

ORDINANCE NO. O-2021-XXX

AN ORDINANCE OF THE CITY OF OAKLAND PARK, FLORIDA CREATING SECTION 21-21 TO 21-29 “COMMERCIAL VEHICLE WEIGHT AND LOAD RESTRICTIONS, IN ACCORDANCE WITH CHAPTER 316 FLORIDA STATUTES, BY PROVIDING REGULATIONS ON WHEEL AND AXLE LOAD AND VEHICLE WEIGHTS FOR CERTAIN VEHICLES OPERATING ON CITY ROADWAYS; PROVIDING REGULATIONS FOR UNSAFE COMMERCIAL MOTOR VEHICLES AND FOR OUT-OF-SERVICE VEHICLES AND DRIVERS OPERATING ON CITY ROADWAYS; REQUIRING PROPER REGISTRATION AND PROVING FOR SPECIAL PERMITS FOR COMMERCIAL MOTOR VEHICLES; PROVIDING FOR ENFORCEMENT, INSPECTION, PENALTIES AND APPEAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, municipalities are authorized to enact commercial vehicle regulations for roadways within the jurisdiction of the municipality pursuant to Florida Statute § 316.006 and 316.555; and

WHEREAS, the regulation of wheel and axle loads and gross vehicle weights of certain vehicles on roadways within the City's jurisdiction and the assessment of fees and penalties for violations of the regulations will promote the public health, safety and general welfare upon the streets, roadways and highways within the City of Oakland Park; and

WHEREAS, the City Commission of the City of Oakland Park has deemed it to be in the best interest of the citizens and residents of the City of Oakland Park that Article of the Oakland Park Code of Ordinances be amended to include "Commercial Vehicle Weight and Load Restrictions", in accordance with Chapter 316 of the Florida Statutes; and

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION
OF THE CITY OF OAKLAND PARK, FLORIDA THAT:**

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1 **SECTION 1.** The foregoing "Whereas" clauses are hereby ratified and
2 confirmed as being true and correct and are hereby made a part of this Ordinance.

3
4 **SECTION 2. Chapter 21, Article 1, Section 21-21 through 21-29** of the
5 Oakland Park Code of Ordinances, is hereby created, as follows:

6 **21-21. Introduction.**

7 The purpose of this division is to promote the public health, safety and general welfare
8 upon the streets, roadways and highways located in the city by regulating the wheel and
9 axle loads and gross vehicle weights of certain vehicles, to provide for the assessment of
10 fees and to provide penalties for violations of provisions of this division.

11 **Sec. 21-22. Adoption of regulations.**

12 Except as otherwise provided in this division the City expressly adopts the weight and
13 load restrictions and enforcement procedures for commercial vehicles as promulgated in
14 F.S. Ch. 316, rules and regulations contained in Chapter 49 of the Code of Federal
15 Regulations (CFR) 390-397 and the North American Driver Out-of-Service Criteria, as
16 each is amended from time to time.

17 **Sec. 21-23. Jurisdiction.**

18 The jurisdiction for determining restrictions as to oversize and overweight vehicles is
19 provided to the city by the State of Florida through the provisions of F.S. Ch. 316,
20 specifically §§ 316.006 and 316.555.

21 **Sec. 21-24. Violations.**

22 It is a violation of this section for any person to drive or move, or for the owner to cause
23 or knowingly permit to be driven or moved, on any street, roadway or highway located
24 within the city, any vehicle or vehicles of a size or weight exceeding the limitations
25 stated in this division or otherwise in violation of any provision of this division.

26 **Sec. 21-25. Maximum weights.**

27 (a) The gross weight imposed on a street, roadway or highway within the city by the
28 wheels of any one axle of a vehicle shall not exceed twenty thousand (20,000) pounds.

29 (b) Subject to the limit upon the weight imposed upon the streets, roadways and
30 highways through any one axle as set forth in this section, the total weight with load

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- 1 imposed upon the street, roadway or highway within the city by all of the axles of a
- 2 vehicle or combination of vehicles shall not exceed the gross weight given for the
- 3 respective distance between the first and last axle of the vehicle or combination of
- 4 vehicles, measured longitudinally to the nearest foot as set forth in the following table:

<u>Distance in Feet between First and Last Axles of Vehicles or</u> <u>Combination of Vehicles</u>	<u>Maximum</u> <u>Loads in</u> <u>Pounds on all</u> <u>Axles</u>
<u>4</u>	<u>40,000</u>
<u>5</u>	<u>40,000</u>
<u>6</u>	<u>40,000</u>
<u>7</u>	<u>40,000</u>
<u>8</u>	<u>40,000</u>
<u>9</u>	<u>44,140</u>
<u>10</u>	<u>44,980</u>
<u>11</u>	<u>45,810</u>
<u>12</u>	<u>46,640</u>
<u>13</u>	<u>47,480</u>
<u>14</u>	<u>48,310</u>
<u>15</u>	<u>49,150</u>
<u>16</u>	<u>49,980</u>
<u>17</u>	<u>50,810</u>
<u>18</u>	<u>51,640</u>
<u>19</u>	<u>52,480</u>
<u>20</u>	<u>53,310</u>
<u>21</u>	<u>54,140</u>
<u>22</u>	<u>54,980</u>
<u>23</u>	<u>55,810</u>
<u>24</u>	<u>56,640</u>
<u>25</u>	<u>57,470</u>
<u>26</u>	<u>58,310</u>
<u>27</u>	<u>59,140</u>
<u>28</u>	<u>59,970</u>
<u>29</u>	<u>60,810</u>
<u>30</u>	<u>61,640</u>
<u>31</u>	<u>62,470</u>
<u>32</u>	<u>63,310</u>

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<u>33</u>	<u>64,140</u>
<u>34</u>	<u>64,970</u>
<u>35</u>	<u>65,800</u>
<u>36</u>	<u>66,610</u>

(c) With respect to those highways and roadways not in or a part of the Interstate Highway System, in all cases in which it exceeds state law in effect on January 4, 1975, the overall gross weight on the vehicle or combination of vehicles, including all enforcement tolerances, shall be as determined by the following formula:

$$W = 500((LN \div (N-1)) + 12N + 36)$$

For the above formula, W = overall gross weight of the vehicle to the nearest five hundred (500) pounds; L = distance in feet between the extreme of the external axles; and N = number of axles on the vehicle. However, such overall gross weight of any vehicle or combination of vehicles may not exceed eighty thousand (80,000) pounds including all enforcement tolerances.

(d) Dump trucks, concrete mixing trucks, trucks engaged in waste collection and disposal, and fuel oil and gasoline trucks designed and constructed for special type work or use, when operated as a single unit, shall be subject to all safety and operational requirements of law, except that any such vehicle need not conform to the axle spacing requirements of this section provided that such vehicle shall be limited to a total gross load, including the weight of the vehicle, of twenty thousand (20,000) pounds per axle plus scale tolerances and shall not exceed five hundred fifty (550) pounds per inch width tire surface plus scale tolerances. No vehicle operating pursuant to this section shall exceed a gross weight, including the weight of the vehicle and scale tolerances, of seventy thousand (70,000) pounds. Any vehicle violating the weight provisions of this section shall be penalized as provided in section 1-8 of the City Code of Ordinances.

(e) The city shall adopt rules consistent with the Florida Department of Transportation to implement this section and all provisions of this division, shall enforce this section and the rules adopted under it, and shall publish and distribute tables and other publications as deemed necessary to inform the public.

(f) Except as otherwise provided elsewhere, no vehicle or combination of vehicles exceeding the gross weights specified in section 21-25, subparagraphs (b), (c) and (d) above, shall be permitted to travel on public streets, roadways or highways located within the city.

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1 **Sec. 25-26. Weight and load unlawful; special fuel and motor fuel tax enforcement;**
2 **inspection; penalty; review.**

3 (a) Any designated law enforcement officer of the city or agent of the Florida or
4 Federal Departments of Transportation having reason to believe that the weight of a
5 vehicle and load is unlawful is authorized to require the driver to stop and submit to a
6 weighing of the same by means of either portable or fixed scales and may require that
7 such vehicle be driven to the nearest weigh station or public scales, provided that such a
8 facility is within five miles of the location of the traffic stop. Any person who refuses to
9 submit to such weighing, in addition to any criminal penalties that may be imposed
10 pursuant to Florida Statutes, shall be guilty of a violation of this section, punishable as
11 provided in section 1-8 of the City Code of Ordinances.

12 (b) (1) Whenever a law enforcement officer, upon weighing a vehicle or combination of
13 vehicles with load, determines that the axle weight or gross weight is unlawful, the law
14 enforcement officer may require the driver to stop the vehicle in a suitable location and
15 remain at the location until a determination can be made as to the amount of weight of the
16 vehicle(s) and, if overloaded, the amount of penalty to be assessed as provided in the
17 provisions of this division. However, any gross weight over six thousand (6,000) pounds
18 and beyond the maximum permitted in this division shall be unloaded and all material so
19 unloaded shall be cared for by the owner or operator of the vehicle at the sole risk of such
20 owner or operator. Except as otherwise provided for in F.S. Ch. 316, to facilitate
21 compliance with and enforcement of the weight limits established in section 21-25,
22 above, weight tables published pursuant to F.S. § 316.535(7), shall include a ten (10)
23 percent scale tolerance and shall reflect the maximum scaled weights allowed any vehicle
24 or combination of vehicles. Notwithstanding any other provision of the weight law, if a
25 vehicle or combination of vehicles does not exceed the gross, external bridge, or internal
26 bridge weight limits imposed in section 21-25 and the driver of such vehicle or
27 combination of vehicles can comply with the requirements of F.S. Ch. 316 by shifting or
28 equalizing the load on all wheels or axles, and does so when requested by the proper
29 authority, the driver shall not be held to be operating in violation of the weight limits.

30 (2) The law enforcement officer shall inspect the license plate or registration
31 certificate of the vehicle, as defined in F.S. § 316.003(66), to determine if its gross weight
32 is in compliance with the declared gross vehicle weight. If its gross weight exceeds the
33 declared weight, the penalty shall be five cents (\$0.05) per pound of the difference
34 between such weights. In those cases when the vehicle, as defined in F.S. § 316.003(66),
35 is being operated over the streets, roadways or highways located within the city with an
36 expired registration or with no registration from Florida or any other jurisdiction or is not
37 registered under the applicable provisions of F.S. Ch. 320, the penalty in this section shall
38 apply on the basis of five cents (\$0.05) per pound on that scaled weight which exceeds

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1 thirty-five thousand (35,000) pounds on laden truck tractor-semitrailer combinations or
2 tandem trailer truck combinations, ten thousand (10,000) pounds on laden straight trucks
3 or straight truck-trailer combinations, or ten thousand (10,000) pounds on any unladen
4 commercial motor vehicle. If the license plate or registration has not been expired for
5 more than ninety (90) days, the penalty imposed under this section may not exceed one
6 thousand dollars (\$1,000.00). In the case of special mobile equipment as defined in F.S. §
7 316.003(48), which qualifies for the license tax provided for in F.S. § 320.08(5)(b), being
8 operated on the streets, roadways, or highways located within the city with an expired
9 registration or otherwise not properly registered under the applicable provisions of F.S.
10 Ch. 320, a penalty of seventy-five dollars (\$75.00) shall apply in addition to any other
11 penalty which may apply in accordance with F.S. Ch. 316. A vehicle found in violation
12 of this section may be detained until the owner or operator produces evidence that the
13 vehicle has been properly registered. Any costs incurred by the detention of the vehicle
14 shall be the sole responsibility of the owner. A person who has been assessed a penalty
15 pursuant to this section for failure to have a valid vehicle registration certificate pursuant
16 to the provisions of F.S. Ch. 320, is not subject to the delinquent fee authorized in F.S. §
17 320.07, if such person obtains a valid registration certificate within ten (10) working days
18 after such penalty was assessed.

19 (3) Weight limits established and posted for a road or bridge pursuant to F.S. §
20 315.555, and weight limits specified in special permits issued pursuant to F.S. § 316.550,
21 shall be deemed to include all allowable tolerances. In those cases when a vehicle or
22 combination of vehicles exceeds the weight limits established and posted for a road or
23 bridge pursuant to F.S. § 316.555, or exceeds the weight limits permitted in a special
24 permit issued pursuant to F.S. § 316.550, the penalty shall be five cents (\$0.05) per pound
25 of the difference between the scale weight of the vehicle and the weight limits for such
26 posted road or bridge or permitted in such special permit. However, if a special permit is
27 declared invalid in accordance with rules promulgated pursuant to F.S. § 316.550, the
28 penalties imposed in subsection (c) below shall apply to those weights which exceed the
29 limits established in subsection (c), below.

30 (c) Any person who violates the overloading provisions of this section shall be
31 conclusively presumed to have damaged the streets, roadways or highways located
32 within the city by reason of such overloading, which damage is fixed as follows:

33 (1) When the excess weight is two hundred (200) pounds or less than the maximum
34 provided, the penalty shall be ten dollars (\$10.00).

35 (2) Five cents (\$0.05) per pound for each pound of weight in excess of the maximum
36 provided when the excess weight exceeds two hundred (200) pounds. However,
37 whenever the gross weight of the vehicle or combination of vehicles does not exceed the

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1 maximum allowable gross weight, the maximum fine for the first six hundred (600)
2 pounds of unlawful axle weight shall be ten dollars (\$10.00).

3 (3) An apportioned motor vehicle, as defined in F.S. § 320.01, operating on the
4 streets, roadways or highways of the city without being properly licensed and registered
5 shall be subject to the penalties as provided in this section.

6 (4) Vehicles operating on the streets, roadways, or highways within the city from
7 nonmember International Registration Plan jurisdictions which are not in compliance
8 with the provisions of F.S. § 316.605, shall be subject to the penalties as provided in this
9 section.

10 (d) (1) No commercial motor vehicle, as defined in F.S. § 316.003(66), shall be operated
11 over the streets, roadways, or highways in the city unless it has been properly registered
12 under the provisions of F.S. § 207.004. Whenever any law enforcement officer identified
13 in F.S. § 207.023(1), or any traffic enforcement officer as defined in F.S. § 316.640,
14 upon inspecting the vehicle or combination of vehicles, determines that the vehicle is in
15 violation of F.S. § 207.004, a penalty in the amount of fifty dollars (\$50.00) shall be
16 assessed, and the vehicle may be detained until payment is collected by the law
17 enforcement officer, which payment is payable to the city.

18 (2) In addition to the penalty provided for in subsection (d)(1), above, the vehicle
19 may be detained until the owner or operator of the vehicle furnishes evidence that the
20 vehicle has been properly registered pursuant to F.S. § 207.004. Any officer or agent of
21 the Florida or Federal Departments of Transportation may issue a temporary fuel use
22 permit and collect the appropriate fee as provided for in F.S. § 207.004(4).
23 Notwithstanding the provisions of this section, all permit fees collected pursuant to this
24 subsection (d)(2) shall be transferred to the Florida Department of Highway Safety and
25 Motor Vehicles to be allocated pursuant to F.S. § 207.026.

26 (e) In addition to the right to prosecute violations in Broward County Court,
27 whenever any person violates any of the provisions of this division and becomes
28 indebted to the city because of such violation in any amounts described above and
29 refuses to pay the penalty, such penalty shall become a lien upon the motor vehicle, and
30 the same may be foreclosed by the city in a court of competent jurisdiction. It shall be
31 presumed that the owner of the motor vehicle is liable for the sum. Any person, firm, or
32 corporation claiming an interest in the motor vehicle may, at any time after the lien of
33 the city attaches to the motor vehicle, obtain possession of the vehicle by filing a good
34 and sufficient cash bond with the law enforcement officer having possession of the
35 vehicle, payable to the city in twice the amount of the city's lien. It shall be presumed
36 that the owner of the motor vehicle is liable for the penalty imposed under this section.

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1 Upon the posting of such bond with the law enforcement officer making the seizure, the
2 vehicle shall be released and the bond shall be forwarded to the city for safekeeping. The
3 lien of the city against the motor vehicle shall be foreclosed in a court of competent
4 jurisdiction. If it appears that the vehicle has been released to the owner upon the
5 owner's bond, the city shall take judgment of foreclosure against the property itself, and
6 judgment against the owner for the amount of the lien, including the cost of proceedings.
7 After the rendition of the decree, the city may, at its option, proceed to sue the owner for
8 the amount recovered or direct the sale of the vehicle under foreclosure.

9 (f) Any law enforcement officer or agent collecting the penalties imposed under this
10 section shall give to the owner or driver of the vehicle a receipt for all penalties
11 collected. Such law enforcement officer shall cooperate with the owners or drivers of
12 motor vehicles so as not to unduly delay the use of the vehicle(s).

13 (g) Pursuant to the procedures in F.S. §§ 316.3025 and 316.545, penalties and fees
14 are due and payable at the time the violation is issued and shall be remitted to the law
15 enforcement officer who assessed the penalty. Payment shall be made for the amount of
16 the assessment in cash, money order, or cashier's check, and shall be made payable to
17 the city. Payment may also be made by credit card or debit card.

18 (h) Any person aggrieved by the imposition of a civil penalty pursuant to this section
19 may apply to the city's special magistrate for a modification, cancellation or revocation
20 of the penalty and the special magistrate is authorized to modify, cancel, revoke or
21 sustain such penalty. All such requests shall be made within thirty (30) days of the date
22 the penalty was imposed, and must be received by the special magistrate clerk within the
23 thirty-day time period.

24 (i) Penalties and fines collected will be delivered to the city, and shall be placed in a
25 separate general ledger account. This account shall be created solely for the collection of
26 penalties and fees resulting from violations of provisions of this division.

27 **Sec. 21-27. Special permits.**

28 An oversize or overweight vehicle or load on it may not enter onto or be operated on a
29 public road in the city unless the owner or operator of such vehicle has first obtained a
30 special permit pursuant to F.S. § 316.550. Any owner or operator holding such special
31 permit shall be exempt from the limitations established in section 21-25, but must abide
32 by the limitations as described in the special permit.

33 **Sec. 21-28. Out-of-service vehicles and drivers, penalties.**

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No commercial motor vehicle, as defined in F.S. § 316.003(66), shall be operated over the streets, roadways or highways within the city in such an unsafe condition as to be declared out-of-service, or operated by a driver if declared out-of-service or removed from driving status, or in violation of any of the provisions of F.S. § 316.3025(1) and § 316.3025(2). Any person who owns, operates or permits any violation of F.S. §§ 316.3025(1) or 316.3025(2), shall be in violation of this section, and shall be subject to the imposition of civil penalties in the amounts as set forth in F.S. § 316.3025.

Sec. 21-29. Weight, load, limits lowered.

The city may prescribe, by notice as provided below, loads and weights lower than the limits prescribed in this division and other laws, whenever in its judgment any roadway or part of a roadway or any bridge or culvert shall, by reason of its design, deterioration, rain, or other climatic or natural causes is liable to be damaged or destroyed by motor vehicles, trailers, or semi-trailers, if the gross weight shall exceed the limits prescribed in the notice. The city may, by like notice, regulate or prohibit, in whole or in part, the operation of any specified class or size of motor vehicles, trailers, or semi-trailers on any streets, roadways or highways or specified parts of them under its jurisdiction, whenever in its judgment such regulation or prohibition is necessary to provide for the public safety and convenience on the streets, roadways or highways, or parts of them, by reason of traffic density, intensive use of them by the traveling public, or other reasons of public safety and convenience. The notice or substance of it shall be posted at conspicuous places at terminals of all intermediate crossroads and road junctions with identification of the section(s) of street, roadway or highway to which the notice shall apply. After any such notice has been posted, the operation of any motor vehicle or combination contrary to its provisions shall constitute a violation of this section.

Sec. 21-29. Damage to streets, roadways, highways, liability of driver and owner.

Any person driving or moving any vehicle or combination of vehicles, object, or contrivance upon any street, roadway, highway or highway structure in the city shall be liable for all damages which the highway or structure may sustain as a result of any illegal operation, driving, or moving of such vehicle or combination of vehicles, object, or contrivance, whether or not such damage is a result of operating, driving, or moving any vehicle or combination of vehicles, object, or contrivance weighing in excess of the maximum weights or exceeding the maximum size as provided in this division but authorized by special permit issued pursuant to F.S. § 316.550. Whenever the driver is not the owner of the vehicle or combination of vehicles, object, or contrivance but is so operating, driving, or moving the same with the express or implied permission of the owner, then the owner and driver shall be jointly and severally liable for any such

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1 damage. Such damage may be recovered in any civil action brought by the authority in
2 control of the street, roadway, highway or highway structure.

3 Secs. ~~21-24~~ 21-30—21-31. - Reserved.

4 **SECTION 3.** If any section, subsection, sentence, clause or provision of this
5 Ordinance is held invalid, the remainder of this Ordinance shall not be affected by such
6 invalidity.

7
8 **SECTION 4.** That all ordinances or parts of ordinances and all resolutions or
9 parts of resolutions in conflict with this Ordinance are repealed to the extent of such
10 conflict.

11
12 **SECTION 5.** It is the intention of the City Commission of the City of Oakland
13 Park, that the provisions of this Ordinance shall become and be made a part of the Code
14 of Ordinances of the City of Oakland Park, Florida, and the Sections of this ordinance
15 may be renumbered, re-lettered and the word "Ordinance" may be changed to "Section,"
16 "Article," or such other word or phrase in order to accomplish such intention.

17
18 **SECTION 6.** This Ordinance shall be effective immediately upon its passage
19 and adoption by the City Commission of the City of Oakland Park.

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1 **PASSED BY THE CITY COMMISSION OF THE CITY OF OAKLAND PARK,**
2 **FLORIDA, ON FIRST READING, THIS 20th DAY OF OCTOBER 2021.**

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5

J. BOLIN

6

M. CARN

7

A. GORDON

8

M. ROSENWALD

9

M. SPARKS

10

11

12 **PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF**
13 **OAKLAND PARK, FLORIDA, ON SECOND READING, THIS _____ DAY OF**
14 **_____ 2021.**

15

16

CITY OF OAKLAND PARK, FLORIDA

17

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MAYOR JANE BOLIN

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22

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J. BOLIN

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M. CARN

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A. GORDON

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M. ROSENWALD

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M. SPARKS

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ATTEST:

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RENEE M. SHROUT, CMC, CITY CLERK

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LEGAL NOTE:

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I hereby certify that I have approved the form of this Ordinance (O-2021-XXX):

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DONALD J. DOODY, CITY ATTORNEY

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