

## **ORDINANCE NO. 2025-002**

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DANIA BEACH, FLORIDA, AMENDING CHAPTER 27 OF THE CITY CODE, ENTITLED “WATER AND SEWERS; ARTICLE IV, ENTITLED “WATER AND SEWER SYSTEM IMPACT FEES”, TO ELIMINATE AN ALTERNATIVE FEE CALCULATION PROCESS IN ORDER TO MAINTAIN CONSISTENCY IN FEE CALCULATIONS AND TO ADHERE TO BEST PRACTICES; AND TO ELIMINATE THE TWO YEAR REVIEW REQUIREMENT BY THE CITY COMMISSION; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND FURTHER, PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the City of Dania Beach has comprehensive water and sewer regulations, including water and sewer impact fees; and

**WHEREAS**, the City is constantly seeking to improve services and to adhere to best practices; and

**WHEREAS**, all impact fees are implemented based upon an adopted study by professional staff and engineering analysis, which fee is based upon verified and authorized formula approved by the City Commission; and

**WHEREAS**, in 2011 the City created a process to challenge the impact fee calculation formula, which can create disparities in treatment of properties; and

**WHEREAS**, in reviewing other cities and their impact fee ordinances, it has been determined that a supermajority of the cities do not provide a process for seeking an alternate formula; and

**WHEREAS**, the Administration is concerned about disparate treatment due to this “alternate method” and seeks to eliminate the provisions relating to same; and

**WHEREAS**, the Administration seeks to eliminate section 27-214, entitled “Review Requirements” which requires review by the City Commission of the impact fee regulations every two years and provides a citation to the Florida Statutes Section 163.3177 for this requirement; and

**WHEREAS**, the citation to Florida Statutes section 163.3177 was modified and there is no two-year requirement under Florida law; and

**WHEREAS**, the City’s Engineer and Public Services Director shall determine under proper business practices when to review and modify the code, whether it is every month, or every few years.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DANIA BEACH, FLORIDA:**

**Section 1.** That the preceding “WHEREAS” clauses are ratified and incorporated as a record of the legislative intent of this Ordinance.

**Section 2.** That Chapter 27, entitled “Water and Sewer” of the City’s Code of Ordinances at Article IV, entitled Water and Sewer System Impact Fees” be amended to read as follows:

## **CHAPTER 27**

### **WATER AND SEWERS**

\* \* \*

#### ***ARTICLE IV. WATER AND SEWER SYSTEM IMPACT FEES***

##### **Sec. 27-201. Definitions.**

When used in this article, the following terms shall have the following meanings, unless the context clearly indicates otherwise:

~~*Alternative water system impact fee* means any alternative fee calculated by an applicant and approved by the city commission pursuant to this article.~~

~~*Alternative water system impact fee study* means a study prepared by an applicant or owner and submitted to the city pursuant to this article.~~

~~*Alternative sewer system impact fee* means any alternative fee calculated by an applicant and approved by the city commission pursuant to this article.~~

~~*Alternative sewer system impact fee study* means a study prepared by an applicant or owner and submitted to the city pursuant this article.~~

*Applicant* means the person who applies for a building permit.

*Building* means any structure, either temporary or permanent, built for the support, shelter or enclosure of persons or property of any kind, or any other improvement or structure which creates or increases the potential demand on the water system, sewer system or both, operated by the city. This term shall include any trailer, mobile home, or any vehicle serving the function of a building in any manner. This term shall not include a temporary construction shed or trailer erected to assist in construction and maintained during the term of a building permit.

*Building permit* means an official document or certificate issued by the city authorizing the construction of any building or structure. For purposes of this article, the term "building permit" shall also include any tie-down permit for a structure or building, such as a mobile home, that does not otherwise require a building permit in order to be constructed.

*Comprehensive plan* means the city's comprehensive plan.

*Development* means the carrying out of any building activity or the making of any material change in the use or appearance of any structure or land, which results in an additional impact or demand on the regional water system or sewer system or both. This shall also include existing structures that are connected to interim water or sewer systems or both which are subsequently connected to the regional water or sewer systems or both. All development shall be subjected to the payment of impact fees under this article or its predecessor in function, upon the first occurrence of any of the following:

- (1) Whenever any existing building or structure, which has not previously paid reserve capacity charges or impact fees under this article or its predecessor in function, connects to the regional water system; or
- (2) Whenever any existing building or structure or applicable improvement which is connected to an interim water system is connected, either directly or indirectly, to the regional water system; or
- (3) Whenever any person applies for a building permit to construct a building within the service area of the city's regional water system, the regional sewer system or both, even though the subject land may receive interim water service, interim sewer service or both from a source other than the city; or
- (4) Whenever a person applies for a building permit to alter an existing building, structure or applicable improvement already connected to the regional water system, where such alteration increases the potential demand on the regional water system.

*Dwelling Unit (D.U.)* means a room or group of rooms designed, used exclusively or occupied as separate living quarters by a single family.

*Encumbered* means monies committed by contract or purchase order in a manner that obligates the city to expend the encumbered amount upon delivery of goods, the rendering of services or the conveyance of real property interests by a vendor, supplier, contractor or owner.

*Equivalent residential unit (ERU)* means the standard unit used to calculate demand upon water or wastewater system capacity. When calculating the water system impact fee, one (1) ERU unit shall represent one thousand (1,000) gallons per month (GPM) of water demand. When calculating the sewer system impact fee, one (1) ERU unit shall represent one thousand (1,000) gallons per month (GPM) of wastewater demand.

*Impact fee* means the fee imposed by the city pursuant to this article. The term "impact fee" shall be synonymous with the term "reserve capacity charge," "connection fee," "reserve capacity fee" or similar terms as used in this or prior laws relating to the subject matter addressed by this article. The term "impact fee" shall apply to water system impact fees, sewer system impact fees or both, as applicable.

*Impact fee study* means the study entitled "Water and Sewer Impact Fee Study" prepared by Public Utility Management and Planning Services, Inc., dated August 18, 2006, including the

assumptions, conclusions, and findings set forth in the study, which are based on the most recent and localized data collected within the city.

*Mobile home* means a manufactured home, trailer, camper or recreational vehicles. For the purpose of imposing impact fees a travel trailer lot or space shall be classified as a mobile home.

*Owner* means the person holding legal title to the real property for which impact fees are paid.

*Person* means an individual, a corporation, a partnership, an incorporated association, trust or any other entity.

*Public services director* means the person appointed by the city manager to supervise the administration, operations and acquisitions of the regional water system, the regional sewer system or both or the designee of such person.

*Regional water system* means the water utility system directly or indirectly connected to treatment facilities operated by the city. The regional water system shall include the treatment, pumping, land, raw water and appurtenant infrastructure, and those pipelines designated as being transmission in nature, generally regarded to be twelve (12) inches and larger in diameter. Regional water system infrastructure, which is infrastructure for which impact fees may be spent, encumbered or both, shall specifically exclude subdivision infrastructure.

*Regional sewer system* means the wastewater or sewer utility system directly or indirectly connected to treatment facilities operated by the city. The regional sewer system shall include any treatment facilities and pumping facilities installed by the city to serve more than an individual development or subdivision, land appurtenant infrastructure, and those interceptor, collector and pressure pipelines designated as being transmission in nature, generally regarded to be twelve (12) inches and larger in diameter. Regional sewer system infrastructure, which is infrastructure for which impact fees may be spent, encumbered or both, shall specifically exclude subdivision infrastructure.

*Subdivision infrastructure* means the water and sewer infrastructure that provides service directly to a building. Such infrastructure is typically installed by a developer for a new subdivision or development or by the city, often through assessments. Infrastructure that would be deemed to be "subdivision infrastructure" includes such water distribution and sewer collection facilities that, for the purpose of this definition, include, by way of example and not limitation, required, needed or appurtenant valves, fire hydrants, meters, service lines, clean-outs, pressurized pipelines less than twelve (12) inches in diameter, gravity lines, pump stations, force mains and interconnecting transmission facilities typically installed and dedicated by a developer or other private party or similar improvements installed as a result of the creation of a municipal assessment, service tax or benefit unit or similar specially funded project in a defined area determined to need the installation, retrofit, or connection to a central water and central sewer system meeting city standards. For the city, subdivision infrastructure will generally include gravity collector sewer lines less than fifteen (15) inches in diameter, pressure sewer lines less than eight (8) inches in diameter, and water distribution pipelines less than twelve (12) inches in diameter and related appurtenant facilities.

#### **Sec. 27-208. ~~Alternative fee calculation.~~ Reserved.**

~~(a) In the event an applicant or owner believes that the impact to the regional water system, the regional sewer system or both, necessitated by the owner's development justifies a fee that is less than the fee established in this article, such applicant or owner may submit a calculation~~

~~of an alternative water system, sewer system (or both) impact fee to the office of the city manager pursuant to the provisions of this section.~~

- ~~(b) In the case of new construction, any right to submit an alternative water system impact fee calculation, alternative sewer system impact fee calculation or both shall be deemed to have been waived and expired, and such calculation shall not be considered by the city commission, if not properly and timely made prior to the issuance of a building permit.~~
- ~~(c) In the case of existing buildings, structures or applicable improvements which are required to connect to the regional water system, regional sewer system or both, any right to submit an alternative water system impact fee calculation, alternative sewer system impact fee calculation or both shall be deemed to have been waived and expired, and such calculation shall not be considered by the city commission, if within thirty (30) calendar days from the effective date of service of a "notice of impact fee statement" under this article, the owner does not notify the office of the city manager in writing of the owner's intention to submit an alternative water system impact fee calculation, alternative sewer system impact fee calculation or both such calculations. Any owner who, under such circumstances, properly notifies the office of the city manager of an intention to submit an alternative water system impact fee calculation, alternative sewer system impact fee calculation or both shall submit the applicable calculation within one hundred twenty (120) days of service of a "notice of impact fee statement" under this article, or any right to submit an alternative water system impact fee calculation, alternative sewer system impact fee calculation or both shall be deemed to have been waived and expired and such calculation shall not be considered by the city commission.~~
- ~~(d) Upon timely submission of an alternative water system impact fee calculation, alternative sewer system impact fee calculation or both, the basis for it and receipt of the alternative water system impact fee calculation, alternative sewer system impact fee calculation or both, the city manager shall schedule a hearing before the city commission at a regularly scheduled meeting or a special meeting called for the purpose of reviewing the alternative water system impact fee calculation, the alternative sewer system impact fee calculation or both and shall provide the petitioner written notice of the time and place of the hearing. Such hearing shall be held within thirty (30) days of the date the alternative water system impact fee calculation, alternative sewer system impact fee calculation or both were submitted.~~
- ~~(e) The alternative water system impact fee calculation, the alternative sewer system impact fee calculation or both shall be based on data, information or assumptions contained in this article, the master plans referenced in this article, as amended from time to time, or an alternative water system impact fee study, an alternative sewer system impact fee study or both based upon an independent source. Any such independent source must include a local study supported by data adequate for the conclusions contained in such study, performed according to a generally accepted methodology and based upon generally accepted standard sources of information relating to facilities planning, cost analysis and demographics. The independent source must provide competent substantial evidence that the alternative water system impact fee, alternative sewer system impact fee or both represent an equitable pro rata share of the cost of capital improvements and additions to the regional water system, regional sewer system or both necessitated by the subject development.~~

- ~~(f) If during a prior alternative fee calculation process an acceptable alternative water system impact fee study, alternative sewer system impact fee study or both substantially consistent with the criteria required by this article have been accepted by the city commission, and if any such study is determined by the city commission to be then current and applicable, the impact of such previously approved development shall be presumed to be as described in the prior study. In such circumstances, an alternative water system impact fee, the alternative sewer system impact fee or both shall be established reflecting the impact described in the prior study. There shall be a rebuttable presumption that such an impact study based upon an independent source conducted and accepted by the city commission more than two (2) years earlier is invalid.~~
- ~~(g) If the city commission determines that the data, information and assumptions utilized by the applicant to calculate the alternative water system impact fee, the alternative sewer system impact fee or both complies with the requirements of this article and that the alternative water system impact fee, the alternative sewer system impact fee or both were calculated by the use of a generally accepted methodology, then the alternative water system impact fee, the alternative sewer system impact fee or both shall be paid in lieu of the fee set forth in this article.~~
- ~~(h) If the city commission determines that the data, information and assumptions utilized by the applicant to calculate the alternative water system impact fee, the alternative sewer system impact fee or both do not comply with the requirements of this article or that the alternative water system impact fee, the alternative sewer system impact fee or both were not calculated by the use of a generally accepted methodology, then the city shall provide to the applicant by certified mail, return receipt requested, written notification of the rejection of the alternative water system impact fee, the alternative sewer system impact fee or both and the reason or reasons for the rejection.~~
- ~~(i) At the sole discretion of the city commission, the alternative impact fee review hearing may be adjourned or continued for up to sixty (60) days to cause further study or scrutiny of any proposed alternative water system impact fee, alternative sewer system impact fee or both or study of either or both of them by either city staff or outside consultants. The final decision of the city commission shall be in writing and issued within twenty (20) calendar days of the review hearing.~~
- ~~(j) Any applicant or owner who or which has submitted a proposed alternative water system impact fee, alternative sewer system impact fee or both pursuant to this article and desires the immediate issuance of a building permit shall pay the required fees prior to or at the time of submittal of the proposed alternative fees. Such payment shall be deemed paid under "protest" and shall not be construed as a waiver of any right of review. Any difference between the amount paid and the amount due, as determined by the city commission, shall be refunded to the applicant or owner or paid to the city, as applicable.~~

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**Sec. 27-211. ~~Alternative e~~ Collection method.**

In the event the impact fees are not paid prior to the issuance of a building permit or otherwise within ninety (90) days of the subject lands becoming characterized as development, the city shall proceed to collect the impact fees as follows:

- (a) The city shall serve, by certified mail, return receipt requested, a notice of impact fee statement upon the owner at the address appearing on the most recent records maintained by the Broward County Property Appraiser's Office. If the building is under construction, the city shall also serve, by certified mail, return receipt requested, a notice of impact fee statement upon the applicant at the address set forth in the application for building permit and make a diligent effort to also attach a copy of the notice of impact fee statement to the building permit posted at the applicable construction site. Service shall be deemed effective on the date the return receipt indicates the notice was received by either the applicant or the owner, or if the building is under construction, the date the notice was attached to the building permit, whichever occurs first. The notice of impact fee statement shall contain a reasonably identifiable legal description of the property and shall advise the applicant and owner:
  - (1) Of the amount due and the general purpose for which the impact fee was imposed;
  - ~~(2) That a hearing pursuant to this article may be requested within thirty (30) calendar days from the effective date of service of the notice of impact fee statement, by making application to the office of the city manager;~~
  - ~~(23) In the case of existing buildings, structures or applicable improvements which are required to connect to the regional water system, the regional sewer system or both, the owner may notify the office of the city manager of an intention to submit an alternative water impact fee calculation, alternative sewer impact fee calculation or both pursuant to this article within thirty (30) calendar days from the effective date of service of the notice of impact fee statement and thereafter provide an alternative water impact fee calculation, alternative sewer impact fee calculation or both within one hundred and twenty (120) calendar days from the effective date of service of the notice of impact fee statement.~~
  - ~~(34) The impact fee shall be delinquent if not paid and received by the city within thirty (30) calendar days of the effective date of service of the notice of impact fee statement if a hearing is not requested pursuant to this article.~~
  - ~~(45) Upon becoming delinquent, the impact fee shall be subject to the imposition of interest at the highest rate allowed by law on the unpaid amount until paid.~~
  - ~~(56) In the event any system impact fees become delinquent, a notice of claim of lien against the property will be recorded by the city in the official records of Broward County.~~
- (b) Impact fees shall be delinquent if, within thirty (30) calendar days from the effective date of service of the notice of impact fee statement, no impact fees have been paid or received by the city, ~~or if the owner has not properly complied with the provisions of this article, or if a review hearing has not been timely requested pursuant to this article. In the event a hearing is requested pursuant to this article, the unpaid impact fees shall~~

~~become delinquent if not paid within thirty (30) days from the date the city commission determines the amount of impact fees due upon the conclusion of such a hearing. All time periods contained within this article shall be calculated on a calendar day basis, including Sundays and legal holidays, but excluding the date of receipt of the notice of impact fee statement or the date of the city commission's decision in the event of an appeal.~~ In the event the due date falls on a Sunday or legal holiday, the last due date prior to becoming delinquent shall be the next business day. Upon becoming delinquent, the impact fees shall bear interest as provided above on a calendar day basis, until paid.

- (c) Should the impact fee become delinquent as set forth above, the city shall serve, by certified mail, return receipt requested, a notice of lien upon the applicant, if the building is under construction at the address indicated in the application for the building permit, and upon the delinquent owner, as the case may be, notifying either or both of them, as applicable that failure to pay the impact fees caused the city to file the notice of claim of lien.
- (d) Upon mailing a notice of claim of lien, the city manager shall file the notice of claim of lien in the official records of Broward County. The notice of claim of lien shall contain the owner's name, the legal description of the property, the amount of the delinquent impact fees and the date of their imposition. Thereafter, without further direction of the city commission, the city attorney shall proceed to collect, foreclose or otherwise enforce the lien pursuant to the provisions of this article.
- (e) The city manager shall file a notice of satisfaction of claim of lien in the official records of Broward County upon receipt of full payment of a delinquent impact fee, interest due, and any recording expenses. The notice of satisfaction of claim of lien shall reflect the appropriate recording information shown on the previously recorded notice of lien.
- (f) After expiration of one (1) year from the date of recording of the notice of claim of lien as provided above, a suit may be filed to foreclose the lien. Such foreclosure proceedings shall be instituted, conducted and enforced in conformity with the procedures for the foreclosure of unpaid municipal fees.
- (g) The lien for delinquent impact fees shall be superior and paramount to the interest on such parcel or property of any owner, lessee, tenant, mortgagee or other person except the lien of city taxes and shall be on a parity with the lien of any such city taxes until paid as provided in this article.
- (h) The collection and enforcement procedures set forth in this article shall be cumulative with, supplemental to and in addition to, any applicable procedures provided in any other ordinances or administrative rules in the Florida Administrative Code. Failure of the city to follow the procedure set forth in this article shall not constitute a waiver of its rights to proceed under any ordinance or administrative regulations of the city or administrative rules of the Florida Administrative Code or any applicable law of the State of Florida.

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**Sec. 27-213 - 27-225. Reserved. ~~Review hearings.~~**

- (a) ~~An applicant or owner who is required to pay an impact fee pursuant to this article, shall have the right to request a review hearing.~~

- ~~(b) Such hearing shall be limited to the review of the application of the impact fee to the applicant or owner.~~
- ~~(c) Except as otherwise provided in this article, such hearing shall be requested by the applicant or owner within thirty (30) days, including Sundays and legal holidays, of the date of first receipt of the following, whichever is applicable:
  - ~~(1) Receipt of a notice of impact fee statement.~~
  - ~~(2) The denial of an impact fee exemption or authorization for reimbursement.~~~~

~~Failure to request a hearing within the time provided shall be deemed a waiver of such right.~~

- ~~(d) The request for hearing shall be filed with the office of the city manager and shall contain the following:
  - ~~(1) The name and address of the applicant and owner;~~
  - ~~(2) The legal description of the property in question;~~
  - ~~(3) If issued, the date of the building permit;~~
  - ~~(4) A brief description of the nature of the improvements on the property or the connection being undertaken pursuant to a building permit;~~
  - ~~(5) If paid, the date the impact fee was paid; and,~~
  - ~~(6) A statement of the reasons why the applicant or owner is requesting the hearing.~~~~
- ~~(e) Upon receipt of such request, the city manager shall schedule a hearing before the city commission at a regularly scheduled meeting or a special meeting called for the purpose of conducting the hearing and shall provide the applicant or owner with written notice of the time and place of the hearing. The hearing shall be held within thirty (30) days of the date the request for hearing was filed.~~
- ~~(f) Such hearing shall be before the city commission and shall be conducted in a manner designed to obtain all information and evidence relevant to the request for the hearing. Formal rules of civil procedure and evidence shall not be applicable; however, the hearing shall be conducted in a fair and impartial manner with each party having an opportunity to be heard and to present information and evidence.~~
- ~~(g) Any applicant or owner who requests a hearing pursuant to these provisions and desires the immediate issuance of a building permit shall pay prior to or at the time the request for hearing is filed the applicable impact fee pursuant to this article. Such payment shall be deemed paid under "protest" and shall not be construed as a waiver of any review rights.~~
- ~~(h) If the city commission determines that the data, information and assumptions utilized by the applicant to calculate the alternative water system impact fee, the alternative sewer system impact fee or both do not comply with the requirements of this article or is otherwise not equitable or that the alternative water system impact fee, the alternative sewer system impact fee or both were not calculated by the use of a generally accepted methodology, then the city shall provide to the applicant by certified mail, return receipt requested, written notification of the rejection of the alternative water system impact fee, the alternative sewer system impact fee or both and the reason or reasons for noncompliance.~~

- (i) ~~At the sole discretion of the city commission, the alternative impact fee review hearing may be adjourned or continued for up to sixty (60) days to cause further study or scrutiny of any proposed alternative water system impact fee, alternative sewer system impact fee or both or study of either or both of them by either city staff or outside consultants. The final decision of the city commission shall be in writing and issued within twenty (20) calendar days of the review hearing.~~

**~~Sec. 27-214. Review requirements.~~**

~~This article and the master plans shall be reviewed by the city commission every two (2) years in connection with the city's compliance with its comprehensive plan as required by F.S. § 163.3177 and those plans identified in this article. The biannual review shall consider new estimates of population per household, costs related to the acquisition of land, buildings, capital plant and equipment necessitated by growth and adjustments to the assumptions, conclusions and findings set forth in the master plans adopted by this article. The purpose of this review is to ensure that the impact fees do not exceed the reasonably anticipated costs associated with the improvements necessary to offset the demand generated by new construction or use of the regional water system, the regional sewer system or both. In the event the review alters or changes the assumptions, conclusions, and findings of the master plans adopted by reference in this article, revises or changes the regional water system, the regional sewer system or both or alters or changes the amount of impact fees, the master plans adopted by reference in this article shall be amended and updated to reflect new and demonstrable assumptions, conclusions and findings and shall be amended to adopt by reference such updated studies.~~

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**Section 3.** That if any section, clause, sentence or phrase of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this Ordinance.

**Section 4.** That it is the intention of the Mayor and City Commission of the City of Dania Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of the City of Dania Beach, Florida and codified by Municode. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

**Section 5.** That all ordinances or parts of ordinances in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

**Section 5.** It is the intention of the Mayor and City Commission of the City of Dania Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of the City of Dania Beach, Florida. The sections of this ordinance may be

renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

**Section 6.** That this Ordinance shall be effective 10 days after passage on second reading.

**PASSED** on first reading on January 14, 2025.

**PASSED AND ADOPTED** on second reading on January 28, 2025.

First Reading:

Motion by: Vice Mayor Salvino

Second by: Commissioner Lewellen

Second Reading:

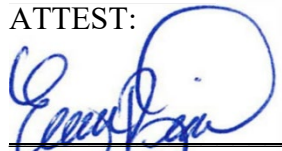
Motion by: Commissioner Rimoli

Second by: Commissioner Lewellen


FINAL VOTE ON ADOPTION: Unanimous X

	Yes	No
Commissioner Lori Lewellen	_____	_____
Commissioner Luis Rimoli	_____	_____
Commissioner Archibald J. Ryan IV	_____	_____
Vice Mayor Marco Salvino	_____	_____
Mayor Joyce L. Davis	_____	_____


ATTEST:

  
\_\_\_\_\_  
ELORA RIERA, MMC  
CITY CLERK



  
\_\_\_\_\_  
JOYCE L. DAVIS  
MAYOR

APPROVED AS TO FORM AND CORRECTNESS:

  
\_\_\_\_\_  
EVE A. BOUTSIS  
CITY ATTORNEY