



CITY OF NEW BEDFORD

In the Year Two Thousand and Twenty One

AN ORDINANCE

Amending Chapter 9 Zoning

31- 509

Be it ordained by the City Council of the City of New Bedford as follows:—

SECTION 1. Chapter 9, Section 2110 (Districts) is amended by striking “Wamsutta Mill Overlay District (WMOD)” and inserting the following:

Waterfront Mixed Use District (WMU)

SECTION 2. Chapter 9, Section 4600 (Working Waterfront Overlay District) is hereby amended by striking the phrase “and Interstate Route I-195” and inserting “Wamsutta Street” in place thereof, so the section reads as follows:

4600. WORKING WATERFRONT OVERLAY DISTRICT.

There shall be a Working Waterfront Overlay District, comprising the waterfront area between Gifford Street and Wamsutta Street. A fish fillet or fish processing plant shall only be allowed in Industrial "B" Zones that are located within the Working Waterfront Overlay District.

SECTION 3. Chapter 9, Section 4661(B) Hicks Logan Sawyer IPOD is hereby amended by striking the following language:

- Mills within the proposed Wamsutta Mill National Register Historic District
- Ice House within the Former Revere Copper Site
- #26 North Front Street within the Former Revere Copper Site
- #122-124 North Front Street
- A portion of the Kilburn Mill

so the subsection reads as follows:

(B) Historic Context. The HLS District contains mill buildings dating from the Nineteenth and early Twentieth Centuries, when the District was a center of textile and metals manufacturing. Some of these buildings may be "Brownfields" containing toxic contaminants. The City wishes both to encourage adaptive reuse of existing mill buildings and to encourage redevelopment of Brownfield Sites.

- Where relevant and feasible, the adaptive reuse of some or all existing historic buildings should be considered, especially in the case of buildings deemed preferably preserved by the New Bedford Historical Commission. The HLS District Master Plan recommends the preservation of the following mills:
 - Fairhaven Mills
- Infill development near historic structures and new construction attached to historic structures should be compatible with the historic context. However, new construction should not attempt to be a copy of existing structures.

SECTION 4. Chapter 9, Section 4100A Wamsutta Mill Overlay District (WMOD) through 4170A shall be struck in its entirety and inserting the following in place thereof:

4100A – 4199A. RESERVED.

SECTION 5. Chapter 9, Section 4700A (WEDROD District) is amended by striking Section 4700A (WEDROD District) in its entirety and inserting the following in place thereof:

4700A - Waterfront Mixed Use District (WMU).

4710A. Purpose.

The Waterfront Mixed Use District ("WMU") is established to promote and support economic revitalization by retaining existing and supporting waterfront uses and structures and to achieve consistency with the New Bedford Waterfront Redevelopment Plan: Focus Area North and the New Bedford Waterfront Redevelopment Plan: Focus Area South (2021). The WMU includes four (4) subareas, identified as Subarea A (Wamsutta), Subarea B (Revere Copper), Subarea C (Fairfield Inn and Eversource) and Subarea D (Sprague/Eversource).

Subarea A is intended to attract new multifamily residential, multifamily mixed use, and neighborhood business uses while maintaining the area's historic character and enhancing public access to and within, the waterfront.

Subarea C is designed to promote the link between New Bedford's Downtown and its waterfront, with active ground floor uses along MacArthur Drive that connect to a proposed pedestrian connection to the waterfront in Subarea D.

Subarea B (along the waterfront and including the Revere Copper site) and Subarea D, are

designed to retain and expand existing water-dependent, water-related and supporting uses, and attract new, sustainable businesses that may benefit from prime waterfront access and visibility. Uses in Subarea D are subject to the requirements of the Designated Port Area (DPA), G.L. c. 91 et seq., and the New Bedford Municipal Harbor Plan in effect at the time of application. In Subarea D, only the identified design guidelines apply.

4711A. Design Principles

The following principles are consistent with the purpose of the WMU District and focus on four aspects of design, each of which shall be reflected to the maximum extent possible in all new or redevelopment projects:

- A. Public access to the waterfront – Public access to the waterfront and pedestrian access along the water should be provided by properties with water frontage. In WMU Subarea B, private access points should connect with streets and public sidewalks to ensure a continuous pedestrian network that allows access to public amenities along the waterfront. In WMU Subarea D, public access to the waterfront should only be provided at single points that will not interfere with the safe operation of water-dependent uses, vehicles, boats, or machinery.
- B. Treatment of buildings – New buildings should be oriented to face the street, serving to define space for public and private activities. Existing buildings should be reconstructed or reconfigured according to the same principles, to the greatest extent possible.
- C. Treatment of the site and landscape – Sites should be landscaped to provide a buffer between incompatible uses and to define spaces for public and private activities. Landscaping should be consistent with Site Plan Review requirements.
- D. Public and private infrastructure – Streetscapes should incorporate pedestrian and bicycle amenities throughout the District, including shared use paths, encourage on-street parking, and designate ride share zones and areas for ride hailing. Green infrastructure and Low Impact Development (LID) should be considered for every project. Overhead utility lines shall be relocated underground where possible or to the rear of buildings to improve the visual quality of the streetscape and to reduce conflicts between sidewalks, plantings, and utility poles.

4720A. Location and Boundaries.

The boundaries of the WMU are shown on the following maps, as may be subsequently amended by vote of the City Council. These maps are on file with the City Clerk.

- Waterfront Mixed Use District, Subarea A, April 2020
- Waterfront Mixed Use District, Subarea B, April 2020
- Waterfront Mixed Use District, Subarea C, April 2020
- Waterfront Mixed Use District, Subarea D, April 2020

4721A. Boundaries of the Four Subareas.

The WMU District includes four subareas with differing permitted uses and development standards and are located within the following boundaries:

- A. Subarea A. WMU Subarea A is bound by Interstate 95 to the north, Belleville Avenue and North Front Street to the east, Wamsutta Street and Kilburn Street to the south, and Route 18 to the west.
- B. Subarea B. WMU Subarea B is bound by Kilburn Street and Interstate 95 to the north, the New Bedford Harbor to the east, the Wamsutta Street outflow to the south, and North Front Street and Belleville Avenue to the west.
- C. Subarea C. WMU Subarea C is bound by MacArthur Drive to the south and east and JFK Memorial Highway to the north and west.
- D. Subarea D. Subarea D is bound by MacArthur Drive and Leonard's Wharf to the north, New Bedford Harbor to the east, MacArthur Drive to the west, and comprised of parcels 42-287 and portions of parcels 47-181 and 47-241.

4730A. Relationship to Existing Zoning.

The WMU supersedes all other zoning district regulations for this area, except the Flood Hazard Overlay District (FHOD). In the case of a conflict between the WMU and the FHOD regulations, the FHOD regulations shall apply. In the case of a conflict between the WMU and the underlying zoning district regulations, the WMU regulations shall apply.

4740A. Definitions Applicable to Section 4700A.

The definitions contained in Section 1200 of the Zoning Ordinance shall apply to the WMU District. The following additional definitions shall apply where applicable. In the event of a conflict between the definitions contained in Section 1200 and those below, the definitions below shall control within the WMU District.

Aquaponics: The cultivation of fish and plants together in a constructed, re-circulating system utilizing natural bacterial cycles to convert fish wastes to plant nutrients, for distribution to retailers, restaurants, and consumers.

Aquatic Equipment Rental: A facility that rents equipment for use on or under the surface of the water.

Artist Studio: A place of work for an artist, artisan or craftsman, including persons engaged in the application, teaching or performance of arts such as but not limited to, drawing, vocal, or instrumental music, painting, sculpture and writing.

Commercial Structured Parking Facility: Motor vehicle parking facility operated by the

City or private entity that is structured and available to the public at-large for an hourly, daily, or monthly fee. The structure may be at grade, below grade or above grade.

Commercial Surface Parking Facility: Motor vehicle parking facility operated by the City or private entity that is at grade and available to the public at-large for an hourly, daily, or monthly fee.

Flat floor event, arena space: A one-story space flexible enough to host a multitude of different events, allowing for different seating configurations.

Marine Recreation Facility: Coastal facilities and infrastructure supporting waterfront recreational activities such as marinas or boathouses for pleasure boating, charter fishing, cruises and whale watches, coastal and marine-based ecotourism.

Maritime Education: Use of land or structure for tertiary or experiential educational purposes related to maritime trade, including marine engineering, marine-related research and development, water-dependent industrial, and other maritime employment categories.

Maritime Trade: The shipment of goods and transport of individuals and goods and cargo by sea and waterways.

Shipyard, shipbuilding: A yard, place, or enclosure where ships are designed, built, and/or repaired.

Waterfront Storage & Distribution Facility: Businesses engaged in the sale, distribution or storage of grain, petroleum products, building materials and industrial machinery provided that such businesses shall be primarily reliant upon a waterfront location or shall be in direct support of an industrial use that requires a waterfront location.

4750A. Table of Principal Use Regulations Applicable to Section 4700A.

Any use not identified or specifically enumerated in the table below is prohibited notwithstanding regulations applicable to the underlying zoning district. Where relevant, the use of the phrase “use” shall also include the phrase “structure” such that permitted uses shall be deemed to include a structure(s) required to support the permitted use. PB requires a Special Permit from the Planning Board.

Principal Use	WMU Subarea A	WMU Subarea B	WMU Subarea C	WMU Subarea D
A. Residential				
1. Multi-family townhouse	Y	N	N	N
2. Multi-family garden style (4 stories)	Y	N	N	N
3. Multi-family mixed use (6 stories)	Y	N	N	N
C. Commercial				
1. Nonexempt agricultural use	PB	PB	N	N

Principal Use	WMU Subarea A	WMU Subarea B	WMU Subarea C	WMU Subarea D
2. Nonexempt educational use	PB	PB	N	YA**
6. Bed & Breakfast	PB	N	N	N
7. Motel, hotel or inn	Y	Y	Y	N
8. Retail stores and services not elsewhere set forth	Y	Y	Y	YA**
9. Grocery stores	Y	PB	N	N
10. Health clubs	Y	Y	Y	N
11. Mixed use	Y	Y	Y	N
12. Commercial Structured Parking Facility	PB	PB	PB	PB
13. Commercial Surface Parking Facility	PB	PB	PB	PB
14. Restaurant	Y	Y	Y	YA**
15. Business or professional office	Y	Y	Y	YA**
16. Medical offices, center, or clinic	Y	PB	Y	N
17. Bank, financial agency	Y	Y	Y	N
18. Indoor commercial recreation	Y	Y	N	N
19. Outdoor commercial recreation	PB	PB	N	N
20. Marine Recreation Facility	N	Y	N	Y[†]
21. Maritime Trade	Y	Y	Y	Y[†]
22. Maritime Education	Y	Y	Y	Y[†]
23. Wireless Communications Facilities	PB	PB	PB	N
24. Convention Centers	PB	PB	PB	N
25. Flat floor event, arena space	PB	PB	PB	N
26. Sports Complex	N	PB	PB	N
27. Artist Studio	Y	Y	Y	N
D. Industrial				
1. Manufacturing	N	PB	N	Y[†]
2. Light manufacturing	PB	Y	N	Y[†]
3. Research, development or testing laboratories and facilities	PB	Y	N	Y[†]
4. Fish processing	N	Y	N	Y[†]
5. Transportation terminal	N	PB	N	Y[†]
6. Water freight terminal	N	PB	N	Y[†]
7. Shipyard, shipbuilding	N	Y	N	Y[†]
8. Waterfront Storage & Distribution Facility	N	PB	N	YA**
E. Agriculture				
1. Aquaculture	Y	Y	N	Y[†]
2. Aquaponics	Y	Y	N	Y[†]

4751A. Designated Port Area Additional Restrictions.

Subarea D is restricted by DPA and General Laws, Chapter 91 (the Waterways Act). Uses and structures within WMU Subarea D are subject to additional regulations and requirements as promulgated by the Massachusetts Coastal Zone Management Office as it relates to the Designated Port Area of New Bedford Harbor. If these regulations and requirements conflict with an otherwise permitted use or structure within Subarea D as listed above, the regulations and requirements of the Designated Port Area shall apply.

- A. Uses marked Y† in Subarea D are allowed subject to a determination by CZM of Water-dependency as defined in 310 CMR 9.12 or by a state-approved municipal harbor plan for the New Bedford/Fairhaven Harbor in effect at the time of application.
- B. Uses marked YA** in Subarea D are allowed subject to a determination by CZM that they are accessory to a Water-dependent Use as defined in 310 CMR 9.12(3) or by a state-approved municipal harbor plan for the New Bedford/Fairhaven Harbor in effect at the time of application. Such uses are subject to a Special Permit from the Planning Board.

4760A. Table of Dimensional Regulations Applicable to Section 4700A.

<u>REQUIREMENT</u>	<u>WMU SUBAREA A</u>	<u>WMU SUBAREA B</u>	<u>WMU SUBAREA C</u>	<u>WMU SUBAREA D</u>
Minimum Lot Size (sq. ft.)	15,000 for 3 or more family units	5,000	5,000	5,000
Density of Dwelling Units per Lot	1 per 1,000 sq. feet for three or more family	N/A	N/A	N/A
Lot Frontage (ft.)	150 for 3 or more family; 20 for other allowed uses	50	50	50
Height of Buildings (ft.) ¹	60	60	60	60
Height of Buildings (# stories) ¹	4	4	4	4
Front Yard (ft.) ²	10	10	0	0
Side Yard (ft.)	10	10	10	10
Rear Yard (ft.)	20	20	20	20
Lot Coverage by Buildings (%) ¹	60	60	60	60
Green Space (%) ¹	35 for residential uses; 10 for other uses	10	10	10

¹ See Section 4773A. Development Incentives.

² So as to preserve the existing location of an historic building listed or eligible to be listed on the

State or National Historic Registers, the Planning Board may waive the front yard setback. Additionally, the Planning Board may waive the front yard setback to allow a publicly accessible plaza between the lot line and the principal façade of the building. Parking is not allowed within the front yard setback.

4770A. Approval of Site Plans, Special Permits and Development Incentives.

The requirements of Section 5300 and 5400 of the Zoning Ordinance shall govern unless specifically noted below. Consistency with the purpose and intent of Section 4700A, other relevant provisions of the Zoning Ordinance and the New Bedford Waterfront Redevelopment Plan: Focus Area North (applicable to Subareas A and B) and New Bedford Waterfront Redevelopment Plan: Focus Area South (applicable to Subareas C and D), 2021 shall guide Planning Board decisions in all applications for site plan, special permits and development incentives as set forth below.

4771A. Criteria for Site Plan Approval Where a Special Permit Is Not Required.

This section supersedes Section 5470 for purposes of this Section only; all other provisions of Section 5400 shall otherwise apply. The Planning Board shall grant site plan approval upon the determination that the requirements set forth in subsections A-C, below are met. Notwithstanding compliance with subsections A-C, the Planning Board may impose any rationally related condition on a Site Plan approval that is intended to protect public health or safety, or otherwise further the purpose and intent of the Zoning Ordinance.

- A. The application is complete with respect to Sections 5440 and 5450 of the Zoning Ordinance.
- B. The application is consistent with the intent of Section 4710A and the New Bedford Waterfront Redevelopment Plan: Focus Area North (applicable to Subareas A and B) and New Bedford Waterfront Redevelopment Plan: Focus Area South (applicable to Subareas C and D), 2021.
- C. The application meets the relevant development standards in Section 4780A, below.

4772A. Criteria for Approval of a Special Permit.

When required, a special permit may be granted by the Planning Board, unless otherwise specified herein, only upon its written determination that the benefit to the City, the WMU District, and the neighborhood, outweighs the adverse effects of the proposed use or structure, taking into consideration the characteristics of the site and the proposal in relation to the site, as well as Section 5320 of the Zoning Ordinance and the criteria listed below:

- A. The consistency of the application and the site plan with the intent of Section 4710A and the New Bedford Waterfront Redevelopment Plan: Focus Area North (applicable to Subareas A and B) and New Bedford Waterfront Redevelopment

Plan: Focus Area South (applicable to Subareas C and D), 2021.

- B. Consistency with the design guidelines, defined in Section 4790A. Although these are not mandatory, consistency with the guidelines shows consideration of the City's desires for development that includes low-impact design strategies for landscape and on-site stormwater management; building design that is consistent with LEED criteria (or other similar rating system); and a mixed-use area that is cognizant of the needs of both truck movements and amenities for pedestrians and bicyclists.
- C. Traffic and circulatory impact on the roads and neighborhoods adjacent to the Waterfront Overlay District.
- D. Where relevant, compliance with the requirements of G.L. c. 91 et seq. and the provisions of the state-approved municipal harbor plan for the New Bedford-Fairhaven Harbor.

Any special permit issued pursuant to this section shall incorporate the Planning Board's findings, conditions, and approval of the site plan. Notwithstanding compliance with subsections A-D, above, the Planning Board may impose any rationally related conditions of special permit approval that is intended to protect public health or safety, or otherwise further the purpose and intent of this Section 4700A et seq. or the Zoning Ordinance in general.

4773A. Development Incentives Applicable to Section 4700A.

In the sole discretion of the Planning Board and provided that: (1) the special permit application demonstrates compliance with at least one of the public benefit requirements noted in subsections A-E below, (2) the special permit application demonstrates compliance with the New Bedford Waterfront Redevelopment Plan: Focus Area North (applicable to Subareas A and B) and New Bedford Waterfront Redevelopment Plan: Focus Area South (applicable to Subareas C and D), 2021 and (3) the Planning Board approves a special permit in accordance with the requirements of the Zoning Ordinance; the Planning Board may allow building heights to be increased to a maximum of seventy-five (75) feet, and/or the requirements applicable to residential density, maximum lot coverage and minimum green space to be waived, in whole or in part.

- A. WMU Subarea A. In this subarea, such benefit would include one or more of the following: development of a plaza or pocket park open to the public and fronted by active uses, including office, educational, service, retail, restaurants and artist studios, on the ground floor along Logan Street or North Front Street and improvements to the fire pond and abutting land to provide and extend public open space.
- B. WMU Subarea B. In this subarea, such benefit would include one or more of the following: an easement to allow the extension of Logan Street from North Front Street to the water's edge; an expanded public walkway and/or plaza of 25 feet or more from the water's edge; and a pocket park on Logan Street between Acushnet Avenue and North Front Street open to the public and connected to the public

sidewalk.

- C. WMU Subarea C. In this subarea, such benefit would include one or more of the following: a public plaza and/or public pocket park along MacArthur Drive and coordinated street trees, street furniture, and other pedestrian amenities in the private front yard setback along MacArthur Drive.
- D. WMU Subarea D. In this subarea, such benefit would include one or more of the following: a park along the water's edge at Leonard's Wharf; a public plaza and/or public pocket park along MacArthur Drive; and coordinated street trees, street furniture, and other pedestrian amenities in the private front yard setback along MacArthur Drive.
- E. In all subareas. Green space requirements may also be fulfilled by incorporating permeable hardscape, tree canopy, and roof decks integrated into the onsite stormwater management program. Public amenities (e.g., public sitting areas including benches, lighting, bike racks, and trash receptacles, public viewing decks or terraces, public parking spaces, and/or landscaped green space in addition to the required 10% minimum) require maintenance agreements to be established with the owner/developer to maintain these amenities in good, safe, and usable condition, consistent with the purpose of these regulations and Section 4780A et seq., below.
- F. In all subareas, the Planning Board shall include as a condition of special permit approval the requirement that the above noted parks, walkways and other amenities intended for public use and public access be: (1) made safe; (2) maintained, (3) remain accessible, and (4) remain available for public use and access in perpetuity or for the longest period permitted by law.

4780A. Development Standards Applicable to Section 4700A.

In addition to all other applicable requirements set forth herein or contained within the Zoning Ordinance, all projects or uses within the WMU District shall comply with the following:

4781A. Rehabilitation of Existing Buildings.

For conversions of existing structures, the Planning Board must find that the proposal protects the City's heritage by minimizing removal or disruption of historic, traditional, or significant uses, structures, or architectural elements, whether these exist on the site or adjacent properties.

4782A. Development Standards for New Construction.

The following standards apply to all subareas, unless noted below.

- A. Public Access to the Waterfront

1. In WMU Subarea B, public access requirements along the water shall be met by a continuous public walkway, which may include integrated public plazas or private plazas accessible to the public, running from Washburn Street to the intersection of North Front Street and Wamsutta Street. Public access shall consist of a landscaped area with a minimum width of twenty-five (25) feet from the project shoreline and include a designated walking/biking area with a minimum width of twelve (12) feet. To ensure compliance with the above noted public access requirements and regardless of whether the new construction is permitted with or without the requirement for a special permit, prior to the issuance of a building permit for new construction, the landowner shall provide the City with legal documentation, to be approved by the City Solicitor, granting perpetual public access along the above noted continuous public walkway.
2. Notwithstanding subsection (1) above, for water-dependent industrial uses in WMU Subarea B and WMU Subarea D, public access shall be consistent with safety requirements and the need for industrial operations to access the water directly. The public walkway must terminate with access to a public right-of-way.

B. Treatment of Buildings

1. Buildings shall be oriented with their main entrance and elevation facing the street.
2. New buildings along Logan Street and North Front Street and buildings with frontage on MacArthur Drive shall have ground floors with active uses that are allowed in the subarea. Active uses include office, educational, service, retail, restaurant, and artist studios.
3. At least 60% of the ground floor façade of buildings along Logan Street, Washburn Street, and Hicks Street shall have storefronts, doors, windows, or fenestration that allow clear views from the street to the active uses inside the building. The use of reflective or tinted glass shall not be permitted on the ground floor.
4. Construction materials shall be durable, resilient, and traditional to the waterfront area (e.g., brick, stone, steel, wood, shingles or clapboard finishes). Vinyl siding or Exterior Insulation and Finish Systems (EIFS) shall not be permitted on the ground floor.
5. Building signs shall be located within a sign-band between the ground floor and the second floor, including projecting/blade signs. All signs are subject to Planning Department administrative review and Section 3200 of the Zoning Ordinance.

C. Treatment of the Site and Landscape

1. Projects shall implement low-impact stormwater management techniques to control runoff and manage stormwater on-site, such as the use of structured soils, engineered tree wells, biofiltration swales, or other best management practices suited to an urban environment. Stormwater management practices should be consistent with Article VIII Stormwater Management of the City's Code of Ordinances; any alteration of land will require a stormwater management permit unless such alteration meets the exemptions in the ordinance. Stormwater shall not be permitted to drain into the City's sewer system, onto other properties, into surface waters or into New Bedford Harbor.
2. Parking areas contiguous with a public sidewalk shall provide a landscaped buffer between the parking area and the public sidewalk with a minimum width of five (5) feet.
3. Healthy mature trees and vegetation shall be maintained and incorporated into the new site plan to the greatest extent possible.
4. Invasive species included in the Massachusetts Prohibited Plant List are prohibited.
5. Hardscape materials that connect to public infrastructure shall smoothly connect to ensure public safety and mobility and shall be consistent or compatible with the public infrastructure in terms of material type and durability (e.g., a concrete public sidewalk shall be matched with either a concrete private sidewalk or decorative pavers, private asphalt sidewalks should not overrun public sidewalks).
6. Lighting shall be shielded or at a 75 to 90-degree cut-off. Lights shall not be operational during non-business hours, except for minimal lighting required for safety.

D. Public and Private Infrastructure

1. Public amenities (including benches, lighting, bike racks, and trash receptacles) and landscape materials (planting choices, paving materials) shall be consistent in quality and appearance throughout the WMU District and are subject to administrative review by the Planning Department and the Department of Public Infrastructure.
2. Bicycle parking and storage facilities shall be incorporated into all new facilities. Bike racks shall be U frame or similar, as directed by the Planning Department and the Department of Public Infrastructure.

3. Utility lines shall be located underground or to the rear of buildings to improve the visual quality of the streetscape and to eliminate conflicts between sidewalks, plantings, and utility poles.

4790A. Design Guidelines.

Design guidelines to assist Applicants with the design of projects within the WMU Overlay District are contained in the New Bedford Waterfront Redevelopment Plan: Focus Area North (applicable to Subareas A and B) and New Bedford Waterfront Redevelopment Plan: Focus Area South (applicable to Subareas C and D), 2021.

4795A. Severability.

If any provision of this Section 4700A et seq. is found to be invalid by a court of competent jurisdiction, the remainder of Section 4700A shall not be affected but shall remain in full force. The invalidity of any provision of Section 4700A shall not affect the validity of the remainder of the City's Zoning Ordinance.

Section 6.

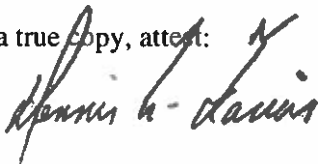
This ordinance shall take effect in accordance with the provisions of Chapter 40A of the General Laws.

IN CITY COUNCIL, January 14, 2021

Referred to the Committee on Ordinances and the Planning Board – Yeas 10, Nays 1.

Dennis W. Farias, City Clerk

a true copy, attest:



City Clerk