

STATE OF GEORGIA
COUNTY OF FULTON

First Reading: January 13, 2014
Second Reading: February 24, 2014

ORDINANCE TO AMEND THE CITY OF ROSWELL CODE OF ORDINANCES

WHEREAS, the City of Roswell now desires to amend its Code of Ordinance and Zoning Ordinance; and

WHEREAS, the Mayor & City Council have determined that amendments are needed to protect the health, safety and welfare of the residents of Roswell; and

NOW, THEREFORE, pursuant to their authority, the Mayor & City Council adopt the following changes to the Code of Ordinance for the City of Roswell:

1.

The Code Ordinance of the City of Roswell, Georgia is hereby amended to delete references to the Zoning Ordinance and refer to the Unified Development Code and shall read as follows:

Chapter 2, Code of Ordinances is hereby amended by changes to Sections 2.1.5, and 2.4.6 to read as follows:

Article 2 Administration

(a) Section 2.1.5 - Fees.

Actual administrative costs of the city for certain services provided by the city shall be recouped by the city through user fees. The Mayor and City Council will establish such fees by resolution.

Section 2.4.6 - ZONING Director.

There is hereby created the position of ZONING director who shall assist the director of community development and assume authority for planning, ZONING, development permitting, engineering, code enforcement and business licensing activities in the City of Roswell. The ZONING director shall perform all duties of the office described in the city's personnel manual and those set forth in the Unified Development Code (UDC) of the City of Roswell. In particular the ZONING director shall serve as liaison to each of the city's boards and commissions and shall make recommendations on behalf of staff in REZONING applications and review of preliminary plats.

Chapter 3, Code of Ordinances is hereby amended by changes to Sections 3.4.1 and 3.7.7 to read as follows:

Section 3.4.1 - ZONING Requirements; Existing Licenses.

- (b) No alcoholic beverage license shall be granted unless the premises to be licensed are located in the NX, CX, SH, CC, PV, CH, OR or IX or Historic Properties Overlay District, or in those certain areas that carry a commercial ZONING classification or are approved for restaurant uses via a special use permit or other ZONING provision of Fulton County, as made applicable by the city. No pouring license shall be granted in the PV except at outlets licensed as restaurants under section 3.7.3 of this article. No package malt beverage license or package wine license shall be granted in the PV except in retail supermarkets having a gross building area of at least thirty thousand (30,000) square feet or in drug stores having a gross building area of at least eight thousand (8,000) square feet or at outlets within two hundred (200) feet of the center line of the Crossville-King-Woodstock intersection (said measurement shall be the shortest possible straight line distance). No package malt beverage license or package wine license shall be granted to a service station in the PV except at service stations meeting all other requirements of law and in which at least ninety (90) percent of the total gross sales are generated by sales other than alcoholic beverages. Any license application shall meet the distance requirements of section 3.4.2 of this article.

Article 3.7 Requirements for Consumption On-Premises Licenses

Section 3.7.7 - Special Events Facility.

In order to be eligible for a consumption on the premises license, a special events facility must:

- (a) Be available to public or private groups of persons;
- (b) For monetary consideration on a rental, fee, percentage, or similar basis, be used primarily for special occasions, including but not limited to, receptions, meetings, banquets, conventions, parties, catered events, or similar gatherings; and
- (c) Be open to or attended by invited or selected guests or paying patrons; or
- (d) Be a multi-sport complex situated on at least twenty (20) acres in the DX district.

Chapter 4, Code of Ordinances is hereby amended by changes to Section 4.1.7 to read as follows:

Article 4.1 Adult Business - General

Section 4.1.7 - Location.

No adult business shall be located:

- (a) Within one hundred (100) yards of any parcel of land which is either zoned or used for residential uses or purposes; and

- (b) Within one hundred (100) yards of any parcel of land upon which a church, school, governmental building, library, civic center, public park or playground is located; and
- (c) Within five hundred (500) yards of any parcel of land upon which another establishment regulated or defined hereunder is located; and
- (d) Within one hundred (100) yards of any parcel of land upon which any establishment selling alcoholic beverages is located; and
- (e) On less than one (1) acre of land containing at least one hundred fifty (150) feet of road frontage; and
- (f) In any district other than one that is zoned for and meets all requirements of; IX or IL and
- (g) In any building which has within the past eighteen (18) months been used for purposes of or in the commission of solicitation, prostitution, or other illicit acts.

For the purposes of this section, distance shall be from property line to property line along the shortest possible straight-line distance, regardless of any customary or common route or path of travel, i.e. "as the crow flies." The term "parcel of land" means any quantity of land capable of being described by location and boundary.

Chapter 5, Code of Ordinances is hereby amended by changes to Section 5.3.6 to read as follows:

Article 5.3 - Building and Technical Codes

Section 5.3.6 - Same—Historic Structures.

In addition to those provisions contained within the Standard Building Code, the following restrictions shall govern moving, demolition, or alteration of historic structures and shall be considered an amendment to section 101.5 of the Standard Building Code:

No structure of any type may be moved into a historic district until the provisions of Unified Development Code (UDC) Section 13.7, as amended, have been complied with. Further, no structure within an historic Roswell district may be erected, demolished, removed wholly and/or in part nor the exterior architectural character of such structure be altered until referenced Unified Development Code (UDC) Section 13.7 has been complied with. All structures and/or buildings that are moved into the City of Roswell must be inspected and approved by the chief building inspector or his representative before the structure and/or building is moved into the city.

Chapter 7, Code of Ordinances is hereby amended by changes to Section 7.3.4 to read as follows:

Section 7.3.4 - Minimum requirements for Erosion, Sedimentation and Pollution Control Using Best Management Practices.

17. REZONING plans and development plans must conform to topography and soil type so as to create the lowest practical erosion potential. No rezoning application shall be considered and no land-disturbing activities shall occur on any slope in excess of twenty-five (25) percent within five hundred (500) feet of any state waters or stream identified on the Water Resources Protection Map, latest version, without the submittal of a Steep Slope and Erodible Soils Evaluation. For purposes of this paragraph, "state waters" excludes channels and drainage ways which have water in them only during and immediately after rainfall events and intermittent streams that based on a field evaluation do not have a discernible flow at the time of the evaluation. Field evaluations shall not be made within forty-eight (48) hours of any rainfall event of 0.10 inches or greater or within seven (7) days of any rainfall event of 0.5 inches or greater. The rainfall measurement shall be based on the City of Roswell rainfall gauge closest to the site.

This section shall be in addition to other buffer requirements and shall not exempt any sites from any other requirements of The City of Roswell. This section shall also apply to filling activities that occur within five hundred (500) feet of a "state waters" or included streams, as defined herein, when any part of that fill slope exceeds twenty-five (25) percent.

This section shall not apply to projects with a total site area of less than one (1) acre.

The steep slopes and erodible soils evaluation shall consist of the following:

- a. This section shall be in addition to other buffer requirements and shall not exempt any sites from the other requirements of this article or Unified Development Code_(UDC).

No application for a development permit shall be approved and no permit shall be issued for any land-disturbing activity inconsistent with this section, unless:

(a) The city engineer, or in his or her absence the ZONING director, after consulting with the director of public works/environmental, or his or her designee authorizes land disturbance for the construction of: a stream crossing by a drive-way, transportation route, or utility line parallel to a stream but not closer than twenty-five (25) feet from a stream bank unless due to natural conditions in an area, such construction would be less harmful to the environment than if it were located outside the protection area; or

(f) The city engineer, or in his or her absence the ZONING director, after consulting with the director of public works/environmental or his or her designee authorizes an exception to these rules to allow construction of a detention, retention or sediment control pond, facility or storm drainage structure within a required buffer, setback or protection area where it is deemed to be in the best interest of the water resources system.

Chapter 7, Code of Ordinances is hereby amended by changes to Section 7.3.5 to read as follows:

Section 7.3.5 - Application/Permit process.

A. General. The property owner, developer and designated planners and engineers shall design and review before submittal the general development plans. The local issuing authority shall review the tract to be developed and the area surrounding it. They shall consult the storm water management ordinance, Unified Development Code (UDC), flood damage prevention ordinance, this article, and any other ordinances, rules, regulations or permits, which regulate the development of land within the jurisdictional boundaries of the local issuing authority. However, the owner and/or operator are the only parties who may obtain a permit.

Chapter 8, Code of Ordinances is hereby amended by changes to Section 8.1.7 to read as follows:

Section 8.1.7 - Kennels; Permits.

Where there are four (4) or more domestic dogs, each over the age of four (4) months, kept, maintained or harbored on an appropriately zoned premises, the premises shall be deemed to constitute a kennel; and every kennel shall be subject to regulation and inspection by the health officer. Three (3) domestic dogs or less, not including their issue, shall be allowed in every Unified Development Code (UDC) district. A premises occupied by more than three (3) domestic dogs shall fall into one (1) of two (2) categories. These categories are hobby kennels or commercial kennels. Hobby kennels may only be allowed in the RS-87 and RS-30 (single-family residential) with a minimum of two (2) acres and a maximum of ten (10) domestic dogs, not including their issue. Hobby kennels shall be restricted to casual sale. Commercial kennels shall only be allowed in the NX, CX, SH, CC, PV, CH, DX, DH, OR and IX; outdoor animal care shall a conditional use in IX. Commercial sales may be allowed within a commercial kennel.

The Code Ordinance of the City of Roswell, Georgia is hereby amended to add the HANDBILL DISTRIBUTION Section for the Zoning Ordinance in its entirety by creating Article 8.9 shall read as follows:

HANDBILL DISTRIBUTION**Chapter 8.9.1 Purpose****Chapter 8.9.2 Definitions****Chapter 8.9.3 Inhabited Private Premises—Depositing Handbills; Insignia****Chapter 8.9.4 Scattering Prohibited; Manner of Depositing Handbills****Chapter 8.9.5 Prohibitions; Public Places; Vacant Premises; Vehicles;****Exemptions****Chapter 8.9.6 Lampposts, Public Utility Poles, Trees, Public Structures****Chapter 8.9.7 Violation****Chapter 8.9.8 Penalties****CHAPTER 8.9.1 PURPOSE**

Insofar as unsolicited handbills and flyers are constantly left on private premises and vehicles in public places, there is a problem with litter as such handbills are oftentimes blown into the streets and onto lawns and not retrieved. In addition to the litter problem created by handbill

distribution, an accumulation of handbills is a signal to burglars or vandals that the residence is unoccupied. To that end, this article will set out guidelines for distribution of unsolicited handbills.

CHAPTER 8.9.2 DEFINITIONS

For the purpose of this article, the following terms, phrases, words and their derivations shall have the meaning given herein: Handbill: Any printed or written matter, any sample or device, circular, leaflet, pamphlet, paper, booklet, flyer or any other printed or otherwise reproduced original or copies of any matter of literature which:

- (1) Advertises for sale any merchandise, product, commodity, service, business, opportunity or thing; or
- (2) Directs attention to any business or mercantile or commercial establishment or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales; or
- (3) Directs attention to or advertises any meeting, theatrical performance, exhibition or event of any kind, for which an admission fee is charged or a collection is taken; or
- (4) While containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes or for the private benefit and gain of any person so engaged as advertiser or distributor.

Private premises: Any dwelling house, building, or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure.

Public place: Any street, sidewalk, boulevard, alley or other public way and any public park, square, space, ground or building.

Vehicle: Every device in, upon or by which any person or property is or may be transported or drawn upon a highway.

CHAPTER 8.9.3 INHABITED PRIVATE PREMISES—DEPOSITING HANDBILLS; INSIGNIA

No person shall throw, deposit or distribute any handbill upon any inhabited private premises if the mailbox is specifically marked with the identifying insignia (City of Roswell green sticker) which signifies the occupant does not wish to receive handbills. The identifying insignia is to be posted on the bottom right corner of the mailbox door. The insignia will be green, state HANDBILLS with the universal insignia for no superimposed over "HANDBILLS," and identify the enforcing ordinance, to wit:

CHAPTER 8.9.4 SCATTERING PROHIBITED; MANNER OF DEPOSITING HANDBILLS

Unless inhabited private premises are posted, as provided in section 2300.2, or unless requested by anyone upon such premises not to do so, the person distributing the handbills may place or deposit any such handbill in or upon such inhabited private premises, if such handbill is placed or deposited in a manner reasonably designed to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets or other public places, and except that mailboxes may not be so used when prohibited by federal postal law or regulations.

CHAPTER 8.9.5 PROHIBITIONS; PUBLIC PLACES; VACANT PREMISES; VEHICLES; EXEMPTIONS

(a) No person shall throw, post or deposit any handbill in or upon any sidewalk, street or other public place within the city, nor shall any person hand out or distribute or sell any handbill in any public place; provided, however, that it shall not be unlawful on any sidewalk, street or other public place within the city for any person to hand out or distribute, without charge to the receiver thereof, any handbill to any person willing to receive it.

(b) No person shall throw, post or deposit any handbill in or upon any private premises which are vacant and which could be reasonably ascertained to be vacant.

(c) No person shall throw, post or deposit any handbill in or upon any vehicle; provided, however that it shall not be unlawful in any public place for a person to hand out or distribute without charge to the receivers thereof, a handbill to any occupant of a vehicle who is willing to accept it.

(d) Handbills for political, charitable and other nonprofit purposes are exempt from this article; however, if a newspaper is directly notified that a citizen does not wish to receive it, such request must be honored, or further distribution will be considered a violation of this article.

CHAPTER 8.9.6 LAMPPOSTS, PUBLIC UTILITY POLES, TREES, PUBLIC STRUCTURES

No person shall post or affix any handbill, notice, poster or other paper or device, calculated to attract the attention of the public, to any lamppost, public utility pole, tree, or upon any public structure or building, except as may be authorized or required by law.

CHAPTER 8.9.7 VIOLATION

(a) If any handbill is found on any public or private premises or vehicle in violation of this article, it shall be a rebuttable presumption that the person or persons whose name(s), address(es) or telephone number(s) appear thereon has violated this article.

(b) The person who throws or deposits such handbills may also be charged with a violation of this article.

CHAPTER 8.9.8 PENALTIES

(a) Anyone convicted of violating this article shall be guilty of a misdemeanor and subject to the penalties set forth in section 1.1.3 of the Code of Ordinances.

(b) Any continuing violation of this article resulting in the unlawful littering of the streets or sidewalks of the City of Roswell shall be deemed a nuisance and on conviction thereof by the Municipal Court of Roswell, the mayor and council may revoke the business license of the violator.

(c) Each day a violation occurs shall constitute a separate offense. Each location at which a violation occurs shall constitute a separate offense.

Chapter 10, Code of Ordinances is hereby amended by changes to Section 10.4.11 to read as follows:

Section 10.4.11 - ZONING and Change of Location.

(a) All applications shall contain the address of the premises upon which the business is conducted and the Unified Development Code (UDC) and planning classification of the premises.

Chapter 13, Code of Ordinances is hereby amended by changes to Section 13.4.11 to read as follows:

Section 13.4.11 - Signs.

It shall be unlawful for any person hired by an owner of any private property, or his agent or employee, located within the territorial limits of the city to install or attach to any vehicle a vehicle immobilization device(s), boot(s), or other instrument(s) that is/are designed to, or have the effect of, restricting the normal movement of such vehicle or by any other means whatsoever to restrict the normal movement of such vehicle, unless the owner of the property, or his agent or employee, has complied with all applicable city Unified Development Code (UDC) regarding the posting of signs and the following requirements:

(1) Signs shall be located at each designated entrance to a parking lot or parking area where parking prohibitions are to be effective. Where there is no designated entrance, such signs shall be erected so as to be clearly visible from each and every parking space. Any such sign or signs to be erected upon historic property as defined in the shall be located as approved by the Historic Preservation Commission

Chapter 14, Code of Ordinances is hereby amended by changes to Sections 14.3.3 and 14.3.12 to read as follows:

Section 14.3.3 - ZONING Requirements.

Special event permits are available for events in the NX, CX, SH, CC, PV, OR, OP, IX and IL or Historic Properties Overlay District. Permits for events in residentially zoned districts shall be issued on a limited basis for uses which will not create undue hardship on surrounding residences.

Section 14.3.12 - Other Permits Required.

(c) Signs. Permits for any signs advertising or relating to such special event shall be in accordance with the Unified Development Code (UDC) Article 10.3 "Signs".

Chapter 19, Code of Ordinances is hereby amended by changes to Sections 19.2.1, 19.3.1, 19.4.1, 19.4.3 and 19.4.5 to read as follows:

Section 19.2.1 - Outline of Procedure for the Subdivider.

(b) Following approval of the preliminary plat the subdivider may submit six (6) copies of the proposed plans and two (2) copies of any required study, i.e. traffic, hydrology, etc., to the community development department for the applicable permits. Plans shall be in accordance with section 19.4.4, provided, however, if a proposed project is for a non-single-family residential development the applicable sections of Article 11.2 of the Unified Development Code (UDC), must be complied with.

Section 19.3.1 - Design of Utilities and Other Improvements.

(2) All subdivisions shall meet the stormwater requirements of the City of Roswell. When serving more than three (3) lots, detention ponds, retention ponds and water quality features (including all required access easements, landscape strips and fences) shall be located on an individual lot of record where no home can be constructed. This parcel shall be owned and maintained by the homeowners' association or the lots of record being served by this facility. The parcel shall have a minimum twenty-foot wide continuous access to a public or private road in a manner that allows access and maintenance of this parcel. This lot will not be required to meet the normal lot standards for that Unified Development Code (UDC) district.

Section 19.4.1 - Preliminary Plat Specifications.

(15) Current Unified Development Code (UDC) classification and conditions (when applicable).
(20) Street tree plan and demonstrate compliance with tree density requirements as established in Article 10.2 of the Unified Development Code (UDC).

Section 19.4.3 - Submittal of Plans for Utilities and Streets.

Upon approval of the preliminary plat, plans and specifications for the improvements required under the provisions of this chapter shall be submitted, provided, however, if a proposed project is for a non-single-family residential development, or any subdivision within the historic district (including single-family residential) the applicable sections of Article 13, Unified Development Code (UDC) must be complied with.

Section 19.4.5 - Final Plat Specifications.

(1) The engineers or surveyors certificate of accuracy signed by the engineer or surveyor.
CERTIFICATE OF SURVEYOR/ENGINEER

It is hereby certified that this plat is true and correct and was prepared from an actual survey of the property made by me or under my supervision; that all monuments shown hereon actually exist or are marked as "Future", and their location, size, type and material are correctly shown; and that all engineering requirements of the "Land Subdivision Ordinance of the City of Roswell" and the requirements of the Unified Development Code (UDC) of the City of Roswell, Georgia" have been fully complied with.

By: Registered Civil Engineer No.

By: Registered Georgia Land Surveyor No.

(E) (b) A subdivider's performance bond, in an amount equal to one hundred twenty-five (125) percent of the cost of the infrastructure improvements not yet in compliance, shall have been filed by the subdivider in the office of the ZONING administrator, said performance bond shall:

(5) Be approved by the ZONING administrator or the city attorney.

Chapter 21, Code of Ordinances is hereby amended by changes to Sections 21.1.18, 21.2.4, 21.2.5 and 21.2.6 to read as follows:

Section 21.1.18 - Protection of Trees.

Trimming of trees and shrubbery within the public right-of-way to prevent contact with grantee's facilities shall be done only in accordance with the standards approved by the city arborist in accordance with the ordinances of the city. Grantee shall comply in all respects with Design Guidelines. Removal or pruning of any tree or shrub or such tree or shrub's roots shall only be done upon issuance of a permit by the arborist. When trees or shrubs in the public right-of-way are damaged as a result of work undertaken by or on behalf of grantee, grantee shall pay the city within thirty (30) days of submission of a statement by the city, the cost of any treatment required to preserve the tree or shrub and/or cost for removal and replacement of the tree or shrub with landscaping of equal value and/or the value of the tree or shrub prior to the damage or removal, as determined by the arborist or other authorized agent of the city.

Section 21.2.4 - General Requirements.

- (1) The scaled site plan shall clearly indicate the location, type and height of the proposed tower or accessory structure to be utilized, on-site land uses and ZONING, adjacent land uses and ZONING including proximity to historic or scenic view corridors, adjacent roadways, proposed means of access, setbacks for property lines, elevation drawings of the proposed tower, accessory structure and any other structures, topography, parking, and other information deemed necessary by council to assess compliance with this ordinance.

Section 21.2.5 - Development Requirements for Towers.

- (a) Towers may be located only in the following ZONING districts subject to the restrictions and standards contained herein:

AG-43, CX, CC, CH, IX, IL or CIV

Wireless transmission facilities in OP, the other districts shall be alternative tower structures only; provided however, towers may be allowed on publicly owned property regardless of Unified Development Code (UDC) district.

- (1) All transmission facilities, except buried portions, shall be set back from all adjoining properties zoned non-residential a distance equal to the underlying setback requirement in the applicable ZONING district.

MAXIMUM TELECOMMUNICATIONS TOWER HEIGHTS
ZONING District

Section 21.2.6 - Approval Process.

- (6) Installing any antenna or tower not to exceed the limitations contained in subsection 21.2.5(f) in any area zoned AG-43, CX, CC, CH, OP, IX, IL or CIV and provided accessory structures are located underground, where technically feasible, or shielded to the satisfaction of the design review board.

F (b) If the proposed tower or antenna is not included under the above described expedited approval uses, or the application does not on its face satisfy the development standards and other criteria specified herein, then a public hearing before the mayor and council shall be required for the approval of the construction of a wireless transmission facility in all Unified Development Code (UDC) districts. Applicants shall apply for a public hearing through the community development department and pay the required \$500.00 fee at such time. Applications, when complete, shall be placed on the next available agenda of the mayor and council at which Unified Development Code (UDC) matters are considered. At least thirty (30) days prior to any scheduled hearing, the community development department shall cause a sign to be posted on the property and the publication of a public notice in a newspaper of general circulation and notice sent to surrounding property owners as shown on the county tax records within one thousand (1,000) feet of the proposed tower or antenna. Said notice shall state the nature of the application, street location of the proposal and height of the proposed structure.

Before approving an application for an "other use," the governing authority may impose Unified Development Code (UDC) conditions to the extent necessary to buffer or otherwise minimize any adverse effect of the proposed tower on adjoining properties. The factors considered in granting such a permit include those enumerated in sections 21.2.4 and 21.2.5. The mayor and council may waive one (1) or more of these criteria, if, in their discretion doing so will advance the goals of this article as stated in section 21.2.1. Approved applications shall be valid for one (1) year from the date of the approval by the mayor and council.

Chapter 22, Code of Ordinances is hereby amended by changes to Section 22.4.4 to read as follows:

Section 22.4.4 - Declared to be Unlawful and a Nuisance.

(3) Any motor vehicle on property occupied and used for repair, reconditioning and remodeling of motor vehicles in conformance with the Unified Development Code (UDC) of the city.

Chapter 24, Code of Ordinances is hereby amended by changes to Section 24.4.1 to read as follows:

Section 24.4.1 - Definition.

For purposes of this article, the term "multi-family complex" shall have the meaning ascribed in sections 2.1.1, Building Type Descriptions, of the Unified Development Code (UDC). This ordinance shall apply to condominiums and townhomes not presently receiving curbside service.

2.

This Ordinance is enacted pursuant to the authority granted to municipal governing authorities in Chapter 35 of Title 36 of the O.C.G.A., known as the *Municipal Home Rule Act of 1965*.

3.

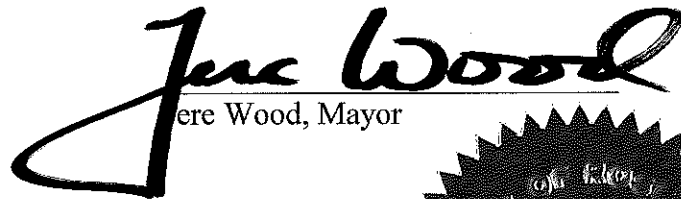
All ordinances, parts of ordinances and regulations in conflict here are repealed as of the effective date of this Ordinance.

4.

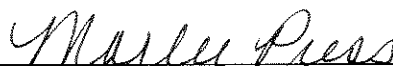
It is the intention of the Mayor and Council, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinance fro the City of Roswell, Georgia and the sections of such text may be renumbered to accomplish such intention.

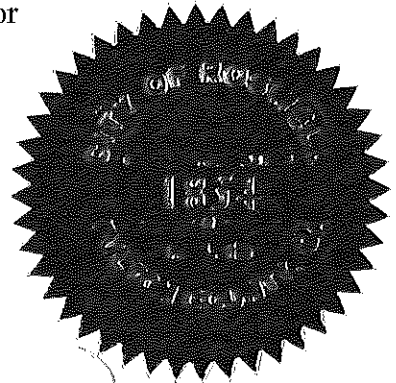
5.

This Ordinance shall take effect and be in force from and after the date of its adoption on February 24, 2014, the public welfare demanding it.

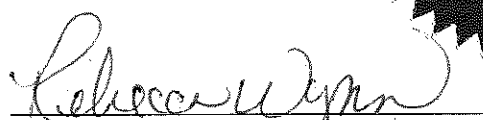

Eric Wood, Mayor

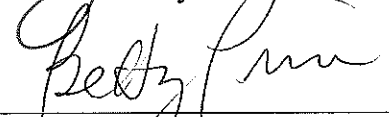
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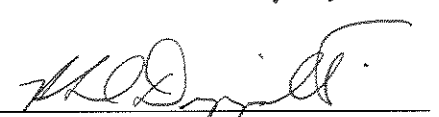

Marlee Press, City Clerk
(SEAL)

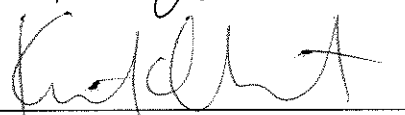


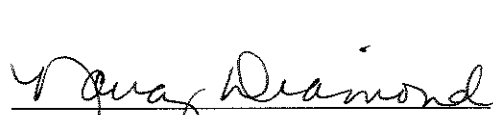

Councilmember Jerry Orleans


Councilmember Rebecca Wynn


Councilmember Betty Price


Councilmember Richard Dippolito


Councilmember Kent Igleheart


Councilmember Nancy Diamond