

ORDINANCE 2015-05

AN ORDINANCE OF THE CITY OF MARY ESTHER, FLORIDA, REPEALING THE FINES AND FEES AS ESTABLISHED BY ORDINANCE; PROVIDING FOR FINES AND FEES OF THE CITY TO BE ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL; AMENDING CHAPTER 2 AND PROVIDING FOR NOTICE REQUIREMENTS; AMENDING CHAPTER 10 AND PROVIDING FOR ADDITIONAL DEFINITIONS AND CIVIL PENALTIES; AMENDING CHAPTER 11, PARKING AND STORAGE REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City is committed to a fair and uniform application of its codes and ordinances;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARY ESTHER, FLORIDA THAT:

NOTE: Language contained within this ordinance that is ~~struck through~~ is proposed to be deleted, language which is underlined is proposed to be added, and \*\*\*\* denotes a section or sections of the existing Code that have been omitted and are to remain unchanged.

**SECTION I - AMENDING**

Sec. 2-76.02. - Notice of violation. (Code Enforcement Procedures)

Prior to issuing a citation, the code enforcement officer shall give notice that a violation of a city code has occurred and shall establish a reasonable time period not to exceed thirty (30) days, within which the violation shall be corrected. If the violation is irreparable or poses a threat to the public health, safety and welfare, a citation may be immediately issued in lieu of a notice of violation.

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Sec. 2-76.05. - Schedule of civil penalties. (Code Enforcement Procedures)

Any violations of city codes shall constitute a civil infraction of those codes. Any person who elects not to contest the fines shall be subject to a civil penalty in accordance with the fines in effect as adopted by the City Council.

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Sec. 2-83. - Notices. (Code Enforcement Procedures)

(A) All notices and citations required by this article shall be issued by:

- (1) Certified mail, return receipt requested; or
- (2) Hand delivery by the sheriff or other law enforcement officer, code inspector, or other person designated by the local governing body; or
- (3) Acceptance of the the notice at the violator's usual place of residence with any person residing therein who is above 15 years of age and informing such person of the contents of the notice; or

- (4) In the case of commercial premises, leaving the notice with the manager or other person in charge; or
- (5) Posting the notice at the violator's usual place of residence or in the case of commercial premises, posting the notice to the premises in a conspicuous place.

(B) Any juvenile who has been cited for a violation of City codes shall have the notice or citation issued to his or her person and shall have a copy of the notice or citation mailed by regular mail to his or her address as provided.

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Sec. 3-6. - Penalties and enforcement. (Alcohol)

Any person found to have violated this chapter shall be guilty of a misdemeanor of the second degree, punishable as provided in F.S. § 775.082 or § 775.083, and may be fined a civil penalty up to five hundred dollars (\$500.00) per violation or the maximum amount as allowed by law. Additionally, any person found to have violated this chapter shall be subject to a civil penalty in accordance with the fines in effect as adopted by the City Council. It shall be the responsibility of the city manager or designee and the law enforcement agency providing law enforcement to the city to enforce this chapter.

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Sec. 4-4. - Interference with animal control officer. (Animals)

(a) Prohibited. It shall be unlawful and a civil infraction for any person to hinder, obstruct or otherwise interfere with an officer while discharging his duties under this chapter; or to take or attempt to take any animal from any vehicle used by the officer to transport animals; or to take or attempt to take any animal from the animal shelter without proper authority; or to knowingly interfere with any animal trap set by an officer or persons obtaining such traps from the animal control agency. Any person found to have violated this chapter shall be subject to a civil penalty in accordance with the fines in effect as adopted by the City.

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Sec. 4-21. Penalties. (Animals)

(a) Penalties for infractions. Any person found to have violated this chapter shall be subject to a civil penalty in accordance with the fines in effect as adopted by the City Council.

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Sec. 6-37 (b) (Cemetery)

The cost of cemetery property is based upon a per-lot price with a lot being composed of two (2) spaces. The cost of cemetery lots shall be charged in accordance with the fee schedule established as adopted by the City Council.

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Sec. 8-2. - Penalty for violation of chapter. (Fire Department)

(a) Any person, firm, corporation, or anyone acting on their behalf, who violates the provisions of this chapter, or fails to comply with any of its requirements, except where otherwise provided, upon conviction thereof, shall be punished by a fine not to exceed five hundred dollars (\$500.00) or imprisonment for sixty (60) days, or both, and shall pay all costs and expenses involved in the case. Additionally, any person found to have violated this chapter shall be subject to a civil penalty in accordance with the fines in effect as adopted by the City Council. Each day such violation continues shall constitute a separate offense.

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Sec. 8-6. - Fire inspection procedures and fees.

(a) Requirement. Annual fire and life safety inspections are required for certain occupancies within the city, except if more frequent inspections are required by another code, rule or statute. Occupancies with separate entrances and fire separations between adjacent occupancies will each require an individual inspection. Minor violations/discrepancies found shall be corrected within ten (10) calendar days and major violations identified in the inspection report shall to be corrected within three (3) calendar days. Life threatening hazards shall be corrected within 24 hours from the time the hazard is identified and reported to the property owner. If in the opinion of the City Manager or designee that the building or structure should be closed to occupancy in the interest of public health, safety and welfare, access shall be restricted until the violation has been corrected. Fire safety inspections as required by ordinance, law, code, or regulation shall be based on the fees in effect as adopted by the City Council.

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Sec. 8-8. - Other inspections/test fees. (Fire Department)

Additional inspection and test fees not listed in Section 8-6 shall be charged in accordance with the fees in effect as adopted by the City Council.

Sec. 8-9. - Permits. (Fire Department)

(a) Permits shall be issued as mandated by the Florida Fire Prevention Code, and this section of this Code of Ordinances.

(b) The Florida Fire Prevention Code provides the authority for the City of Mary Esther to issue permits concerning fire control and/or hazards within the city. Commencement of an operation requiring a permit prior to issuance of the permit will result in an assessment as described in the City's schedule of fees in effect at the time of violation. Actions performed in conjunction with a permitted automatic sprinkler system, automatic fire alarm system or standpipe system resulting in a reported fire alarm initiating a fire department response to investigate the alarm will result in revocation of an existing permit. Reissuance of a permit which was revoked in accordance with code Section 8-9 will be at a fee ten (10) times the base fee listed in the City's fee schedule; subsequent alarms initiated will result in an escalating fee double the previous fee paid. Operations requiring a permit to be issued by the fire department shall be charged the permit fee in effect as adopted by the City Council.

(c) Permits not transferable. A permit shall not be transferable. Any change in use of a permitted building or the location of a permitted activity shall require a new permit.

(d) Permit required. No activity for which a permit is required shall be conducted without a permit.

- (e) Fee required before issuance. No permit shall be issued until the required fee is paid.
- (f) Period of validity. All permits shall be valid for one (1) year unless otherwise specified.
- (g) Responsibility for application for renewal. Permittee shall be responsible to apply for renewal of permits no less than thirty (30) calendar days prior to the expiration of the permit.
- (h) Application to one- and two-family residences. Permits required by this section shall not be applicable to one- or two-family residential use buildings, except those pertaining to fumigation and thermal insecticide fogging.

Sec. 8-10. - New construction and renovation of buildings.

(a) Plan review and inspection. The fire department shall perform a building plan review and inspection, for fire and life safety code compliance of all new buildings and renovations to buildings, except for one- and two-family residential use buildings.

(b) Plan review fee. The fire department building plan review fee shall be collected by the finance department.

(c) Payment prior to permit issuance. Building plan review fees shall be paid prior to permit issuance by the building department, unless otherwise noted.

(d) Building plan reviews. Building plan reviews performed by the fire department at the request of the applicant for proposed uses, prior to building permit application/issuance, shall be based on the fees in effect as adopted by the City Council.

(e) Application of re-inspections. Re-inspections required by this section apply to inspection areas not ready or additional inspections for correction of discrepancies.

(f) Re-inspection fees allowed to accumulate. Re-inspection fees as applicable to this section may be permitted to accumulate for a thirty-day period or until the occupancy is ready for a final inspection, whichever occurs first.

(g) Payment at end of thirty (30) days. At the end of the thirty (30) days or at a time of the request for a final inspection, no further inspections or work shall be performed until all fees are paid.

(h) Department approval certificate required for issuance of certificate of occupancy. A certificate of occupancy shall not be issued until the fire chief or his designee has inspected said building and determined it is in compliance and is safe for human occupancy. A fire department approval certificate is required before any certificate of occupancy is issued by the city or any of its agents. The builder/contractor or agent shall be responsible for delivering the fire department approval certificate to the building official for issuance of a certificate of occupancy. Failure to do so shall constitute a violation of this chapter.

(i) Stop work order. Upon notice from the fire chief or his designee, work on any building, structure or other such work that is being done contrary to any provision of this chapter or other fire or life safety code shall immediately cease. Such notice shall be in writing and shall be given to the owner, or their agent, or the person performing the work. Such order shall state the conditions under which work may be resumed. Where an immediate life or safety hazard exists, such order may not be in writing prior to stopping work.

Sec. 8-11. - Special plan review fees.

(a) The fire department shall perform a special plan review and an inspection for fire and life safety code compliance for on-site hydrants systems, flammable or combustible tanks, liquefied petroleum gas, sprinkler systems, standpipe systems, fire suppression systems, fire alarm systems. Fees charged for these services are in addition to any other fees.

(b) A fee shall be charged for specialty plan reviews and inspections for new construction or renovation in accordance with the fees in effect as adopted by the City Council.

(c) Specialty plan review fees shall be payable at the city hall at the time of building permit issuance. If no building permit application is required, fees shall be payable at the Mary Esther Fire Department/City Hall. Plan review fees are nonrefundable.

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Sec. 8-12. - Site plan review fees.

(a) The fire department shall perform site plan reviews and a final inspection for fire protection requirement compliance for building sites, planned developments, and subdivisions.

(b) A fee shall be charged for site plan reviews according to the schedule of fees in effect as adopted by the City Council.

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Sec. 8-19. - Standby fire protection.

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(c) Rates. Fire protection rates, for standby or response, shall be charged in accordance with the fees in effect as adopted by the City Council.

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Sec. 8-21. - Fire hydrant location and markers.

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(c) Testing and painting. The fire department may perform flow testing and painting of the hydrants on private water systems, after a hold harmless agreement has been signed and the fee for said services has been received by the city.

Sec. 8-22. - Fire hydrant markers.

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(d) The city may provide fire hydrant markers or installation of markers if requested. The cost for this service shall be the fee in effect as adopted by the City Council.

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Sec 10-1 Definitions (Code of Ordinances-Garbage and Refuse)

"Dump" means to dump, throw, discard, place, deposit, or dispose of.

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"Litter" means any garbage; rubbish; trash; refuse; can; bottle; box; container; paper; tobacco product; tire; appliance; mechanical equipment or part; building or construction material; tool; machinery; wood; motor vehicle or motor vehicle part; vessel; aircraft; farm machinery or equipment; sludge from a waste treatment facility, water supply treatment plant, or air pollution control facility; or substance in any form resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.

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Sec. 10-8 Penalties (Code of Ordinances-Garbage and Refuse Article I. In General)

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(c) In addition to the penalties specified herein, violations of this chapter shall be subject to a civil penalty in accordance with fines in effect as adopted by the City Council.

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Sec. 10-21 Definitions (Code of Ordinances-Garbage and Refuse, Article II. Public Nuisances; Litter Control)

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"Dump" means to dump, throw, discard, place, deposit, or dispose of.

\*\*\*\*

"Litter" means any garbage; rubbish; trash; refuse; can; bottle; box; container; paper; tobacco product; tire; appliance; mechanical equipment or part; building or construction material; tool; machinery; wood; motor vehicle or motor vehicle part; vessel; aircraft; farm machinery or equipment; sludge from a waste treatment facility, water supply treatment plant, or air pollution control facility; or substance in any form resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.

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Sec. 10-36 Penalties (Code of Ordinances-Garbage and Refuse)

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(c) In addition to the penalties specified herein, violations of this chapter shall be subject to a civil penalty in accordance with the fines in effect as adopted by the City Council.

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Sec. 11.07.18. Schedule of Penalties for Violations. (LDC-Illicit Discharge)

Any person found to have violated this chapter shall be subject to a civil penalty in accordance with the fines in effect as adopted by the City Council.

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Sec. 11-1 (b)(1) (Code of Ordinances-Derelict and Inoperable Vehicles)

Parking and storage. It shall be unlawful for any person in charge or in control of any private property within the city, whether an owner, tenant, occupant, lessee, or otherwise to allow any derelict, inoperable or junked motor vehicle to be parked or stored on any private property in the city, unless the following conditions exist:

a. The vehicle is parked or stored within a completely enclosed building or the vehicle has been covered with a bumper to bumper tie-down cover in good repair which is specifically manufactured to cover a vehicle and has been adequately secured to the vehicle. No tarp shall be used as a vehicle cover.

b. The vehicle is stored in a rear yard behind an opaque fence or landscape buffer completely screened from off-premises view;

c. The vehicle is temporarily parked or stored at a business located in a zoning district for which automobile repair or storage is an approved use; or

d. The vehicle is temporarily parked or stored on the premises for the sole purpose of repair or salvage not to exceed ~~ninety (90)~~ thirty (30) days. The owner or occupant of the property where the vehicle is stored shall disclose to the inspector at the time of inspection that the vehicle is stored in accordance with the purpose of this section.

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Sec. 13-18 Schedule of taxes (Code of Ordinances-Business Tax Receipt)

The amount of the business tax which shall be paid by the several firms, persons, or associations engaging in or managing businesses, professions or occupations for which a business tax receipt is required shall be charged in accordance with the fee in effect as adopted by the City Council.

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Sec. 13-84. - Penalties. (Code of Ordinances-Business Tax Receipts)

Any person convicted of violating this chapter shall be prosecuted in the same manner as a misdemeanor in the second degree, and upon conviction shall be punished by a fine not to exceed five hundred dollars (\$500.00) or imprisonment, not to exceed sixty (60) days or by both such fine and imprisonment. In addition, any person found to have violated this chapter shall be subject to a civil penalty in accordance with the fines in effect as adopted by the City Council.

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Sec. 14-4. - Penalty provisions. (Code of Ordinances-Curfew of Minors)

Violation of the curfew ordinance shall be punishable as provided under F.S. §§ 877.20--877.25.

A minor who violates the curfew ordinance shall receive a written warning for her or his first violation. A minor who violates the curfew ordinance after having received a prior written warning is guilty of a civil infraction and shall be subject to a civil penalty in accordance with the fines as established by resolution of the City Council which may be changed from time to time as the Council deems necessary.

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Sec. 14.5-7. - Penalties for violations. (Code of Ordinances-Parking)

Violations of this chapter shall be deemed a non-criminal municipal traffic infraction. Any person found to have violated this chapter shall be subject to a civil penalty in accordance with the fines in effect as adopted by the City Council.

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Sec. 18.00.01 Development Order Fees: (LDC-Permit Fees)

A. Generally. The applicant for a permit for any construction, installation, moving or demolition permit required by Section 18.00.00 of this article shall, at the time of making application and issuance of a permit, pay for each permit for which shall be applied the fee in effect as adopted by the City Council

If, in the opinion of the Planning and Zoning Department, the construction value as submitted on the permit application appears to be underestimated, the permit may be denied or recalculated, unless the applicant provides a fully executed signed contract. The Department reserves the right to require any applicant to submit a fully executed contract. A fully executed contract shall include all labor, materials and the retail value of the construction work for which the permit has been applied for.

Moving and demolition fees for any building or structure shall be charged in accordance with the fee schedule as adopted by the City Council which may be changed from time to time as the Council deems necessary.

IMPACT FEE: Impact fees may be established by a resolution of the City Council.

B. Plan Review and Site Inspection Fee: The Planning and Zoning Department shall perform plan reviews and site inspections to ensure plans and construction meet compliance with applicable City codes, ordinances and regulations. A plan review and site inspection fee, when applicable, shall be charged according to the fee schedule in effect as adopted by the City Council. Fees shall be required to be paid prior to a plan review. No certificate of occupancy shall be issued until all fees are paid in full.

Sec. 18.00.02 Sewer and Water Tap Fees: In the event that sewer and/or water tap fees are required for individual lots they shall be as specified in Section 20 of the City of Mary Esther Code of Ordinances. Tap fees, if required, shall be paid prior to issuance of the permit.

Sec. 18.00.03 Fire Sprinkler System Permit Fees: Each individual sprinkler head, roughed-in and/or final inspections shall be charged in accordance with the fee schedule in effect as adopted by the City Council. Hydraulic calculations shall be required prior to issuance of any permit.

Sec. 18.01.00 - INSPECTION FEES

Inspection fees as determined by the City Manager, or his or her designee, shall be paid for each permit to which inspections apply, prior to issuance of a permit, in accordance with the fee schedule in effect as adopted by the City Council. Re-inspection fees ~~will~~ shall be paid prior to performing such a re-inspection.

Sec.18.02.00 -CITY COUNCIL/LPA REVIEW, RECOMMENDATIONS, PROCESSING AND FEES

The City Council/LPA shall review and make recommendations on all developments within its jurisdiction. The City Manager, or his or her designee, shall process applications for all permits, variances and other modifications, including, but not limited to, inspections, permits, rezoning, variances, special exceptions, regulations and/or land use plans.



18.02.01 Review and Processing Fees:

Projects which require a special review and processing shall be charged the fee in the fee schedule in effect as adopted by the City Council.

Sec. 18.03.00 - CONCURRENCY EVALUATION REVIEW FEES

Concurrency evaluation review fees shall be charged in accordance with the City's fee schedule in effect as adopted by the City Council.

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Sec. 20-91. - Service charges. (Code of Ordinances-Water/Sewer Fees)

For the purpose of determining the "Ready to Serve" water rate for commercial customers, "Commercial 1" customer accounts are identified as customer accounts with a monthly water usage of twelve thousand (12,000) gallons per month or less. "Commercial 2" customer accounts are identified as customer accounts with a monthly water usage of twelve thousand and one (12,001) gallons per month or more.

Water service charges shall be charged in accordance with the City's fee schedule in effect as adopted by the City Council.

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Sec. 20-93. - Water tap-in fees.

Tap-in fees shall be charged in accordance with the City's fee schedule in effect as adopted by the City Council.

Sec. 20-94. - Water for cleaning purposes.

A fee for cleaning water shall be charged in accordance with the City's fee schedule in effect as adopted by the City Council.

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Sec. 20-106. - Service charges.

For the purpose of determining the "Ready to Serve" sewer rate for commercial customers, "Commercial 1" customer accounts are identified as customer accounts with a monthly water usage of twelve thousand (12,000) gallons per month or less. "Commercial 2" customer accounts are identified as customer accounts with a monthly water usage of twelve thousand and one (12,001) gallons per month or more.

Service charges shall be charged in accordance with the City's fee schedule in effect as adopted by the City Council.

Sec. 20-107. - Sewer tap-in fees.

The tap in fees for residential and commercial sewer taps shall be charged in accordance with the City's fee schedule in effect as adopted by the City Council.

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Sec. 21-66. - Sewage collection system.

The developer shall provide an adequate sanitary sewage collection system within the development, for acceptance by the city, prior to the commencement of building construction. In addition any builder shall pay an impact fee per bedroom per single-family unit to help augment the sewage treatment facilities. Such impact fee is deemed necessary due to the burden that increased per-capita density places on the sewage treatment facilities. Payment of the impact fee shall be made to the city prior to the issuance of any building permit and calculated per the City's adopted fee schedule in effect at the time the permit is issued.

## SECTION II - SEVERABILITY

Should any part of this ordinance be declared unconstitutional or void by a court of competent jurisdiction, the remaining parts shall remain in full force and effect.

## SECTION III - CONFLICT

This Ordinance shall prevail over all prior Ordinances or Resolutions or parts thereof in conflict herewith, and are hereby repealed to the extent of such conflict.

## SECTION IV - EFFECTIVE DATE

This ordinance shall become effective upon adoption according to law.

*SO DONE this 1<sup>st</sup> day of JUNE 2015.*

By:

\_\_\_\_\_  
Margaret McLemore, Mayor

ATTEST:

\_\_\_\_\_  
Dana L.S. Williams, CMC  
City Clerk

1<sup>st</sup> Reading: 5/4/15  
Published: 5/22/15  
2<sup>nd</sup> Reading: 6/1/15

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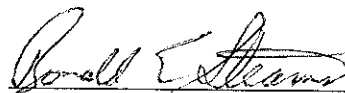
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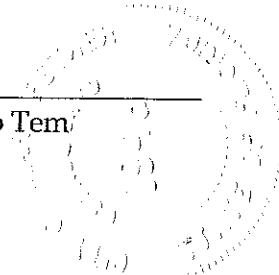
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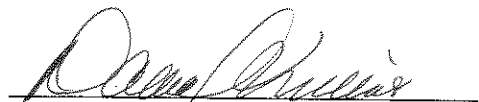
By:



Ron Stearns, Mayor Pro Tem



ATTEST:



Dana L.S. Williams, CMC  
City Clerk

1<sup>st</sup> Reading: 5/4/15  
Published: 5/22/15  
2<sup>nd</sup> Reading: 6/1/15