



## LODI CITY COUNCIL

Carnegie Forum  
305 West Pine Street, Lodi

## "SHIRTSLEEVE" SESSION

Date: February 10, 2015

Time: 7:00 a.m.

For information regarding this Agenda please contact:

**Jennifer M. Ferraiolo**

**City Clerk**

**Telephone: (209) 333-6702**

### Informal Informational Meeting

**A. Roll Call by City Clerk**

**B. Topic(s)**

B-1 Receive Information Regarding Maintenance Activity, Cost, and Funding for Downtown Lodi (PW)

**C. Comments by Public on Non-Agenda Items**

**D. Adjournment**

Pursuant to Section 54954.2(a) of the Government Code of the State of California, this agenda was posted at least 72 hours in advance of the scheduled meeting at a public place freely accessible to the public 24 hours a day.

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Jennifer M. Ferraiolo  
City Clerk

*All staff reports or other written documentation relating to each item of business referred to on the agenda are on file in the Office of the City Clerk, located at 221 W. Pine Street, Lodi, and are available for public inspection. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. To make a request for disability-related modification or accommodation contact the City Clerk's Office as soon as possible and at least 72 hours prior to the meeting date. Language interpreter requests must be received at least 72 hours in advance of the meeting to help ensure availability. Contact Jennifer M. Ferraiolo at (209) 333-6702. Solicitudes de interpretación de idiomas deben ser recibidas por lo menos con 72 horas de anticipación a la reunión para ayudar a asegurar la disponibilidad. Llame a Jennifer M. Ferraiolo (209) 333-6702.*



# CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Receive Information Regarding Maintenance Activity, Cost, and Funding For Downtown Lodi

**MEETING DATE:** February 10, 2015 (Shirtsleeve Session)

**PREPARED BY:** Public Works Director

**RECOMMENDED ACTION:** Receive information regarding maintenance activity, cost, and funding for downtown Lodi.

**BACKGROUND INFORMATION:** In 1995, the City embarked on an ambitious project to revitalize downtown School Street and portions of Pine and Oak Streets, along with the Cherokee Lane area. The estimated construction cost of the projects was \$8.2 million, with \$5.5 million funded by City Capital funds and the remaining \$2.7 million funded by property assessments. Approximately 55 percent of the funding was allocated to downtown (\$4.5 million) and 45 percent allocated to Cherokee Lane (\$3.7 million). Later downtown revitalization projects have included Elm Street (Church Street to Sacramento Street), Sacramento Street (Pine Street to Lodi Avenue), parking structure, and the multi-modal station. Since 1995, \$18 million in capital projects have been completed in the downtown area.

In 1997, the City formed the Downtown Lodi Business Improvement Area, (Downtown Lodi Business Partnership (DLBP)), for the purposes of acquiring, constructing, installing, or maintaining benches, trash receptacles, decorations, façade improvements, and permanent landscaping. Benefit fees were assessed by the City to businesses in the downtown area (Exhibit A), as described in the formation ordinance (Exhibit B). The ordinance states: "City specifically finds and declares the funds derived from the Area shall not be used to offset or diminish current maintenance, capital improvement programs, including but not limited to, public property and sidewalk cleaning, street cleaning and maintenance, tree maintenance, restroom cleaning and maintenance. The City declares its intent to provide at least the same level and standard of maintenance and repair of public property within the Area providing City funds are available from year to year." The DLBP was disbanded in 2013, and the annual revenue from the fees assessed ceased to exist.

Current downtown maintenance efforts are limited to weekly cleaning by crews from United Cerebral Palsy. The value of this contract for downtown cleaning is \$52,000 per year. Recently, City electricians repaired the electrical outlets in the tree wells on School Street, at a cost of approximately \$4,000.

At the Shirtsleeve meeting, the presentation will include a summary of current efforts, deferred capital maintenance needs, a menu of potential maintenance expenditures, and alternative funding sources. The topic of downtown street lighting will be the subject of another Shirtsleeve presentation scheduled for February 24, 2015.

**FISCAL IMPACT:** Not applicable.

**FUNDING AVAILABLE:** Not applicable.

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F. Wally Sandelin  
Public Works Director

FWS/smh  
Attachments

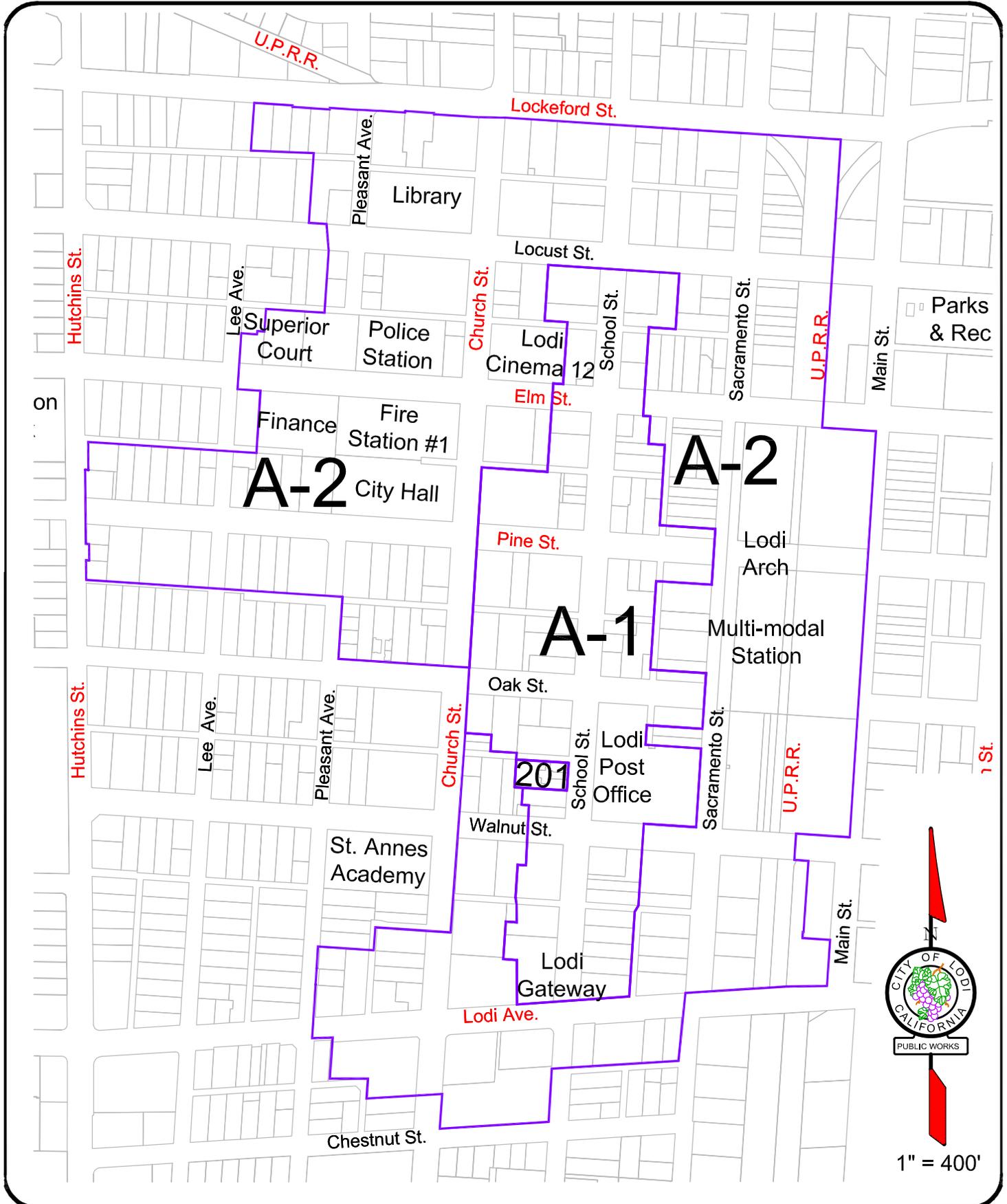
**APPROVED:** \_\_\_\_\_  
Stephen Schwabauer, City Manager



# CITY OF LODI

PUBLIC WORKS DEPARTMENT

## Exhibit A Downtown Lodi Business Improvement Area No. 1



## ORDINANCE NO. 1654

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI  
AMENDING TITLE 12 – STREETS, SIDEWALKS AND PUBLIC  
PLACES ADDING CHAPTER 12.06 TO THE LODI MUNICIPAL  
CODE ESTABLISHING THE DOWNTOWN LODI BUSINESS  
IMPROVEMENT AREA.

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NOW THEREFORE the City Council of the City of Lodi does ordain as follows

SECTION 1. Chapter 12.06 is hereby added to the Lodi Municipal Code, to read as follows:

CHAPTER 12.06 DOWNTOWN LODI BUSINESS IMPROVEMENT AREA NO. 1.

- 1.0 Resolution of Intention, Public Hearing and Findings. The Recitals hereof, which set forth facts regarding the adoption of Council Resolutions, the conduct of public hearings and certain findings of the City Council, are true and correct and incorporated herein by reference.
- 2.0 Definitions. In order to distinguish between Area businesses and for the purpose of calculating and applying the amount of benefit fees owed, the following definitions shall apply:
  - (a) Retail Businesses: "Retail Businesses" include all businesses not covered by other definitions set out in this section, at least fifty percent (50%) of whose gross income is derived from "retail sales" as that term is defined under the California Sales and Use Tax Law. The fact that a substantial part of its business consists of sales other than retail sales does not exclude said business from this classification so long as such other business component does not account for more than fifty percent (50%) of said business' gross income;
  - (b) Restaurants: "Restaurant" businesses include cafes, eating establishments, sandwich shops, dinner houses, restaurants and fast food services and other similar businesses;
  - (c) Lodging: "Lodging" businesses include inns, hotels, motels, RV Parks and other similar businesses;
  - (d) Service: "Service" businesses include general office, news and advertising media, printers, photographers, personal care facilities and outlets, service stations, repairing and servicing businesses, renting and leasing businesses, utilities, vending machine businesses, household finance companies, entertainment businesses, theaters and other similar businesses not otherwise included in types 1, 3, and 4 hereof definitions a, b, c, e, or f of this Section;
  - (e) Professional: "Professional" includes attorneys, architects, accountants, engineers, surveyors, physicians, dentists, optometrists, chiropractors and others in a medical/health service field, consultants, real estate brokers,

financial advisors, laboratories (including dental and optical), hearing aid services, artists and designers.

(9) Financial: Banks, savings & loans, credit unions, etc.

(g) Billing Period: "Billing Period" shall refer to the period beginning January 1 to and including December 31 of any year.

3.0 Establishment of Boundaries. A parking and business improvement Area is hereby established pursuant to the Parking and Business Improvement Area Law of 1989, Streets and Highways Code §36500 et seq. (The Act). The boundaries of the Area and the benefit zones within the Area shall be as set forth on Exhibit "A", attached hereto and incorporated herein by reference. This Area shall be known as the "Downtown Lodi Business Improvement Area No. 1" (the "Area").

4.0 Establishment of Area Board of Directors. There shall be a Board of Directors ("Board") of the Area to administer the affairs of the Area. Said Board shall be composed of no less than 10 nor more than 25 member businesses of the Area. The initial Board shall be approved by the City Council from a list of business operators located in the Area that is submitted by the Business Improvement Area Formation Committee. Within the Board there shall be a President, Vice-president, Secretary and Treasurer elected by the membership, and such other officers as deemed necessary by the Board. Such other officers shall be appointed by the Board of Directors at their discretion. All voting within the Area regarding election of Board Members and any actions regarding the normal and routine conducting of Area Business shall be based on one (1) vote per benefit fee dollar, and said voting business must be current in payment of their Area benefit fee(s) to participate in such votes.

5.0 Establishment of Benefit Fee. All businesses, trades, and professions located within the Area boundaries shown on Exhibit "A" shall, commencing January 1, 1998, pay an annual benefit fee in the following amounts:

Lodi Area Annual Benefit Fee

<u>Type</u>	<u>Zone A</u>	<u>Zone B</u>
1) Retailers and Restaurants	\$200. (1-3 emp.) 300. (4-6 emp.) 400. (7 + emp.)	\$ 100. 150. 200.
2) Service Businesses	\$ 150.	\$ 75.
3) Professional Businesses	\$100.	\$ 50.
4) Financial Institutions	\$500.	\$500.

6.0 Purpose and Use of Benefit Fees. The types of improvements and activities proposed to be funded by the benefit fee paid by businesses in the Area are as follows:

- a. Improvements including the acquisition, construction, installation, or maintenance of any tangible property with an estimated useful life of five years or more including, but not limited to, the following improvements:
    - (1) Benches;
    - (2) Trash receptacles;
    - (3) Decorations;
    - (4) Facade improvements;
    - (5) Permanent landscaping
  - b. Activities including but not limited to the following:
    - (1) Promotion of public events which benefit businesses in the area and which take place on or in public places within the area;
    - (2) Furnishing of music in any public place in the area;
    - (3) Activities which benefit businesses located and operating in the area, including but not limited to downtown shopping and promotional programs.
- 7.0 Exclusions From Benefit Fees. No person or business shall be required to pay a fee based on: (a) a residential use of the property within the Area, or (b) a non-profit organization as defined by §501 (C) (3) or 501 (C) (6) of the Internal Revenue Service Code located within the Area.
- 8.0 New Business Fee Waiver. Any new business established within the Area shall not be required to pay a fee for the Billing Period during which said business is initiated. The business will have been considered initiated on the date of issuance of the business license. This waiver shall not apply to an existing business that has changed ownership or location within the Area. City agrees to supply the Area Board with timely information regarding new businesses initiated within the Area.
- 9.0 Collection of Benefit Fee. The benefit fee authorized by this Ordinance for Lodi businesses (Section 5.0 hereof), shall be billed and collected once each Billing Period on January 1. City will bill and collect the fees, at no charge to the Area and forward all funds collected to the Area within 30 days of said collections. Late payment penalties shall be applied to businesses that do not provide their respective fee payments on the dates provided for herein at a rate of 10% per month. At such time as late payment penalties equate to 50% of the total annual fee, action shall be taken to recover said delinquent fees. Costs of this recovery shall be borne by the business owing the fee and late penalties. The Board and City shall develop collection procedures to implement the provisions of this paragraph.
- 10.0 Voluntary Contributions to Area. Contributions to the Area and its Board shall be permitted on a voluntary basis. The boundary of the Area shall not be modified as

a result of the contribution, nor shall said contributing business be considered a member of the Area for voting or other purposes. However, said business making a voluntary contribution may be entitled to participate in the programs of the Area upon a finding by the Board of Directors that the Area derives a benefit from said business' participation in the program.

- 11.0 Annual Budget Process. Pursuant to the Act, it shall be necessary for the Board to present, by September 1, an annual budget for City Council review and approval prior to the beginning of any Billing Period. The purpose of this process is to comply with the Act provisions regarding public notice and hearing prior to establishing the benefit fees for the following Billing Period. City shall not adopt, modify or otherwise amend any Billing Period budget of the Area that is inconsistent in any way with said Billing Period's budget as agreed to and presented by the Board except in the case of a written majority protest (regarding elimination or modification of any specific budget item) from business owners which will pay 50% or more of the fees proposed to be levied as to any specific budget item pursuant to Streets and Highways Code §36525 (b). In such case the written protest regarding any specific budget item shall be grounds to eliminate or modify said expenditure from the Area's proposed budget pursuant to the written protest.
- 12.0 Decisions Regarding Expenditure of Funds. As provided for within the guidelines of The Act, decisions of the Board regarding expenditure of all funds generated under this program shall be final.
- 13.0 Area Proceeds Do Not Offset City Services. City specifically finds and declares that the funds derived from the Area shall not be used to offset or diminish current maintenance, capital improvement programs, including but not limited to, public property and sidewalk cleaning, street cleaning and maintenance, tree maintenance, restroom cleaning and maintenance. The City declares its intent to provide at least the same level and standard of maintenance and repair of public property within the Area providing City funds are available from year to year.
- 14.0 Public Parking. The proceeds of the benefit fees established hereunder shall not be used to acquire and/or construct additional public parking, unless such use of the funds is first approved by a majority vote of the Area members voting.
- 15.0 Disestablishment of the Area. Proceeding to disestablish the Area shall be initiated by the City Council following the presentation of a petition to the City Council signed by business owners paying 50% or more of the fees levied in the Area. Proceedings to disestablish the Area shall follow the procedures set forth in Streets and Highways Code § 36550. The City Council shall disestablish the Area if, following the public hearing prescribed in §36550 (b), written protests are not withdrawn so as to reduce the protests below the 50% level. In the event of disestablishment of the Area, remaining revenues of the Area maintained by the Board shall be refunded to paying business owners in a pro-rata manner calculated in the same manner as was used to establish the most recent fees applied in the Area.

Section 2. - No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory

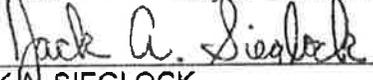
duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 3. - Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

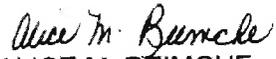
Section 4. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

Section 5. This ordinance shall be published one time in the "Lodi News Sentinel", a daily newspaper of general circulation printed and published in the City of Lodi and shall be in force and take effect thirty days from and after its passage and approval.

Approved this 17th day of December, 1997

  
JACK A. SIEGLOCK  
Mayor

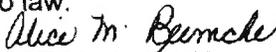
Attest:

  
ALICE M. REIMCHE  
City Clerk  
State of California  
County of San Joaquin, ss.

I, Alice M. Reimche, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1654 was introduced at a regular meeting of the City Council of the City of Lodi held December 3, 1997 and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held December 17, 1997 by the following vote:

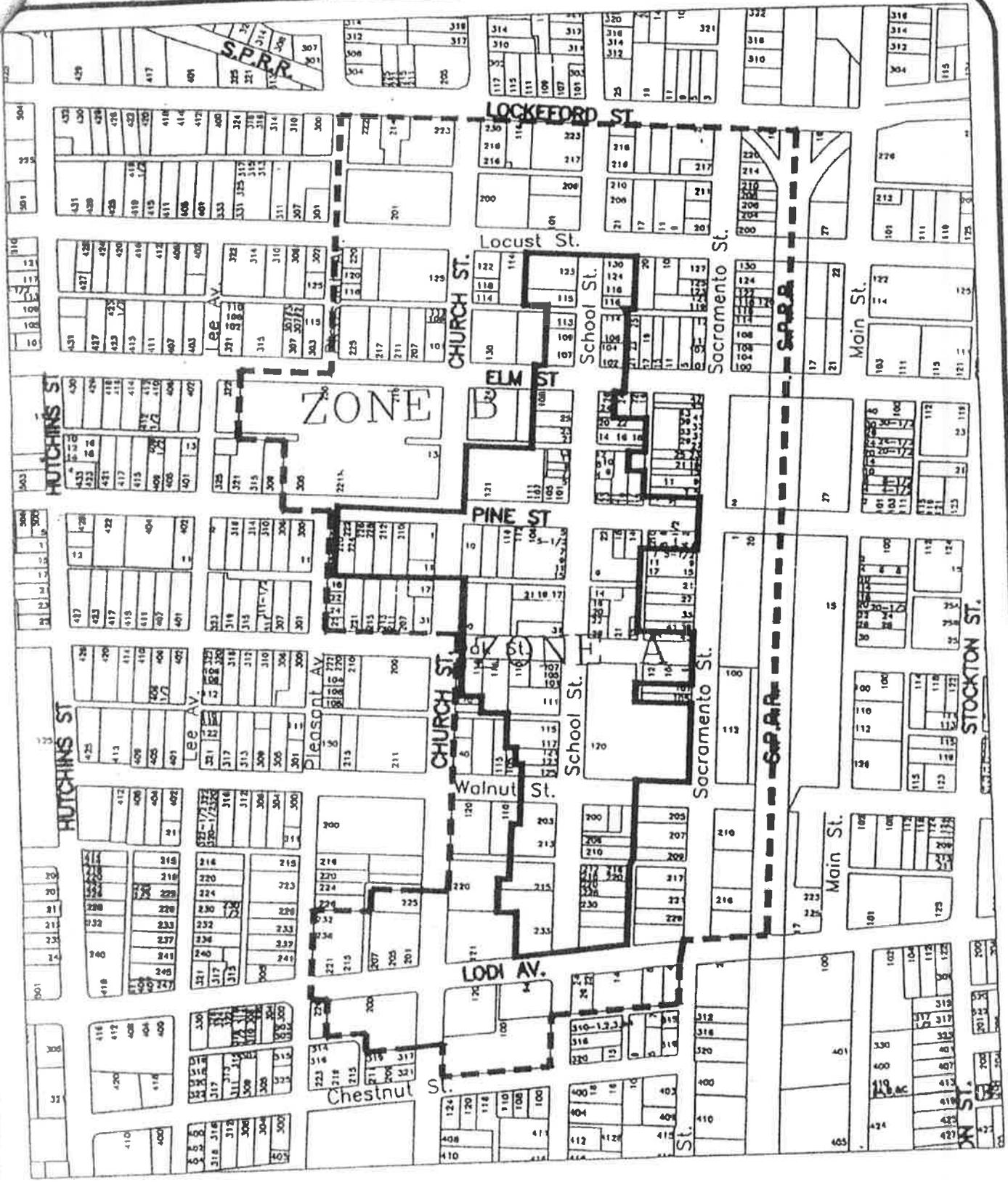
- Ayes: Council Members - Land, Mann, Pennino, Warner and Sieglock (Mayor)
- Noes: Council Members - None
- Absent: Council Members - None
- Abstain: Council Members - None

I further certify that Ordinance No. 1654 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

  
ALICE M. REIMCHE  
City Clerk

Approved as to Form:

  
RANDALL A. HAYS  
City Attorney

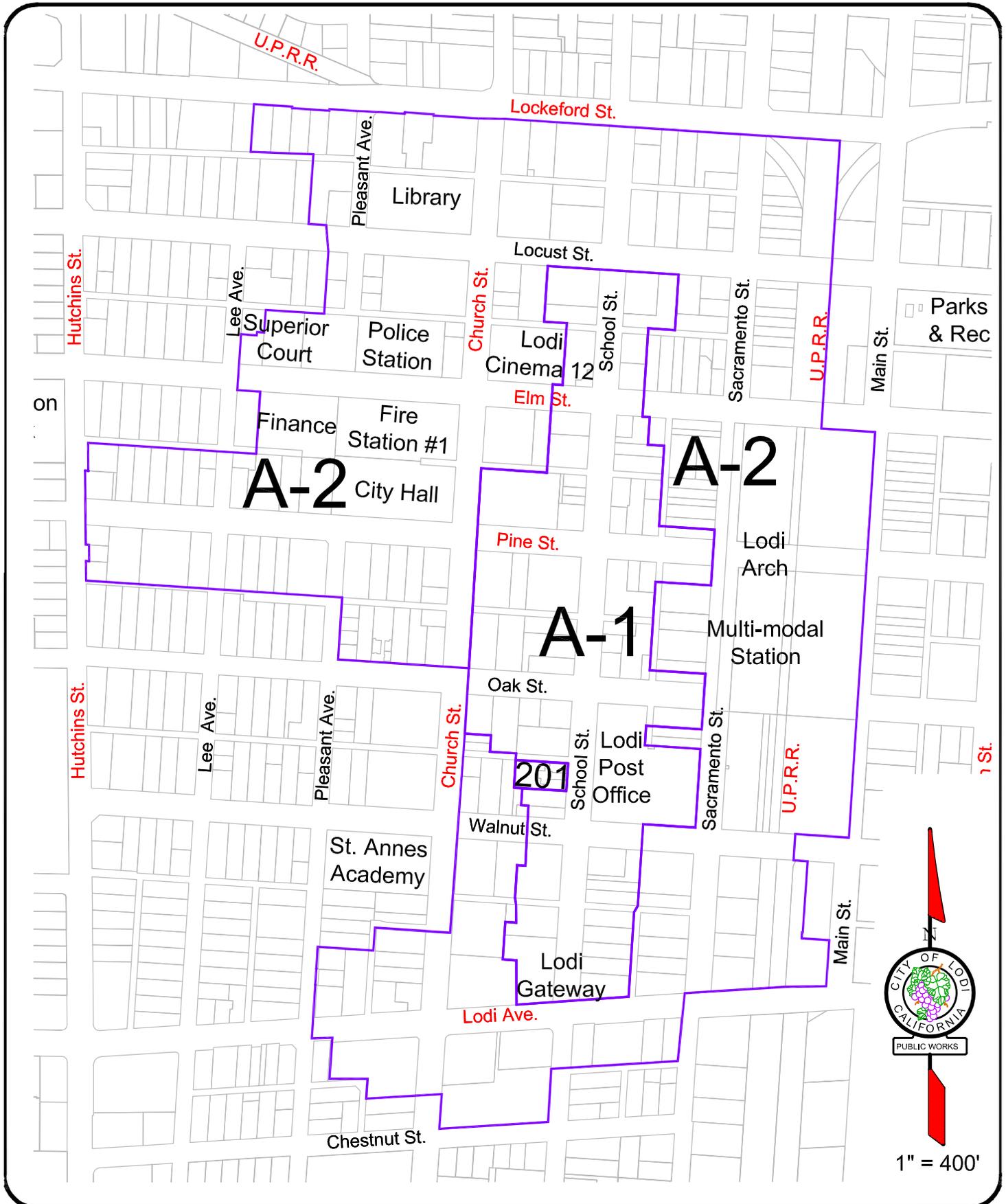




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  - (e) Professional: "Professional" includes attorneys, architects, accountants, engineers, surveyors, physicians, dentists, optometrists, chiropractors and others in a medical/health service field, consultants, real estate brokers,

financial advisors, laboratories (including dental and optical), hearing aid services, artists and designers.

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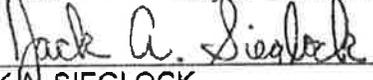
duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 3. - Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

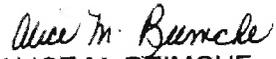
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Approved this 17th day of December, 1997

  
JACK A. SIEGLOCK  
Mayor

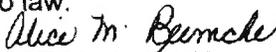
Attest:

  
ALICE M. REIMCHE  
City Clerk  
State of California  
County of San Joaquin, ss.

I, Alice M. Reimche, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1654 was introduced at a regular meeting of the City Council of the City of Lodi held December 3, 1997 and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held December 17, 1997 by the following vote:

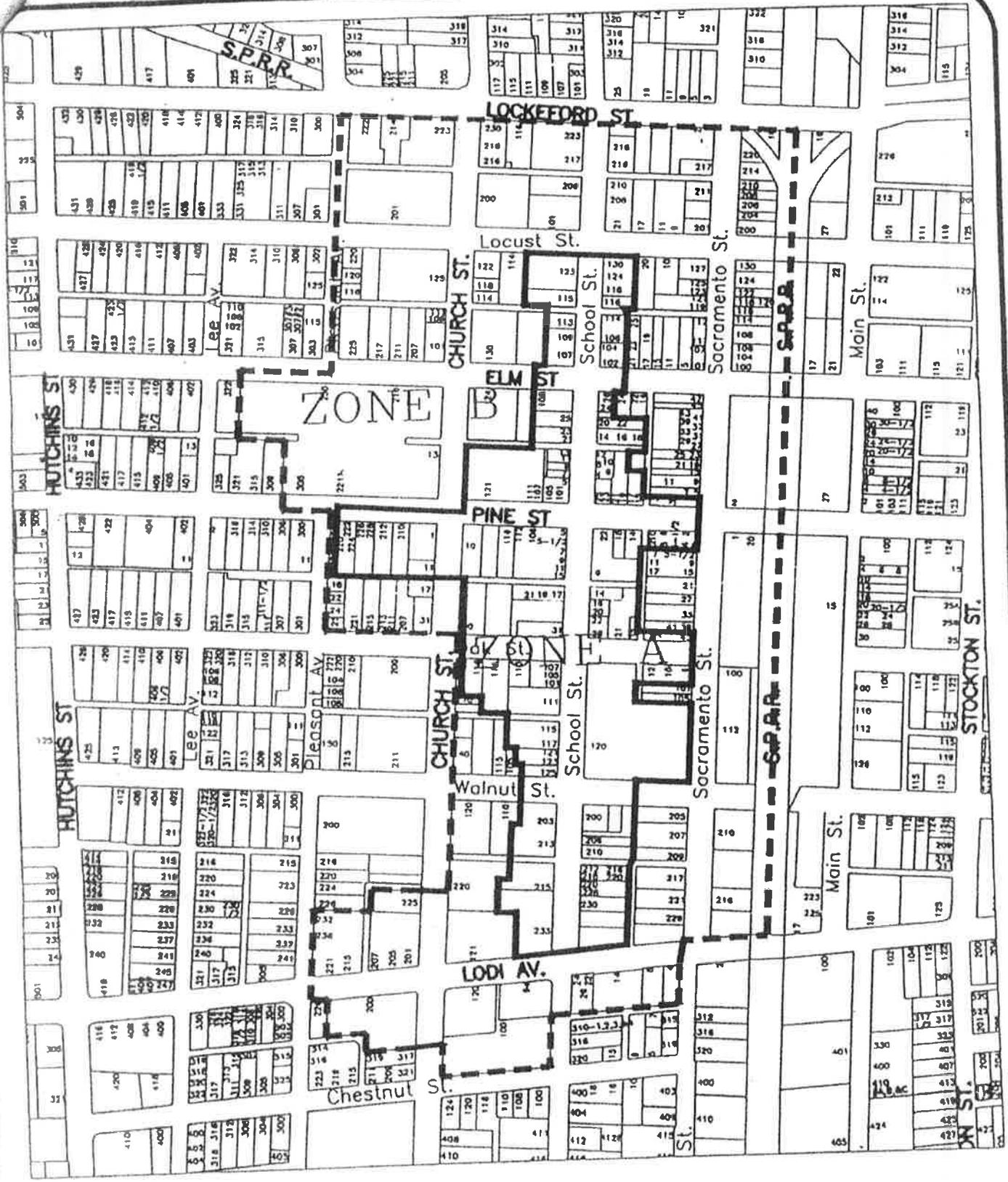
- Ayes: Council Members - Land, Mann, Pennino, Warner and Sieglock (Mayor)
- Noes: Council Members - None
- Absent: Council Members - None
- Abstain: Council Members - None

I further certify that Ordinance No. 1654 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

  
ALICE M. REIMCHE  
City Clerk

Approved as to Form:

  
RANDALL A. HAYS  
City Attorney



PROPOSED BIA BOUNDARIES