

1 BY AUTHORITY

2 ORDINANCE NO. \_\_\_\_\_  
3 SERIES OF 2015

COUNCIL BILL NO. \_\_\_\_\_  
COMMITTEE OF REFERENCE:

4  
5 A BILL

6  
7 For an ordinance amending various provisions of the Denver Revised Municipal Code to  
8 clarify the circumstances under which it is unlawful to violate a rule or regulation  
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10 **WHEREAS**, the general penalty section of the Denver Revised Municipal Code, Section 1-13,  
11 makes it unlawful to violate any rule or regulation promulgated under the code; and  
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13 **WHEREAS**, numerous provisions of the Denver Revised Municipal Code authorize various  
14 officers or boards of the City and County of Denver to promulgate rules and regulations; and  
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16 **WHEREAS**, the specific code provisions that enables rulemaking by various city officers and  
17 boards are inconsistent in terms of reiterating the principle set forth in the general penalty section, i.e.  
18 the principle that violation of a rule or regulation is treated as an unlawful act under the code; and  
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20 **WHEREAS**, the purpose of this ordinance is to codify more consistently throughout the Denver  
21 Revised Municipal Code the principle that violation of a rule is treated as an unlawful act, and thereby  
22 allow for clearer and more consistent enforcement of rules violations by reference to the specific code  
23 section that provides legal authority for the promulgation of the rule in question.  
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26 **NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF**  
27 **DENVER:**  
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29 **Section 1.** That section 4-6, D.R.M.C. concerning the rule-making authority of the board of  
30 environmental health in regard to **air pollution control** shall be amended by adding a new subsection  
31 (d) to read as follows:

32 **Sec. 4-6. Power of board of environmental health.**

33 (d) It shall be unlawful for any person to violate a rule or regulation adopted by the board  
34 or the manager pursuant to this section.

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**Section 2.** That section 6-41, D.R.M.C. concerning the rule-making authority of the director of excise and licenses in regard to **cabarets** shall be amended by adding the language underlined, to read as follows:

**Sec. 6-41. Rules and regulations.**

The director may make such reasonable rules and regulations as may be necessary for the purpose of administering and enforcing the provisions of this article and any other ordinances or laws relating to and affecting the licensing and operation of cabarets as described herein. It shall be unlawful for any person to violate a rule or regulation adopted by the director pursuant to this section.

**Section 3.** That subsection 7-2 (a), D.R.M.C. concerning the rule-making authority of the director of excise and licenses in regard to **amusements** shall be amended by adding the language underlined, to read:

**Sec. 7-2. Powers of director of excise and licenses.**

(a) The director may make and adopt such reasonable rules and regulations as may be necessary for the purposes of administering and enforcing the provisions of this chapter and any other ordinances or laws relating to and affecting the regulation, licensing, and operation of the amusements described in this chapter. It shall be unlawful for any person to violate a rule or regulation adopted by the director pursuant to this section.

**Section 4.** That section 7-57, D.R.M.C. concerning the rule-making authority of the director of excise and licenses in regard to **public dance halls** shall be amended by adding the language underlined, to read:

**Sec. 7-57. Rules and regulations.**

The director may make and promulgate rules and regulations for the administration of this article and further regulating the conduct of public dance halls

1 and public dances consistent with the provisions of this article. It shall be unlawful for  
2 any person to violate a rule or regulation adopted by the director pursuant to this  
3 section.

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5 **Section 5.** That section 7-95, D.R.M.C. concerning the rule-making authority of the  
6 director of excise and licenses in regard to **social rooms and after hours restaurants**  
7 shall be amended by adding the language underlined, to read:

8 **Sec. 7-95. Rules and regulations.**

9 The director may make such reasonable rules and regulations as may be  
10 necessary for the purpose of administering and enforcing the provisions of this article  
11 and any other ordinances or laws relating to and affecting the licensing and operation  
12 of social rooms or after hours restaurants as described herein. It shall be unlawful  
13 for any person to violate a rule or regulation adopted by the director pursuant to this  
14 section.

15 **Section 6.** That section 22-81, D.R.M.C concerning the rule-making authority of the  
16 manager of safety in regard to the **safe operation and maintenance of motor vehicle by**  
17 **motor carriers** shall be amended by deleting the language stricken and adding the  
18 language underlined, to read as follows:

19 **Sec. 22-81(2). Powers of manager of safety.**

20 The manager of safety is hereby authorized and directed to adopt and  
21 promulgate, as the rules and regulations of the city, the appropriate provisions of the Code  
22 of Federal Regulations relating to the safe operation and maintenance of motor vehicles by  
23 motor carriers. Specifically, the manager is authorized and directed hereunder to adopt and  
24 promulgate the appropriate provisions of the Code of Federal Regulations, Title 49, Parts  
25 350 ~~390~~ to 397 of the Federal Motor Carrier Safety Regulations, as from time to time  
26 amended.

1           **Section 7.** That Section 23-9, D.R.M.C. concerning the rule-making authority of the  
2 board of environmental health in regard to **food and food handling** shall be amended by  
3 deleting the language stricken and adding the language underlined, to read as follows:

4           **Sec. 23-9. Powers of the board.**

5                   Charter section ~~A8.3-2~~ 2.12.4 (B) authorizes the board to adopt rules and  
6 regulations necessary to protect public health, which the board may do to amplify  
7 and augment the requirements of this chapter 23. Chapter 24, article I of this Code  
8 authorizes the board to grant variances from the terms of the rules and regulations  
9 adopted by the board. It shall be unlawful for any person to violate a rule or  
10 regulation adopted by the board pursuant to this section or section 2.12.4 (B) of the  
11 charter.

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13           **Section 8.** That Section 23-40, D.R.M.C. concerning the rule-making authority of the  
14 board of environmental health in regard to **ice cream vendors** shall be amended by adding  
15 the language underlined, to read as follows:

16           **Sec. 23-40. Requirements.**

17                   In addition to any rules and regulations necessary to protect public health, the  
18 board shall adopt and promulgate rules and regulations concerning public safety  
19 issues surrounding ice cream vendors. It shall be unlawful for any person to violate a  
20 rule or regulation adopted by the board pursuant to this section.

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22           **Section 9.** That Section 24-16, D.R.M.C. concerning the rule-making authority of the  
23 manager of environmental health in regard to **health and sanitation** shall be amended by  
24 adding a new subsection (7), to read as follows

25           **Sec. 24-16. General powers and duties.**

1           The manager of environmental health, as provided under the Charter, shall  
2 exercise a general supervision over the environmental health of the city, and shall  
3 have full power:

4           (7) It shall be unlawful for any person to violate a rule or regulation adopted  
5 by the manager pursuant to this section.

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7           **Section 10.** That Section 24-41, D.R.M.C. concerning the rule-making authority of  
8 the board of environmental health in regard to **private water supply systems** shall be  
9 amended by adding the language underlined, to read as follows:

10           **Sec. 24-41. Rules and regulations.**

11           The board of environmental health is authorized to adopt, and the department  
12 shall promulgate, rules and regulations consistent with the standards established by  
13 ordinance for the construction, materials, location, maintenance and use of private  
14 water supply systems which amplify and augment the provisions hereof. It shall be  
15 unlawful for any person to violate a rule or regulation adopted by the board pursuant  
16 to this section.

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18           **Section 11.** That the introductory paragraph to Section 24-157, D.R.M.C. concerning  
19 the rule-making authority of the board of environmental health in regard to **qualified needle**  
20 **exchange programs** shall be amended by adding the language underlined, to read as follows:

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22           **Sec. 24-157. Registration of qualified needle exchange and treatment referral**  
23 **programs.**

24           The manager may register up to three (3) needle exchange and treatment  
25 referral programs that the manager determines meet the requirements of state and  
26 local laws and the rules and regulations adopted by the board of environmental  
27 health to govern needle exchange and treatment referral programs. It shall be  
28 unlawful for any person to violate a rule or regulation adopted by the board pursuant

1 to this section. In order to qualify for registration, the needle exchange and treatment  
2 referral programs shall:

3 **Section 12.** That section 24-237, D.R.M.C. concerning the rule-making authority of  
4 the board of environmental health in regard to **the construction and location of any and**  
5 **all privy vaults, septic tanks and cesspools** shall be amended by adding the language  
6 underlined, to read:

7 **Sec. 24-237. Rules and regulations.**

8 The board of environmental health is empowered to adopt rules, regulations  
9 and standards in connection with the construction and location of any and all privy  
10 vaults, septic tanks and cesspools located within the city. Such regulations shall be  
11 designed to protect the health and safety of the people of the city. It shall be unlawful  
12 for any person to violate a rule or regulation adopted by the board pursuant to this  
13 section.

14 **Section 13.** That section 24-354, D.R.M.C. concerning the rule-making authority of  
15 the board of environmental health in regard to **specific safety procedures and**  
16 **techniques necessary in the practice of body art** shall be amended by adding the  
17 language underlined, to read:

18 **Sec. 24-354. Rules and regulations.**

19 The board of environmental health is authorized to adopt, and the manager of  
20 the department of environmental health shall promulgate, rules and regulations,  
21 consistent with this article, relating to body art, including, but not limited to: specific  
22 safety procedures and techniques necessary in the practice of body art; required  
23 facilities, equipment, maintenance, records, sanitation, and general operation for  
24 body art establishments, mobile body art vehicles, and temporary special event body  
25 art facilities; and the minimum applicant qualifications for the issuance of licenses  
26 and temporary permits to body artists. It shall be unlawful for any person to violate a  
27 rule or regulation adopted by the board pursuant to this section.

1           **Section 14.** That Section 27-25, D.R.M.C. concerning the rule-making authority of  
2 the board of environmental health in regard to **housing code** shall be amended by adding  
3 the language underlined, to read as follows:

4           **Sec. 27-25. Rules and regulations.**

5           The board shall adopt and the manager shall promulgate rules and  
6 regulations to establish minimum standards as indicated in the article and the board  
7 and manager are hereby authorized to adopt and promulgate other rules and  
8 regulations as determined necessary for the proper and effective enforcement of the  
9 provisions of this article. It shall be unlawful for any person to violate a rule or  
10 regulation adopted by the board pursuant to this section.

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12           **Section 15.** That Section 33.5-33, D.R.M.C. concerning the rule-making authority of  
13 the manager of environmental health in regard to **massage parlors** shall be amended by  
14 adding the language underlined, to read as follows:

15           **Sec. 33.5-33. Rules and regulations.**

16           The manager of environmental health may issue and promulgate rules and  
17 regulations to provide for the public health, safety and welfare in relation to massage  
18 parlors. It shall be unlawful for any person to violate a rule or regulation adopted by  
19 the manager pursuant to this section.

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21           **Section 16.** That subsection 35-21 (a), D.R.M.C. concerning the rule-making  
22 authority of the manager of environmental health in regard to **trailer parks** shall be  
23 amended by adding the language underlined, to read as follows:

24           **Sec. 35-21. Sanitation requirements.**

25           (a) *Health rules and regulations.* The manager of environmental health shall  
26 supply operators of all trailer parks with copies of all health rules and regulations  
27 promulgated by the manager, and of any changes that may be made from time to

1 time. Such rules and regulations shall be posted and kept posted by such  
2 operators in a protected, conspicuous place within the trailer park. It shall be  
3 unlawful for any person to violate a rule or regulation adopted by the manager  
4 pursuant to this section.

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7 **Section 17.** That section 37-18, D.R.M.C. concerning the rule-making authority of  
8 the board of environmental health in regard to **health nuisances** shall be amended by  
9 adding the language underlined, to read as follows:  
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11 **Sec. 37-18. Rules and regulations.**

12 The board of environmental health shall promulgate from time to time, rules and  
13 regulations pertaining to the requirements of sanitation, cleanliness and public  
14 health as they relate to the keeping and maintaining of domesticated pet animals,  
15 animal or fowl enclosures, buildings, premises and other areas so as to avoid the  
16 creation of a health nuisance. It shall be unlawful for any person to violate a rule  
17 or regulation adopted by the board pursuant to this section.  
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19 **Section 18.** That section 42-141, D.R.M.C. concerning the rule-making authority of  
20 the director of excise and licenses in regard to the **merchant guard or merchant patrol**  
21 **business** shall be amended by adding the language underlined, to read as follows:  
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23 **Sec. 42-141. Rules and regulations.**

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25 The director of excise and licenses may issue and promulgate from time to  
26 time rules and regulations to provide for the health, safety and welfare of the city in  
27 relation to the merchant guard or merchant patrol business. Such rules may pertain  
28 by way of example to the duties of licensees, manner of conduct of merchant guard  
29 or merchant patrol businesses, merchant guards or merchant patrols and business  
30 or industrial guards, and reports to be furnished to the director of excise and  
31 licenses. . It shall be unlawful for any person to violate a rule or regulation adopted  
32 by the director pursuant to this section.  
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**Section 19.** That section 45-24, D.R.M.C. concerning the rule-making authority of the manager of safety in regard to **pawnbrokers** shall be amended by adding the language underlined, to read as follows:

**Sec. 45-24. Rules and regulations.**

The manager of safety shall have the authority to make and promulgate such rules and regulations as the manager finds necessary for the administration and enforcement of this article in addition to the provisions of this article and not inconsistent therewith. Such rules and regulations shall provide detailed specimens of all forms required by this article and the manager may furnish to licensed pawnbrokers such forms as the manager desires them to use. It shall be unlawful for any person to violate a rule or regulation adopted by the manager pursuant to this section.

**Section 20.** That section 45-72, D.R.M.C. concerning the rule-making authority of the director of excise and licenses in regard to **secondhand dealers** shall be amended by adding the language underlined, to read as follows:

**Sec. 45-72. Rules and regulations.**

The director of excise and licenses shall have the authority to make and promulgate such rules and regulations as the director finds necessary for the administration and enforcement of this article and articles IV, V, and VI of this chapter. It shall be unlawful for any person to violate a rule or regulation adopted by the director pursuant to this section.

**Section 21.** That section 48-20, D.R.M.C. concerning the rule-making authority of the manager of public works in regard to **household garbage** shall be amended by adding the language underlined, to read as follows:

1           **Sec. 48-20. Rules and regulations.**

2           The manager of public works shall be empowered to prescribe such rules and  
3 regulations as the manager may deem proper not inconsistent with the Charter and  
4 ordinances, to govern the manner and time for the collection, removal and  
5 disposition of household garbage. It shall be unlawful for any person to violate a rule  
6 or regulation adopted by the manager pursuant to this section.

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8           **Section 22.** That section 48-34, D.R.M.C. concerning the rule-making authority of  
9 the manager of public works in regard to **commercial garbage** shall be amended by adding  
10 the language underlined, to read as follows:

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12           **Sec. 48-34. Rules and regulations.**

13           The manager of public works shall be empowered to prescribe such rules and  
14 regulations as the manager may deem proper not inconsistent with the Charter and  
15 ordinances, to govern the manner and time for the collection, removal and  
16 disposition of commercial garbage. It shall be unlawful for any person to violate a  
17 rule or regulation adopted by the manager pursuant to this section.

18           **Section 23.** That section 48-45, D.R.M.C. concerning the rule-making authority of  
19 the manager of public works in regard to **the methods of preparation and storage of**  
20 **household rubbish, yard rubbish, cold ashes, and compost material** shall be amended  
21 by adding the language underlined, to read:

22           **Sec. 48-45. Rules and regulations.**

23           The manager of public works is authorized to issue from time to time such  
24 rules and regulations as are necessary to prescribe the categories of dwelling units  
25 from which collections of household rubbish, yard rubbish, cold ashes, compost  
26 material, and any one (1) or more thereof, shall be made, and the methods of  
27 preparation and storage of household rubbish, yard rubbish, cold ashes, and

1 compost material .It shall be unlawful for any person to violate a rule or regulation  
2 adopted by the manager pursuant to this section.

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4 **Section 24.** That section 49-161, D.R.M.C. concerning the rule-making authority of  
5 the manager of public works in regard to **right-of-way improvements** shall be amended by  
6 adding the language underlined, to read as follows:

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8 **Sec. 49-161. Rules and regulations.**

9 The manager of public works shall have the authority to make and promulgate  
10 such rules and regulations as the manager finds necessary for the administration  
11 and enforcement of this article not inconsistent with the Charter and ordinances. It  
12 shall be unlawful for any person to violate a rule or regulation adopted by the  
13 manager pursuant to this section.

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15 **Section 25.** That section 49-346, D.R.M.C. concerning the rule-making authority of  
16 the manager of public works in regard to **permanent occupancy of right-of-way** shall be  
17 amended by adding the language underlined, to read as follows:

18 **Sec. 49-346. Rules and regulations.**

19 The manager of public works shall be authorized to adopt rules and  
20 regulations in furtherance and consistent with this article. It shall be unlawful for any  
21 person to violate a rule or regulation adopted by the manager pursuant to this  
22 section.

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24 **Section 26.** That section 49-461, D.R.M.C. concerning the rule-making authority of  
25 the manager of public works in regard to **temporary occupancy of right-of-way** shall be  
26 amended by adding the language underlined, to read as follows:

1           **Sec. 49-461. Authority.**

2           The manager of public works is authorized to permit the occupancy of the  
3 public right-of-way outside of the roadway for vehicle parking, for bus shelters and  
4 advertising kiosks and for nonpermanent placement of privately-owned street  
5 furniture, according to the provisions described in this article. The manager of public  
6 works is further authorized to adopt such rules and regulations as may be required to  
7 implement this article and to assign to a designated representative the responsibility  
8 for administering this article. It shall be unlawful for any person to violate a rule or  
9 regulation adopted by the manager pursuant to this section. Street furniture is  
10 defined as any appurtenance placed on the public right-of-way outside of the  
11 roadway, excluding any object below ground, any building and any object attached to  
12 or part of a building.

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14           **Section 27.** That section 55-145, D.R.M.C. concerning the rule-making authority of  
15 the director of excise and licenses in regard to **escort vehicles** shall be amended by  
16 adding the language underlined, to read as follows:

17           **Sec. 55-145. Rules and regulations.**

18           The director of excise and licenses may adopt and enforce reasonable rules  
19 and regulations for operation of escort vehicles and for the use of identification  
20 cards, uniforms and equipment in connection with such operation, to carry out the  
21 purposes and provisions of this article. It shall be unlawful for any person to violate a  
22 rule or regulation adopted by the director pursuant to this section.

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24           **Section 28.** That section 55-179, D.R.M.C. concerning the rule-making authority of  
25 the director of excise and licenses in regard to **wrecker and towing services** shall be  
26 amended by adding the language underlined, to read as follows:

27           **Sec. 55-179. Rules and regulations.**

1           The director of excise and licenses may adopt and enforce reasonable rules  
2 and regulations for administrative purposes in accordance with the provisions of this  
3 article for public towing services, private towing operators, and towing vehicle  
4 operators. It shall be unlawful for any person to violate a rule or regulation adopted  
5 by the director pursuant to this section.

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7           **Section 29.** That section 55-298, D.R.M.C. concerning the rule-making authority of  
8 the director of excise and licenses in regard to **vehicle immobilization services** shall be  
9 amended by adding the language underlined, to read as follows:

10           **Sec. 55-298. Rules and regulations.**

11           The director of excise and licenses may adopt and enforce reasonable rules  
12 and regulations for vehicle immobilization services, which rules and regulations shall  
13 be issued and promulgated from time to time, to provide for the health, safety and  
14 welfare of the city in relation to vehicle immobilization services and the operators,  
15 agents, servants and employees of such services. Such rules and regulations may  
16 pertain by way of example to the duties of licensees, the manner of conduct of the  
17 business and of the operators, agents, servants and employees, and reports to be  
18 furnished to the director. It shall be unlawful for any person to violate a rule or  
19 regulation adopted by the director pursuant to this section.

20           **Section 30.** That section 59-1, D.R.M.C. concerning the adoption of the **zoning**  
21 **code** by the department of community planning and development shall be amended by  
22 adding the language underlined, to read as follows:

23           **Sec. 59-1. Zoning code.**

24           The zoning code as filed with the Denver City Clerk on 20<sup>th</sup> day of February  
25 2014, at City Clerk Filing No. 14-131, is hereby adopted as the official zoning code  
26 for the City and County of Denver ("Denver Zoning Code"). The Denver Zoning Code  
27 and all amendments thereto shall be maintained in and kept current by the  
28 department of community planning and development and shall be available to the

1 public. . It shall be unlawful for any person to violate a rule or regulation adopted by  
2 the department pursuant to this section.

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7 COMMITTEE APPROVAL DATE: \_\_\_\_\_, 2015.

8 MAYOR-COUNCIL DATE: \_\_\_\_\_, 2015.

9 PASSED BY THE COUNCIL \_\_\_\_\_ 2015

10 \_\_\_\_\_ - PRESIDENT

11 APPROVED: \_\_\_\_\_ - MAYOR \_\_\_\_\_ 2015

12 ATTEST: \_\_\_\_\_ - CLERK AND RECORDER,  
13 EX-OFFICIO CLERK OF THE  
14 CITY AND COUNTY OF DENVER  
15

16 NOTICE PUBLISHED IN THE DAILY JOURNAL \_\_\_\_\_ 2015; \_\_\_\_\_ 2015

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18 PREPARED BY: Patrick McKinstry, Asst. City Attorney; DATE: \_\_\_\_\_  
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20 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the  
21 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed  
22 ordinance. The proposed ordinance **is not** submitted to the City Council for approval pursuant to §  
23 3.2.6 of the Charter.  
24

25 D. Scott Martinez

26 City Attorney

27  
28 BY: \_\_\_\_\_, \_\_\_\_\_ City Attorney

29 DATE: \_\_\_\_\_  
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