1	ORDINANCE NO. 180115
2 3 6 7 8 9 10	An ordinance of the City of Gainesville, Florida, amending Chapter 26 of the City Code of Ordinances to create Article VII Micromobility Services, to regulate micromobility services within the City of Gainesville, Florida; establishing permit requirements; establishing operational requirements; establishing revocation and appeals processes; establishing fees; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an effective date.
12	WHEREAS, micromobility devices are emerging transportation options that provide city
13	residents and visitors with alternative shared transportation options;
14	WHEREAS, the measures set forth in this ordinance are intended to promote and
15	regulate micromobility services throughout the city;
16	WHEREAS, it is in the best interest of the city to regulate micromobility services in
17	order to promote the safety of residents, to promote traffic safety, to ensure the public right-of-
18	way is being used in safe manner and to prevent obstruction of the right-of-way;
19	WHEREAS, at least 10 days' notice has been given once by publication in a newspaper
20	of general circulation notifying the public of this proposed ordinance and of public hearings to be
21	held in the City Commission Auditorium, City Hall, City of Gainesville; and
22	WHEREAS, the public hearings were held pursuant to the published notice described at
23	which hearings the parties in interest and all others had an opportunity to be and were, in fact
24	heard.
25 26	NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA:
27	Section 1. The Code of Ordinances of Gainesville, Florida is hereby amended by adding
28	a new Article VII to Chapter 26, which article reads as follows:

1	Chapter 26 – TRAFFIC AND MOTOR VEHICLES
2	ARTICLE VII. –MICROMOBILITY SERVICES
3	Sec. 26-190. Definitions.
4	As used in this article, the following terms shall have the following meanings:
5	Bicycle rack means a stationary fixture to which a bicycle can be securely attached to
6	prevent theft.
7	City means the City of Gainesville.
8	City manager means the city manager of the city, or designee.
9	Corral means the designated parking zones for a group of micromobility devices
10	typically installed within the right-of-way.
11	Department means the city department of mobility, or such other department or division
12	of the city which is assigned responsibilities for mobility planning and operations.
13	Director means the city's mobility director, or designee, or such other officer the city has
14	assigned responsibilities for mobility planning and operations.
15	Geofencing means the use of technology to create a virtual geographic boundary,
16	enabling software to trigger a response when a micromobility device enters or leaves a
17	particular area.
18	Micromobility device means any motorized transportation device made available for
19	private use by reservation through an online application, website, or software for point-
20	to-point trips and which is not capable of traveling at a speed greater than 20 miles per
21	hour on level ground. This term includes motorized scooters and motorized bicycles, as
22	defined in the Florida Statutes. Micromobility services offering units that operate at
23	speeds above 20 mph are not allowed to operate in the City's right-of-way.

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1	Micromobility service means a publicly offered transportation service that enables a
2	person to obtain short-term access to a micromobility device on an as-needed basis.
3	Rebalancing means the process by which micromobility devices are redistributed to
4	ensure availability throughout a service area and to prevent excessive buildup of devices
5	at locations throughout the city.
6	<u><i>Right-of-way</i></u> means the surface and space above an improved or unimproved public
7	roadway, highway, boulevard, road, freeway, bridge, alley, court, street, bicycle lane,
8	and public sidewalk in which the city or other public entity has an interest in law or
9	equity whether held in fee, easement, dedication, plat or other estate or interest
10	including any other dedicated right -of-way for travel purposes.
11	Service area means the geographical area within which a micromobility service is
12	allowed to operate as defined in the permit issued by the city.
13	University means the University of Florida.
14	User means the individual who uses a micromobility device provided by a
15	micromobility service.
16	<u>Sec. 26-191. Micromobility Service Permit.</u>
17	(a) It is unlawful for a micromobility service to operate within the city without first
18	having obtained a permit issued by the city under this article.
19	(b) No more than three micromobility services will be permitted to operate within the
20	city at any time.
21	(c) Upon issuance of a permit, the micromobility service is granted the privilege of
22	operating within the service area. Each permit will be valid for one year. Permits
23	are not transferable or assignable. Preference will be given to renewal of current

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1		permit holders who have had no violations under their permit; however, the city is
2		not required to renew a permit of a current permit holder.
3	<u>(d)</u>	The micromobility service must obtain separate approval from the university in
4		order to operate its micromobility service on the university campus.
5	<u>(e)</u>	A micromobility service is not eligible to apply for a permit if it currently has a
6		suspended permit, the city has revoked its permit within two years of the date of
7		application, and or it has any outstanding and unsatisfied civil penalties imposed for
8		violations of this article.
9	Sec. 26-192	. Enforcement of Permit Requirement.
10		It is unlawful to operate a micromobility service without a permit. Operating
11	with	out a permit shall be punishable as provided in Chapter 1, Section 1-9.
12	<u>Sec. 26-19</u>	3. Permit Application Requirements.
13		The micromobility service must apply for a permit by submitting an application to
14	the c	lepartment on the form required by the department. A complete application consists
15	<u>of th</u>	e following:
16	<u>(a)</u>	The number of micromobility devices the applicant will deploy. The initial fleet
17		must be a minimum of one hundred and no more than two hundred micromobility
18		devices.
19	<u>(b)</u>	An affirmation that the applicant will deploy a minimum of 75% of its authorized
20		fleet within thirty days of obtaining a permit.
21	<u>(c)</u>	Proof that the applicant has operated in three municipalities that are comparable in
22		size or larger than the city, with at least one of those cities with a population of
23		100,000 or more in the State of Florida, wherein the applicant operated under

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1		regulations promulgated by the municipalities, permits issued by the municipalities,
2		or by agreement with the municipalities.
3	<u>(d)</u>	Proof that each micromobility device in the applicant's fleet has customer service
4		information displayed on the device, unique identifiers, the ability to be tracked
5		remotely, and a kickstand capable of keeping the micromobility device upright
6		when not in use.
7	<u>(e)</u>	Proof of the education plan provided to users, including user safety, instructions for
8		operation of the micromobility device, parking rules, and Florida law.
9	<u>(f)</u>	An affirmation that the micromobility service will ensure equitable deployment of
10		micromobility units in accordance with sec. 26-198.
11	<u>(g)</u>	Proof of how users can utilize the micromobility devices without a smartphone and
12		proof of the payment/access options for unbanked users.
13	<u>(h)</u>	An affirmation that the applicant will provide data reports and real-time location of
14		the micromobility devices to the city in the type and form required by the city.
15	<u>(i)</u>	A plan to relocate the micromobility devices to a safe, private facility within
16		twenty-four hours after notification by the municipality in the event of an
17		emergency or declared severe weather event. The plan must detail the amount of
18		time it will take to remove all micromobility devices from circulation when a storm
19		watch or warning has been established. If the micromobility service fails to timely
20		remove the micromobility devices, the city may remove and store the micromobility
21		devices at the service provider's cost.
22	<u>(j)</u>	Proof of the insurance and bond required by this article.

1	<u>(k)</u>	An affirmation that the micromobility service shall charge a per ride regulatory fee
2		as set forth in Appendix A (in addition to the micromobility service's ordinary
3		rental rates), which the micromobility service shall pay to the city monthly.
4	<u>(1)</u>	Proof that a legal entity applicant is registered and active under the laws of Florida to
5		do business under the name for which it has applied for a permit.
6	<u>(m)</u>	The name, mailing, physical and email addresses, and telephone number of the
7		natural person located within Alachua County that the applicant has authorized to be
8		its agent for purposes of this article.
9	<u>(n)</u>	An affirmation that no fraud or willful or knowing misrepresentation or false
10		statement or information is provided in the application.
11	<u>(o)</u>	An affirmation that the applicant will comply with this article and with applicable
12		federal and state law.
12 13	<u>Sec. 26-19-</u>	<u>federal and state law.</u> 4. Procedures for Grant or Denial of Permit.
	<u>Sec. 26-19-</u> ( <u>a)</u>	
13		4. Procedures for Grant or Denial of Permit.
13 14		<b>4. Procedures for Grant or Denial of Permit.</b> Applicants must submit an application for a permit to the department electronically
13 14 15		<b>4. Procedures for Grant or Denial of Permit.</b> Applicants must submit an application for a permit to the department electronically via email. The date and time of the submittal shall be recorded as the date and time
13 14 15 16	<u>(a)</u>	4. Procedures for Grant or Denial of Permit. Applicants must submit an application for a permit to the department electronically via email. The date and time of the submittal shall be recorded as the date and time the department electronically receives the application.
13 14 15 16 17	<u>(a)</u>	<ul> <li>A procedures for Grant or Denial of Permit.</li> <li>Applicants must submit an application for a permit to the department electronically</li> <li>via email. The date and time of the submittal shall be recorded as the date and time</li> <li>the department electronically receives the application.</li> <li>Within ten business days from the date of receipt, the director shall review complete</li> </ul>
13 14 15 16 17 18	<u>(a)</u>	<ul> <li>A procedures for Grant or Denial of Permit.</li> <li>Applicants must submit an application for a permit to the department electronically via email. The date and time of the submittal shall be recorded as the date and time the department electronically receives the application.</li> <li>Within ten business days from the date of receipt, the director shall review complete applications in the order of receipt. The city shall conditionally grant a permit if the</li> </ul>
13 14 15 16 17 18 19	<u>(a)</u>	<ul> <li>A procedures for Grant or Denial of Permit.</li> <li>Applicants must submit an application for a permit to the department electronically via email. The date and time of the submittal shall be recorded as the date and time the department electronically receives the application.</li> <li>Within ten business days from the date of receipt, the director shall review complete applications in the order of receipt. The city shall conditionally grant a permit if the applicant has submitted a complete and qualified application and that satisfactorily</li> </ul>

1		hold in writing that the director will not review the applications until the three
2		conditionally granted permits have been processed by the university and the city.
3	<u>(c)</u>	The conditional grant of a permit by the city is subject to the university's approval
4		of the applicant. The conditionally approved applicant must submit an application
5		to the university to operate its micromobility service on campus.
6	<u>(d)</u>	If the university approves the application, the city shall issue the city permit upon
7		the applicant's payment of required fees and proof of insurance and bonds. If the
8		university disapproves the application, the city shall deny the permit.
9	<u>(e)</u>	If city denies the permit application, the reason for such denial shall be provided in
10		writing and shall advise that the applicant may correct deficiencies in the
11		application within seven calendar days of the notice of denial without incurring an
12		additional application fee.
13	<u>(f)</u>	If a permit is finally denied, the director will proceed to review the next on hold
14		application in the order received.
15	<u>Sec. 26-1</u>	95. Indemnification and Insurance.
16	<u>(a)</u>	As a condition of the permit, the micromobility service shall indemnify, hold
17		harmless and defend the city, its representatives, employees, and elected and
18		appointed officials, from and against all liability, claims, damages, suits, losses,
19		and expenses of any kind, including reasonable attorney's fees and costs for
20		appeal, associated with or arising out of the permit, the use of right-of-way or city
21		owned property for operations, or arising from any negligent act, omission or error
22		of the micromobility service, owner, managing agent, its agents or employees, or

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1		from the failure of the micromobility service, its agents or employees, to comply
2		with the requirements of this article or with any other federal or state traffic law.
3	<u>(b)</u>	The micromobility service shall provide and maintain public liability and property
4		damage insurance to protect the city, its representatives, employees, and elected
5		and appointed officials, from all claims and damage to property or bodily injury,
6		including death, which may arise from its operation. Such insurance must be
7		provided from an insurance company that is an admitted carrier in the state of
8		Florida with an A.M. Best rating of not less than "A" and a financial strength rating
9		of not less than "VII," acceptable to the city's risk management division, and must
10		provide coverage of not less than two million dollars (\$2,000,000.00) for bodily
11		injury, and property damage respectively per occurrence. Such insurance must
12		name as additional insured the city, its officers and employees, and shall further
13		provide that the policy must not terminate or be canceled prior to the expiration of
14		the permit without thirty days' written notice prior to the termination to the
15		department at the address shown in the permit.
16	<u>(c)</u>	The micromobility service shall provide and maintain a performance bond in the
17		amount of \$80.00 per micromobility device and \$10,000.00 for the fleet. After
18		notification to the micromobility service, the city may call the bond in order to
19		cover the city's losses, which consist of employee labor and actual costs, associated
20		with the city's need to remove, store, and/or dispose of the micromobility devices as
21		a result of the micromobility service's failure to comply with this article or in the
22		event the micromobility service abandons the micromobility devices.
23	Sec. 26-196	. Operation.

1	<u>(a)</u>	The micromobility service shall comply with federal and florida law regarding
2		placement and rental of micromobility devices, including the Americans with
3		Disabilities Act.
4	<u>(b)</u>	The micromobility service may request an increase to its initial fleet in increments
5		of up to fifty micromobility devices upon demonstration of use of at least three
6		unique rides per device in the fleet over a consecutive sixty day period. Each
7		request must include a rationale and analysis to justify the additional fleet size.
8		Authorization of additional micromobility devices is at the discretion of the director
9		and must be based upon utilization rates and the micromobility service's overall
10		compliance with this article. If the director authorizes additional devices, the city
11		will issue an amended permit to the micromobility service upon payment of
12		additional permit fees and compliance with permit requirements as to the additional
13		micromobility devices.
14	<u>(c)</u>	The director may cap the total number of micromobility devices permitted to
15		operate within the city to four hundred devices per micromobility service, or 1,200
16		total devices. The cap may be amended at the director's discretion to allow for the
17		testing of micromobility emerging technologies.
18	<u>(d)</u>	Micromobility devices are allowed to operate between the hours of 6:00 A.M. to
19		10:00 P.M. The micromobility service is responsible for disabling its fleet by 10:00
20		P.M. each night and for collecting and removing its fleet from the right-of-way
21		within two (2) hours of disabling. The micromobility service may redistribute its
22		fleet beginning at 4:00 A.M. each day; however, the micromobility devices may not
23		be enabled for public use until 6:00 A.M.

1	<u>(e)</u>	The micromobility service must ensure micromobility devices have a top motor-
2		powered speed of less than fifteen miles per hour.
3	<u>(f)</u>	The micromobility service shall remove micromobility devices that are inoperable,
4		damaged, or do not comply with this article from the service area within 2 hours of
5		receiving notification by the City between the hours of 7 am to 7 pm, 7 days a week
6		and within 12 hours during holidays. An inoperable or damaged micromobility
7		device is one that has non-functioning features, such as gear selectors, pedals, bell,
8		or lights, or is missing components, such as fenders, grips, or chain guards, as
9		applicable to that device.
10	<u>(g)</u>	The director, based upon considerations of public safety, pedestrian and vehicular
11		traffic, mishandling of the micromobility devices, requests from the
12		public/stakeholders, criminal activity, construction, and special events, may create
13		designated areas where micromobility devices may not be operated or where the
14		maximum micromobility device operating speed must be reduced. The
15		micromobility service must have the technology available to implement these
16		requirements upon reasonable notice. The department will maintain a map
17		reflecting areas where the micromobility devices may not be operated and where the
18		speed of micromobility devices must be reduced. The micromobility service shall
19		provide this map to its users.
20	<u>(h)</u>	The micromobility service support vehicles and staff shall be equipped with
21		identification and proper safety equipment, including lighting, when deploying or
22		removing micromobility devices in the right-of-way.
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1	<u>Sec. 26-19</u>	7. Parking and Right-of-Way.
2	<u>(a)</u>	Micromobility devices must be parked upright at all times.
3	<u>(b)</u>	The micromobility service shall not place micromobility devices in a way that:
4		1) Adversely affects the public use of streets or sidewalks;
5		2) Inhibits pedestrian movement and/or Americans with Disabilities Act access
6		on sidewalks;
7		3) Inhibits the ingress and egress of vehicles parked on or off street;
8		4) Creates conditions which are a threat to public safety and security; or
9		5) Impedes access to existing bicycle racks. The micromobility service may not
10		rely solely on publicly-placed bicycle racks to secure micromobility devices
11		that are capable of being locked directly to a bicycle rack.
12	<u>(c)</u>	Micromobility devices must not be parked within the following areas: loading zone,
13		handicap accessible parking zone or other facilities specifically designated for
14		handicap accessibility, on-street vehicular parking spots, landscape areas, curb
15		ramps, business or residential entryways, driveways, travel lanes, bicycle lanes,
16		parklets, or any geofenced area where the director has decided micromobility
17		devices may not be parked.
18	<u>(d)</u>	The director, based upon public safety, pedestrian use, user behavior, vehicular
19		traffic, and data, may establish geofenced areas where micromobility devices shall
20		not be parked but may still allow access of the device through the area. The
21		geofenced areas will be identified on a map maintained by the department. The
22		micromobility service must have the technology available to implement these
23		requirements upon notice. The micromobility service must comply with any and all
		11

1		geofencing requirements within five (5) business days of a written request. The
2		micromobility service will bear the cost of implementing geofencing.
3	<u>(e)</u>	The director, based upon public safety, parking supply/demand, user behavior, trip
4		origin and destination data, distance to a mobility hub, availability of right-of-way,
5		requests from the public/stakeholders, may establish corrals in certain areas where
6		micromobility devices must be parked, and the corrals will be identified on a map
7		maintained by the department. The city will bear the cost of implementing corrals.
8	<u>Sec. 26-19</u>	8. Removal and Rebalancing.
9	<u>(a)</u>	The micromobility service shall place a minimum of 10% of its approved fleet in
10		Zone A, which will be described in a map maintained by the department and which
11		map may be revised from time to time by the department. The micromobility
12		company must rebalance micromobility devices daily to meet this requirement. The
13		requirement may be increased to up to 20% at the director's discretion based on
14		utilization rates.
15	<u>(b)</u>	If a micromobility device is parked in an area where parking or operation is
16		prohibited, or a micromobility device is inoperable/damaged or does not comply
17		with this article, the director will notify the micromobility service to relocate or
18		remove the device. The micromobility service will have two (2) hours to comply
19		with the request if the request is received between the hours of 6:00 A.M. and 10:00
20		P.M., seven days per week. If the micromobility service does not comply, the city
21		may remove, relocate, or store the micromobility device.
22	<u>(c)</u>	The city shall charge a fee set forth in Appendix A of this code when the city
23		removes, relocates, or stores micromobility devices pursuant to this section.

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1	Sec. 26-199. Violations: Revocation of Permit: Appeal.
2	Except as provided in sec. 26-192, if the micromobility service violates any other
3	section of this article, the director shall provide written notice of the violation to the agent
4	of the micromobility service designated in the permit. The micromobility service shall
5	remedy the violation and come into compliance within the time stated in the notice.
6	Failure to timely remedy the violation may result in the director reducing the fleet size or
7	revoking the permit.
8	(a) The director may revoke the permit or reduce fleet size of a micromobility service
9	on any of the following grounds:
10	(i) The permit application contained a fraudulent, willful, or knowing
11	misrepresentation or false information or statement;
12	(ii) The micromobility service failed to comply with the requirements of and
13	maintain qualifications required by the permit application;
14	(iii) Submission of inaccurate data;
15	(iv) Failure to pay fees as specified in Appendix A of this code; or
16	(v) The micromobility service materially violated a provision of this article.
17	(b) If the director finds cause (as defined in paragraph (a) above) to reduce the fleet or
18	revoke the permit, written notice of that decision must be sent via certified mail to
19	the agent of the micromobility service designated in the permit, informing the
20	micromobility service of the decision and the reasons therefore, at least fifteen
21	calendar days prior to the effective date of the fleet reduction or permit
22	revocation. The written notice shall advise the micromobility service that it may
23	contest the fleet reduction or revocation by requesting a hearing as provided below.

1	<u>(c)</u>	The micromobility service may file a written request for a hearing before the city
2		manager prior to the effective date of the fleet reduction or revocation. Failure to
3		timely request a hearing will constitute a waiver by the micromobility service of
4		any right to a hearing. Upon request for a hearing, the fleet reduction or
5		revocation will be stayed until the city manager has issued a final administrative
6		decision.
7	<u>(d)</u>	At the hearing, the micromobility service will have the opportunity to present
8		evidence (consisting of verbal testimony and/or written documentation) the
9		micromobility service believes negates or mitigates basis for the fleet reduction or
10		revocation.
11	<u>(e)</u>	In conducting the hearing, the city manager has the power to take testimony under
12		oath, require the production of books, paper, and other documents, and receive
13		evidence. Should a party refuse to provide documents as directed by the city
14		manager, then there may be an adverse inference against the party who failed to
15		produce said documents. All parties have an opportunity to respond, to present
16		evidence and argument on all issues involved, to conduct cross-examination and
17		submit rebuttal evidence, and to be represented by counsel. Hearsay evidence may
18		be used for the purpose of supplementing or explaining other evidence, but it is not
19		be sufficient in itself to support a finding unless it would be admissible over
20		objection in civil actions. Any party desiring the hearing be recorded, is
21		responsible for arranging and paying the cost of a court reporter's attendance and
22		services.

1	<u>(f)</u>	If the city manager finds that the director's decision meets the requirements for
2		fleet reduction or permit revocation as set forth in sec. 26-199(a), then the city
3		manager will direct that either (1) the micromobility service's fleet be reduced and
4		issue an amended permit, or (2) suspend the permit and set the revocation date to
5		begin fifteen days from the date of the final administrative order, subject to a
6		petition for writ of certiorari being filed pursuant to paragraph (i) below.
7	<u>(g)</u>	If the city manager finds that the director's decision does not meet the
8		requirements for fleet reduction or permit revocation as set forth in sec. 26-199(a),
9		then the city manager will order the micromobility service's permit to continue in
10		effect.
11	<u>(h)</u>	The city manager will provide written notice of his/her final administrative order to
12		the micromobility service. The decision of the city manager is the final
13		administrative action.
14	<u>(i)</u>	The final administrative order of the city is subject to certiorari review in a court of
15		competent jurisdiction in Alachua County, Florida by the timely filing of a
16		petition. Upon the filing of a petition in the circuit court, the revocation of the
17		permit or fleet reduction will be stayed pending final disposition of the civil case.
18	Sect	ion 2. Appendix A – Schedule of Fees, Rates and Charges is amended as set forth
19	below. Exc	ept as amended herein, the remainder of Appendix A remains in full force and effect.
20	TRA	AFFIC AND MOTOR VEHICES
21	<u>(7)</u>	Micromobility Devices. (Art. VII, Ch. 26)
22		

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Fee Schedule			
Initial Permit Fee - Up to 200 devices	<u>\$8,000</u>		
Annual Permit Renewal Fee - Up to 200 devices	<u>\$8,000</u>		
Annual Permit Renewal Fee - Up to 400 devices	<u>\$16,000</u>		
Fleet Increment Fee (Per 50 Units)	<u>\$2,000</u>		
Fleet Increment Fee (Per 100 Units)	<u>\$4,000</u>		
Fee per Ride	<u>\$0.15/ride</u>		
Micromobility Device Removal/Relocation Fee (Per Device)	<u>\$75</u>		
Micromobility Device Storage Fee (Per Device/Per Day)	<u>\$50</u>		

All fees collected as part of this program shall be retained by the department for the
administration and management of the program. In addition, \$0.05 of the fee per ride will be
allocated towards the development and implementation of Vision Zero strategies under the
department's administration.

Section 3. It is the intention of the City Commission that the provisions of Section 1 and
Section 2 of this ordinance will become and be made a part of the Code of Ordinances of the
City of Gainesville, Florida, and that the sections and paragraphs of this ordinance may be
renumbered or relettered in order to accomplish such intentions.

10 Section 4. If any word, phrase, clause, paragraph, section or provision of this ordinance 11 or the application hereof to any person or circumstance is held invalid or unconstitutional, such 12 finding will not affect the other provisions or application of the ordinance which can be given 13 effect without the invalid or unconstitutional provisions or application, and to this end the 14 provisions of this ordinance are declared severable.

Section 5. All ordinances or parts of ordinances, in conflict herewith are to the extent of
such conflict hereby repealed.

1	Section 6. This ordinance will become	Section 6. This ordinance will become effective immediately upon final adoption.		
2	PASSED AND ADOPTED this	_day of	, 2019.	
3				
4				
5		LAUREN POE, M	AYOR	
6	Attest:	Approved as to form and legality:		
7				
8				
9	OMICHELE D. GAINEY,	NICOLLE M. SHA	ALLEY	
10 11	CLERK OF COMMISSION	CITY ATTORNEY	Z	
 12	This ordinance passed on first reading this	_day of	, 2019.	
13				
14 15	This ordinance passed on second reading this _	day of	, 2019.	