

## ORDINANCE 3261-23

### **AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE III, "ZONING REGULATIONS" SECTION 58-87 "LAKEFRONT LOTS, CANALFRONT LOTS, STREAMFRONT LOTS, BOATHOUSES AND DOCKS" PROVIDING FOR UPDATES AND MODERNIZATION TO THE CURRENT REGULATIONS, PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.**

**WHEREAS**, the City Commission of the City of Winter Park deems it necessary for the purpose of providing environmental protections for the City in the management of construction on waterfront properties on lakes, canals and streams and in furtherance of the protection of due process and the general welfare of the City as set forth in this Ordinance.

**WHEREAS**, the City Commission hereby finds that this Ordinance serves a legitimate government purpose and is in the best interests of the public health, safety, and welfare of the citizens of Winter Park, Florida and is intended to promote, enable and facilitate economic competition;

**NOW THEREFORE, BE IT ENACTED** by the City Commission of the City of Winter Park, Florida, after due notice and public hearing, that:

**SECTION 1.** That Chapter 58 "Land Development Code", Article III "Zoning Regulations, Section 58-87 "Lakefront lots, canalfront lots, streamfront lots, boathouses and docks" of the City of Winter Park Land Development Code is hereby amended as shown below (underlined language are additions; ~~stricken through~~ language are deletions; subsections not included are not being modified):

- **ARTICLE III ZONING REGULATIONS.**
- **Sec. 58-87. - Lakefront lots, canalfront lots, streamfront lots, boathouses and docks other waterfront properties.**

(a) *Purpose and intent.* It is the intent of this section to insure that buildings and structures on waterfront properties including canalfront lots, lakefront lots and streamfront lots are ~~not~~ constructed or placed such that no boating hazards will be created, that construction shall be compatible with the natural grade of the property; minimizing large stem walls, large swimming pool/patio walls, terraces or retaining walls on the waterfront, facing the water that are more than three feet above existing grade; that water pollution from stormwater runoff and other sources will be minimized by providing adequate stormwater retention and conveyance per code; that views of water from adjoining waterfront properties will not be unduly impaired; that existing trees shall be preserved to the degree reasonably possible and that the appearance of the property and the shore when viewed from the water will be kept as

natural as reasonably possible. The city's lakes, canals and streams are among the city's greatest assets, and it is in the public interest to require that their aesthetic appeal and water quality be maintained and enhanced when possible.

(b) *Building plans.*

(1) A building permit shall not be issued for any new structure or building, addition over five hundred (500) square feet to any existing structure or building, ~~fence or wall~~ or significant change to an existing property on a lakefront, canalfront or streamfront lot until satisfactory building plans are reviewed and approved by the Planning and Zoning Board that are deemed in compliance with the objectives established in the aforementioned purpose and intent and the specific requirements of this section. The ~~p~~Planning ~~d~~Department shall review all such plans and provide a recommendation to the ~~P~~Planning and ~~Z~~Zoning ~~B~~Board. A decision by the Planning and Zoning Board shall be done at a public hearing after review of comments from city staff and notification of the adjacent waterfront property owners.

(2) In cases involving the construction of swimming pools (without screen pool enclosures), or patios, or hardscape additions that meet the requirements of this section including all lakefront review criteria of under 1,000 square feet, the ~~p~~Planning ~~d~~Department shall provide an administrative review which will result in approval, approval with conditions or denial of the permit. In such cases, the owner may appeal the ~~p~~Planning ~~d~~Department's determinations to the ~~P~~Planning and ~~Z~~Zoning ~~B~~Board.

(3) In all other cases, the ~~P~~Planning and ~~Z~~Zoning ~~B~~Board shall review and approve construction upon lakefront lots, canalfront lots and streamfront lots when deemed in compliance with the objectives established in the aforementioned purpose and intent.

~~(4) The lakes and waterways board shall review and approve construction of boathouses, docks, gazebos over the lakes or other water bodies. However, review and approval by the lakes and waterways board of boathouses, docks and gazebos shall not be required if the structure is replacing an existing boathouse, dock or gazebo and is in the same location and is meeting the code requirements set forth in this section. The review and approval by the lakes and waterways board is only required when variances are requested or when there is not an existing boathouse, dock or gazebo on the property/water or when the location of the boathouse, dock or gazebo is being changed by more than five feet from the current location.~~

~~(4)(5)~~ The requirements of this section are minimum requirements, and the ~~P~~Planning and ~~Z~~Zoning ~~B~~Board ~~or the lakes and waterways board~~ may impose more restrictive requirements and conditions on the height, bulk, location and any other aspect of the proposed development where necessary in order to accomplish

the purpose and intent of this section. ~~Review by the planning and zoning board or the lakes and waterways board shall be at a public hearing following notification of adjacent waterfront property owners.~~

(c) Submission requirements. Applications shall require the following submissions:

(1) Existing conditions survey including the existing contours or spot elevations at the side property lines and as otherwise occur regularly on the property. The survey shall also include the location of existing trees having a diameter of six (6) inches or greater measured two (2) feet from the ground and the approximate locations of the adjacent building corners and swimming pool deck corners closest to the lake.

(2) Site plan showing the location of all existing or proposed buildings, structures, pool decks, retaining or terrace walls, hardscape and paved areas, drives and curb cuts. The site plan shall include indications of the trees proposed to be removed. The site plan shall also indicate the proposed first floor elevation and the elevation of all exterior patio/lanai/pool decks, retaining walls, etc. The site plan shall include the proposed front, side, and waterfront setbacks measured from the ordinary high-water elevation to the principal structure and to the furthest edge of any patio/lanai/pool deck.

(3) Statistical table to indicate the square footage of the property as measured to the ordinary high-water elevation, square footage of the building elements and square footage of the combined impervious surfaces.

(4) Building elevations of the proposed principal and accessory structures including pool cabanas. The elevations shall include the existing ground level to indicate extent of retaining or stem walls proposed.

(5) Drainage plan (which may also be included on the site plan) showing the method of conveyance of storm water drainage and the areas designed for storm water retention including any curbs or walls necessary to contain drainage on-site or swales, inlets and pipes necessary for conveyance.

(6) Additionally, staff may request a copy of the existing conditions survey, which, in addition to the requirements of (c)(1) above, shall also include the building footprint of all proposed structures including swimming pools and pool decks, the building footprint for adjacent property structures, and the setback from each corner of any proposed structures and adjacent structures to the closest point to the ordinary high-water elevation and front lot lines.

~~(d) Other~~ Structures on lakefront, canalfront or streamfront lots. The following standards shall apply to all construction on lakefront, canalfront or streamfront lots:

(1) Stormwater retention. Lakefront, canalfront and streamfront lots shall be developed to maximize the amount of natural rainfall which is percolated into the soil via retention systems and to prevent minimize direct overland runoff into the

water or onto adjoining properties. With the exception of boathouses, docks or other over-water construction, storm water runoff from structures and other impervious surfaces shall be directed into swales or terraces on the lot or restrained by berms so as to provide for the on-site retention and percolation of the first one inch of runoff. Properties being developed or redeveloped shall eliminate any direct piped discharges of storm water into the water, so that this runoff is directed to the on-site retention and percolation areas. The Planning and Zoning Board may require, as conditions necessitate, the submission of soil and water table information, topographic detail, drainage calculations and professionally designed plans so as to insure these requirements are met. All storm water retention compliance shall prioritize the preservation of existing trees and the impacts of fill or excavation on tree root systems shall be minimized and the Planning and Zoning Board shall have the authority to require berm or alternative retention methods and volumes including waiving the need for such storm water retention where deemed advisable to protect the root systems and survivability of all existing protected canopy tree specimens. Storm water retention/swales shall be setback from existing trees based on the same separation distances as required for tree barriers during demolition/construction. In addition, the City may require for proper conveyance of storm water, the implementation of inlet and pipe drainage systems incorporated into the property so that runoff is properly conveyed down the side setback areas.

(2) No lakefront, canalfront or streamfront lot owner shall grade the lot in such a way as to interfere with the natural drainage of adjoining lots or in a way that diverts drainage from their lot onto adjoining lots. In order to prevent stormwater runoff onto adjacent properties, new construction on sloping sites shall require stemwall construction in order to maintain the existing grades within the side setback areas. The Planning and Zoning Board ~~commission~~ may also require, as conditions necessitate, the construction of physical features, such as curbs, walls or inlets grading, swaling and piping of roof gutters so as to ensure that runoff on a lot does not negatively impact adjoining lots.

(3) Views of Neighbors. Structures on lakefront, canalfront or streamfront lots shall, to the extent reasonably possible, be designed and located to minimize their obstruction or degradation of traditional views to and through the property to the water from adjoining waterfront properties. ~~Structures in this context shall also include fences and walls. Structures shall also be located so that existing trees shall be preserved to the degree reasonably possible.~~ The Planning and Zoning Board, may as conditions necessitate, reduce the height of structures, alter their location, size and design so as to accomplish these objectives. The Planning and Zoning Board shall also have limited authority to grant exceptions to the front and side setback standards when deemed necessary to accomplish these objectives.

(4) Tree Preservation. Structures on lakefront, canalfront or streamfront lots shall be developed and landscaped so that when viewed from the water, those structures are as unobtrusive as is reasonably possible. Structures shall also be located so that existing trees shall be preserved to the degree reasonably possible. When a lot is being redeveloped, or a lot's structure is being extended or altered, the ~~P~~lanning and ~~Z~~oning ~~Board~~ ~~commission~~ may require the planting of new trees and other landscaping in order to achieve this objective. The Planning and Zoning Board shall also require the preservation of trees protected by the city's tree ordinance whenever possible in order to keep the lakefront environment as natural as reasonably possible.

(5) Views from the lake. To the extent practical, vehicles shall not be visible from the lake, canal or stream. To achieve this objective, the parking of vehicles in any area between the rear of the principal building and the water shall be prohibited. Driveways and other parking surfaces for vehicles shall not be when located on the waterfront side of lots closer to the water than the first one third of the length of the home and driveways on the side of homes leading to basement parking garage areas shall not be permitted. ~~shall be screened by walls or fences (not including wood fences) or landscaping at least four feet in height that can effectively screen the view of the vehicles from the lake.~~ This shall not apply to driveways and parking areas in the front of the lot that may be situated such that vehicles are visible from the water lake.

(6)(5) Structures on lakefront lots require the approval of the ~~P~~lanning and ~~Z~~oning ~~B~~oard prior to the issuance of a building permit. As conditions necessitate, the ~~P~~lanning and ~~Z~~oning ~~B~~oard or City Commission (if part of a conditional use application) ~~or city commission~~ may impose increased setbacks in concert with their waterfront review or conditional use authority as necessary to accomplish the objectives in this section. Structures in this context shall also include parking lots, driveways, swimming pools, cabanas, gazebos, screen enclosures, tennis courts and any other outdoor recreational facilities, and other accessory buildings and structures.

a. Setbacks - Single family/duplex. The setback from the water's ordinary high-water elevation for single family and duplex buildings and any other accessory structures on those properties (other than boathouses, docks, over the water gazebos or retaining walls) shall be the average water front setback to the principal structure established by the adjacent water front properties ~~within 200 feet of the subject property,~~ or fifty (50) feet, whichever is greater. That average lakefront setback determination shall be the point at which building construction is permitted. Pools and associated pool decks without screen pool enclosures, that are no taller than three (3) feet in height above the existing natural grade may have a setback of fifty (50) feet. The ~~P~~lanning and ~~Z~~oning ~~B~~oard shall have the authority to approve

water front setbacks less than the average determined above to a minimum of fifty (50) feet in accordance with their water front review authority based upon the determination by the Planning and Zoning Board that such construction does not unduly impair the views of water of adjoining waterfront properties. The Planning and Zoning Board shall also have limited authority to grant exceptions to the water front setback standards when new construction replaces an existing structure(s) that are nonconforming to the current required lakefront setbacks but may not increase that nonconformity.

b. *Setbacks - Multi-family/non-residential/mixed use.* The water front setback from the ordinary high-water elevation for multi-family (three or more units) or non-residential or mixed-use buildings and any other accessory structures on those properties (other than boathouses, docks, over the water gazebos or retaining walls) shall correspond to the height of the proposed structure. For buildings and structures thirty-five (35) feet in height or less, the water front setback shall be a minimum of seventy-five (75) feet. As the height of the building or structure increases, for each one-foot increase in height over thirty-five (35) feet in height, the water front setback shall increase by two and one-half (2.5) feet. Parking lots, driveways, swimming pools or other accessory structures shall be ~~half~~ setback a minimum of fifty (50) feet from the ordinary high-water elevations below.

c. *Ordinary high-water elevations.* For convenience, the ordinary high-water elevations of the city's principal lakes are listed below. These elevations have been determined by the Florida Department of Environmental Protection (FDEP) Bureau of Survey and Mapping. All elevations reference NGVD (88 datum). For the canal and stream front locations, the ordinary high-water elevations are to be provided by the ~~p~~Public ~~w~~Works ~~d~~Department.

1. Lake Berry .....69.4 feet
2. Lake Killarney .....82.0 feet.
3. Lake Maitland .....65.7 feet.
4. Lake Mizell .....65.7 feet.
5. Lake Osceola .....65.7 feet.
6. Lake Sue .....70.7 feet7.
7. Lake Sylvan .....71.2 feet.
8. Lake Virginia .....65.7 feet.
9. Lake Bell .....88.6 feet.
10. Lake Spier .....89.7 feet.
11. Lake Forrest .....100.0 feet.
12. Lake Grace .....100.8 feet.
13. Lake Rose .....87.8 feet.
14. Lake Tuscany .....69.1 feet.
15. Lake Baldwin .....90.7 feet.

16. Lake Temple .....66.6 feet

~~(7)(6)~~ Structures on canalfront or streamfront lots require the approval of the Planning and Zoning Board prior to the issuance of a building permit. Other than boathouses, the waterfront setback shall be at least fifty (50) feet from the canal bulkhead or stream. Structures in this context shall also include driveways, parking lots, swimming pools and pool decks, screen enclosures, tennis courts and other outdoor recreational facilities, cabanas and other accessory buildings and structures. A structure shall be interpreted as any object higher than three (3) feet above grade whether permanently affixed to the ground or not and shall include poles, flags, play equipment, etc. which are not permitted in the fifty (50) foot lakefront setback except as permitted below for canalfront or streamfront locations. Swimming pools and decks on canalfront or streamfront lots may be permitted a minimum of twenty-five (25) feet from the canal bulkhead or stream ordinary high-water elevation, provided the swimming pool has an elevation of no more than two (2) feet above the existing grade on the side closest to the canal or stream. The Planning and Zoning Board may require, as conditions necessitate, the imposition of increased setbacks to accomplish the objectives in this section.

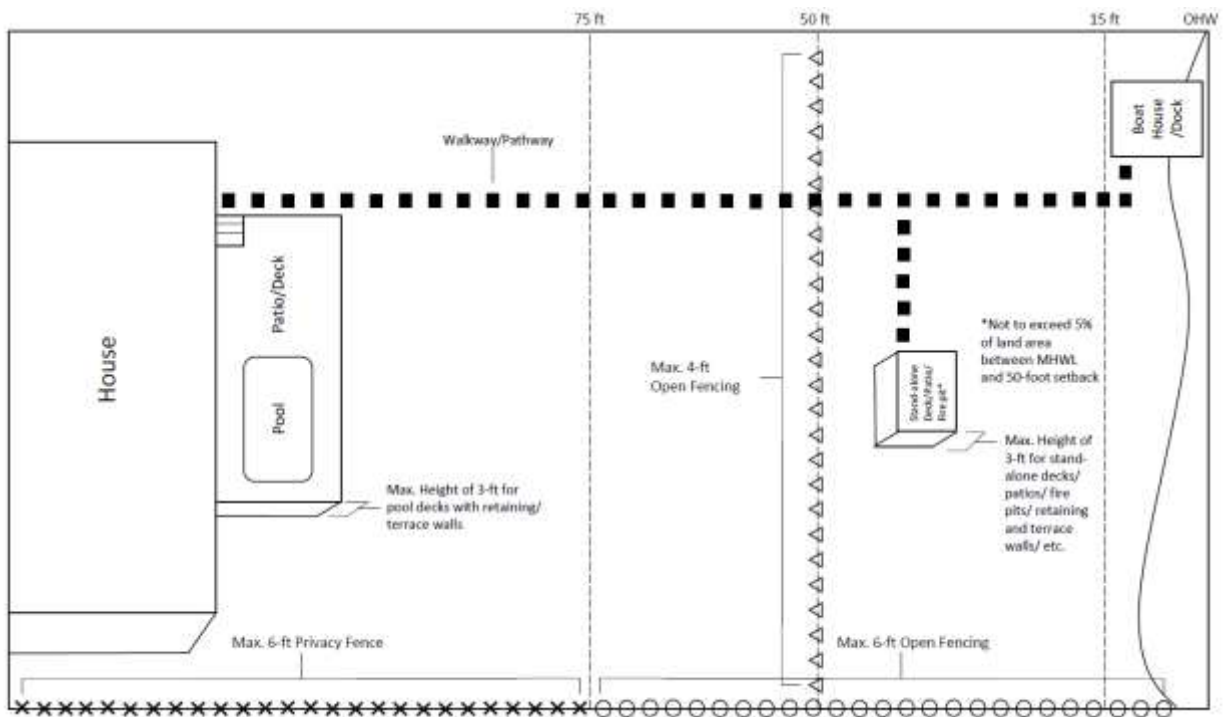
~~(8)(7)~~ Fences or walls on lakefront, canalfront, or streamfront lots.

a. Fences or walls on lakefront, canalfront, or streamfront lots shall not be permitted to extend into the water beyond the ordinary high-water elevation or into a canal beyond the bulkhead. Fences and walls shall not be permitted which run parallel to or across the lakefront, canalfront or streamfront property anywhere within the fifty (50) foot setback from the ordinary high-water elevation.

b. Fences that are seventy-five percent (75%) open, such as aluminum picket, wrought iron, or green or black clad vinyl chain link, but not walls or nonopaque any fences, of solid materials such as wood or vinyl may be permitted which run parallel to or across the lakefront, canalfront or streamfront on only that portion of the land between the rear of the main structure and the fifty (50) foot setback provided such fence does not exceed four (4) feet in height above existing grade.

c. Retaining walls, terrace walls, standalone decks and patios, railings or other structures higher than three (3) feet above existing grade shall not be permitted within the fifty (50) foot setback. Other accessory structures or improvements, that do not exceed three (3) feet in height within the fifty (50)-foot setback such as walkways, railings, standalone patios and, decks, fire pits, etc., shall not cover more than five percent (5%) ten percent of the land area within that fifty (50)-foot setback. Standalone patios, decks and fire pits shall have a minimum setback of fifteen (15) feet from the ordinary high-water elevation.

d. In order to maintain water views across properties, fences running down the sides of properties up to seventy-five (75) feet setback from the ordinary high-water line, shall be permitted a height of up to six (6) feet. within the 50-foot setback or parallel to or across the waterfront. Fences within the seventy-five (75) foot setback, shall be seventy-five percent (75%) substantially open, fences limited to the materials such as aluminum picket, wrought iron, or green or black clad vinyl chain link, which allow visibility across property lines and to the water. Wood shadow box fences shall not qualify as open fencing. The Planning and Zoning Board may permit fences closer than the fifty (50) feet but only on canalfront or streamfront lots as necessary to enclose swimming pools. The following figure provides a summarized example of the overall requirements provided in the subsections above.



(e)(8) Conformance to grades. Many waterfront lots have existing grade slopes down to the water that are otherwise uncommon in the region. The typical home design with a finished first floor level and the swimming pool and patios decks at the same level cannot be accomplished on these sloping sites.

(1) The design of the floor levels and swimming pool or patio decks must conform to the terrain and natural slope of the property.

(2) Swimming pool and spa decks, patios and terraces shall not be constructed more than three (3) feet in height above the average existing grade elevation on the lakeside edge of the deck, patio, or terrace. The height shall be measured from the existing natural grade and not the finished grade; and shall be measured from the average or midpoint of existing grade when a property slopes from side to side



across the width of the pool deck, patio or terrace. The three (3) feet height limit shall be measured to the level of the predominant swimming pool deck elevation, patio or terrace elevation and cannot be mitigated with the construction of retaining walls or negative/infinity edge water collection areas or landscape terrace walls in front of the predominant pool/patio elevation.

(3) The facade of exposed retaining walls taller than three (3) feet above grade facing the lake shall be screened with landscape plantings materials across the length of the retaining wall except for any sections involving steps stairs down to the lakefront.

(4) On lots with severe grade drops of over seven (7) feet throughout the length of the house, as measured by the contours starting at the front of the main structure to the end of the proposed structure, the Planning and Zoning Board may approve swimming pool and spa decks, patios and terraces higher than three (3) feet above existing grade on the water side to a maximum of five (5) feet above existing grade. This approval is subject to the project design including step-downs within the principal structure and/or from the first-floor elevation down to the swimming pool, patio, or terrace deck, that at a minimum shall be equal to the number of feet requested above the three (3) foot allowance. if approved by four members of the planning board. For example, a swimming pool deck, patio or terrace deck height requested at five (5) feet above existing grade, shall have a minimum of two (2) feet of step-downs within the principal structure and/or from the finished floor elevation down to the swimming pool deck, patio or terrace deck or a combination of both. This restriction or limitation on the maximum height above existing grade shall not be provided any exception or variance.

(5) Walk-out basement levels on waterfront homes that create three (3) floors of living area, or usable basement areas for garage/storage, etc. on the waterfront side of the home shall be permitted where grades permit. However, swimming pools and associated decks and patios, shall be located only on the lowest living area level, and shall be in accordance with the height requirements as set forth in this section.

(6) The height of accessory structures on waterfront homes is measured to existing grade; this shall be inclusive of any elevation decks/patios, etc.

(f)(10) Any property that requests and is permitted a swimming pool, patio or terrace deck elevation in excess of three (3) feet above existing grade on the waterfront side, shall not be permitted to construct an accessory structure on that elevated swimming pool, patio or terrace deck unless such accessory structure meets the required lakefront and side setbacks of the principal residence. This restriction shall not be provided any exception or variance.

~~(g)(e)~~ *Retaining walls or seawalls.* Retaining walls shall not exceed a maximum width of thirty-six (36) inches. The construction of retaining walls or seawalls shall be done in accordance with the Lakeshore Protection regulations within this Code of Ordinances.

~~(h)(e)~~ *Wetlands.* Located adjacent to certain streams, lakes and canals are wetland areas, as defined by the Florida Department of Environmental Protection (FDEP) and St. Johns River Water Management District (SJRWMD) methodology, soil types, hydrological requirements and vegetation types in which no adding of soil or other fill materials shall be permitted. In addition, the use of these wetland areas for any structure shall be permitted only as a conditional use granted only upon the affirmative vote of four members of the City Commission and said structures shall be limited to elevated boardwalks or gazebos. The criteria utilized to evaluate such conditional use requests shall include, but not be limited to: the effect on the wetland's function; environmental impacts on the wetlands from the construction process; the loss of environmentally sensitive areas and the precedent for similar construction in other such wetland areas including conformance to the comprehensive plan. For any other building or structure(s) there shall be a fifty (50) foot minimum setback required from the edge of such designated wetlands.

**SECTION 2. CODIFICATION.** Sections 1 of this Ordinance shall be incorporated into the City of Winter Park Code of Ordinances.

**SECTION 3. SEVERABILITY.** The divisions, sections, subsections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, subsection, section, or division of this Ordinance shall be declared invalid, unconstitutional or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such invalidity, unconstitutionality or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs, subsections, sections, and divisions of this Ordinance. The City Clerk is given liberal authority to ensure proper codification of this Ordinance, including the right to correct scrivener's errors.

**SECTION 4. CONFLICTS.** In the event of a conflict between this Ordinance and any other ordinance of the City of Winter Park, this Ordinance shall control to the extent of such conflict.

**SECTION 5. EFFECTIVE DATE.** This Ordinance shall take effect on April 1, 2023 upon its passage and in accordance with Florida law. Any project which has received an approval from the Planning and Zoning Board prior to that date or has submitted an application for an approval by the Planning and Zoning Board prior to that date shall be vested under the previous code related to waterfront lots.

**ADOPTED** at a regular meeting of the City Commission of the City of Winter Park, Florida held in City Hall, Winter Park, on this \_\_\_\_ day of \_\_\_\_\_, 2023.

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Phillip M. Anderson, Mayor

ATTEST:

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Rene Cranis, City Clerk