



# HAINES CITY

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## **CITY MANAGER MEMORANDUM**

**To:** The Honorable Mayor and City Commissioners

**From:** James R. Elensky, City Manager  
Fred Reilly, City Attorney

**Date:** February 2, 2023

**Subject:** Ordinance No. 22-2032 Amending Chapter 7 of City Code Concerning Affordable Housing – Second Reading

### **Executive Summary**

The intent of this business item is to present amendments to Chapter 7 of the City Code to establish applicable Code provisions related to affordable housing.

Staff Contact: Fred Reilly, City Attorney

### **Introduction**

The intent of this business item is to present amendments to Chapter 7 of the City Code to establish applicable Code provisions related to affordable housing.

### **Background**

Section 166.04151(1), Florida Statutes states:

Notwithstanding any other provision of law, a municipality may adopt and maintain in effect any law, ordinance, rule, or other measure that is adopted for the purpose of increasing the supply of affordable housing using land use mechanisms such as inclusionary housing or linkage fee ordinances.

Section 166.04151(6), Florida Statutes states:

Notwithstanding any other law or local ordinance or regulation to the contrary, the governing body of a municipality may approve the development of housing that is affordable, as defined in s. 420.0004, on any parcel zoned for residential, commercial, or industrial use. If a parcel is zoned for commercial or industrial use, an approval pursuant to this subsection may include any residential development project, including a mixed-use residential development project, so long as at least 10 percent of the units included in the project are for housing that is affordable and the

developer of the project agrees not to apply for or receive funding under s. 420.5087. The provisions of this subsection are self-executing and do not require the governing body to adopt an ordinance or a regulation before using the approval process in this subsection.

The proposed Ordinance provides amendments to the City Code to create a process pursuant to Section 166.04151(6), Florida Statutes, wherein the City Commission of the City of Haines City, Florida may approve the development of housing that is affordable in designated zoning categories subject to procedural and site compliance requirements.

**Organizational Goal(s)**

Quality of Life: Create an environment that enhances the quality of life and benefits the community culturally, recreationally and economically.

**Budget Impact**

There is no direct budget impact related to the adoption of the proposed Ordinance.

**Recommendation**

Staff recommends approval of the proposed Ordinance related to affordable housing on second reading.

**ORDINANCE 22-2032**

**AN ORDINANCE OF THE CITY OF HAINES CITY, FLORIDA AMENDING CHAPTER 7 (BUILDINGS) OF THE CITY CODE RELATED TO HOUSING ASSISTANCE; CREATING A PROCESS PURSUANT TO SECTION 166.04151(6), FLORIDA STATUTES, WHEREIN THE CITY COMMISSION OF THE CITY OF HAINES CITY, FLORIDA MAY APPROVE THE DEVELOPMENT OF HOUSING THAT IS AFFORDABLE IN DESIGNATED ZONING CATEGORIES SUBJECT TO PROCEDURAL AND SITE COMPATIBILITY REQUIREMENTS; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR AMENDMENTS TO CHAPTER 7 (BUILDINGS) OF THE CITY CODE; PROVIDING FOR A COPY TO BE KEPT ON FILE; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Section 166.04151(1), Florida Statutes states:

Notwithstanding any other provision of law, a municipality may adopt and maintain in effect any law, ordinance, rule, or other measure that is adopted for the purpose of increasing the supply of affordable housing using land use mechanisms such as inclusionary housing or linkage fee ordinances.

**WHEREAS**, Section 166.04151(6), Florida Statutes states:

Notwithstanding any other law or local ordinance or regulation to the contrary, the governing body of a municipality may approve the development of housing that is affordable, as defined in s. [420.0004](#), on any parcel zoned for residential, commercial, or industrial use. If a parcel is zoned for commercial or industrial use, an approval pursuant to this subsection may include any residential development project, including a mixed-use residential development project, so long as at least 10 percent of the units included in the project are for housing that is affordable and the developer of the project agrees not to apply for or receive funding under s. [420.5087](#). The provisions of this subsection are self-executing and do not require the governing body to adopt an ordinance or a regulation before using the approval process in this subsection.

**WHEREAS**, the City Commission of the City of Haines City, Florida desires to amend the City Code to create a process pursuant to Section 166.04151(6), Florida Statutes, wherein the City Commission of the City of Haines City, Florida may approve the development of housing that is affordable in designated zoning categories subject to procedural and site compliance requirements.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF HAINES CITY, FLORIDA:**

**Section 1. Incorporation of Recitals.** The above recitals are true and correct and are incorporated herein by reference.

**Section 2. Amendments to Article III and Article IV to Chapter 7 (Buildings) of the City Code.** The City of Haines City Code is hereby amended by adding a new Article III (Section 7.41) and a new Article IV (Section 7.61 to Section 7.73) to Chapter 7 (Buildings), to read as follows:

**ARTICLE III. – LOCAL HOUSING ASSISTANCE PROGRAM.**

Sec. 7.41. - Intent and purpose.

(a) The intent of the local housing assistance program (the program) is:

(1) To increase the availability of affordable housing units by combining local resources and cost-saving measures into a local housing partnership and using public funds to leverage private funds, thereby reducing the cost of housing;

(2) To assist in achieving the growth management goals contained in the adopted local comprehensive plan, by allowing more efficient use of land so as to provide housing units that are affordable to persons who have special housing needs, very-low income, low-income, or moderate-income;

(3) To promote innovative design of eligible housing that provides cost savings; flexible design options for housing and development such as the combination of architectural styles, building forms, and development requirements; and positive design features such as orientation towards the street and pedestrian access, without compromising the quality of the eligible housing;

(4) To promote mixed-income housing in urban and suburban areas so as to provide increased housing and economic opportunities for persons who have special housing needs, or have very low-income, low-income, or moderate-income; and

(5) To build the organizational and technical capacity of community-based organizations so as to optimize the role of community-based organizations in the production of affordable housing.

(6) To provide for a process pursuant to F.S. 166.04151(6) for City Commission review of Affordable Housing Projects.

(b) The purpose of this article is to aid in achieving the intent of the program while providing for:

(1) Protection of natural resources;

(2) Enhancement of the viability of public transit, pedestrian circulation, and non-motorized modes of transportation;

(3) Community development and economic growth; and

(4) A strong sense of community through increased social and economic integration.

#### **ARTICLE IV. - AFFORDABLE HOUSING SITE PLAN APPROVAL**

Sec. 7.61. – Intent and purpose. The City recognizes that housing affordability continues to be an important issue to the citizens of Haines City (the “City”). The City further recognizes that its Land Development Regulations (LDRs) may sometimes be an impediment to the establishment of affordable housing on certain sites that may otherwise

be appropriate for such development. The intent and purpose of this Article is to create an alternative process to that which is outlined in the City's LDRs for the provision of affordable housing in certain residential and industrial areas of the City, pursuant to Section 166.04151(6), Florida Statutes. Approvals sought pursuant to this Article shall meet the procedural requirements set forth herein, in addition to the standards for review related to the compatibility of the development with its neighborhood.

Sec. 7.62. – Qualifying property. To qualify for application for the Affordable Housing Site Plan Approval process, property shall meet the following minimum criteria:

- (a) The property shall have a current zoning designation of Residential or Industrial.
- (b) Property located in a Residential zoning district shall have a minimum lot size of one (1) acre.
- (c) Property located in an Industrial zoning district shall have a minimum lot size of five (5) acres.
- (d) The development proposal in a Residential zoning district shall consist of 20 or more dwelling units.
- (e) The development proposal in an Industrial zoning district shall consist of 60 or more dwelling units.
- (f) Property located in an Industrial zoning district shall meet the following additional location criteria:
  - (1) Shall be located within 2 miles of a public school including a vocational school;
  - (2) Shall be located within a ¼ mile of a Citrus Connection bus line;
  - (3) Shall be located within 1 mile of a grocery store; and
  - (4) Shall be located within 1 mile of the Haines City Trail or City park.

(g) All of the proposed dwelling units shall have a restrictive covenant that requires the dwelling units to be affordable to qualified buyers or renters at 120% of Area Median Income or below for a minimum period of 30 years.

(h) For mixed use projects on a property, other permitted uses besides affordable housing sought pursuant to this section are subject to applicable provisions of the City Code and Land Development Regulations.

(i) There shall be no variances granted to these criteria.

Sec. 7.63. – Pre-application conference. An applicant for development shall meet with the City professional staff prior to filing an application for the purpose of discussing the proposed development, identify required pre-application notice requirements, and to identify the views and concerns of the applicant and the City’s professional staff.

Sec. 7.64. – Determination of completeness. All applications shall include the information required and any additional information (including studies) reasonably required by the City Manager to review the request. If an application does not include the information required, the City Manager shall reject the application with an explanation of the deficiencies. The application shall not be processed until all the required information is provided and the pre-application notice provided. The City Manager may waive an application submittal requirement if:

- (1) The required information is readily available from existing sources; or
- (2) The information is not required due to unique circumstances.

Sec. 7.65. – Definitions. As used in this section:

Applicant means the person who requested the decision.

Application means an application or request for approval of an affordable housing development pursuant to F.S. 166.04151(6).

Decision means a decision of the City Manager or a decision of City Commission.

Render means, with respect to decisions of the City Manager, that the decision has been reduced to writing, signed by the City Manager, and mailed or delivered to the applicant. With respect to decisions by City Commission, the term means a vote has been taken and the results have been announced by the City Clerk.

Sec. 7.66. – Supplemental notice.

(a) Notice requirements. The supplemental notice set forth in this section for public hearing shall be provided for all public hearings before the City Commission.

(b) Notification. The City Commission recognizes the importance for community involvement in many proceedings for which notice is not required by Florida Statutes. In an attempt to facilitate such involvement, and to provide notification of such proceedings to property owners and residents in nearby neighborhoods and to other interested parties, it is the intent of the City Commission to provide the following supplemental notice.

(1) Written notice. Notice shall be mailed by the applicant to all neighborhood associations and business association representatives within 300-feet of the subject application, the Council of Neighborhood Associations (CONA), and the Federation on Inner-City Community Organizations (FICO) and the owners of property listed by the county property appraiser's office, any portion of which is within 300 feet of any portion of the subject property measured by a straight line, property line to property line.

a. Any request to receive notice by any person not an owner of property as described above must be in writing, must specifically identify the notices the person wishes to receive, must be delivered to the City Manager, and must contain a mailing address. Such



requests, when not related to a specific application, shall only be valid for the specifically identified notices for not more than one year after receipt by the City Manager and may be renewed on an annual basis.

b. The applicant shall obtain from the City Manager a copy of the notice and the procedures for notification of property owners who must receive notice. The applicant shall not include any information in the notice other than that which is required by the City Manager.

c. Not less than 15 days prior to the date of the scheduled public hearing, the applicant shall deliver or mail a copy of said notice to all persons listed on the notification list and the owners of property within the distance described in this section. Notice shall be mailed by the U.S. Mail with a postal service certificate of mailing returned to the City.

d. The applicant shall file proof that the notices were mailed or delivered with the City Manager not less than seven days prior to the date of the scheduled public hearing.

e. For property in condominium or cooperative ownership which falls within 300 feet, the owner of each unit shall be notified.

(2) Posted notice. Notice of the public hearing shall be posted on the subject property by the applicant at least 15 days prior to the public hearing. The applicant shall provide proof of posted notice on the subject property to the City Manager at least seven days prior to the public hearing.

(3) Identify the property. The written and posted notices shall identify the property upon which the request for action is made, the date and location of the public hearing, the phone number and address where information regarding the proposal can be obtained, and the type of action requested.

(4) Neighborhood and business association notice. One complete copy of each application shall be provided by the City Manager to CONA, FICO and neighborhood and business association representatives within 300 feet of the subject property.

(5) Governmental notice. Mailed notice shall be provided to a neighboring government for comment, where the subject property is located within one-fourth of a mile of a neighboring government. Mailed notice shall also be provided to the Polk County School Board for comment, where the subject property is located withing one-fourth mile of a public educational facility.

(6) Failure to provide supplemental notice.

(7) If the City Manager is notified of or discovers a failure to provide supplemental notice of at least 36 hours before the scheduled start of the public hearing, the City Manager may cancel the public hearing, reschedule the public hearing and require new notice to be given. The City Manager should only take this action if:

a. It appears from the information provided that the holding of the hearing would be a substantial hardship on the person who did not receive notice;

b. Such substantial hardship is different from the hardship the person would have suffered had he received the notice;

c. Such hardship cannot be corrected or mitigated prior to the scheduled public hearing; and

d. Rescheduling would not be a substantial hardship on other persons who received notice or the applicant.

(8) If the City Manager is not notified of or does not discover a failure to provide supplemental notice until after the time set forth above than the City Manager shall not

cancel the public hearing. City Commission, at the public hearing, may weigh the effects of the failure to provide supplemental notice and may choose to continue the public hearing if the circumstances so warrant.

(9) If the City Manager is not notified of or does not discover a failure to provide supplemental notice until after the public hearing has been held and a decision rendered, then none of these actions shall be taken. Failure to provide any supplemental notice shall not invalidate any action by the City Commission.

Sec. 7.67. – Rehearing. An applicant following a decision by City Commission may request a rehearing.

(a) The City Commission shall not rehear an application unless:

(1) There has been faulty notification to the applicant;

(2) New evidence is discovered by the applicant after the hearing which would likely change the result if a new hearing is granted and which could not have been discovered before the hearing by due diligence; or

(3) There is a substantial change of circumstance.

(b) If either of these conditions is alleged to exist, then a request for rehearing may be made by the original applicant or the City staff within ten days of the original decision by filing a written request for rehearing with the City Manager.

(1) If a request for rehearing is based on newly discovered evidence, documents supporting that evidence shall be served with the application.

(2) A request for rehearing shall be heard at the next regularly scheduled meeting following the receipt of any request and, based upon the information before it, City Council shall issue an order denying or granting a rehearing.

(3) If a request for rehearing is granted, the application shall be scheduled for a public hearing after the required fee, if any, has been paid and notification has been made as required for the first hearing by the person requesting the rehearing.

(4) If a request for rehearing is timely filed, such filing tolls the time in which to seek judicial review of the decision until an order is rendered denying the request for rehearing. If a request for a rehearing is granted, the time in which to seek judicial review shall begin when an order is entered at the rehearing of the application.

Sec. 7.68. – Withdrawal of application; abandonment of approval.

(a) An applicant may withdraw his application at any time prior to a final decision. The process shall end upon receipt of written notice thereof or an oral request made at a public hearing.

(b) An owner of property with an approved development order or permit may request that the approved development order or permit be deemed abandoned. Once an approved development order or permit is abandoned, the approval shall become null and void and the property shall be treated as if the approval had never occurred. Thereafter, the owner shall not be allowed to perform any work pursuant to the approval. The owner shall apply for any required development order or permit before performing any work on the property. The owner (not the owner's agent) shall provide the City Manager with a sworn statement expressing the owner's intention to abandon the approved development order or permit and acknowledging that after approval by the City Manager, the owner shall not be allowed to perform any work pursuant to the approval and shall be required to apply for a development order or permit before performing any work. The City Manager shall approve the request and may place reasonable conditions on the approval of such request. The abandonment of an approval shall not be approved if development of the property has

commenced under the development order or permit, whether the development is complete or not, unless the City Manager determines the condition of the property would not violate the Land Development Regulations in the absence of the approval.

Sec. 7.69. – Successive applications.

(a) If an application is submitted to City Commission for a decision, and if the City Commission denies the application, the same or a substantially similar application shall not be accepted by the City Manager within 18 months following the action by the City Commission on the earlier application unless the applicant demonstrates that there has been a substantial change of conditions or character of the surrounding land area or the land in question.

(b) A decision by the City Manager not to accept an application may be appealed by the applicant to the City Commission.

(c) A decision by the City Manager to accept an application is not appealable.

Sec. 7.70. – Extensions and duration of approvals.

(a) Duration of approvals. Any application approved pursuant to this section shall remain valid for three years from the date of approval except approvals of applications for which a specific expiration date is established by the approval.

(b) Applicants may request up to two two-year extensions from the City Manager. The application shall be revised to comply with any code amendments that were adopted after the original approval, unless a variance is granted.

(c) After the original approval and any approved extension have expired without substantial construction commencing, the approval shall be void, and a new application shall be required.

(d) Phased projects, including rehabilitation of an existing building, shall be approved in such a manner that each phase can reasonably be started within two years from the date the certificate of occupancy is issued for the previous phase, unless a shorter compliance period is required by City Commission.

(e) Approved applications for which substantial construction has commenced shall remain valid subject to compliance with all approved development permits.

(f) New applications for sites with a previously approved application which are submitted in advance of the expiration date of the approval or extension shall have maintained non-interrupted approval for vesting purposes for any other ordinance or code of the City or for any other government approval provided that the new application is approved by City Commission within 120 days after the expiration date of the original approval or extension.

(g) Extensions of approvals. Requests for extension approval shall be in writing and received by the City Manager prior to the expiration date of the approval or previously approved extension. A failure to request an extension prior to the expiration of the approval or a previously approved extension or failure to meet all conditions of an approval of an extension shall invalidate the original application approval. Requests for extensions shall address the following matters and may be denied if impacts cannot be adequately mitigated:

(1) The extent of actions taken by the applicant to implement the approved development plan including real estate transactions, preparation of construction plans, site preparation and pre-construction sales.

(2) The effect of unforeseen circumstances such as changes in economic condition, cost of materials, and site-specific conditions on the approval.

(3) The length of additional time estimated by the applicant to be needed to implement the approved development plan.

(4) Changes in the City code that would apply to the property.

(5) Changes or new construction on property in the vicinity of the applicant's property which may increase impacts to other properties.

(6) Other facts considered relevant to a consideration of an extension.

Sec. 7.71. – Tenant notice of intent to develop. Development applications under this section which involve the demolition of four or more existing occupied multi-family dwelling units at time of application shall provide a written notice of intent to develop to all tenants residing on the subject property at least 90 days prior to issuance of a building permit. Evidence of notice shall be provided to the City Manager. No permits shall be issued for the subject property until such time as the 90-day period has expired. For purposes of this section, multi-family shall include tenancies in which both a mobile home and a mobile home lot are rented or leased by the mobile home resident, but not those mobile homes otherwise regulated by F.S. ch. 723. A notice of intent to develop shall comply with the requirements set forth herein. A written notice shall be on paper and indicate the intent to develop with a planned date for demolition of structures and commencement of construction and shall be delivered via certified mail to all tenants residing on the subject property. Notice shall be mailed by U.S. mail with a U.S. postal service certificate of mailing returned to the City. Evidence of notice shall be a copy of the notice letter, the list of tenants residing on the subject property at time of mailing, and a copy of the U.S. postal service certificate of mailing.

Sec. 7.72. – Affordable housing site plan review.

(a) Application. An application shall include the following information in addition to additional information that the City Manager may reasonably require.

(1) A site plan of the subject property. The number of copies required shall be established by the City Manager:

a. All site plans shall include information required by the City Manager.

1. Elevations depicting architectural details and materials for all sides of each structure shall be provided.

2. The City Manager may require a surveyor's certificate to determine location of the proposed structures relative to the lot lines involved.

b. The site plan shall include the parking layout and the number of parking spaces being provided.

c. The site plan shall include a landscaping plan.

d. The application shall include a site data sheet to be provided to the applicant by the City Manager.

e. The application shall include a financial document depicting the financial sources for the proposed development and the financial uses. The financial documents shall also include information on financial reserves to maintain the dwelling units.

f. If the property is located in an industrial zoning district, an environmental report of the subject property and an analysis of the surrounding industrial uses.

g. If the redevelopment will displace an existing business or businesses, a plan for relocation of the business or businesses and/or re-employment of existing employees.

(b) Procedures.

(1) City Commission review and decision:



a. Public hearing. If the City Manager determines that an application meets the applicability standards and all required application and public notice information has been provided, the City Manager shall schedule a public hearing before City Commission.

b. Upon receipt of a recommendation from the City Manager, the City Commission shall conduct a public hearing on the application and shall approve, approve with conditions or deny the application. After considering the application, the City Commission may defer action for no more than 60 days to obtain additional information.

(c) Standards for review.

(1) Ingress and egress to the property and the proposed structures with particular emphasis on automotive and pedestrian safety, separation of automotive and bicycle traffic and control, provision of services and servicing of utilities, and refuse collection, and access in case of fire, catastrophe and emergency. Access management standards on state and county roads shall be based on the latest access management standards of FDOT or the county, respectively.

(2) Location and relationship of off-street parking, bicycle parking, and off-street loading facilities to driveways and internal traffic patterns within the proposed development with particular reference to automotive, bicycle, and pedestrian safety, traffic flow and control, access in case of fire or catastrophe, and screening and landscaping.

(3) Traffic impact report describing how this project will impact the adjacent streets and intersections. A detailed traffic report may be required to determine the project impact on the level of service of adjacent streets and intersections. Transportation system management techniques may be required where necessary to offset the traffic impacts.

(4) Drainage of the property with particular reference to the effect of provisions for drainage on adjacent and nearby properties and the use of on-site retention systems. City

Commission may grant approval of a drainage plan as required by City ordinance, county ordinance or SWFWMD.

(5) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety and compatibility and harmony with adjacent properties.

(6) Orientation, height and location of buildings, recreational facilities and open space in relation to the physical characteristics of the site, the character of the neighborhood and the appearance and harmony of the building with adjacent development and surrounding landscape.

(7) Compatibility of the use with the existing natural environment of the site, historic, and archaeological sites, and with properties in the neighborhood.

(8) Substantial detrimental effects of the use, including evaluating the impacts of the use and a concentration of similar or the same uses and structures on the neighborhood.

(9) Sufficiency of setbacks, screens, buffers and general amenities to preserve the internal and external harmony and compatibility with the uses inside and outside the proposed development and to control adverse effects of noise, light, dust, fumes and other nuisances.

(10) Land area is sufficient, appropriate and adequate for the use and reasonably anticipated operations.

(11) Landscaping and preservation of natural manmade features of the site including trees, wetlands and other vegetation.

(12) Sensitivity of the development to on-site and adjacent historic or archaeological resources related to scale, mass, building materials and other impacts.

(13) Unit type, such as rental or ownership, and the income levels served by the development are needed in the marketplace.

(14) If the subject property is zoned industrial, then the following criteria shall be considered in determining the suitability of the subject property for development pursuant to this section:

a. One or more of the following characteristics exist over an extended period of time: 1) vacant or underutilized land; 2) vacant or underutilized buildings; 3) poor quality job creation in terms of pay, employee density and spin-off or multiplier effects; 4) chronic competitive disadvantages in terms of location, transportation infrastructure/accessibility and other market considerations.

b. Conversion to a residential use will not cause negative impacts on surrounding industrial operations.

c. Location and surrounding land uses will not cause any adverse impacts to the health of future residents.

Sec. 7.73. – Fees. In order to incentivize and assist in the development of additional affordable and workforce housing, there will be no fee for this application process.

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**Section 3. Copy of Ordinance to be kept on file.** The City Clerk shall keep and retain a copy of this Ordinance on file.

**Section 4. Severability.** The provisions of this Ordinance are severable; and, if any section, sentence, clause, or phrase is for one reason held to be unconstitutional, invalid or ineffective, this holding shall not affect the validity of the remaining portions of this Ordinance,

it being expressly declared to be the City Commission's intent that it would have passed the valid portions of this Ordinance without inclusion of any invalid portion or portions.

**Section 5. Repeal of Ordinance in Conflict.** All other ordinances of the City of Haines City, Florida, or portions thereof which conflict with this or any part of this Ordinance are hereby repealed.

**Section 6. Effective Date.** This Ordinance shall take effect immediately upon it being read in two meetings of the City Commission of the City of Haines City, its approval and adoption by said Commission.

**INTRODUCED AND PASSED** on first reading in regular session of the City Commission of the City of Haines City, this \_\_\_\_ day of \_\_\_\_\_, 2022.

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
Auburn Taylor, Interim City Clerk

\_\_\_\_\_  
Anne Huffman, Mayor

**APPROVED AS TO FORM AND CORRECTNESS:**

\_\_\_\_\_  
Fred Reilly, City Attorney

**ADOPTED AND ENACTED** on second reading in regular session of the City Commission of the City of Haines City, this \_\_\_\_ day of \_\_\_\_\_, 2022.

**ATTEST:**

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