Fair Share Housing component of the City’s master plan; and

**WHEREAS**, the City Planner drafted a revised Housing Element and Fair Share Plan, which was reviewed and approved by both the City Solicitor and the FSHC; and

**WHEREAS**, after a notice and a public hearing, the Cape May City Planning Board approved the revised Housing Element and Fair Share Plan by Resolution 10-23-2018:1, adopted October 23, 2018; and

**WHEREAS**, the Cape May City Council, having reviewed the plan, and the findings of the Planning Board, has determined that it is appropriate and in the best interest of the City and its residents to endorse and approve the revised Housing Element and Fair Share Plan as part of the City’s COAH compliance,

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of Cape May as follows:

1. The averments of the preamble are incorporated by reference.
2. The City Council hereby adopts and endorses the findings and conclusions of the Cape May City Planning Board, as set forth in Planning Board Resolution 10-23-2018:1.
3. The City Council endorses and adopts the Housing Element and Fair Share Plan attached to this Resolution as Exhibit A.
4. This Resolution shall take effect immediately, according to law.

I, Patricia Harbora, 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 November 20, 2018.

\_\_\_\_\_  
Patricia Harbora, City Clerk

<b>Roll Call</b>	<b>Ayes</b>	<b>Nays</b>	<b>Absent</b>	<b>Abstain</b>
<b>Pessagno</b>				
<b>Meier</b>				
<b>Hendricks</b>				
<b>Furlin</b>				
<b>Lear</b>				

**RESOLUTION NO. 10-23-2018: 1**

**A RESOLUTION OF THE PLANNING BOARD OF THE CITY OF CAPE MAY ADOPTING A HOUSING ELEMENT AND FAIR SHARE PLAN**

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

**WHEREAS**, the Fair Share Housing Center (FSHC) is a Supreme Court-designated interested party in the matter in accordance with In re NJAC 5:96 and 5:97, 221 N.J. 1, 30 (2015) (Mount Laurel IV) and, a defendant in the proceeding; and

**WHEREAS**, the Court also appointed the Honorable Steven P. Perskie, J.S.C. as the Special Court Master (hereinafter the "Court Master"), as is customary in Mount Laurel matters adjudicated in the courts; and

**WHEREAS**, through the declaratory judgment process, the City and FSHC agreed to settle the litigation and to present that settlement to the trial court with jurisdiction over the matter, recognizing that the settlement of Mount Laurel litigation is favored because it avoids delays and the expense of trial and results more quickly in the construction of homes for lower-income households; and

**WHEREAS**, with assistance from the Court Master, the City and Fair Share Housing Center (hereinafter "FSHC") engaged in good faith negotiations, which resulted in the entering into of a Settlement Agreement between the City and FSHC on February 21, 2018; and

**WHEREAS**, a Fairness Hearing was held on April 20, 2018, at which the FSHC Settlement Agreement was approved, and said approval was memorialized by an Order entered by the Court on May 16, 2018; and

**WHEREAS**, as per the terms of the February 21, 2018 FSHC Settlement Agreement and the Court's August 30, 2018 Order, the City Planner has prepared a Housing Element and Fair Share Plan, which has been reviewed and modified by the City's Solicitor, and which is attached hereto with Appendices as Exhibit A; and

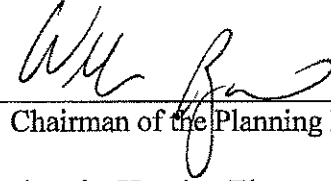
**WHEREAS**, the members of the Planning Board have reviewed the Housing Element and Fair Share Plan, and have determined to adopt same; and

**WHEREAS**, upon notice duly provided pursuant to N.J.S.A. 40:55D-13, the Planning Board held a public hearing on the Housing Element and Fair Share Plan on October 23, 2018; and

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

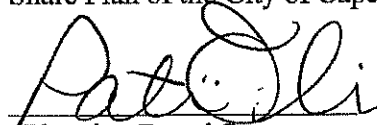
**WHEREAS**, the Planning Board anticipates that the Appendices to the attached Housing Element and Fair Share Plan may or may not be amended and supplemented subject to the approval of the City's professionals, FSHC, the Court Master and the Court.

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



Chairman of the Planning Board

I hereby certify that this is a true copy of the resolution adopting the Housing Element and Fair Share Plan of the City of Cape May, County of Cape May, on October 23, 2018.



Planning Board Secretary