

CITY OF LUDINGTON  
ORDINANCE NO. 429-20

AN ORDINANCE TO ADD ARTICLE VIII TO CHAPTER 6 OF THE LUDINGTON CITY  
CODE TO ESTABLISH A SHORT-TERM RENTAL LICENSING PROGRAM, TO PROVIDE  
PENALTIES FOR VIOLATION, AND TO REPEAL ALL ORDINANCES IN CONFLICT  
HEREWITH

The City of Ludington ORDAINS:

Section 1. City Code Amendment.

Chapter 6 of the Ludington City Code is hereby amended by the addition of the following Article VIII, which shall read in its entirety as follows:

**ARTICLE VIII. – SHORT TERM RENTAL PROPERTIES**

**Sec. 6-250. - Purpose and Legislative Findings.**

The purpose of this Article is to secure the public health, safety and general welfare of City residents and property owners, as well as visitors to the City, by regulating short-term rental properties to prevent nuisances and safety hazards that interfere with City residents' or property owners' rights to conduct normal, daily activities without unreasonable interference and to provide safe and healthy living arrangements for visitors who rent property on a short-term basis.

The City Council hereby finds and determines the following:

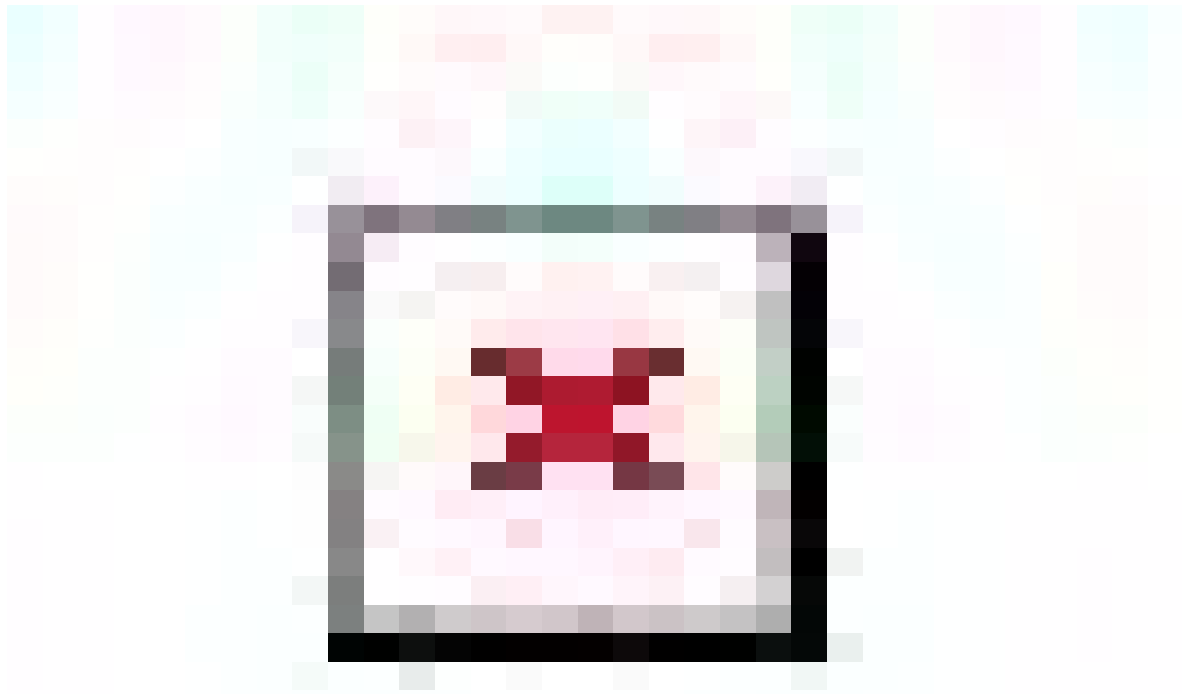
- (a) Short-term rentals, that is, those generally lasting less than 28 days, of single- and multi-family structures in the City are becoming increasingly popular and widespread following the rise of online short-term rental marketplaces.
- (b) Residential structures in the City may be increasingly purchased solely for short-term rental purposes, and not for occupancy by the owner.
- (c) Commercial and recreational activities associated with short-term rentals are frequently incompatible with residential uses and often constitute a public nuisance.
- (d) The City suffers from a shortage of affordable housing for permanent residents of the City, as documented in the City's Master Plan and the Residential Target Market Analysis, dated July 1, 2015, prepared for Mason County and the Michigan State Housing Development Authority by LandUse|USA.
- (e) The shortage of affordable housing directly affects the economic well-being of the City and its residents because major employers in the City and surrounding areas are unable to attract workers to the City.
- (f) The purchase of available housing units by investors to operate short-term rentals may further diminish the availability of affordable housing for the residents of the City.

- (g) High investor demand for residential structures for use as short-term rentals may have the effect of artificially inflating the value of those properties, further reducing the availability of affordable housing units for the permanent residents of the City.
- (h) Short-term rentals occur primarily in the summer months (June through August), due to the summer resort nature of the community. Short-term rentals in the off-season (September through May) are markedly diminished, which may leave many neighborhoods with numerous vacant houses for large parts of the year and create so-called “dark neighborhoods.”
- (i) Vacant housing units, especially when concentrated as they are in dark neighborhoods close to recreational amenities, may attract vandals and other criminal activity to the neighborhood, may become rundown during the winter, and provide shelter for wild animals and other vermin, all to the detriment of the public health, safety and welfare of the residents in close proximity.
- (j) Accordingly, and based on the foregoing findings, the Ludington City Council determines that it is reasonable to adopt a short-term rental licensing program designed to eliminate or reduce the impacts short-term rentals may have on the supply of affordable housing, the peace and security of residential neighborhoods, and the nuisance activities frequently associated with short-term rentals. Specifically, City Council believes that these goals can be reasonably attained by adopting the regulations set forth in this Article; by limiting the total number of short term rental units operating in the City; by limiting the concentration of short-term rentals; and by limiting the duration of a short term rental license, thereby periodically allowing all who may seek to operate a short-term rentals in the City an equal opportunity to obtain a short-term rental license from the City.

#### **Sec. 6-251. – Definitions.**

As used in this Article, the following words and phrases shall have the meanings herein ascribed to them:

- (a) *Accessory Building* means a building that is subordinate or incidental to the principal building on the same zoning lot on which the accessory building is located, or as otherwise defined by Article 500.4 of the City zoning ordinance.
- (b) *Bedroom* means a room in a dwelling which is intended, arranged, or designed to be occupied by one or more persons primarily for sleeping purposes.
- (c) *City* means the City of Ludington.
- (d) *City Block* means the smallest area of land in the City bounded on all sides by public streets or highways. A city block may contain public or private alleys, which, for purposes of this Article are not considered to be a public street.



- (e) *Dwelling* means any house, room, boarding house/rooming house or apartment, which is wholly or partly used or intended to be used for living, sleeping, cooking and eating. Hotels, motels, bed and breakfasts, resorts, recreational equipment (including but not limited to travel trailers, pickup campers, motorized homes, folding tent trailers, private buses, boats and boat trailers and utility trailers), tents and accessory buildings shall not be defined as a dwelling for purpose of this article.
- (f) *Driveway* means the route of access for vehicles from a public or private street or alley across a premises to a parking or loading area, garage, dwelling or other structure or area on the same premises, and that is located and constructed in accordance with the requirements of the City Code.
- (g) *License* means a short-term rental license issued by the City to the owner of a premises authorized to be used as a short-term rental. No licensee shall acquire by virtue of having been granted a license, a right of automatic renewal, nor shall any licensee have or acquire a property or liberty interest in or expectation of an initial or renewed license. All licenses terminate upon transfer of ownership, and may not be assigned, transferred or hypothecated, in whole or in part.
- (h) *Licensee* means the owner(s) holding a license.

- (i) *Limited short-term rental* means the rental of any premises for not more than two rental periods of up to 14 days, not to exceed 14 days total, in any calendar year.
- (j) *Maximum occupancy* means the maximum number of allowable occupants for the premises.
- (k) *Nuisance means* an offensive, annoying, unpleasant, or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeated invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects an individual, or the generation of an excessive or concentrated effects from movement of people or things including but not limited to: noise; dust; smoke; odor; glare; fumes; flashes; vibration; objectionable effluent; noise from a congregation of people, particularly at night; passing traffic; or invasion of street frontage by traffic generated from an adjacent premises which lacks sufficient parking and vehicle circulation facilities.
- (l) *Occupant* means a non-owner individual living in, sleeping in, or otherwise having possession of a premises.
- (m) *Owner* means a person holding legal or equitable title to the premises. An owner may designate an agent to perform duties or receive notice under this Chapter.
- (n) *Person* means any individual, company, partnership, corporation, limited liability company, trust or other entity having the legal capacity to own or lease real property
- (o) *Premises* means real property, and all fixtures and improvements, including the dwelling, located on it.
- (p) *Rent or rental* means to permit, provide for, or offer possession or occupancy of a dwelling on a premises on which the owner does not reside for a period of time to a person who is not the owner, pursuant to a written or unwritten agreement.
- (q) *Short-term rental* means the rental or subletting of any dwelling on a premises for a term of 28 days or less.
- (r) *Transfer of Ownership* has the meaning ascribed to it by MCL 211.27a or any subsequent sections or statutes of the same import.

#### **Sec. 6-252. – License Required.**

- (a) *General Regulations:* It shall be unlawful for any person to offer any premises as a short-term rental, or conduct or operate a short-term rental on any premises within the City without a short-term rental license issued by the City.
- (b) *Specific Regulations:* Persons seeking to operate a short-term rental must be registered with and licensed by the City prior to the commencement of any short-term rental activity. All short-term rental operations shall comply at all times with the requirements of this Article VIII.

#### **Sec. 6-253. – Exceptions.**

This Article shall not apply to the following:

- (a) *Family occupancy.* A member of the owner's family, as well as that family member's guests, may occupy a premises as long as a member of that family retains ownership of the premises. The family occupancy exemption also exempts family occupancy of

guest houses or similarly separate dwellings lawfully located on the same premises, when occupied by family guests, exchange students, visitors, medical caregivers, and child caregivers, without compensation to the owner.

- (b) *House sitting*. During the temporary absence of the owner and the owner's family, the owner may permit non-owner occupancy without remuneration to the owner.
- (c) *Dwelling sales*. Occupancy following closing by a prior owner after the sale of a premises for the length of time agreed to by the parties to the dwelling sale agreement.
- (d) *Estate representative*. Occupancy by a personal representative, trustee, or guardian (including family members) of the estate of the owner, with or without compensation. The estate shall notify the City of the owner's name, date of death or incapacity, and name of the person occupying the premises.
- (e) *Bed and Breakfasts*. Occupancy of a structure originally constructed for residential purposes and used as temporary lodging and meals for travelers or guests where bedrooms are rented on a nightly basis and managed by an on-site owner, subject to the limitations outlined in this Article and pursuant to a valid land use or special use permit issued by the City under the City zoning ordinance (Appendix A to Ludington City Code). Meals may or may not be included in the price of the room.
- (f) *Commercial/Non-Profit Facilities*. Licensed campgrounds, hotels and motels, transitional housing operated by a non-profit entity, group homes such as nursing homes and adult foster care homes, hospitals, or housing provided by a substance-abuse rehabilitation clinics, mental-health facilities, or other health-care related clinics.
- (g) *Limited short-term rentals*. The rental of any premises for not more than two rental periods of up to 14 days, not to exceed 14 days total, in any calendar year.

#### **Sec. 6-254. – Licensing Procedure and Criteria**

- (a) Application:

Applicants for a short-term rental license shall file an application to conduct a short-term rental operation with the City on a form provided by the City for that purpose. The application shall include:

- (1) The name, mailing address, and phone number of the owner(s) of the premises to be licensed.
- (2) The name, mailing address, and phone number of the applicant if different than the owner.
- (3) A notarized letter of authorization from the owner to the applicant if the applicant is not the owner of the premises sought to be licensed.
- (4) A description of the premises proposed to be used for short term rentals, including but not limited to:
  - a. Number of bedrooms
  - b. Number of bathrooms
  - c. Maximum occupancy
  - d. Tax parcel ID number and legal description

- (5) A non-refundable application fee in an amount set from time to time by resolution of the City Council or its designee. If a license is granted, the application fee will be applied towards payment of the license fee.
- (6) Written confirmation that the premises owner does not have an ownership interest in more than one premises for which a short-term rental license has been issued or is being sought in the City of Ludington.
- (7) A statement whether the applicant has ever been cited for a violation of this Ordinance or had a short-term rental license revoked.

All applicants selected to receive a license shall also file with the City prior to issuance of the license, the following:

- (1) A licensing fee in an amount set from time to time by City Council or its designee.
- (2) A certificate of general liability insurance coverage issued by an insurance company licensed to do business in the State of Michigan covering the premises and insuring the licensee against risks arising from commercial rental activities on the premises.

(b) Inspection

Upon the selection of a completed license application from the applicant pool, the City will schedule an inspection of the premises with the City Building Inspector. The Building Inspector will visit the premises and assess its fitness and safety for short-term rental operations using the standards contained in this Article. The owner(s) of the premises described in the application shall be the only permitted short term rental licensee, but may designate in writing to the City a local agent for purposes of receiving notices under this Article and shall do so if required by Sec. 6-255(a) of this Article.

(c) Limits on Issuance of Licenses

The City may issue up to thirty (30) short term rental licenses, under the following conditions:

- 1. A license may only be issued for a premises with two or fewer dwelling units. For the purposes of this subsection, “dwelling unit” means a dwelling encompassing areas for living, sleeping, cooking and eating that is a self-contained unit separated from other dwellings on the premises, if any exist.
- 2. No more than two (2) licenses may be issued in any City block as is defined in Sec. 6-251.
- 3. Regardless of the number of applicants, no person may hold more than one license at the same time.
- 4. Licenses are valid for a period three (3) years, commencing at 12:01 a.m., on the first day of January of the first year following adoption of this Article, and ending at midnight of the 31st day of December of the third year following

adoption of this Article. Licenses may be issued at any time, but licenses issued after the first day of the first year of the three-year licensing period will be valid only until the expiration of that licensing period, such that all short-term rental licenses issued by the City will expire at the same time.

5. Licenses which terminate due to revocation by the City, death of the owner, a transfer of ownership of the premises, or any other reason will become available for re-issuance the next succeeding January, but will expire at the end of the then three-year licensing period.
6. Licenses will be initially issued on the basis of a blind, random drawing conducted by the City. All complete applications will be included in the pool from which the license selections are made. The City shall set by resolution the due date for license applications to be included in the pool from which the license selections are made. The City shall also set by resolution the date on which the license selection drawing will be conducted. All premises for which a license is drawn from the license application pool shall be inspected before a license is issued pursuant to Sec. 6-254(b). If the City receives more than 30 license applications by the due date, then licenses which become available due to termination or resignation of a license or failure of the premises to pass inspection may be granted on the basis of a blind, random drawing to qualified applicants who applied by the due date and who were not selected in the initial drawing. The City shall consider any license application submitted after the due date on a first-come, first-served basis.
7. Licenses are non-transferrable, non-assignable and remain the sole property of the City. Death of licensee who is a natural person, or a transfer of interest of more than fifty percent (50%) or a lesser but controlling interest in a partnership, corporation, limited liability company, trust, or other legal entity that owns the licensed premises, terminates a license immediately.
8. Notwithstanding any other provision of this Article, all licenses expire at the end of the three-year licensing period. If the City chooses to continue issuing short-term rental licenses pursuant to this Article, any person desiring to continue operating a short-term rental must renew their license. Any person desiring to commence operating a short-term rental must apply for a license in should the City choose to continue its short-term rental program in order to have the opportunity to obtain a short-term rental license.

#### **Sec. 6-255. – Short-Term Rental Regulations.**

Premises licensed for short-term rentals under this Article shall comply at all times with all of the following requirements:

- (a) Licensees must be available to receive notices and respond to complaints from neighbors or the City, 24 hours per day, 7 days per week. Licensees who do not reside permanently in Mason County or who do not maintain a permanent business location in Mason County shall designate in writing to the City, as part of its application, the name, physical address, phone number(s), fax number (if available) and email address of a local agent. Notwithstanding the local agent's actual authority, the local agent

shall be deemed to be the licensee's authorized agent for purposes of serving notice under this Article, including service of a civil infraction citation.

- (b) The address of the premises must be prominently displayed inside the main area of the dwelling so that occupants will have it available in case of an emergency.
- (c) The licensee's name, address, phone number(s) and email address must be displayed prominently in the main part of the dwelling, along with the name, address, phone number(s), fax number and email address of a designated local agent, if any, and supplied in writing to all persons who rent the premises.
- (d) A copy of the "Good Neighbor Guidelines" developed by the City must be provided to the occupants.
- (e) Fire extinguishers, smoke detectors and carbon monoxide detectors adequate for the dwelling, as determined by the City Building Inspector as part of the inspection of the premises, shall be provided, properly mounted and kept fully charged and in good working order at all times. Notwithstanding any inspection by the City Building Inspector, the Fire Chief may inspect any building pursuant to the City Code.
- (f) All exterior signage must have a valid use permit issued by the City pursuant to the City's zoning ordinance.
- (g) Dwellings may not be sublet by any tenant of the licensee.
- (h) Licensee shall provide secure trash receptacles and must make those receptacles accessible by weekly trash removal services for occupants' use. Receptacles must be designed to prevent intrusion by animals and to ensure proper trash removal from the premises. Commercial dumpsters are not allowed on any premises used for short term rentals.
- (i) Licensee must ensure that the premises complies with all applicable parking regulations under the City Code. Licensee shall provide occupants with a copy of Ordinance No. 419-20 (Parking and Storage of Recreational Vehicles and Equipment).
- (j) Pursuant to Sec. 22-67, open burning shall be allowed without prior notification to the code official for recreational fires such as outdoor fire pits. In the event that any recreational fire shall become a nuisance by reason of smoke or flying embers, or if it shall pose any danger to persons or property, the fire chief or his designee or any police officer of the City of Ludington, may order such fire extinguished, and in the event that the owner, occupant or person responsible for such fire shall fail to extinguish such fire, such failure shall constitute a municipal civil infraction. Notice that a fire is a nuisance or poses a danger may be verbal and need not be in writing, nor shall other notice requirements provided in the fire prevention code be applicable to such circumstance. The fire chief or his designee or any police officer of the City is further authorized to extinguish any recreational fire that is a nuisance.
- (k) No fireworks shall be ignited, discharged, or used at a premises licensed for short-term rentals except in accordance with Chapter 22, Article IV of the City Code.
- (l) All short-term rentals shall be for purposes of renting as a temporary dwelling only and may not include any commercial activities such as yard sales, festivals, retreats, class reunions, home occupations or similar uses.
- (m) Maximum occupancy of a premises used for short term rentals shall be not more than as established by the City or State fire/health codes and the maximum number of people as indicated on the license application.



- (n) Short term rental contracts must stipulate that the licensee or local agent reserve the right to immediately terminate the contract for violations of any City Ordinance or other applicable law.

#### **Sec. 6-256. – Licensee Responsibility.**

The licensee and/or the licensee's local agent shall have the duty to remedy any violations of this Article, or any violation of State law or City Ordinance, including specifically, Sections 34-98 (disturbing the peace; disorderly conduct) and 62-40 (placement for collection) of the City Code and Article 700.4 of the City zoning ordinance (Appendix A to City Code), by the occupants of a short-term rental and/or the guests of such occupants. For any violation of the foregoing provisions of the City Code, the City may (in addition to other remedies) notify the licensee and/or local agent of such violation by telephone or return receipt email at the phone number and email address posted on the interior notice or supplied in the licensee's application. The licensee and/or local agent shall be considered to have received notice of the violation upon receiving the telephone call or when a return receipt email message is received by the City, whichever is soonest. Upon receiving notice of the violation, the licensee and/or local agent shall ensure that the violation is remedied within two (2) hours of receipt of such notice. Failure to remedy the violation within two (2) hours after receiving notice of the violation, without good cause, shall constitute a material violation of this Article and may subject the licensee to a municipal civil infraction citation and court enforcement proceedings and the penalties imposed by law. Nothing in this Section limits the City or its authorized designee's right or ability to enforce violations of the City Code against occupants.

#### **Sec. 6-257. – Violations and Penalties.**

- (a) Violation. A violation of this Article is hereby declared to be a public nuisance and a nuisance per se and is declared to be offensive to the public health, safety, and welfare.
- (b) Penalties. Any person who violates any provision of this Article shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101 – 600.9939 of Michigan Compiled Laws, and shall be subject to the penalties or sanctions stated in this subsection, plus the costs and attorney fees of the City in the enforcement. In addition, this Article shall be specifically enforceable by order of the Court to prohibit or enjoin future activities on or about the premises in violation of this Article. Each day this Article is violated shall be considered as a separate violation:
  - 1. First Violation: fine of no less than \$250;
  - 2. Second Violation: fine of no less than \$500;
  - 3. Third Violation: permanent revocation of license. A person whose license has been revoked is ineligible to apply for or receive a license in the future. Appeal from revocation of a short-term rental license is allowed pursuant to the terms of this section.

(c) Revocation Appeal Procedure. Upon a finding by the City Code Enforcement Officer or his or her Designee of a third violation, the City Code Enforcement Officer or his or her Designee shall prepare or cause to be prepared a written notice specifying the alleged violation and the factual basis for this belief and a statement that the City intends to revoke the license within 14 days.

1. The written notice shall inform the licensee of a right to an appeal hearing to show cause as to why the license should not be revoked by filing with the city clerk a written notice of appeal within 14 days of service of the written notice by the City Code Enforcement Officer or his or her Designee.
2. If an appeal hearing is requested within 14 days of service of the written notice, the city clerk shall refer a copy of this notice and the request for appeal hearing to an appeals panel consisting of the City Manager or his or her designee, Chief of Police or his or her designee, and the Chair of the Building and Licenses Committee or his or her designee. Upon receipt of the written notice and request for appeal, the city clerk shall confer with the appeals panel to schedule a hearing. The hearing shall be held as soon as practical, but not later than 7 business days after the filing of the notice of appeal with the city clerk. The hearing provided for shall be conducted by the appeals panel.
3. Written notice of the appeal hearing including the time, date, and place of the hearing shall be served on the licensee or the licensee's designated agent either personally or by certified mail, restricted delivery and return receipt requested.
4. At the hearing, the licensee shall be given an opportunity to present evidence and legal arguments. The licensee may also be represented by an attorney, and the appeals panel may request the assistance of the City Attorney. The appeals panel's decision shall be in writing and shall specify the factual evidence upon which it is based and shall be a final decision. A copy of the appeals panel's written decision shall be provided to the licensee.

(d) Fraudulent Complaints. Any person who knowingly files a fraudulent, false, or fictitious complaint about a short-term rental shall be deemed to be in violation of this Article and may be found responsible for a civil infraction and penalties under Chapter 1, Sec. 1-7 of the City Code.

#### **Sec. 6-258. – Enforcement.**

- (a) The Code Enforcement Officer or his or her Designee, any police officer having jurisdiction in the City, and other persons as may be appointed from time to time

by the City Council are hereby designated as the authorized local officials to issue municipal civil infraction citations for violation of this Article.

- (b) In addition to enforcing this Article through the use of a municipal civil infraction proceeding, the City may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Article.
- (c) The remedies provided in this Article are cumulative and the City's exercise of one remedy shall not bar the exercise of other remedies available to it.

**Sec. 6-258. – Review of short-term rental licensing program; sunset provision.**

The City Council or its designee shall review the City of Ludington short-term rental program described in this Article by the end of the initial three-year licensing period on 31st day of December of the third year following adoption of this Article. If the City Council does not renew the short-term rental licensing program by that date, the provisions of this Article shall expire such that no existing license shall be renewed and no licenses shall be granted to applicants on the waiting list.

Section 2. Severability.

If any section, clause, or provision of this Article is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, such declaration shall not affect the remainder of the Article. The City Council hereby declares that it would have adopted this Article and each part, section, subsection, phrase, sentence, and clause irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences, or clauses is declared invalid.

Section 3. Repeal.

All ordinances in conflict herewith are hereby repealed to the extent of the conflict.

Section 4. Effective Date.

This Ordinance shall become effective 20 days following its introduction, adoption and publication as required by law.

Adopted on \_\_\_\_\_, 2020.

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Deborah L. Luskin, City Clerk