

ORDINANCE 2024-

AN ORDINANCE FOR THE PURPOSE OF AMENDING REGULATIONS RELATING TO THE DESIGN REVIEW BOARD; AMENDING SECTION 2-472, PURPOSE, SECTION 2-473, JURISDICTION; POWERS AND DUTIES, AND SECTION 2-476, PROCEDURE FOR REVIEW; CRITERIA, AND ADDING SECTION 2-477, ARCHITECTURAL AND LANDSCAPE ARCHITECTURAL DESIGN STANDARDS, OF DIVISION 4, DESIGN REVIEW BOARD, ARTICLE V, BOARDS, COMMISSIONS AND COMMITTEES, CHAPTER 2, ADMINISTRATION, OF THE CITY OF NAPLES CODE OF ORDINANCES; AMENDING ARTICLE IX, DESIGN REVIEW STANDARDS, CHAPTER 50, DEVELOPMENT STANDARDS, OF THE CITY OF NAPLES CODE OF ORDINANCES; AMENDING SECTION 58-1134, SPECIFIC PROVISIONS, DIVISION 6, 5TH AVENUE SOUTH SPECIAL OVERLAY DISTRICT, ARTICLE III, SPECIAL OVERLAY DISTRICTS, CHAPTER 58, ZONING, OF THE CITY OF NAPLES CODE OF ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER PROVISION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 2, Article V, Division 4 of the Code of Ordinances provides regulations related to the Design Review Board; and

WHEREAS, Chapter 50, Article IX, Section 50-241 of the Code of Ordinances provides architectural and landscape architectural design standards; and

WHEREAS, Chapter 58, Article III, Division 6, Section 58-1134 of the Code of Ordinances provides specific provisions for the 5th Avenue South Special Overlay District; and

WHEREAS, the Planning Advisory Board, serving as the local planning agency and following an advertised public hearing on January 10, 2024, considered the public input, the recommendation of staff, and recommended by a vote of 7 to 0 that Text Amendment 24-T1 be approved finding that changes proposed are consistent with the Comprehensive Plan; and

WHEREAS an advertisement of the public hearing for adoption of the proposed ordinance was published in the Naples Daily News on the __ day of ____, 2023 as required by Section 166.041, Florida Statutes and the City of Naples Code of Ordinances; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA:

Section 1. That Sections 2-472, 2-473, 2-476, and 2-477, of Division 4, Design Review Board, of Article V, Boards, Commissions and Committees, of Chapter 2, Administration, of the Code of Ordinances of the City of Naples, is hereby amended to read as follows (with underlining

indicating additions and ~~strikethrough~~ indicating deletions):

Sec. 2-472. Purpose.

The purpose of the board is to promote the public health, safety and general welfare by reviewing proposed petitions **for design as specified in Section 2-477** and recommending regulations necessary to:

- (1) Preserve existing areas of natural beauty and cultural importance;
- (2) Assure that buildings and structures, along with associated signage, landscaping, lighting or other development, contribute in a positive way to the public environment of the city;
- (3) Prevent the development of structures or uses which are not of acceptable exterior design or appearance or are of inferior quality or likely to have a depreciating effect on the public environment, or surrounding area, by reason of appearance or value;
- (4) Consistent with other provisions of this Code, eliminate conditions, structures, along with associated design, landscaping, lighting, and signage, which by reason of their effect tend to degrade the appearance, health, safety or general welfare of the community; and
- (5) Provide a continuing source of programs and means of improving the city's public environment.

It is not the purpose of the board to review or approve petitions for land development code or zoning compliance.

Sec. 2-473. Jurisdiction; powers and duties.

The board shall have the powers and duties set forth in this division and any other duties assigned to it by the city council by ordinance or resolution. Specifically, the board shall have the following powers and duties:

- (1) To review all petitions and associated architectural and landscape architectural plans that require design review under the standards established in this Code and to make recommendations to the city council or the planning advisory board, or both, as otherwise required in this Code;
- (2) To review current city regulations and provide advice and recommendations to the city council for improved regulations that will promote excellence in design of buildings, structures, landscaping, lighting and signage;
- (3) To prepare, recommend adoption of, and keep up to date, a design review handbook that will provide guidelines for the design aspects of development;

~~and~~

(4) It is not the jurisdiction of the board to review or approve petitions for land development code or zoning compliance. It is the jurisdiction of the Planning Advisory Board and City council to review petitions for land development code and zoning compliance.

(5) An approval from the DRB shall in no way provide a petitioner or property owner a vested property interest or development order.

Sec. 2-476. Procedure for review; criteria.

- (a) *Preapplication meeting.* A preapplication meeting with the city manager or designee is required for each petition to the design review board. Certain submittal requirements may be waived for additions and new buildings less than 1,500 square feet where determined not to be necessary.
- (b) *Preliminary review.*
- (1) *Mandatory preliminary review.* Preliminary review and approval by the board is required prior to final consideration and approval of projects that otherwise require review and approval by the planning advisory board, the city council, or both. In such cases, the board determination and comments shall be considered as part of the planning advisory board and city council review.
 - (2) *Nonmandatory preliminary review.* In cases where preliminary review is not required, a petitioner may nevertheless request a preliminary review by the board.
 - (3) *Submittal requirements.* For preliminary review, the applicant shall submit, at a minimum, a ~~generalized~~ site plan, exterior elevations of all sides of the building(s), in color and drawn to an appropriate scale-, scaled mass model or three-dimensional digital mass model schematic of the project with structures on adjoining parcels identified- and a three-dimensional street elevation, in color and drawn to an appropriate scale encompassing the entire proposed project and depicting the buildings on the adjacent two properties on either side of the site. If the adjacent properties are vacant or underutilized, a diagram shall be provided that identifies the mass and form that is allowable under current zoning, and a colored elevation of the principal street facade.
 - (4) *Combined preliminary and final review.* A petitioner may submit a project for a combined preliminary and final review by following the provisions set out in subsection (c).
- (c) *Final review.*
- (1) *Procedure.* Projects that do not require city council or planning advisory board review and approval may proceed directly to final board review. Projects that otherwise require review and approval by the planning advisory board, city council or both shall obtain final review from the board after review and approval of other aspects of the project by the planning advisory board or the city council. If the petitioner elects to submit the project for combined preliminary and final review under subsection (b)(4), the petitioner shall obtain final review and approval from the board prior to review and approval by the planning advisory board or the city council.
 - (2) *Submittals.* All presentation materials shall include a graphic scale and may include scale figures of pedestrians, vehicles, and other common elements found in the public environment. In addition, the following shall be provided with the petition, unless waived by city administrative staff as not necessary:
 - a. Site plan as defined by subsection 46-33(c)(3)h, drawn to an appropriate scale;
 - b. Exterior elevations of all sides of the building(s), in color and drawn to an appropriate scale. Elevations shall be provided that include proposed

landscaping and identification of materials for major exterior building components and elevations shall be provided that do not include landscaping.

- c. Three-dimensional sStreet elevation, in color and drawn to an appropriate scale. The street elevation shall encompass the entire proposed project and depict the buildings on ~~generally identify the major elements of~~ the adjacent two properties on either side of the site. If the adjacent properties are vacant or underutilized, a diagram shall be provided that identifies the mass and form that is allowable under current zoning.
 - d. Landscape plan, at the same scale as the site plan. The city manager may request enlarged plans of detailed planting areas. Planting schedule with sizes of proposed plantings must be included.
 - e. A scaled mass model or three-dimensional digital mass model of the project with structures on adjoining parcels identified.
 - f. Color and material samples for major exterior building components.
 - g. Drawings and presentation materials, labeled to identify the project and its location and signed and sealed by the architect responsible for the design. The architect must be licensed or registered in the State of Florida.
 - h. A lighting plan.
 - i. Drawings of any artwork that is to be placed on the site as later approved by the public art advisory committee.
- (d) *Hearings before board.* Upon receipt of a complete petition, the city manager shall notify all owners of property located within 500 feet of the property described in the petition of the date, time, place and purpose of the public hearing; and shall schedule review of the plans by the board at its next regular meeting. The board shall act on a full and complete petition within 44 days after the petition has been determined to be complete, unless the applicant consents to an extension of time. Unless waived by the board, the petition shall be presented to the board by the architect whose seal appears on the drawings and who is responsible for the design.
- (e) *Action by board.*
- (1) The board may require such changes, if any, in any plans or documents presented as may be necessary to conform to the provisions of this and all ordinances of the city. The board may require such changes in said plans and documents that may be requisite or appropriate to the maintenance of the high standard of construction, architecture, beauty and harmony required by the city.
 - (2) The board may grant, grant with conditions or deny each petition that is subject to its jurisdiction, applying the standards set forth in this division. Action on petitions shall be by board resolution, supported by written findings. Resolutions shall be filed with the city clerk and a copy provided to the applicant, in person, or by United States mail, within 10 days after the action is taken.

- (3) Approval shall be effective for a period of 1 year from the approval date set forth in this section, or for the period of other approvals associated with the same project.

Sec. 2-477. Architectural and landscape architectural design standards.

The following standards and criteria shall be considered by the design review board and by the administrative staff when reviewing petitions for design review pursuant to chapter 2, article V, division 4 of this Code **and consistent with the Design Review Handbook and the City of Naples Vision.** Prior to granting approval of a petition the board shall consider whether:

- (1) The overall plan for the project, including the site plan, design, landscaping, lighting and signage, contributes to the image of the city as a visually attractive community.
- (2) The proposed building or structure is of a quality and appearance that:
 - a. Is consistent and compatible with the surrounding neighborhood structures; and
 - b. Does not cause the local neighborhood or environment to depreciate materially in appearance or value.
- (3) The project's scale, and the size, color and proportion of building elements, components and materials are appropriate and harmonious with surrounding neighborhood structures.
- (4) Appropriate building materials are being used. The use or employment of any of the following is generally considered inappropriate and will not be permitted unless appropriately integrated into a project meeting all other criteria, including aesthetic criteria, of this article:
 - a. Corrugated metal siding;
 - b. Fiberglass shingle roofing;
 - c. Prefabricated metal buildings or their components;
 - d. Primary colors or black;
 - e. False windows or doors;
 - f. Unmodified formula and trademark buildings and structures; and
 - g. Buildings and structures that are visually intrusive and inconsistent with the character of the neighborhood or of the community.
- (5) The scale of ground floor elements of the project is consistent with pedestrian scale, where appropriate, depending on its location.
- (6) The project's location and design adequately protects or enhances unique site characteristics such as those related to scenic views, natural vistas, waterways or similar features.
- (7) The project appropriately integrates landscape elements into the site plan and building design. Plantings shall be of a size to give the appearance that the project is settled into a mature landscape. Pedestrian areas on or at the edges of the project site shall be sheltered by shade trees.
- (8) The design of the project is appropriate to its function.

- (9) The project is climatically responsive.
- (10) Primary entrances to all buildings provide direct and convenient access from the main streets and on-site public parking areas.
- (11) Signage and other building appurtenances are integral components of the building, appropriately scaled, and consistent in character with the building's overall design.
- (12) The project incorporates defensible space concepts of crime prevention through environmental design.
- (13) The proposed development is in conformity with the effective guidelines and standards adopted pursuant to this article.
- (14) The proposed development is consistent with the initiatives and priorities of the City of Naples Vision.**

The definitions provided in the Design review Handbook shall be controlling in defining terms provided in this section.

Section 2. That Section 50-241, Architectural and landscape architectural design standards, of Article IX, Design Review Standards, of Chapter 50, Development and Design Standards, of the Code of Ordinances of the City of Naples, is hereby amended to read as follows (with underlining indicating additions and ~~striketrough~~ indicating deletions):

Sec. 2-477. Architectural and landscape architectural design standards.

The architectural and landscape architectural design ~~following~~ standards and criteria ~~shall be considered by the design review board and by the administrative staff when reviewing petitions for design review pursuant to chapter 2, article V, division 4 of this Code are provided in Section 2-477.~~ ~~Prior to granting approval of a petition the board shall consider whether:~~

- ~~(1) The overall plan for the project, including the site plan, design, landscaping, lighting and signage, contributes to the image of the city as a visually attractive community.~~
- ~~(2) The proposed building or structure is of a quality and appearance that:~~
 - ~~a. Is consistent and compatible with the surrounding neighborhood structures; and~~
 - ~~b. Does not cause the local neighborhood or environment to depreciate materially in appearance or value.~~
- ~~(3) The project's scale, and the size, color and proportion of building elements, components and materials are appropriate and harmonious with surrounding neighborhood structures.~~
- ~~(4) Appropriate building materials are being used. The use or employment of any of the following is generally considered inappropriate and will not be permitted unless appropriately integrated into a project meeting all other criteria, including aesthetic criteria, of this article:~~
 - ~~a. Corrugated metal siding;~~

- ~~b. —Fiberglass shingle roofing;~~
- ~~c. —Prefabricated metal buildings or their components;~~
- ~~d. —Primary colors or black;~~
- ~~e. —False windows or doors;~~
- ~~f. —Unmodified formula and trademark buildings and structures; and~~
- ~~g. —Buildings and structures that are visually intrusive and inconsistent with the character of the neighborhood or of the community.~~
- ~~(5) The scale of ground floor elements of the project is consistent with pedestrian scale, where appropriate, depending on its location.~~
- ~~(6) The project's location and design adequately protects or enhances unique site characteristics such as those related to scenic views, natural vistas, waterways or similar features.~~
- ~~(7) The project appropriately integrates landscape elements into the site plan and building design. Plantings shall be of a size to give the appearance that the project is settled into a mature landscape. Pedestrian areas on or at the edges of the project site shall be sheltered by shade trees.~~
- ~~(8) The design of the project is appropriate to its function.~~
- ~~(9) The project is climatically responsive.~~
- ~~(10) Primary entrances to all buildings provide direct and convenient access from the main streets and on-site public parking areas.~~
- ~~(11) Signage and other building appurtenances are integral components of the building, appropriately scaled, and consistent in character with the building's overall design.~~
- ~~(12) The project incorporates defensible space concepts of crime prevention through environmental design.~~
- ~~(13) The proposed development is in conformity with the effective guidelines and standards adopted pursuant to this article and all other applicable ordinances.~~

Section 3.

That Subsection (1) of paragraph (d), Building area, of Section 58-1134, Specific provisions, of Division 6, 5th Avenue South Special Overlay District, of Article III, Special Overlay Districts, of Chapter 58, Zoning, of the Code of Ordinances of the City of Naples, is hereby amended to read as follows (with underlining indicating additions and ~~striketrough~~ indicating deletions):

Chapter 58 – ZONING

...

ARTICLE III. – SPECIAL OVERLAY DISTRICTS

...

DIVISION 6 – 5TH AVENUE SOUTH SPECIAL OVERLAY DISTRICT

...

Sec. 58-1134. Specific provisions.

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(b) *Building placement.* Buildings and their elements shall be placed on their lots as follows:

(1) *Front setback.*

- a. *First story.* First story facades shall have no front setback. Awnings, awning roof structures, arcades, or other similar attached structures may satisfy this requirement.
- b. *Second story.* Second story facades shall have a mandatory setback of no less and no more than ten feet from the property line. When the first story extends into the front ten-foot yard, second story balconies which extend over the 1st story shall extend across the entire front facade. Awnings and the required supports for the awnings are permitted over second story balconies but no other permanent improvements are allowed above the height of the railing. A balcon (a small balcony that extends no more than one foot from the facade of the building and extends no more than eight inches from either side of a door or window opening) is permitted.
- c. *Third story.* Third story facades shall have a mandatory setback of ten feet. Third story balconies shall be recessed, shall not extend beyond the second story facade and shall be enclosed by the plane of the roof. A balcon (a small balcony that extends no more than one foot from the facade of the building and extends no more than eight inches from either side of a door or window opening) is permitted.

(2) *Streetwall.* In the absence of a building facade, a streetwall shall be built aligned with an adjacent building facade. Streetwalls shall be between 2½ and 3½ feet in height and made of a material matching the adjacent building or a continuous, maintained hedge. Streetwalls may have openings no greater than 25 feet to allow automobile and pedestrian access.

(3) *Side setbacks.* Side setbacks are not required.

(4) *Rear setback.*

- a. *Rear setback—Interior lots.* Rear facades on interior lots shall be set back a minimum of 50 feet from the midpoint of the alley. Balconies may extend into the rear setback by ten feet.
- b. *Rear setback—Corner lots.* Rear facades on corner lots shall be set back a maximum of 20 feet from the mid point of the alley for a distance of no more than 50 feet from the front property line.
- c. *Carports.* Carports may encroach into the required rear setback subject to the following:

1. The carport must be designed in keeping with the design of the building.
 2. The carport must be open on all four sides (except where attached to the principal building, if applicable).
 3. The carport roof must be made of fabric.
 4. The carport must be a minimum of 15 feet from the centerline of the alley.
- (5) *Adjacent preexisting setbacks.* In the event of adjacent preexisting setbacks, ~~an adjustment may be allowed or required by the DRB. If design review is not required,~~ approval of a deviation variance by the council will be required upon a finding that the project meets the general intent of the district and the master plan.

...

(e) *Architectural standards.* Buildings shall be subject to the following physical requirements:

- (1) *Exterior finish material.* The exterior finish material on all facades shall be limited to smooth stucco and/or stone veneer.
- (2) *Exterior colors.* Exterior building shall be white or colored in the cream to coral range. Trim shall be white. Doors, shop fronts, window frames and shutters shall be any color at any saturation. Buildings in single ownership shall be of uniform facade and trim color unless there are architectural elements such as pilasters or engaged columns or a change in the plane of the facade defining the separate tenant spaces.
- (3) *Glass color.* Glass shall be clear or lightly tinted only.
- (4) *Balconies, railings and porch structures.* Balconies, railings, and porch structures shall be metal, cast concrete, or stone.
- (5) *Facade openings.* Facade openings, including porches, windows, and colonnades, shall be square or vertical in proportion.
- (6) *Sliding doors and windows; automatic doors.* Sliding doors and sliding windows are not permitted along frontage lines. Automatic doors may be permitted by the DRB if the board finds that the design of the building achieves the requirements of this division as closely as possible and is consistent with the intent of this division.
- (7) *Flat roofs.* Flat roofs may be used for balconies which shall have railings. Flat roofs not used as balconies shall be enclosed by parapets no less than 42 inches high or as required to conceal equipment.

(8) *Visible roofs.* Buildings with roofs visible from the Avenue shall have symmetrical pitched roofs with slopes no less than 5:12. Porches and first floors may have shed roofs with pitch no less than 2:12.

(9) *Mansard roofs.* Cantilevered mansard roofs are not permitted.

(10) *Glazed area above first floor.* The glazed area of a facade above the first floor shall be at least 20 percent but shall not exceed 35 percent of the total area with each facade being calculated independently.

(11) *Facade design.*

- a. *Facades on frontage lines.* The facades on frontage lines at first floor level shall be detailed and glazed as storefronts. The wood or metal armature of such storefronts shall be painted. Storefronts shall be directly accessible from sidewalks. Each storefront must have glazed areas, equal to 70 percent of its portion of the facade, between two and eight feet from the ground. Storefronts shall have the mullion system, doorways and signage integrally designed and painted. Storefronts shall incorporate surface materials and design proportions similar to those on the facades of the building located on a frontage lines.
- b. *Facades not on frontage lines.* The exteriors of buildings not facing frontage lines shall incorporate the same surface materials and similar design elements such as similar proportions, with attractive rear entrances and consideration of pedestrian pass-throughs.

(12) *Awnings.*

- a. *Generally.* Facades may be supplemented by awnings which shall be straight sheds without side flaps, not cubed or curved, with a drip edge no greater than 12 inches. Awnings shall be no less than eight feet high at the lower drip edge and shall not have ground supports. Awnings used in conjunction with a second story balcony shall not extend beyond the edge of the balcony railing and shall have no minimum height requirement from the finished floor. Awning roof structures may be approved by the city manager, but must meet all of the same standards as a building.
- b. *Nonconforming buildings.* The city manager may approve awnings that do not strictly conform to this division if the following conditions are met:
 1. The building is an existing building.
 2. The architectural style of the building does not conform to this division.
 3. The building facade is such that an awning which would conform to this division would not be architecturally compatible or complimentary to the building.
 4. The proposed awning is the most appropriate style for the building,

is compatible with adjacent buildings, and the awning achieves the requirements of this division as closely as possible and is consistent with the intent of this division.

When the city manager approves an awning based on the criteria above, that awning style/design will become the standard style/design for all awnings for that particular building.

(13) *Outside dining tables and chairs.* Outside dining tables and chairs shall be primarily metal, cast concrete, wood or suitable composite material. Plastic chairs are prohibited but plastic tables may be permitted if covered with linens. Outside dining tables located in the right-of-way shall be temporary and portable. Outdoor dining in this district shall require the approval of the design review board for the design of the space, furniture, and any landscape/hardscape improvements. The DRB shall not approve the outdoor dining use, which will be reviewed and approved pursuant to ~~Outdoor dining shall be consistent with~~ section 56-126.

(14) *Dumpsters.* Dumpsters shall be placed in accordance with the dumpster regulations contained elsewhere in the Code. Wherever possible, dumpsters shall be shared between property owners.

(15) *Telephone and utility wires.* Any new building or substantial change shall be required to relocate all telephone, electric and other wires of all kinds underground from the poles of the transmission cables located within the platted utility easements to the building or the connection.

(16) *External lighting.*

- a. Permanent lighting fixtures attached to the façade of the building require the approval of the design review board subject to the determination that such lighting is compatible with the design of the building and the ambiance of the district. All such lighting shall be white in color. In addition to permanent fixtures, strings of low-voltage light emitting diode (LED) type lights may be approved for year-round use by the city manager subject to the following:
 1. Lighting shall not exceed the following:
 - i. On the public sidewalk: 3.0 foot candles.
 - ii. On private property: 5.0 foot candles.
 2. All lighting shall be powered by a source located on the private property and no wiring associated therewith shall cross a sidewalk or means of egress;
 3. All lighting shall be maintained in a safe and neat condition, proper working order and functioning in a safe manner;
 4. All lighting shall be white with the exception of lighting that the design review board has determined is consistent with the design theme of

- a building or business;
5. All lighting shall be within the following temperature range:
 - i. *Minimum*—2,700 Kelvin.
 - ii. *Maximum*—4,000 Kelvin.
 6. No twinkling or flashing light sources shall be permitted;
 7. Lighting shall consist of visible light sources, shall be attached to the drip edge of an awning or other horizontal façade feature in a linear fashion and shall be either "icicle" (individual light sources arranged vertically) or "strip" (individual light sources arranged horizontally) provided that in no instance shall the lighting hang below the minimum vertical clearance required for awnings;
 8. Wherever either icicle or strip lighting is installed, such lighting shall be installed uniformly to all awnings abutting the business or establishment to which they are affixed;
 9. No window frame lighting utilizing visible light sources shall be permitted in either inside or outside installation;
 10. Indirect lighting with no visible light sources may be permitted under awnings, arcades and overhangs;
 11. Lighting consisting of individual light sources may be installed on trees, plants, shrubs and other similar landscape features located on private property;
 12. Lighting shall be allowed on the first floor of the building only;
 13. In addition to the foregoing standards, the lighting shall be compatible with the structure on which it is located and the ambiance of the district. Should the city manager find that the proposed lighting is not compatible or if the petitioner wishes to deviate from any of these standards, the petition shall be referred to the design review board for review and approval.

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Section 2. That if any word, phrase, clause, subsection, or section of this ordinance is for any reason held unconstitutional, invalid, or ineffective, the same will not affect the validity of any remaining portions of this ordinance. In such event, the pre-existing word, phrase, clause, subsection, or section, will be revived.

Section 3. That all sections or parts of sections of the Code of Ordinances, City of Naples, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

Section 4. That this ordinance shall take effect immediately upon adoption at second reading.

APPROVED AT FIRST READING AND PUBLIC HEARING THIS 22ND DAY OF

FEBRUARY, 2024.

**SCHEDULED FOR SECOND READING AND PUBLIC HEARING IN OPEN AND
REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA
THE 6TH DAY OF MARCH, 2024.**

Attest:

Patricia L. Rambosk, City Clerk

Teresa Lee Heitmann, Mayor

Approved as to form and legality:

/s/ James Stokes, Esq.
James Stokes, Interim Deputy City Attorney

Date filed with City Clerk:_____