

COUNCIL CHAMBER

City of Berea, Ohio

ORDINANCE No. 2014-65

By Nick Haschka Sponsored By Mayor Cyril M. Kilem

AN ORDINANCE

AMENDING THE ZONING CODE OF THE CITY OF BEREА BY ENACTING SECTIONS 201.19.1, 202.10, 203.20, 204.11, 205.14, 206.08.1, 207.08.1, 209.08.1, 309.06(F), AND AMENDING SECTIONS 102.04(B), 202.09, 208.08, 301.14, 302.04, 302.09, 302.10, 303.21, 303.23(C), AND ARTICLE IV, ZONING DEFINITIONS, IN CHAPTER 400, DEFINITIONS, OF THE ZONING CODE OF THE CITY OF BEREА, OHIO, ADOPTED MAY 7, 2012.

WHEREAS, the Zoning Code of the City of Berea, Ohio, was enacted by Ordinance No. 2012-29 and adopted on May 7, 2012; and

WHEREAS, it is important to periodically review and appropriately amend the Zoning Code of the City of Berea to ensure that it serves the best interest of the City and its residents and businesses.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Berea, State of Ohio:

SECTION 1. That Section 201.19.1, Architectural Design Standards: Modification, of Chapter 201, R-SF-A, R-SF-B Single Family Residential Zoning Districts, be enacted to read as follows:

Section 201.19.1 Architectural Design Standards: Modification.

Design Standard Modification. The Planning Commission may approve modifications to the architectural and site design standards. The Planning Commission shall consider the following factors when determining whether to approve modifications to the architectural and site design standards:

- (A) Whether any conditions or circumstances exist which are unique to the applicant's land.
- (B) Whether the conditions or circumstances unique to the applicant's land exist as a result of actions of the applicant subsequent to the adoption of this Chapter.
- (C) Whether strict application of the provisions of this Chapter would deprive the applicant of a reasonable use of the land consistent with a residential use.
- (D) Whether the modification will preserve, not harm, the public safety and welfare.
- (E) Whether the modification will alter the essential character of the neighborhood.
- (F) Whether the applicant has provided an alternative to the required architectural or site design standard that achieves the spirit and intent of the original design standard.

SECTION 2. That Section 202.10, Architectural Design Standards: Modification, of Chapter 202, R-SF-T Single Family Residential Zoning District, be enacted to read as follows:

Section 202.10 Architectural Design Standards: Modification.

Design Standard Modification. The Planning Commission may approve modifications to the architectural and site design standards. The Planning Commission shall consider the following factors when determining whether to approve modifications to the architectural and site design standards:

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- (A) Whether any conditions or circumstances exist which are unique to the applicant's land.
- (B) Whether the conditions or circumstances unique to the applicant's land exist as a result of actions of the applicant subsequent to the adoption of this Chapter.
- (C) Whether strict application of the provisions of this Chapter would deprive the applicant of a reasonable use of the land consistent with a residential use.
- (D) Whether the modification will preserve, not harm, the public safety and welfare.
- (E) Whether the modification will alter the essential character of the neighborhood.
- (F) Whether the applicant has provided an alternative to the required architectural or site design standard that achieves the spirit and intent of the original design standard.

SECTION 3. That Section 203.20, Architectural Design Standards: Modification, of Chapter 203, MFR Multi-Family Residential Zoning District, be enacted to read as follows:

Section 203.20 Architectural Design Standards: Modification.

Design Standard Modification. The Planning Commission may approve modifications to the architectural and site design standards. The Planning Commission shall consider the following factors when determining whether to approve modifications to the architectural and site design standards:

- (A) Whether any conditions or circumstances exist which are unique to the applicant's land.
- (B) Whether the conditions or circumstances unique to the applicant's land exist as a result of actions of the applicant subsequent to the adoption of this Chapter.
- (C) Whether strict application of the provisions of this Chapter would deprive the applicant of a reasonable use of the land consistent with a multi-family residential use.
- (D) Whether the modification will preserve, not harm, the public safety and welfare.
- (E) Whether the modification will alter the essential character of the neighborhood.
- (F) Whether the applicant has provided an alternative to the required architectural or site design standard that achieves the spirit and intent of the original design standard.

SECTION 4. That Section 204.11, Architectural Design Standards: Modification, of Chapter 204, TO Transitional Office Zoning District, be enacted to read as follows:

Section 204.11 Architectural Design Standards: Modification.

Design Standard Modification. The Planning Commission may approve modifications to the architectural and site design standards. The Planning Commission shall consider the following factors when determining whether to approve modifications to the architectural and site design standards:

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- (A) Whether any conditions or circumstances exist which are unique to the applicant's land.
- (B) Whether the conditions or circumstances unique to the applicant's land exist as a result of actions of the applicant subsequent to the adoption of this Chapter.
- (C) Whether strict application of the provisions of this Chapter would deprive the applicant of a reasonable use of the land consistent with a commercial use.
- (D) Whether the modification will preserve, not harm, the public safety and welfare.
- (E) Whether the modification will alter the essential character of the neighborhood.
- (F) Whether the applicant has provided an alternative to the required architectural or site design standard that achieves the spirit and intent of the original design standard.

SECTION 5. That Section 205.14, Architectural Design Standards: Modification, of Chapter 205, NC, CC, DT, UT, DD Commercial Zoning Districts, be enacted to read as follows:

Section 205.14 Architectural Design Standards: Modification.

Design Standard Modification. The Planning Commission may approve modifications to the architectural and site design standards. The Planning Commission shall consider the following factors when determining whether to approve modifications to the architectural and site design standards:

- (A) Whether any conditions or circumstances exist which are unique to the applicant's land.
- (B) Whether the conditions or circumstances unique to the applicant's land exist as a result of actions of the applicant subsequent to the adoption of this Chapter.
- (C) Whether strict application of the provisions of this Chapter would deprive the applicant of a reasonable use of the land consistent with a commercial use.
- (D) Whether the modification will preserve, not harm, the public safety and welfare.
- (E) Whether the modification will alter the essential character of the neighborhood.
- (F) Whether the applicant has provided an alternative to the required architectural or site design standard that achieves the spirit and intent of the original design standard.

SECTION 6. That Section 206.08.1, Architectural Design Standards: Modification, of Chapter 206, BR-CD West Bagley Road Commercial Zoning District, be enacted to read as follows:

Section 206.08.1 Architectural Design Standards: Modification.

Design Standard Modification. The Planning Commission may approve modifications to the architectural and site design standards. The Planning Commission shall consider the following factors when determining whether to approve modifications to the architectural and site design standards:

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- (A) Whether any conditions or circumstances exist which are unique to the applicant's land.
- (B) Whether the conditions or circumstances unique to the applicant's land exist as a result of actions of the applicant subsequent to the adoption of this Chapter.
- (C) Whether strict application of the provisions of this Chapter would deprive the applicant of a reasonable use of the land consistent with a commercial or industrial use.
- (D) Whether the modification will preserve, not harm, the public safety and welfare.
- (E) Whether the modification will alter the essential character of the neighborhood.
- (F) Whether the applicant has provided an alternative to the required architectural or site design standard that achieves the spirit and intent of the original design standard.

SECTION 7. That Section 207.08.1, Exterior Building Material Standards: Modification, of Chapter 207, G1 General Industrial Zoning District, be enacted to read as follows:

Section 207.08.1 Exterior Building Material Standards: Modification.

Exterior Building Material Standard Modification. The Planning Commission may approve modifications to the exterior building material standards. The Planning Commission shall consider the following factors when determining whether to approve modifications to the exterior building material standards:

- (A) Whether any conditions or circumstances exist which are unique to the applicant's land.
- (B) Whether the conditions or circumstances unique to the applicant's land exist as a result of actions of the applicant subsequent to the adoption of this Chapter.
- (C) Whether strict application of the provisions of this Chapter would deprive the applicant of a reasonable use of the land consistent with an industrial use.
- (D) Whether the modification will preserve, not harm, the public safety and welfare.
- (E) Whether the modification will alter the essential character of the neighborhood.
- (F) Whether the applicant has provided an alternative to the required exterior building material standard that achieves the spirit and intent of the original design standard.

SECTION 8. That Section 209.08.1, Architectural Design Standards: Modification, of Chapter 209, Educational & Institutional Zoning District, be enacted to read as follows:

Section 209.08.1 Architectural Design Standards: Modification.

Design Standard Modification. The Planning Commission may approve modifications to the architectural and site design standards. The Planning Commission shall consider the following factors when determining whether to approve modifications to the architectural and site design standards:

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- (A) Whether any conditions or circumstances exist which are unique to the applicant's land.
- (B) Whether the conditions or circumstances unique to the applicant's land exist as a result of actions of the applicant subsequent to the adoption of this Chapter.
- (C) Whether strict application of the provisions of this Chapter would deprive the applicant of a reasonable use of the land consistent with educational and institutional uses.
- (D) Whether the modification will preserve, not harm, the public safety and welfare.
- (E) Whether the modification will alter the essential character of the neighborhood.
- (F) Whether the applicant has provided an alternative to the required architectural or site design standard that achieves the spirit and intent of the original design standard.

SECTION 9. That Section 309.06(F), in Chapter 309, Supplemental Regulations, be enacted to read as follows:

- (F) Design Standards. Fences shall be designed and constructed in such a fashion that the finished side of the fence panels face the exterior of the lot. Fence panels are not permitted to be attached to the interior side of support posts.

SECTION 10. That Section 102.04(B), in Chapter 102, Planning Commission, which currently reads as follows:

- (B) Notice for all public hearings shall be given by first class mail to the parties making the request and to the property owners within 200 feet of the property to which such request relates not less than (10) ten days in advance of the hearing. Such notification shall be sent to the names and addresses of such owners appearing on the Cuyahoga County Auditor's current tax list.
 - (1) If the address appearing on the tax list is that of a lending institution or other person or entity clearly recognizable as not being the owner, then written notice shall be mailed to such institution, person, or entity at the listed address and to the named owners at the street address of the property.
 - (2) Failure of delivery of such notice shall not invalidate action taken on such application.

shall be, and is hereby amended to, read as follows:

- (B) Notice for all public hearings shall be given by first class mail to the parties making the request and to the property owners within 200 feet of the property to which such request relates not less than ten (10) days in advance of the hearing. Such notification shall be sent to the names and addresses of such owners appearing on the Cuyahoga County Auditor's current tax list.
 - (1) If the address appearing on the tax list is that of a lending institution or other person or entity clearly recognizable as not being the owner, then written notice shall be mailed to such institution, person, or entity at the listed address and to the named owners at the street address of the property.

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- (2) Failure of delivery of such notice shall not invalidate action taken on such application.
- (3) If the ordinance referred to the Planning Commission from Council proposes a change to the text of the Zoning Code or an amendment to the Zoning Map that effects ten (10) parcels of land or more, as listed on the tax duplicate, in lieu of notice via first class mail, the City may provide notice of the time and place of the public hearing in a newspaper of general circulation in the City of Berea at least ten (10) days prior to the public hearing.

SECTION 11. That Section 202.09, Architectural and Site Design Standards, in Chapter 202, R-SF-T Single Family Residential Zoning District, which currently reads as follows:

Section 202.09 Architectural and Site Design Standards

All uses constructed or expanded in this R-SF-T zoning district shall follow those applicable architectural and site design guidelines as set forth in §203.09 through §203.19 of the MFR Multi-Family Residential Zoning District Chapter 203.

shall be, and is hereby amended to, read as follows:

Section 202.09 Architectural and Site Design Standards

- (A) All single family uses constructed or expanded in this R-SF-T zoning district shall follow those applicable architectural and site design standards as set forth in §201.08 through §201.19 of the R-SF-A, R-SF-B, Single Family Residential Zoning District Chapter 201.
- (B) All townhouse uses constructed or expanded in this R-SF-T zoning district shall follow those applicable architectural and site design standards as set forth in §203.09 through §203.19 of the MFR Multi-Family Residential Zoning District Chapter 203.

SECTION 12. That Section 208.08, Architectural and Site Design Guidelines, in Chapter 208, CD College District Zoning District, which currently reads as follows:

Section 208.08 Architectural and Site Design Guidelines

All new structures constructed or substantially expanded within the CD zoning district shall have a uniform design theme consistent with the predominant architectural or exterior material selections for the existing structures located throughout the district.

- (A) Design Standards. All uses constructed or expanded to a degree to require a site plan review shall follow those applicable architectural and site design guidelines as set forth in the Commercial Zoning Districts Chapter 205 of this Zoning Code.
- (B) Design Standard Modification Waiver. The Planning Commission may approve modifications to the architectural and site design standards. The Planning Commission shall base its decision on all of the following criteria:
 - (1) The specific conditions which are unique to the applicant's land.

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- (2) The manner in which the strict application of the provision of the design standards would deprive the applicant of a reasonable use of the land consistent with a large scale higher education use.
- (3) The unique conditions and circumstances are not the result of actions of the applicant subsequent to the adoption of this Chapter.
- (4) Reasons that the modification shall preserve, not harm, the public safety and welfare, and shall not alter the essential character of the property owners abutting the CD zoning district.
- (5) A demonstration that the applicant has provided an alternative to the required architectural or site design standard that achieves the spirit and intent of the original design standard.

shall be, and is hereby amended to, read as follows:

Section 208.08 Architectural and Site Design Standards.

All new structures constructed or substantially expanded within the CD zoning district shall have a uniform design theme consistent with the predominant architectural or exterior material selections for the existing structures located throughout the district.

- (A) Design Standards. All uses constructed or expanded to a degree to require a site plan review shall follow those applicable architectural and site design guidelines as set forth in the Commercial Zoning Districts Chapter 205 of this Zoning Code.
- (B) Design Standard Modification Waiver. The Planning Commission may approve modifications to the architectural and site design standards. The Planning Commission shall consider the following factors when determining whether to approve modifications to the architectural and site design standards.
 - (1) Whether any conditions or circumstances exist which are unique to the applicant's land.
 - (2) Whether the conditions or circumstances unique to the applicant's land exist as a result of actions of the applicant subsequent to the adoption of this Chapter.
 - (3) Whether strict application of the provisions of this Chapter would deprive the applicant of a reasonable use of the land consistent with a higher educational use.
 - (4) Whether the modification will preserve, not harm, the public safety and welfare.
 - (5) Whether the modification will alter the essential character of the neighborhood.
 - (6) Whether the applicant has provided an alternative to the required architectural or site design standard that achieves the spirit and intent of the original design standard.

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SECTION 13. That the title of Section 301.14, in Chapter 301, Off-Street Parking and Loading Facilities, which currently reads as follows:

Section 301.14 Special Standards for Parking Areas Permitted in the RO Transitional Office District Serving Business Purposes

shall be, and is hereby amended to, read as follows:

Section 301.14 Special Standards for Parking Areas Permitted in the TO Transitional Office District Serving Business Purposes

SECTION 14. That Table 13, Bufferyard Requirements, in Section 302.04, Bufferyard Requirements, in Chapter 302, Landscape and Bufferyard Standards, which currently reads as follows:

Table 13: Bufferyard Requirements

WHEN...	IS PROPOSED TO ABUT...	A MINIMUM BUFFERYARD OF...	PLANT MATERIAL
Any industrial land use	Any R-SF-A, R-SF-B, R-SF-T, MFR, RO, NC, CC, DT, UT,CD or DD zone or residential or commercial land use**	50' side and/or rear bufferyard is required with...	40' wide, 6' tall earthen berm + a double row of staggered trees (C)* at 15' O.C. STORAGE YARD – 6' fence or wall + hedge (E)* facing rear yard only and/or drive

shall be, and is hereby amended to, read as follows:

Table 13: Bufferyard Requirements

WHEN...	IS PROPOSED TO ABUT...	A MINIMUM BUFFERYARD OF...	PLANT MATERIAL
Any industrial land use	Any R-SF-A, R-SF-B, R-SF-T, MFR, TO, NC, CC, DT, UT,CD or DD zone or residential or commercial land use**	50' side and/or rear bufferyard is required with...	40' wide, 6' tall earthen berm + a double row of staggered trees (C)* at 15' O.C. STORAGE YARD – 6' fence or wall + hedge (E)* facing front yard only and/or drive

SECTION 15. That Section 302.09, Street Frontage Landscaping, in Chapter 302, Landscape and Bufferyard Standards, which currently reads as follows:

Section 302.09 Street Frontage Landscaping

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Any project located within an RO, NC, CC, DT, BR-CD, UT, DD or CD zoning district and meeting the applicability requirements of this Chapter shall provide landscaping along the perimeter of the front yard area when abutting any public right-of-way and public or private street. A minimum of ten percent of the front yard area shall be landscaped with a combination of trees, shrubs, planting beds or perennials. Street frontage landscaped areas shall contain a minimum of one (1) tree and twelve (12) shrubs for every one-hundred (100) lineal feet of required landscape area. The minimum width of any street frontage landscape area shall be six (6) feet and shall be located adjacent to the edge of the public right-of-way or other suitable location as determined by the Planning Commission. Required building foundation planting areas shall not be counted toward the street frontage planting area requirements.

shall be, and is hereby amended to, read as follows:

Section 302.09 Street Frontage Landscaping

Any project located within an TO, NC, CC, DT, BR-CD, UT, DD or CD zoning district and meeting the applicability requirements of this Chapter shall provide landscaping along the perimeter of the front yard area when abutting any public right-of-way and public or private street. A minimum of ten percent of the front yard area shall be landscaped with a combination of trees, shrubs, planting beds or perennials. Street frontage landscaped areas shall contain a minimum of one (1) tree and twelve (12) shrubs for every one-hundred (100) lineal feet of required landscape area. The minimum width of any street frontage landscape area shall be six (6) feet and shall be located adjacent to the edge of the public right-of-way or other suitable location as determined by the Planning Commission. Required building foundation planting areas shall not be counted toward the street frontage planting area requirements.

SECTION 16. That Section 302.10, Landscape and Bufferyard Modifications, in Chapter 302, Landscape and Bufferyard Standards, which currently reads as follows:

Section 302.10 Landscape and Bufferyard Modifications.

- (A) The Planning Commission may approve modifications to the landscaping and bufferyard requirements. The Planning Commission shall base its decision on all of the following criteria:
- (1) The specific conditions which are unique to the applicant's land.
 - (2) The manner in which the strict application of the provision of this Chapter would deprive the applicant of a reasonable use of the land in a manner equivalent to the use permitted other landowners in the same zoning district.
 - (3) The unique conditions and circumstances are not the result of actions of the applicant subsequent to the adoption of this Chapter.
 - (4) Reasons that the modification shall preserve, not harm, the public safety and welfare, and shall not alter the essential character of the neighborhood.
 - (5) A demonstration that the applicant has provided for a buffer that achieves the spirit and intent of this Chapter.

shall be, and is hereby amended to, read as follows:

Section 302.10 Landscape and Bufferyard Modifications.

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- (A) The Planning Commission may approve modifications to the landscape and bufferyard standards. The Planning Commission shall consider the following factors when determining whether to approve modifications to the landscape and bufferyard standard:
- (1) Whether any conditions or circumstances exist which are unique to the applicant's land.
 - (2) Whether the conditions or circumstances unique to the applicant's land exist as a result of actions of the applicant subsequent to the adoption of this Chapter.
 - (3) Whether strict application of the provisions of this Chapter would deprive the applicant of a reasonable use of the land consistent with the immediate vicinity.
 - (4) Whether the modification will preserve, not harm, the public safety and welfare.
 - (5) Whether the modification will alter the essential character of the neighborhood.
 - (6) Whether the applicant has provided an alternative to the required landscape and bufferyard standard that achieves the spirit and intent of the original standard.

SECTION 17. That Section 303.21, Signs in the Public Right-of-Way Prohibited, in Chapter 303, Sign Standards, which currently reads as follows:

Section 303.21 Signs in the Public Right-of-Way Prohibited.

- (A) No sign shall be placed in any public right-of-way except:
- (1) A governmental sign, such as a traffic control or directional sign; and
 - (2) Portable sandwich signs in the RO, NC, CC, DT, BR-CD, UT, DD, and GI zoning districts, provided the signs meet the requirements of this Chapter. In all instances, the sign applicant must show that a portable sandwich board sign can physically not be placed upon private property before requesting placement within the right-of-way.

shall be, and is hereby amended to, read as follows:

Section 303.21 Signs in the Public Right-of-Way Prohibited.

- (A) No sign shall be placed in any public right-of-way except:
- (1) A governmental sign, such as a traffic control or directional sign; and
 - (2) Portable sandwich signs in the TO, NC, CC, DT, BR-CD, UT, DD, and GI zoning districts, provided the signs meet the requirements of this Chapter. In all instances, the sign applicant must show that a portable sandwich board sign can physically not be placed upon private property before requesting placement within the right-of-way.

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SECTION 18. That Section 303.23(C), in Chapter 303, Sign Standards, which currently reads as follows:

- (C) Temporary Sign Display Time Limits. All permitted temporary commercial signs and temporary non-commercial signs shall obtain a sign permit as provided in this Chapter. No more than three (3) permits may be granted per single calendar year. Each temporary sign permit shall expire upon thirty (30) days from the date of permit issuance. After expiration of the temporary sign permits, thirty (30) days must lapse before the applicant may apply for another temporary sign permit.
- (1) Portable sandwich board signs located in the RO, NC, CC, DT, BR-CD, UT, DD, and GI zoning districts shall be exempt from this time limitation.

shall be, and is hereby amended to, read as follows:

- (C) Temporary Sign Display Time Limits. All permitted temporary commercial signs and temporary non-commercial signs shall obtain a sign permit as provided in this Chapter. No more than three (3) permits may be granted per single calendar year. Each temporary sign permit shall expire upon thirty (30) days from the date of permit issuance. After expiration of the temporary sign permits, thirty (30) days must lapse before the applicant may apply for another temporary sign permit.
- (1) Portable sandwich board signs located in the TO, NC, CC, DT, BR-CD, UT, DD, and GI zoning districts shall be exempt from this time limitation.

SECTION 19. That the definitions of the terms "Restaurant (Small Scale)" and "Retail Sales (Specialty)", set forth in Chapter 400, Definitions, of Article IV, Zoning Definitions, of the Zoning Code of the City of Berea which currently read as follows:

RESTAURANT (SMALL SCALE). A restaurant containing less than 1,000 sq. ft. gross area located in a RO zoning district.

RETAIL SALES (SPECIALTY). Includes retail establishments selling merchandise that is characterized as unique in nature while being produced in limited quantities. A specialty retail establishment is limited to 1,000 sq. ft. of gross business space in the RO zoning district. Specialty retail establishments are permitted in other commercial zoning districts without the 1,000 sq. ft. maximum area requirement.

shall be, and are hereby amended to, read as follows:

RESTAURANT (SMALL SCALE). A restaurant containing less than 1,000 sq. ft. gross area located in a TO zoning district.

RETAIL SALES (SPECIALTY). Includes retail establishments selling merchandise that is characterized as unique in nature while being produced in limited quantities. A specialty retail establishment is limited to 1,000 sq. ft. of gross business space in the TO zoning district. Specialty retail establishments are permitted in other commercial zoning districts without the 1,000 sq. ft. maximum area requirement.

SECTION 20. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in

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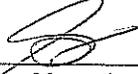
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such formal actions were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

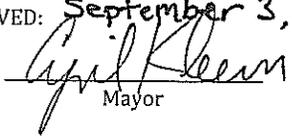
SECTION 21. That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED: September 2, 2014



President of Council

ATTEST: Alyce Esau
Clerk of Council

APPROVED: September 3, 2014


Mayor

APPROVED AS TO FORM:



Director of Law