



## **MINUTES OF THE PLANNING BOARD**

**September 14, 2021**

**MEMBERS PRESENT:** Chairperson Paul Ritz, Vice Chairperson Larson, Board Member Grundhoefer, Board Member Sampson, Board Member Van Hoose, Board Member Villegas

**MEMBERS ABSENT:** Board Member Powell

**STAFF PRESENT:** Assistant Planning Director Cannon, Historic Preservation Planner Harding, City Clerk Burnett, Assistant City Attorney Lindsay, Senior Planner Statler, Capital Improvements Forte, Assistant City Attorney Moore, Engineering Specialist Mauldin, Building Construction & Facilities McGuire, Code Enforcement Richards, Help Desk Technician Russo

**STAFF VIRTUAL:** Planning Director Morris

**OTHERS PRESENT:** Buddy Page, Mary Pierce, Jo MacDonald, Carol Ann Marshall, Quint Higdon, Nancy Wolfe, Tori Rutland

### **AGENDA:**

- Quorum/Call to Order
- Approval of Meeting Minutes from August 10, 2021.
- **New Business:**
- Repeal of Section 12-3-65 – Parking for Certain Uses Prohibited – of the Code of the City of Pensacola
- Request for Future Land Use and Zoning Map Amendment for 1717 N. Palafox Street
- Request for Non-Residential Parking in a Residential Zone - 518 Wynnehurst Street
- Request for Aesthetic Review - 900 S. Palafox St. – Plaza de Luna Repairs
- Amendment to the Land Development Code (LDC) – Table 12-3.9 - Regulations for the North Hill Preservation Zoning Districts - PR-2 Minimum Lot Size Requirements
- Discussion
- Adjournment

### **Call to Order / Quorum Present**

Chairperson Ritz called the meeting to order at 2:05 pm with a quorum present. Board Member Sampson was sworn in by City Clerk Burnett. Chairperson Ritz then explained the procedures of the Board meeting including requirements for audience participation.

**Approval of Meeting Minutes - Board Member Larson made a motion to approve the August 10, 2021 minutes, seconded by Board Member Villegas, and it carried 6 to 0.**

**New Business -**

**2. Repeal of Section 12-3-65 – Parking for Certain Uses Prohibited – of the Code of the City of Pensacola**

Assistant Planning Director Cannon advised on September 9, 2021 City Council referred to the Planning Board the proposed repeal of Section 12-3-65 – Parking for Certain Uses Prohibited - of the Land Development Code (LDC). Currently, there are two duplicative sections in the Code, 11-2-24 and 12-3-65. At the same meeting, Council approved an ordinance on first reading which on adoption will amend Section 11-2-24 of the Code to add clarity to the language, regulating parking for certain uses. As the temporary parking of vehicles and associated mobile activities is not related to zoning and is not the actual development of land, Chapter 11 “Traffic and Vehicles” is the more appropriate location for these requirements. In order to remove the duplicative language, and avoid creating conflict between the two Code sections, it is necessary to repeal Section 12-3-65.

Chairperson Ritz confirmed this was strictly a removal of language with no text replacing it; Section 11 was intended to address the parking versus Section 12. He also clarified that the Board did not control Section 11, only Section 12, and Council would review the Board’s decision on removal of the language in Section 12. Assistant City Attorney Lindsay indicated it was determined by Council to keep the language in Section 11 and to ask Planning Board to remove the language from Section 12; the purpose of clarifying Section 11 was to interpret how it would be enforced. The State Legislature had determined the City was limited on how to enforce laws concerning food trucks, meaning that it could not say that no food truck could have any scope of operation whatsoever in the city. But we could have restrictions on where they could operate. However, before Section 11 could be modified, there would be two readings, and the second reading would not be on Council’s agenda until they received the recommendation from the Planning Board. Board Member Larson wanted to know the language of Section 11 before it was removed; the revised language was provided to the Board. Planning Director Morris explained Council was making sure there were not two Code sections which were duplicate and in conflict with each other. The new language would be in compliance with State Statutes and specify the area where food trucks would not be allowed to operate within the city.

Chairperson Ritz explained the Board could approve, modify, or deny as it deliberates. Planning Director Morris advised they were trying to be expedient in not impacting small businesses as they tried to continue to operate and navigate the Code requirements. She understood the Board was concerned with the modified language, but this Board did not have the authority to approve that language since it was outside of Section 12. (While the Board awaited the document with the modified language, it moved to the next item.)

The Board was provided additional materials which had been reviewed by Council. Board Member Villegas wanted to clarify that any amendment would specify usage of space for food trucks. Assistant City Attorney Moore stated they were trying to determine exclusion zones (a map was provided to indicate the exclusion zones). Board Member Grundhoefer asked if food trucks were allowed on every other street. Ms. Moore advised the language did not take away 11-2-24 (1) but it was similar to an ice cream truck. Board Member Larson asked about licensing for the ice cream truck versus food trucks, and Ms. Moore advised DBPR had the licensure, but she was not up to date on the ice cream truck designation. Last year, there was a change to the Florida State Statute where they pre-

empted to the State certain requirements regarding food trucks; they pre-empted to the State everything regarding permits, licensing, and any type of fee that any local government would charge for a food truck to operate within their jurisdiction; the City cannot require any additional permit license or fee, but the local government cannot completely prohibit food trucks from operating within our municipality. Restricting hours of operation or location was left up to the local government. Regarding unlicensed food truck operators, it is a second-degree misdemeanor to operate something where food is cooked, served, and sold. Board Member Larson wanted to make sure there was an enforceable action to someone selling burritos out of the trunk of their car. Ms. Moore then read the State Statute 509.102 for the definition of a mobile food truck which did not cover someone selling from their car; additional requirements and the second-degree misdemeanor was located in 509.251 (license fees) and 509.241 (licenses required and exceptions). Staff advised what prompted this amendment was a code enforcement issue brought to us for equipment as it stands now. Board Member Grundhoefer asked who determined where food trucks could operate. Ms. Moore advised the ordinances as they exist make it difficult to enforce and also make it difficult for any business to interpret what they can or cannot do or can or cannot be. There was no definition to determine a “duly established marketplace” and there was nothing in the original language to indicate “when so authorized” and “licensed under the ordinances of this municipality” was pre-empted by the laws passed last year. This criteria was drafted at the request of Council.

Assistant City Attorney Lindsay stated the Board was being asked to recommend an action, so if the Board voted yes this should be repealed, it would not be repealed on that action and would still be on the books; it would not create a vacuum because it would not be repealed except in the context of Chapter 11 being modified. The Board could suggest it had reservations about repealing 12-3-65 because of certain concerns and could ask Council to consider those concerns. Board Member Grundhoefer proposed eliminating 12-3-65 since it was a duplicate, but the Board should make a recommendation that food trucks not be allowed in residential districts but allowed in other districts and see what happens over the next 3 to 5 years.

**Board Member Grundhoefer made a motion to delete Section 12-3-65 and accept the language proposed in 11-2-24 but to also include some language that would restrict food trucks in residential areas.** Board Member Villegas stated she would say restriction in residential areas outside of certain operating hours since there are a lot of neighborhoods that welcome food trucks. She asked if the language was concerning merchandise or specifically addressing food trucks. Ms. Moore stated the amendment was written to address selling merchandise which included food and beverage. Chairperson Ritz agreed with removing the duplicate language. **The motion was seconded by Board Member Larson.** Board Member Villegas asked for clarification in inviting food trucks to set up at a neighborhood event in a city park, and staff advised those requests go through a special event process with Parks and Recreation. Planning Director Morris advised there was an entirely separate section of the Code which grants to the director of that department authority over city parks so anyone invited would be allowed to operate. Board Member Van Hoose agreed that food trucks should not be prohibited if some of the residents wanted them. **The motion then carried 6 to 0.**

***(Proposed Ordinance 38-21 – Amending Section 11-2-24 attached to last page.)***

### **3. Request for Future Land Use and Zoning Map Amendment for 1717 N. Palafox Street**

Olde City Developers, LLC is requesting a Zoning Map and Future Land Use Map Amendment for the westerly portion of the property located at 1717 N. Palafox Street. The property is currently zoned R-1AAA Low-Density Residential Zoning District. The applicant is proposing to amend the zoning district to R-1A Medium-Density Residential Zoning District. Chairperson Ritz explained if approved, the item would proceed to Council. The Board was to evaluate if this change was an appropriate use for this property.

Mr. Page presented to the Board and stated the project currently contained eight lots but began as seven lots. Staff indicated that if the eighth lot was left in the current zoning, it would not be a transition since it would move from commercial to residential of a certain density and then residential further to the west with greater density. The owner purchased the additional lot to be an acceptable transition from R1-A and across the street to the west would be R-1AAA. The buyer indicated the style would be 1930-1940 Craftsman homes. Chairperson Ritz clarified the applicant was proposing this change, acting as a transitional zone from the commercial to lower density residential.

Ms. MacDonald, President of the North Hill Preservation Association, explained even though this address was not in the historical portion, it was still in North Hill and a matter of concern to the residents. They were concerned with the vacant lot at Baylen and Mallory zoned R-1AAA being rezoned as R-1A; doing so would mean a reduction in the minimum lot width at building setback from 75' to only 30' and the survey indicated five 30' lots fronting Baylen. Across the street on Baylen, there were only two homes in the same portion of the block; there were only four houses on the western side, and three on the eastern side. With the addition of the five homes, it would total eight in a single block. The 30' width encouraged the development of row houses and an increase to on-street parking. Having parking on both sides of the street would virtually block thru traffic on Baylen, and North Hill asked that the request be denied.

Ms. Pierce advised she walked dogs there twice daily and asked the Board to not allow that many houses in this area.

Ms. Wolfe asked that the Board consider if this type of development really belonged on that block. There were parking considerations, space problems, and North Hill was not downtown.

Ms. Rutland stated children and dogs were outside a lot and agreed that the number of houses being proposed would present a parking problem since parking was already tight along that block. She also hated to see row houses developed in that neighborhood.

Mr. Page explained each unit would have a garage with parking in front to accommodate two vehicles. He also stated the homes would be the Aragon style, and the transition from higher to lower density would fit in very well.

Chairperson Ritz explained the Board was not approving building style or even the number of houses but whether to approve the zoning change and if that was an appropriate designation. Board Member Van Hoose asked if there was a requirement to transition. Mr. Page pointed out that transitional zoning was considered good planning practices; transitional zoning steps down from commercial. Assistant Planning Director Cannon explained transitional zoning was not a requirement, but it was required to go before the Board to consider the overall reasoning. Board Member Villegas suggested the surrounding area didn't mirror the request. She agreed it was everyone's prerogative to park on the street, but it was congested which was a concern for the surrounding area. She thought it would be a good infill move if it was located on Palafox, but this did not allow for the surrounding area to be reflected in the development; it might be excessive

on the Baylen side, and density wise, low density residential made more sense. Board Member Grundhoefer thought transitional zoning was appropriate since there was medium density further south. Chairperson Ritz pointed out smaller lots on Cervantes and Palafox, but Board Member Villegas advised that was commercial and south of Cervantes was PR-2.

**Board Member Grundhoefer made a motion to approve, seconded by Chairperson Ritz. With no further discussion, the motion failed 4 to 2 with Board Members Larson, Sampson, Van Hoose and Villegas dissenting.**

#### **4. Request for Non-Residential Parking in a Residential Zone - 518 Wynnehurst Street**

C.R. Quint Higdon is requesting the use of non-residential parking in a residential zone for the property located at 518 Wynnehurst Street which is zoned R-1AAA. If the request is approved, the subject parcel would serve as an accessory use to the future medical office building at 4304 Davis Hwy which is zoned C-3. Staff presented the six criteria that accompany this particular section of the Code. It was noted that when you have different uses between zoning districts, a 10' buffer is required by the City Land Development Code between those two uses, so you would be required to have that buffer on the backside of that parking lot.

Mr. Higdon presented to the Board and asked for the parking for a new office. Board Member Grundhoefer questioned Mr. Fitzpatrick on the opportunity for a 10' vegetative buffer, and Mr. Fitzpatrick advised there would be no problem with the buffer. Board Member Grundhoefer asked about a deed restriction to always have a retention pond and not a parking lot, and staff advised that would be something the applicant would volunteer to do; the Board was determining the use as a parking lot in the residential zone. If the building was vacant for 180 days, the permission would go away. It was determined the applicants needed one parking spot for 200 sq. ft. which totaled 52 parking spaces. Chairperson Ritz explained this item would not proceed to Council.

**Board Member Larson made a motion to approve, seconded by Board Member Sampson.** Board Member Villegas asked for clarification if those spaces included one per employee. Staff advised the Code did not distinguish between employees and clientele but gave a perspective per square feet for use. **The motion carried 6 to 0. Board Member Grundhoefer wanted to add the 10' buffer to the motion. The Board voted again to approve 6 to 0.**

#### **5. Request for Aesthetic Review - 900 S. Palafox St. – Plaza de Luna Repairs**

Plaza de Luna is located at 900 S. Palafox Street within the Waterfront Redevelopment District - WRD. This site experienced major damage from Hurricane Sally in September 2020. The damage to the park features included sidewalks, handrails, lighting, splash pad equipment and other minor features. The proposed improvements will replace the damaged features with the same or similar material. The City proposes to relocate the underground splash pad equipment to a new pump house building located adjacent to the DeLuna Café for better protection from future storms. The pump building will be approximately 11' X 17' and shall have similar brick as the adjacent café.

Chairperson Ritz pointed out the drawing did not portray the brick matching the DeLuna Café; it was a blank brick wall when the café had more brick detail and patterning, and he did not feel this was appropriate. He also pointed out this was taxpayer funded. Staff clarified this item would not proceed to Council.

Mr. McGuire, in charge of FEMA projects for the city, stated this was a pump building but understood what the Board was saying, but he asked that the Board indicate what they preferred, and they would build it. Chairperson Ritz explained it could return for an abbreviated review for expediency purposes. Board Member Grundhoefer explained there was a louver on the façade of the snack bar with a precast lintel which could be repeated on the west and south sides which were the most prominent; the herringbone pattern could be placed below and would tie it to the snack bar. Also, the snack bar roof sloped to the east, and this building could also slope to the east. He pointed out you do not see the roof form on the prominent side. The downspouts could be placed on either side of the door, and matching the height of the snack bar would tie it in better. Also, placing the building so that the fronts line up would make it look like part of the snack bar. Mr. McGuire pointed out it cost \$100,000 to repair the pumps each time it floods, so bringing the equipment out of the ground would save in expenses. Board Member Van Hoose asked if the building could be attached, and Mr. McGuire stated nice sod and a picnic table would go between the buildings. Board Member Grundhoefer suggested they pull it as close as possible to the other building. Mr. Morgan of Mott McDonald advised there was a shower on the snack bar wall which was part of the splash pad requirements, and they needed room for the walk-thru to other facilities. Board Member Grundhoefer asked that they make it look like one building. Chairperson Ritz explained Board Member Grundhoefer could perform the abbreviated review, return it to staff, and staff would forward it to Chairperson Ritz for review and then send it to the applicant.

**Board Member Grundhoefer made a motion for approval with architectural modifications to the pump house which allow it to blend in with the snack shop, designating himself as the first line review for the abbreviated review process.** Staff advised that Board Member Grundhoefer as a reviewer could have direct contact with the applicant. **Board Member Villegas seconded the motion.** For FEMA approval, Mr. McGuire advised the other elements would go back in the same footprint. **The motion then carried 6 to 0.**

#### **6. Amendment to the Land Development Code (LDC) – Table 12-3.9 – Regulations for the North Hill Preservation Zoning Districts – PR-2 Minimum Lot Size Requirements**

On June 8, 2021 and August 12, 2021 the Planning Board and City Council respectively suggested that City staff amend the PR-2, North Hill Preservation multiple-family zoning district, to better align with criteria designed for transitional zoning districts. Subsequently, the Mayor directed staff to initiate the process for approval of the requested amendment. Currently the PR-1AAA, single-family district, and PR-2, multiple-family district, contain similar building standards and the same minimum lot size requirements. At present the main differences between these zoning districts are the types of uses that are allowed by right and the minimum building setbacks for the front and side yards. In order to allow for the PR-2 district to function as a transitional zoning district between the North Hill single-family and commercial districts, the proposed amendment will allow for a smaller minimum lot width and lot area. Table 12-3.9 *Regulations for The North Hill Preservation Zoning Districts* (attached) contains the current applicable lot and building standards.

The proposed amendment would be limited to Table 12-3.9 and does not include any changes to the types of allowed uses or to the required setbacks in the PR-2 zoning district. The following changes are proposed:

- Minimum Lot Area for Residential Uses: Currently - 9,000 SF

Proposed - 5,000 SF

- Minimum Lot Width at Building Setback Line: Currently - 75 feet

Proposed - 50 feet

Staff explained this was just for the North Hill Preservation District which has three zoning categories – PR-1AAA, PR-2, and PC-1. This action would decrease non-conformities with the lots. Historic Preservation Planner Harding stated the PR-2 (formerly R-2) was established when North Hill was established, possibly mid-70s.

Ms. MacDonald advised over a series of meetings with Mr. Beck and the neighborhood, they discussed alternatives and proposed a compromised solution to rezone the property to an amended version of PR-2 that would reduce the minimum lot area for residential uses from 9,000 sq. ft. to 5,000 sq. ft. and the lot width setback from 75' to 50'. They then polled the neighborhood to see if they could support the pursuit of this proposed change; the 104 respondents voted overwhelmingly in support of PR-2 with these proposed changes - 87% voting for with 12.5% voting against. She voiced this support at the Council meeting and repeated that support today. Although there might be residents against this proposed zoning amendment, she stated the majority of residents who cared enough to vote, voted for it.

Chairperson Ritz appreciated the numbers and percentages and that level of input from the citizens which helped the Board with its decision.

Ms. Marshall advised her home faced the P.K. Yonge property. She explained the neighbors felt any changes made to PR-2 should be decided on the value of the entire North Hill community. The consequences and impact should be evaluated and related to the existing PR-2 zones in the North Hill District. They offered 1) keeping PR-2 as it is since some of the neighbors object to the change relating to their property, and 2) designing special waivers with input from the immediate neighbors while achieving the owners' value of their interest when they sell their property. She pointed out their neighbor, Mr. Mead, had suggested there might be an interesting zone change for block 168. They felt the best suggestion was for an entirely special zone for block 168 which would include the needs of her new neighbor and people of North Hill.

Chairperson Ritz explained this item was at the request of Council, and this request whether accepted, rejected, or modified dealt with all of PR-2 and not one particular piece of property nor a specific development. This request would then proceed to Council.

Mr. Beck appreciated the staff, residents, and the North Hill Preservation Association. The discussion was generated through the consideration of a specific piece of property, and he was in full support of the transition zoning from the very loose PC-1 relating to single-family lots to PR-1AAA; he felt it was a nice compromise and allowed for a 50' lot as opposed to the very narrow 30' lots which would occur under PC-1.

**Board Member Larson made a motion to approve the suggested change and felt Council did a good service for bringing it back to the Board after the Board wrestled with the decision after listening to North Hill; we needed a transition between some of the old to the new and this was a good option; it was seconded by Board Member Grundhoefer.** Board Member Villegas wanted to understand why there could not be some sort of variation on the PR-2 to address this particular property considering almost half of the North Hill District is PR-2 - possibly a PR-2A. Chairperson Ritz advised this would be creating a zoning district which equates to half a block of property. Assistant City Attorney Lindsay explained contract zoning or spot zoning was not legal, so the decision should not be made on whether to do this based on use but made on zoning considerations broadly. Board Member Grundhoefer pointed out 87% support for this

was unusual, but if the North Hill Preservation Board supported it, it would be a good thing. **The motion then carried 6 to 0.**

**Open Forum** – None.

**Discussion** – None.

**Adjournment** – With no further business, the Board adjourned at 3:58 p.m.

Respectfully Submitted,

Cynthia Cannon, AICP  
Assistant Planning Director  
Secretary to the Board





## City of Pensacola

222 West Main Street  
Pensacola, FL 32502

### Memorandum

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File #: 38-21

City Council

9/9/2021

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#### **ADD-ON LEGISLATIVE ACTION ITEM**

**SPONSOR:** City Council Member Casey Jones

**SUBJECT:**

PROPOSED ORDINANCE NO. 38-21 - AMENDING SECTION 11-2-24 - PARKING FOR CERTAIN USES PROHIBITED OF THE CODE OF THE CITY OF PENSACOLA

**RECOMMENDATION:**

That City Council approve Proposed Ordinance No. 38-21 on first reading:

AN ORDINANCE AMENDING SECTION 11-2-24 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA, PARKING FOR CERTAIN USES PROHIBITED; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

Within the City Code, two sections exist; Section 11-2-24 - Parking for certain uses prohibited and Section 12-3-65 - Parking for certain uses prohibited. These two sections are duplicative.

An amendment to Section 11-2-24 would provide guidance related to the current food truck issue by setting boundaries for their prohibited placement in certain areas.

The proposed amendment to Section 11-2-24 would do the following:

1. Adding the language pertaining to public or private as it pertains to vacant lot or parking lot
2. Removes the selling of merchandise language
3. Establishes boundaries for the parking of vehicles for the principal purpose of selling merchandise from such vehicle

**PRIOR ACTION:**

April 13, 2006 - City Council amended Section 11-2-24 of the City Code via Ordinance No. 11-06

February 9, 2006 - City Council amended Section 12-3-65 (at that time listed as Section 12-2-42) of the City Code via Ordinance No. 04-06

**FUNDING:**

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**File #:** 38-21

City Council

9/9/2021

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N/A

**FINANCIAL IMPACT:**

None

**STAFF CONTACT:**

Don Kraher, Council Executive

**ATTACHMENTS:**

- 1) City Attorney's Office Opinion 20-01
- 2) Proposed Ordinance No. 38-21 - Amendment to Section 11-2-24
- 3) Map of proposed amendment to Section 11-2-24

**PRESENTATION:** No

PROPOSED  
ORDINANCE NO. 38-21

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE  
TO BE ENTITLED:

AN ORDINANCE AMENDING SECTION 11-2-24 OF THE CODE OF  
THE CITY OF PENSACOLA, FLORIDA, PARKING FOR CERTAIN  
USES PROHIBITED; PROVIDING FOR SEVERABILITY;  
REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Section 11-2-24 of the Code of the City of Pensacola, Florida, is  
hereby amended to read as follows:

Sec. 11-2-24. Parking for certain uses prohibited.

(1 ) No person shall park a vehicle upon any street, right-of-way, public vacant lot or  
public parking lot for the principal purpose of:

1 (a) Displaying such vehicle for sale;

2)(b) Washing, greasing or repairing such vehicle, except repairs necessitated by an  
emergency;

3(c) Displaying advertising;

(4) ~~Selling merchandise from such vehicle except in a duly established marketplace  
or when so authorized or licensed under the ordinances of this municipality; or~~

5(d) Storage for more than 24 hours.

(2.) No person shall park a vehicle upon any street, right-of-way, public vacant lot, or in  
any public parking space that is located in the area between the eastern right- of- way  
line of Tarragona Street and western right-of-way line of Baylen Street and between the  
southern right -of- way line of Garden Street and the southern right -of -way line of Main  
Street for the principal purpose of selling merchandise, including food and beverage,  
from such vehicle with the exception of during the hours of Gallery Night and other  
special events or specified times as approved by the Mayor or Mayor's designee.

SECTION 2. If any word, phrase, clause, paragraph, section or provision of this  
ordinance or the application thereof to any person or circumstance is held invalid or  
unconstitutional, such finding shall not affect the other provision or applications of the  
ordinance which can be given effect without the invalid or unconstitutional provisions or  
application, and to this end the provisions of this ordinance are declared severable.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are hereby  
repealed to the extent of such conflict.

SECTION 4. This ordinance shall take effect on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: \_\_\_\_\_

Approved: \_\_\_\_\_  
President of City Council

Attest:

\_\_\_\_\_  
City Clerk

