

ORDINANCE NO. 1191

AN ORDINANCE AMENDING TITLE V, CHAPTER 14 OF THE MUNICIPAL CODE OF THE CITY OF LAS VEGAS, NEVADA, 1960 EDITION, DISTRESS MERCHANDISE SALES: BY PROVIDING A DETAILED DEFINITION OF DISTRESS MERCHANDISE SALES; BY PROVIDING FOR LIMITATIONS OF TIME AND PERIODS WITHIN WHICH SAID SALES MAY BE CONDUCTED; BY PROVIDING FOR RENEWALS OF DISTRESS MERCHANDISE SALES LICENSES; BY REPEALING CERTAIN INCONSISTENT PROVISIONS OF SAID TITLE AND CHAPTER; BY PROVIDING THAT DISTRESS MERCHANDISE SALES OCCASIONED BY FIRE OR EXPLOSION MAY BE HELD UNDER CERTAIN SPECIFIED CONDITIONS NOTWITHSTANDING THE LENGTH OF TIME THE APPLICANT HAS BEEN IN BUSINESS OR THE PERIOD OF TIME SINCE HIS LAST DISTRESS MERCHANDISE SALE; BY PROVIDING FOR THE PUBLICATION AND ADVERTISING OF THE LENGTH OF SUCH SALES AND THE DATE OF FINAL SALE AND FOR THE CITY LICENSE NUMBER UNDER WHICH SUCH SALE IS CONDUCTED; BY PROVIDING FOR AN INSPECTOR TO BE PRESENT DURING DISTRESS SALES OF JEWELRY; PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO; PROVIDING PENALTIES FOR THE VIOLATION HEREOF; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

WHEREAS, the Board of Commissioners finds that distress merchandise sale on jewelry products is subject to particular abuses due to the character of said merchandise and because inventory items in jewelry may be replaced easily during conduct of such sale without detection,

NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF THE CITY OF LAS VEGAS DOES ORDAIN AS FOLLOWS:

SECTION 1. Title V, Chapter 14, Section 1 of said Municipal Code is hereby amended to read as follows:

5-14-1: DEFINITIONS: The following words, terms and phrases shall have the meaning indicated:

Distress Merchandise Sales: Shall mean any offer to sell or any sale of merchandise of any kind on the implied or direct representation that such sale is in anticipation of the termination of a business at its present location or the forced moving of location of business or that the sale is being held under distress circumstances. Without limiting the generality of the above, distress merchandise sales shall include any sale advertised either specifically or in substance to be a "fire sale," "smoke and water damage sale," "adjustment sale," "creditor's sale," "trustee's sale," "bankrupt sale," "save us from bankruptcy sale," "insolvent sale," "insurance salvage sale," "mortgage sale," "assignee's sale," "adjuster's sale," "must vacate sale," "quitting business sale," "receiver's sale," "loss of lease sale," "forced out of business sale," "creditor's committee sale," "wholesalers close-out sale," "liquidation sale," "remodeling sale," or "removal sale."

License Officer: Shall mean the Director of License and Revenue of the City.

SECTION 2. Title V, Chapter 14, Section 2 of said Municipal Code is hereby amended to read as follows:

5-14-2: LICENSE REQUIRED: It shall be unlawful for any person to advertise or conduct a distress merchandise sale without first having obtained a license to do so in accordance with the provisions of this Chapter. No license shall be granted to any person, firm or corporation within this City for a distress sale during and including a period of 30 days prior to Christmas Day and Easter Sunday.

SECTION 3. Title V, Chapter 14, Section 5 of said Municipal Code is hereby amended to read as follows:

5-14-5: INVESTIGATION: Upon receipt of the application the License Officer shall cause an investigation to be made of all the facts contained therein.

No license shall be issued if any one (1) or more of the following facts or circumstances are found to exist:

(A) That the inventory contains goods, wares, or merchandise not purchased by the applicant for resale on bona fide orders without cancellation privileges.

(B) That the inventory contains goods, wares, or merchandise purchased by the applicant on consignment.

(C) That the applicant either directly or indirectly and within five (5) years prior to the date of the filing of the application, conducted a sale in connection with which he advertised or represented that the entire business conducted at the location designated in the application was to be closed out or terminated.

(D) That the applicant was granted a license hereunder within three (3) years preceding the date of the filing of the application.

(E) That the applicant has heretofore been convicted of a violation of this Chapter or has had a license issued to him pursuant to this Chapter revoked within a five (5) year period immediately preceding the date of the present application for license.

(F) That the goods, wares or merchandise described in the inventory were transferred or assigned to the applicant for less than an adequate consideration.

(G) That the inventory contains goods, wares or merchandise purchased by the applicant or added to his stock in contemplation of such sale, and for the purpose of selling the same at such sale.

For the purpose of this Subparagraph any unusual addition to the stock of such goods, wares or merchandise made within sixty (60) days prior to the filing of such application shall be prima facie evidence that such addition was made in contemplation of such sale and for the purpose of selling the same at such sale.

(H) That the applicant has not been in business at the location described in the application for at least one (1) year prior to the date of the filing of the application; provided, however, that upon the death of a person doing business, his or her heirs, devisees or legatees shall have the right at any time to apply for a license hereunder.

(I) That any representation made in said application is not true or any advertisement proposed to be used in connection with said sale is misleading.

SECTION 4. Title V, Chapter 14, Section 6 of said Municipal Code is hereby amended to read as follows:

5-14-6: ISSUANCE OF LICENSE: When it appears that all the statements in the application are true and that the proposed sale is of the character represented therein, that the application is in full compliance with the terms and conditions of this Chapter, and that the required license fee has been paid, the License Officer shall issue a license to the applicant authorizing said applicant to advertise and conduct the sale as described in the application, subject to the following conditions:

(A) The sale shall be held at the place named in the application and by the particular licensee for a period of not more than thirty (30) consecutive calendar days (Sundays and legal holidays excluded), next following the date of the issuance of said license.

1. Renewal Procedure.

The License Officer shall renew a license for one (1) period of time only, such period to be in addition to the thirty (30) days permitted in the original license, and not to exceed fifteen (15) consecutive days (Sundays and holidays excluded), when he finds:

(a) That facts exist justifying the license renewal;

(b) That the licensee has filed an application for renewal;

(c) That the licensee has submitted with the application for renewal a revised inventory showing the items listed on the original inventory remaining unsold and not listing any goods not included in the original application and inventory.

(c-1) For the purpose of this Subsection, any application for a license under the provisions of this Chapter covering any goods previously inventoried as required hereunder, shall be deemed to be an application for renewal, whether presented by the original applicant, or by any other person.

(B) Only the goods, wares and merchandise described in the inventory attached to the application shall be sold at said sale.

(C) The license shall authorize only one (1) type of sale described in the application at the location named therein.

(D) Upon the commencement of said sale and for its duration, the license issued hereunder shall be prominently displayed in the place of sale by the licensee.

(E) The licensee shall keep suitable books during the sale, at the location at which said sale is conducted, in which shall be made daily entries showing each item sold that day and the price paid by the purchaser. Said books shall be open for inspection by the License Officer and his duly authorized representative.

(F) Upon being issued a license hereunder for a distress merchandise sale the licensee shall surrender to the License Officer all other business licenses he may hold at that time applicable to the location and goods covered by the application for a license under this Chapter.

(G) Any license herein provided for shall not be assignable or transferable.

SECTION 5. Title V, Chapter 14, Section 9 of said Municipal Code is hereby amended to read as follows:

5-14-9: SPECIFIC REGULATIONS:

(A) Provisions Supplement General Licensing Chapter.

The provisions of this Chapter are intended to augment and be in addition to the provisions of Chapter 1, Title V. Where this Chapter imposes a greater restriction upon persons, premises, businesses, or practices than is imposed by Chapter 1, Title V this Chapter shall control.

(B) Repealed

(C) Repealed

(D) Restricted location.

Where a person applying for a license hereunder operates more than one (1) place of business the license issued shall apply only to the one (1) store, or branch specified in the application and no other store or branch shall advertise or represent that it is cooperating with it, or in any way participating in the licensed sale, nor shall the store or branch conducting the licensed sale advertise or represent that any other store or branch is cooperating with it or participating in any way in the licensed sale.

(E) Persons Exempted.

The provisions of this Chapter shall not apply to or affect the following persons:

1. Persons acting pursuant to an order or process of a court of competent jurisdiction.
2. Persons acting in accordance with their powers and duties as public officials.
3. Duly licensed auctioneers, selling at auctions.

4. Any publishers of a newspaper, magazine or other publication, who publishes in good faith, any advertisement, without knowledge of its false, deceptive or misleading character, or without knowledge that the provisions of this Chapter have not been complied with.

(F) Notwithstanding any other provisions of this Chapter relating to the length of time the applicant must be in business or the interval between distress merchandise sales, a license may be granted hereunder for a sale, described in the application therefor and in the advertising with respect thereto as a "fire sale," "smoke and water damage sale," or "insurance salvage sale," in connection with a bona fide fire or explosion at the applicant's then place of business, at any time upon certification by the Fire Prevention Bureau of the City to the effect that such fire or explosion was not caused by the deliberate act of the applicant and that such fire or explosion resulted in damage to the goods, wares and merchandise of the applicant in amount equal to or exceeding ten (10) per cent of the total value of the applicant's stock at the time of such fire or explosion; provided, however, that any license granted under this subsection shall permit the sale only of those items of merchandise which were actually included in the applicant's stock at the location where such fire or explosion occurred, at the time of such fire or explosion.

(G) Every person, firm or corporation licensed to conduct a distress merchandise sale shall provide in his advertising by whatever method utilized the number of the distress merchandise sale license, the beginning date of sale, and the ending date of said sale.

SECTION 6. Title V, Chapter 14 of said Municipal Code is hereby amended by adding thereto a new section, designated Section 10, to read as follows:

5-14-10: No distress sale of jewelry by any person, firm or corporation shall be conducted in the City of Las Vegas unless the licensee shall deposit with the Director of License and Revenue, weekly in advance, an amount equal to the salary of a license inspector who shall be

present during and including all hours that said sale is conducted
within the premises of the licensee.

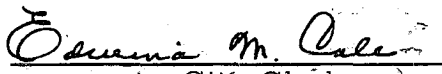
SECTION 7. Any person, firm or corporation violating any of the provisions of this ordinance shall, upon conviction thereof, be punished by a fine of not more than \$500.00 and/or imprisonment in the City Jail for not more than six (6) months, or any combination of such fine and imprisonment. Every day of such violation shall constitute a separate offense.

SECTION 8. All ordinances or parts of ordinances, sections, subsections, phrases, sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada, 1960 Edition, in conflict herewith, are hereby repealed.

PASSED, ADOPTED AND APPROVED this 18th day of August, 1965.


Mayor pro tem.

ATTEST:


City Clerk

The above and foregoing ordinance was first proposed and read by title to the Board of Commissioners on the 2nd day of June, 1965, and referred to the following committee composed of Commissioners Stewart and Mirabelli for recommendation; thereafter the said committee reported favorably on said ordinance on the 18th day of August, 1965, which was a regular meeting of said Board; that at said regular meeting the proposed ordinance was read by title to the Board of Commissioners as amended and adopted by the following vote:

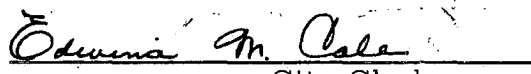
VOTING "AYE": Commissioners Stewart, Mirabelli, Fountain and Mayor pro tem. Whipple

VOTING "NAY": None ABSENT: Mayor Gragson

APPROVED:


Mayor pro tem.

ATTEST:


City Clerk

AFFIDAVIT OF PUBLICATION

STATE OF NEVADA, }
COUNTY OF CLARK, } SS

LOUIE MURATORE, being first duly sworn deposes and says that he is foreman for the Las Vegas Review-Journal, a daily newspaper at Las Vegas, in the County of Clark, State of Nevada, and that the attached was continuously published in said newspaper for a period of TWO (2) insertions from August 21, 1965 to August 28, 1965, inclusive, being the issue of said newspaper for the following dates to wit:

August 21 and 28, 1965

That said newspaper was regularly issued and circulated on each of the dates above named.

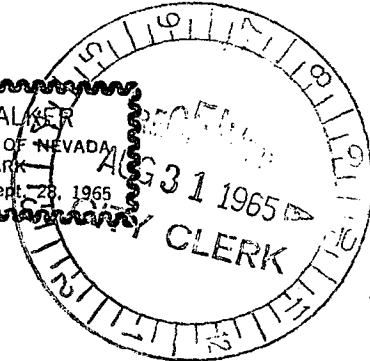
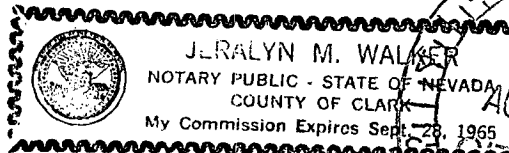
SIGNED

L. Muratore
LOUIE MURATORE

Subscribed and sworn to
before me

this 28th day of August, 1965

Jeralyn M. Walker
NOTARY PUBLIC, IN AND FOR
CLARK COUNTY, NEVADA
My commission expires
September 28, 1965



ORDINANCE NO. 1191

AN ORDINANCE AMENDING TITLE V, CHAPTER 14 OF THE MUNICIPAL CODE OF THE CITY OF LAS VEGAS, NEVADA, 1960 EDITION, DISTRESS MERCHANDISE SALES: BY PROVIDING A DETAILED DEFINITION OF DISTRESS MERCHANDISE SALES; BY PROVIDING FOR LIMITATIONS OF TIME AND PERIODS WITHIN WHICH SAID SALES MAY BE CONDUCTED; BY PROVIDING FOR RENEWALS OF DISTRESS MERCHANDISE SALES LICENSES; BY REPEALING CERTAIN INCONSISTENT PROVISIONS OF SAID TITLE AND CHAPTER; BY PROVIDING THAT DISTRESS MERCHANDISE SALES OCCASIONED BY FIRE OR EXPLOSION MAY BE HELD UNDER CERTAIN SPECIFIED CONDITIONS NOTWITHSTANDING THE LENGTH OF TIME THE APPLICANT HAS BEEN IN BUSINESS OR THE PERIOD OF TIME SINCE HIS LAST DISTRESS MERCHANDISE SALE; BY PROVIDING FOR THE PUBLICATION AND ADVERTISING OF THE LENGTH OF SUCH SALES AND THE DATE OF FINAL SALE AND FOR THE CITY LICENSE NUMBER UNDER WHICH SUCH SALE IS CONDUCTED; BY PROVIDING FOR AN INSPECTOR TO BE PRESENT DURING DISTRESS SALES OF JEWELRY; PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO; PROVIDING PENALTIES FOR THE VIOLATION HEREOF, AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

WHEREAS, the Board of Commissioners finds that distress merchandise sale of jewelry products is subject to particular abuses due to the character of said merchandise and because inventory items in jewelry may be replaced easily during conduct of such sale without detection.

NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF THE CITY OF LAS VEGAS DOES ORDAIN AS FOLLOWS:

SECTION 1. Title V, Chapter 14, Section 1 of said Municipal Code is hereby amended to read as follows:

5-14-1: DEFINITIONS: The following words, terms and phrases shall have the meaning indicated:

Distress Merchandise Sales: Shall mean any offer to sell or any sale of merchandise of any kind on the implied or direct representation that such sale is in anticipation of the termination of a business at its present location or the forced moving of location of business or that the sale is being held under distress circumstances. Without limiting the generality of the above, distress merchandise sales shall include any sale advertised either specifically or in substance to be a "fire sale," "smoke and water damage sale," "adjustment sale," "creditor's sale," "trustee's sale," "bankrupt sale," "save us from bankruptcy sale," "insolvent sale," "insurance salvage sale," "mortgage sale," "assignee's sale," "adjuster's sale," "must vacate sale," "quitting business sale," "receiver's sale," "loss of lease sale," "forced out of business sale," "creditor's committee sale," "whole-salers close-out sale," "liquidation sale," "remodeling sale," or "removal sale."

License Officer: Shall mean the Director of License and Revenue of the City.

SECTION 2. Title V, Chapter 14, Section 2 of said Municipal Code is hereby amended to read as follows:

5-14-2: LICENSE REQUIRED: It shall be unlawful for any person to advertise or conduct a distress merchandise sale without first having obtained a license to do so in accordance with the provisions of this Chapter. No license shall be granted to any person, firm or corporation within this City for a distress sale during and including a period of 30 days prior to Christmas Day and Easter Sunday.

SECTION 3. Title V, Chapter 14, Section 5 of said Municipal Code is hereby amended to read as follows:

5-14-3: INVESTIGATION: Upon receipt of the application the License Officer shall cause an investigation to be made of all the facts contained therein. No license shall be issued if any one (1) or more of the following facts or circumstances are found to exist:

(A) That the inventory contains goods, wares, or merchandise not purchased by the applicant for resale on bona fide orders without cancellation privileges.

(B) That the inventory contains goods, wares, or merchandise purchased by the applicant on consignment.

(C) That the applicant either directly or indirectly and within five (5) years prior to the date of the filing of the application, conducted a sale in connection with which he advertised or represented that the entire business conducted at the location designated in the application was to be closed out or terminated.

(D) That the applicant was granted a license hereunder within three (3) years preceding the date of the filing of the application.

(E) That the applicant has heretofore been convicted of a violation of this Chapter or has had a license issued to him pursuant to this Chapter revoked within a five (5) year period immediately preceding the date of the present application for license.

(F) That the goods, wares or merchandise described in the inventory were transferred or assigned to the applicant for less than an adequate consideration.

(G) That the inventory contains goods, wares or merchandise purchased by the applicant or added to his stock in contemplation of such sale, and for the purpose of selling the same at such sale.

For the purpose of this Subparagraph any unusual addition to the stock of such goods, wares or merchandise made within sixty (60) days prior to the filing of such application shall be prima facie evidence that such addition was made in contemplation of such sale and for the purpose of selling the same at such sale.

(H) That the applicant has not been in business at the location described in the application for at least one (1) year prior to the date of the filing of the application; provided, however, that upon the death of a person doing business, his or her heirs, devisees or legatees shall have the right at any time to apply for a license hereunder.

(I) That any representation made in said application is not true or any advertisement proposed to be used in connection with said sale is misleading.

SECTION 4. Title V, Chapter 14, Section 6 of said Municipal Code is hereby amended to read as follows:

5-14-6:

ISSUANCE OF LICENSE: When it appears that all the statements in the application are true and that the proposal sale is of the character represented therein, that the application is in full compliance with the terms and conditions of this Chapter, and that the required license fee has been paid, the License Officer shall issue a license to the applicant authorizing said applicant to advertise and conduct the sale as described in the application, subject to the following conditions:

(A) The sale shall be held at the place named in the application and by the particular licensee for a period of not more than thirty (30) consecutive calendar days (Sundays and legal holidays excluded), next following the date of the issuance of said license.

Renewal Procedure.

The License Officer shall renew a license for one (1) period of time only, such period to be in addition to the thirty (30) days permitted in the original license, and not to exceed fifteen (15) consecutive days (Sundays and holidays excluded), when he finds:

(a) That facts exist justifying the license renewal;

(b) That the licensee has filed an application for renewal;

(c) That the licensee has submitted with the application for renewal a revised inventory showing the items listed on the original inventory remaining unsold and not listing any goods not included in the original application and inventory.

(c-1) For the purpose of this Subsection, any application for a license under the provisions of this Chapter covering any goods previously inventoried as required hereunder, shall be deemed to be an application for renewal, whether presented by the original applicant, or by any other person.

(B) Only the goods, wares and merchandise described in the inventory attached to the application shall be sold at said sale.

(C) The license shall authorize only one (1) type of sale described in the application at the location named therein.

(D) Upon the commencement of said sale and for its duration, the license issued hereunder shall be prominently displayed in the place of sale by the licensee.

(E) The licensee shall keep suitable

books during the sale, at the location at which said sale is conducted, in which shall be made daily entries showing each item sold that day and the price paid by the purchaser. Said books shall be open for inspection by the License Officer and his duly authorized representative.

(F) Upon being issued a license hereunder for a distress merchandise sale the licensee shall surrender to the License Officer all other business licenses he may hold at that time applicable to the location and goods covered by the application for a license under this Chapter.

(G) Any license herein provided for shall not be assignable or transferable.

SECTION 5. Title V, Chapter 14, Section 9 of said Municipal Code is hereby amended to read as follows:

SPECIFIC REGULATIONS:

(A) Provisions Supplement General Licensing Chapter.

The provisions of this Chapter are intended to augment and be in addition to the provisions of Chapter 1, Title V. Where this Chapter imposes a greater restriction upon persons, premises, businesses, or practices than is imposed by Chapter 1, Title V this Chapter shall control.

(B) Repealed

(C) Repealed

(D) Restricted location.

Where a person applying for a license hereunder operates more than one (1) place of business the license issued shall apply only to the one (1) store, or branch specified in the application and no other store or branch shall advertise or represent that it is cooperating with it, or in any way participating in the licensed sale, nor shall the store or branch conducting the licensed sale advertise or represent that any other store or branch is cooperating with it or participating in any way in the licensed sale.

(E) Persons Exempted.

The provisions of this Chapter shall not apply to or affect the following persons:

1. Persons acting pursuant to an order or process of a court of competent jurisdiction.
2. Persons acting in accordance with their powers and duties as public officials.
3. Duly licensed auctioneers, selling at auctions.

4. Any publishers of a newspaper, magazine or other publication, who publishes in good faith, any advertisement, without knowledge of its false, deceptive or misleading character, or without knowledge that the provisions of this Chapter have not been complied with. (F) Notwithstanding any other provisions of this Chapter relating to the length of time the applicant must be in business or the interval between distress merchandise sales, a license may be granted hereunder for a sale, described in the application therefor and in the advertising with respect thereto as a "fire sale," "smoke and water damage sale," or "insurance salvage sale," in connection with a bona fide fire or explosion at the applicant's then place of business, at any time upon certification by the Fire Prevention Bureau of the City to the effect that such fire or explosion was not caused by the deliberate act of the applicant and that such fire or explosion resulted in damage to the goods, wares and merchandise of the applicant in amount equal to or exceeding ten (10) percent of the total value of the applicant's stock at the time of such fire or explosion; provided, however, that any license granted under this subsection shall permit the sale only of those items of merchandise which were actually included in the applicant's stock at the location where such fire or explosion occurred, at the time of such fire or explosion.

(G) Every person, firm or corporation licensed to conduct a distress merchandise sale shall provide in his advertising by whatever method utilized the number of the distress merchandise sale license, the beginning date of sale, and the ending date of said sale.

SECTION 6. Title V, Chapter 14 of said Municipal Code is hereby amended by adding thereto a new section, designated Section 10, to read as follows:
5-14-10:

No distress sale of jewelry by any person, firm or corporation shall be conducted in the City of Las Vegas unless the licensee shall deposit with the Director of License and Revenue, weekly in advance, an amount equal to the salary of a license inspector who shall be present during and including all hours that said sale is conducted within the premises of the licensee.

SECTION 7. Any person, firm or corporation violating any of the provisions of this ordinance shall, upon conviction thereof, be punished by a fine of not more than \$500.00 and - or imprisonment in the City Jail for not more than six (6) months, or any combination of such fine and imprisonment. Every day of such violation shall constitute a separate offense.

SECTION 8. All ordinances or parts of ordinances, sections, subsections, phrases, sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada, 1960 Edition, in conflict herewith, are hereby repealed.

PASSED, ADOPTED AND APPROVED
this 18th day of August, 1965.

-s- REED WHIPPLE

Mayor pro tem.

ATTEST: -s- EDWINA M. COLE
City Clerk

The above and foregoing ordinance was first proposed and read by title to the Board of Commissioners on the 2nd day of June, 1965, and referred to the following committee composed of Commissioners Stewart and Mirabelli for recommendation; thereafter the said committee reported favorably on said ordinance on the 18th day of August, 1965, which was a regular meeting of said Board; that at said regular meeting the proposed ordinance was read by title to the Board of Commissioners as amended and adopted by the following vote:

VOTING "AYE": Commissioners Stewart, Mirabelli, Fountain and Mayor pro tem. Whipple

VOTING "NAY": None

ABSENT: Mayor Grasson

APPROVED: -s- REED WHIPPLE
Mayor pro tem.

ATTEST: -s- EDWINA M. COLE
City Clerk

Aug 21, 28