

**CITY OF MISSION
ORDINANCE NO 1621**

AN ORDINANCE AMENDING CHAPTER 220 OF THE MUNICIPAL CODE OF MISSION, KANSAS REGARDING THE DEFINITION OF UNLAWFUL NUISANCES IN THE CITY OF MISSION, KANSAS

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MISSION, KANSAS AS FOLLOWS:

SECTION 1: Section 220.010 of Chapter 220 of the Municipal Code of Mission, Kansas, is hereby deleted in full and replaced with the following as follows:

Section 220.010 Unlawful Nuisances – Defined.

- A. It shall be unlawful for any person to maintain or permit any nuisance within the City as defined, without limitation, as follows:
1. Filth, excrement, lumber, tree limbs, wood, glass, rocks, dirt, cans, containers, paper, trash, plastic, petroleum products, styrofoam, metal, discarded appliances or other household items, or any other offensive or disagreeable thing or substance thrown or left deposited upon any street, avenue, alley, sidewalk, park, public or private enclosure or lot, whether vacant or occupied;
 2. All dead animals not removed within twenty-four (24) hours after death;
 3. Any place or structure or substance which emits or causes any offensive, disagreeable or nauseous odors;
 4. All stagnant ponds or pools of water;
 5. All grass or weeds or other unsightly vegetation not usually cultivated or grown for domestic use or to be marketed or for ornamental purposes;
 6. All dead trees, dead shrubs, diseased trees, or diseased shrub on any property, whether vacant or occupied;
 7. Abandoned iceboxes or refrigerators kept on the premises under the control of any person or deposited on the sanitary landfill or any icebox or refrigerator not in actual use unless the door, opening or lid thereof is unhinged or unfastened and removed therefrom;
 8. All articles or things whatsoever caused, kept, maintained or permitted by any person to the injury, annoyance or inconvenience of the public or of any neighborhood;
 9. Any fence, structure, thing or substance placed upon or being upon any

street, sidewalk, alley or public ground so as to obstruct the same, except as permitted by the laws of the City.

SECTION 2: This Ordinance shall be in force and take effect from after publication according to law.


PASSED AND APPROVED by the City Council this 20 day of November, 2024.

APPROVED by the Mayor this 20 day of November, 2024.


Solana Flora (Dec 27, 2024 10:37 CST)

Solana Flora, Mayor

ATTEST:


Robyn Fuiks, City Clerk

APPROVED BY:

PAYNE & JONES, CHARTERED

David K. Martin

David K. Martin (Jan 4, 2025 12:50 CST)

David K. Martin, City Attorney
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**CITY OF MISSION
ORDINANCE NO 1617**

**AN ORDINANCE AMENDING CHAPTER 240 OF THE MUNICIPAL CODE OF
MISSION, KANSAS REGARDING THE REGULATION OF TREES AND SHRUBS IN
THE CITY OF MISSION, KANSAS**

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MISSION,
KANSAS AS FOLLOWS:

SECTION 1: Chapter 240 of the Municipal Code of Mission, Kansas, is hereby deleted in full and replaced with the following as follows:

**Chapter 240
Trees and Shrubs**

Article I - Authority

Section 240.100 Definitions.

For purposes of this Chapter, the following definitions shall apply to the listed terms:

ARBORIST

A professional tree service technician designated by the Parks and Recreation Director or designee. The technician must be certified through the International Society of Arboriculture (ISA) or American Society of Consulting Arborists (ASCA).

CALIPER

The diameter of a tree's trunk, measured at six (6) inches above the soil for nursery stock trees (trees up to and including four (4) inches in diameter at any point along the tree) and measured at twelve (12) inches above the soil for larger trees (trees five (5) inches in diameter or greater at any point along the tree).

CITY PROPERTY

Any parcel or lands owned by the City of Mission, Kansas

DEAD TREE

A tree that has no live, leafy crown and, as a result, is no longer contributing to the forest canopy, as determined by the City.

DIAMETER AT BREAST HEIGHT (DBH)

The diameter of a tree's trunk measured at four and one-half (4.5) feet or fifty-four (54) inches above the ground. If the tree has not obtained a height of four and one-half (4.5) feet or fifty-four (54) inches above the ground, DBH shall be equal to the caliper of the tree.

DRIP LINE

A vertical line or plane that extends from the outermost portion of the canopy of a tree down to the ground.

EASEMENT

As "Private Easement" is defined in Section 520.010.

PARK TREES

Trees, shrubs, bushes and all other woody vegetation located in City designated public parks.

RIGHT OF WAY

As defined in Section 520.010 of the Mission Municipal Code.

SMALL TREES

Trees, shrubs and other woody vegetation with a potential mature height of no more than twenty-five (25) feet.

STREET TREES

Trees, shrubs, bushes and all other woody vegetation located within the right-of-way of either the City, Johnson County, or the State of Kansas.

OWNER(S)

A person or entity that has the title to a property recorded in their name. This can include corporations, governments, sole proprietorships, partnerships, and other legal types. A property may have multiple owners.

TREE

A woody plant having a well-defined stem or trunk, a more or less definite crown, and a caliper of at least two and one-half inches (2.5") measured at six inches (6") above the soil.

TREE PROTECTION AND REMOVAL PLAN

A plan that shows the location of all existing trees on a property (including the size and species of each), identifies whether the trees will be removed or retained, and shows the locations of tree protection fencing and other protection measures required by Chapter 415 of the Code.

Section 240.110 Authority to Regulate.

The City is hereby authorized to regulate the planting, maintenance, treatment and removal of trees and shrubbery within the City.

Section 240.120 Parks, Recreation, and Tree Commission

The Parks, Recreation and Tree Commission, as established in Section 230.010 of the Mission Municipal Code, shall have the authority and responsibility for the oversight and

enforcement of the provisions of this Chapter through the Parks and Recreation Director, and his/her/their designee, acting as the Commission's agent.

Section 240.130 Interference with Parks, Recreation, and Tree Commission.

It shall be unlawful for any person to prevent, delay or interfere with the Parks, Recreation, and Tree Commission, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees, park trees or trees on private grounds as authorized in this Chapter.

Section 240.140 Review by City Council.

The City Council shall have the right to review the conduct, acts and decisions of the Parks, Recreation, and Tree Commission. Any person may appeal any ruling or order of the Commission to the City Council no later than thirty (30) days after the ruling or order, who may hear the matter and make a final decision. The Parks, Recreation and Tree Commission shall be represented and heard at the time of appeal.

Section 240.150 through Section 240.210 (Reserved)

Article II - Street Trees, Park Trees, and Trees in Public Utility Easements

Section 240.220 Responsibility for Care and Removal of Trees and Shrubs

The owner(s) of any real property abutting any street, alley, avenue, boulevard or public rights-of-way shall be responsible for the planting, care, maintenance (including trimming) and removal of any street tree planted on said property. Owner(s) of any commercial or multi-family property shall be responsible for the replacement of trees removed in accordance with the landscaping provisions of the municipal land use code in Chapter 415 Article III Landscaping. The City shall be responsible for any park trees and shrubbery planted in City-owned parks or on City-owned property.

Section 240.230 List of Permissible Street and Park Trees.

A. The following is a list of street and park trees species for Mission, Kansas. The Parks, Recreation, and Tree Commission is authorized to adopt regulations providing procedures and criteria for the approval of the planting of other species. These regulations may authorize, without specific written permission of the Commission, the planting of certain trees under specified conditions. The planting of any species not listed in this Section, or those regulations shall be prohibited unless prior written authorization of the Commission is obtained.

1. Maple, Norway (Acer platanoides)
2. Redbud (Cercis canadensis)
3. Maple, Amur Flame (Acer ginnala)

4. Linden, "American Redmond" (*Tilia americana*)
5. Serviceberry (*Amelanchier x grandiflora*)
6. Linden, "Greenspire" Little Leaf (*Tilia cordata*)
7. Western Soap Berry (*Sapindus drummondii*)
8. Oak, "Chinkapin" (*Quercus Muehlenbergii*)
9. Oak, "Shingle" (*Quercus imbricaria*)
10. Oak, "Bur" (*Quercus macrocarpa*)
11. Ginkgo (*Ginkgo biloba*)
12. Bald Cypress (*Taxodium distichum*)

Section 240.240 List of Prohibited Street Trees.

A. The following is a list of tree species that are prohibited as street trees.

1. *Abies* spp. (Fir).
2. *Acer saccharinum* (Silver Maple).
3. *Albizia julibrissin* (Mimosa).
4. *Diospyros virginiana* (Persimmon).
5. *Elaeagnus angustifolia* (Russian Olive).
6. *Fraxinus* (entire genus of Ash).
7. *Maclura pomifera* (Osage Orange fruited/thorned varieties).
8. *Morus* spp. (Mulberry).
9. *Picea* spp. (Spruce).
10. *Pinus* spp. (Pine).
11. *Platanus acerifolia* (London Plane-tree).
12. *Occidentalis* (Sycamore).
13. *Populus* spp. (Cottonwood).

14. *Pyrus calleryana* "Bradford" (Bradford Pear).

15. *Salix* spp. (Willow).

16. Edible fruit trees.

Section 240.250 Prohibited Trees.

A. The following is a list of tree species that may not be planted or grown within the corporate limits of the City of Mission, Kansas:

1. *Ulmus* spp. (Elms except for *Ulmus parvifolia* and *Ulmus americana*).

2. *Ailanthus altissima* (Tree of Heaven).

3. *Acer negundo* (Boxelder) and *Acer saccharinum* (Silver Maple).

4. *Fraxinus* (entire genus of Ash).

5. *Pyrus calleryana* "Bradford" (Bradford Pear).

6. *Pinus Nigra* (Austrian Pine) and *Pinus Sylvestris* (Scotch Pine)

7. *Populus Alba* (Silver Poplar) and *Populus Nigra* (Lombardy Poplar)

8. *Populus deltoides* (Cottonless Cottonwood)

9. *Betula pendula* (European White Birch)

10. *Salix* spp. (Willows)

Section 240.260 Distance from Paved Surface.

No tree or shrub shall be planted within ten (10) feet from any paved surface unless authorized by the Parks, Recreation and Tree Commission or its agent.

Section 240.270 Responsibility for Trees Within Utility Easements.

The planting, care, maintenance (including trimming) and removal of any tree, shrubbery, or landscaping within a utility easement (electrical, water, gas, or sanitary or stormwater sewer) shall be the responsibility of the property owner(s). The utility operator, or its agents, shall have the right to trim and/or remove trees, shrubbery, and landscaping within the easement or right-of-way without notice to the property owner(s) and at no liability for damage or loss of trees, shrubbery, or landscaping. Debris left behind after a utility has trimmed or removed any trees is the responsibility of the property owner to remove.

Section 240.280 Sight Distance Triangles and Fireplugs.

- A. No landscaping, tree, shrub, fence, wall or similar item shall be placed within the sight triangle of a driveway intersecting a public right of way, or within the sight triangle of the intersection of two public rights-of-way. The City has the ultimate authority to determine if any landscaping, tree, shrub, fence wall or similar item is an obstruction to visibility or is otherwise a traffic hazard and cannot be installed or must be removed.
- B. No tree, shrub or woody vegetation shall be planted within a distance of ten (10) feet from any fireplug.

Section 240.290 Residential Traffic Islands, Thoroughfare Rights-of-Way, Planting Restrictions.

No trees, shrubs, woody vegetation or other landscape improvements over two (2) feet in height will be permitted on residential traffic islands or thoroughfare rights-of-way unless approved by the Parks, Recreation, and Tree Commission or assigned city staff.

Section 240.300 Rights of Property Owners to Recover Loss from Damage of Trees and Shrubbery in Right of Way.

The owner(s) of property abutting any street, alley, avenue or boulevard shall have such title to and property in trees and shrubbery in the right-of-way of any street, avenue, boulevard to enable the owners in case of injury to or destruction of such trees and/or, shrubbery to recover from the person causing said injury or destruction the full damage which said trees and/or shrubbery may sustain by reason thereof. Furthermore, said property owner(s) shall all have the right of action in any court of competent jurisdiction to enjoin injury to or destruction of such trees and/or shrubbery. No recovery or injunction shall be had against the City. Furthermore, no recovery or injunction shall be had against a utility in the making of public improvements or in any other reasonable exercise of its authority over such streets, alleys, avenues or boulevards or over the trees and shrubbery located thereon.

Section 240.310 Injuring Trees.

It shall be unlawful for any person to cut, girdle, destroy or in any manner injure any tree standing or growing, wholly or partly, within the right-of-way of any street, alley, avenue, boulevard or within any public park without the consent of the abutting landowner or the Parks, Recreation, and Tree Commission.

Section 240.320 Duty to Trim Trees and Shrubs on or Near Streets, Sidewalks.

The owners, occupants or persons in charge of real property in the City that is abutting public streets, avenues, boulevards, alleys, and trails are required to trim or cut back all trees and shrubs or branches or limbs thereof growing or situated in the right-of-way on

any such real property which overhang any such street or avenue so as not to interfere with public travel upon the streets, sidewalks, or trails in front or abutting such property. Any trees, shrubs or limbs projecting beyond the back of the curb line or the usual location thereof at a point less than twelve (12) feet above the street level are hazardous and interfere with the use of the streets and avenues. Any trees, shrubs or limbs projecting over any sidewalk or trail or usually traveled pedestrian way, at a point less than eight (8) feet above the level thereof, are hazardous and interfere with the use of sidewalks and usually traveled pedestrian way.

Section 240.330 Right of City to Maintain Trees Not Affected.

Nothing in this Chapter shall be deemed to impair the right of the City to trim, protect, or otherwise care for trees upon all public streets, avenues, boulevards, parks and other public grounds, and the Code Enforcement Officer is hereby authorized and directed, whenever it may be necessary, to perform or to cause to be performed any such work.

Section 240.340 through Section 240.390 (Reserved)

Article III Care and Removal of Diseased and Dead Trees

Section 240.400 Diseased/Dead Trees and Shrubs — Notice.

Whenever any competent City, State or Federal authority, when requested by the Governing Body of the City, shall file with the Governing Body a statement in writing based upon a laboratory test or other supporting evidence that trees or tree materials or shrubs located upon private property within the City are infected or infested with, or harbor any tree or plant disease or insect pest or larvae, the uncontrolled presence of which may constitute a hazard to or result in damage or destruction of other trees or shrubs in the community, describing the same and where located, the Governing Body shall direct the Code Enforcement Officer to forthwith issue notice requiring the owner or agent of the owner of the premises to treat or remove any such designated tree, tree materials, or shrub within a time specified in such notice. In no event shall the time specified in such notice be less than ten (10) days. Such notice shall be served by the Code Enforcement Officer by delivering a copy thereof to the owner or agent of the property or if the same shall be unoccupied and the owner a non-resident of the City, then the Code Enforcement Officer shall notify the owner by mailing a notice to his/her last known address, the notice providing the non-resident owner at least ten (10) days in which to comply with the terms of this Chapter.

Section 240.410 Diseased/Dead Trees and Shrubs — Failure to Comply with Notice.

If the owner or agent shall fail to comply with the requirements of the notice required by Section 240.400 within the time specified in the notice, then the duly authorized officer of the City shall proceed to have the designated tree, tree materials, or shrub treated or removed and report the cost thereof to the City Clerk and the cost of the treatment or removal shall be paid by the owner of the property or shall be assessed and charged against the lot or parcel of ground on which the tree, tree materials or shrub was located.

The City Clerk is hereby authorized upon determination of the amount to be assessed to any such lot or parcel of ground to furnish a written notice by United States mail to the last known address of the owner or agent of the amount of such assessment. The City Clerk shall, at the time of certifying other City taxes to the County Clerk, certify the unpaid cost to be so assessed and the County Clerk shall extend the same on the tax roll of the County against the lot or parcel of ground. The cost of the work shall be paid from the general fund or other proper fund of the City and the funds shall be reimbursed when payment thereof is received or when such assessments are collected and received by the City.

Section 240.420 Diseased/Dead Trees and Shrubs – Appeal of Notice

The owner(s) of such real property upon which notice under Section 240.400 is being served shall have the right to appeal such notice to the Governing Body. Said appeal must be in writing and delivered to the City Clerk within 10 days of service of the notice. The Governing shall take up the appeal at a public hearing within 45 days of receipt of the appeal and make a determination within 30 days of the hearing.

Section 240.430 Powers of City in Case of General Infection.

The Governing Body, when it appears that there is or is likely to be a general infection or infestation of trees or shrubs within the City by tree or plant disease or insect pest or larvae resulting in damage to or the death of many trees or shrubs, may provide such preventive measures or treatments as may be necessary and may pay the cost from the general fund or other proper fund.

Section 240.440 (Reserved)

Article IV. Tree Protection and Tree Removal

Section 240.450. Purpose and Intent.

A. The purpose of this Article is to preserve and protect trees in the City in order to:

1. Create an attractive aesthetic environment in the City;
2. Enhance the environmental and ecological function of undeveloped portions of sites;
3. Preserve the tree canopy and streetscape of the City for the aesthetic, economic, and environmental benefits of tree preservation by preventing indiscriminate removal or destruction of trees; and

4. Work towards the goal to replacing tree canopy cover removed and increasing tree canopy cover to 35% as recommended in the [City's Tree Plan](#).

Section 240.460. Tree Protection and Removal.

A. Prior to demolition or construction for any new commercial project or significant changes, as defined in Section 440.175(A)(5) of the Mission City Code, the following procedures shall be followed. It is the responsibility of the developer and/or contractor and their subcontractors to take appropriate action to preserve all protected trees during all phases of construction.

B. Tree Protection and Removal Plan.

1. Prior to the issuance of a permit for any new commercial or significant residential project, a tree protection and removal plan shall be submitted to the City for approval to ensure preservation of trees and vegetation in accordance with this Article. Specifically, a tree protection and removal plan shall be required when:

(a) The property has a tree protected by this Section ;

(b) As part of a site plan associated with development, existing trees will be retained and protected; or

(c) Any trees are proposed to be removed as part of any permit application associated with the situations listed in this Section.

2. The Tree Protection and Removal Plan shall:

(a) Show all existing trees on the property, including specification of the size and species of each tree;

(b) Identify trees proposed for removal and trees that will be retained; and

(c) Include locations of tree protection fencing and other protection measures required by this Section.

C. Trees shall be protected based on their size. Protected trees require mitigation if removed. The following trees are protected and shall be mitigated if removed, as provided in this ordinance:

1. All trees of any size in the public right-of-way.
2. All trees greater than 4" DBH that are within 20 feet of the front lot line.
3. All trees greater than 6" DBH that are within 10 feet of a non-street property line.

4. All trees greater than 8" DBH that are on other property areas not within the buildable area established by building setbacks.
 5. All trees greater than 12" DBH that are within the buildable area established by building setbacks.
- D. Tree protective fencing shall be installed according to tree diameter at breast height (DBH) as follows:
1. Trees greater than twenty-eight-inch (28") DBH must have a fence to encompass a perimeter twenty feet (20') from center or seventy-five percent (75%) of drip line (whichever is lesser);
 2. Trees between twenty-inch (20") and twenty-eight-inch (28") inch DBH must have a fence to encompass a perimeter fifteen feet (15') from center of tree or seventy-five percent (75%) of drip line (whichever is lesser);
 3. Trees less than twenty-inch (20") DBH must have a fence to encompass a perimeter ten feet (10') from the center of the tree or seventy-five percent (75%) of the drip line (whichever is lesser).
 4. Tree protection fencing shall be wood, plastic or chain link fencing. The fence shall be four feet (4') in height with steel supporting posts eight feet (8') to ten feet (10') on center. The posts shall be driven into the ground to hold the fence in an upright position throughout construction on the site.
 5. Protective/temporary fences shall exclude any existing structures, foundations, slabs, and roadways, sidewalks, and driveways. The fence shall be installed along the edge of the driveways /roadways encompassing the tree to restrict access from the street side. All fences shall appear on construction documents and be installed prior to any other construction-related activity. The fence shall remain in place at all times until all construction -related activity has been completed or final grade achieved. The City Administrator, or designee, may authorize fences are moved at certain times for final grading, access, or other work. As part of a permit or review of a tree protection and removal plan, the City Administrator, or designee, may determine that areas of the site removed from construction activity and where damage to roots is not likely may not need protective fences.
 6. Except for utility work to abandon existing structures or in association with other activity approved by the City Administrator, or designee, the following activities are not allowed within the protective fencing area:
 - (a) Stockpiling of construction materials or waste from the construction process;
 - (b) Cleaning of construction equipment;

- (c) Parking, storage, or placement of any vehicles, construction equipment, or temporary structures;
- (d) Grade changes, cut of fill, in excess of two inches (2");
- (e) New paving with asphalt, concrete, or other materials;
- (f) No signs, wires, or other attachments other than those of a protective nature shall be attached to any tree;
- (g) Whenever possible, boring of utilities should be utilized. If open trenching is required, the City Administrator, or designee must approve and ensure that no other options are feasible.

E. *Exceptions for Removal.* It is the responsibility of the developer and/or contractor to ensure that no person removes, damages, or otherwise impairs any tree that is prohibited from removal without prior written authorization from the City Administrator, or designee, to remove the tree. The City Administrator, or designee, may consider an exception to remove any such tree only upon a written request indicating the specific tree and providing documentation that establishes justification for removal. The City Administrator, or designee, shall generally grant the exception for the following:

1. The tree is dead;
2. The tree is diseased or dying, and constitutes a threat to healthy trees, property, or public safety; or
3. Removal of the tree is necessary for construction, development, or redevelopment under the following criteria:
 - (a) All reasonable efforts have been made to avoid removing the tree through comparable alternative designs;
 - (b) The presence of the tree places an undue financial burden on the applicant, as determined by the City Administrator, or designee, in their sole discretion; and
 - (c) No other reasonable accommodations, including but not limited to adjustments to the otherwise allowable building footprint or site design, can be made to preserve the tree.

F. *Trees confirmed dead by the City.* Trees confirmed dead by the City within City property and City right-of-way may be removed and do not require replacement under this Section.

G. Written authorization by the City Administrator, or designee, shall be valid for the duration of any permit associated with the authorization.

H. Any tree protected under this Section that is removed, whether authorized or in violation of this Section, other than under Subsection E of this Section, shall be replaced according to Table 1: Mitigation for Removal. In general, replacement trees shall be required for any tree removed. However, when replacement could involve the loss of substantial tree canopy or removal of significant DBH of existing trees, and where replacement of multiple smaller trees to account for this would lead to trees planted too close together, a fee in lieu of replacement may be paid into the Tree Fund according to the fee rate established in Table 1. Mitigation may be waived or reduced to any reasonable replacement for trees that are destroyed by an act of God, that die in ordinary conditions, or that otherwise reached the end of their useful life through no act of the owner.

Table 1: Mitigation for Removal

Protected Trees Removed	Tree Replacement Rate*	Fee En Lieu Option \$ per Caliper Inch
Low Priority: < 4" caliper	1 for 1 tree replacement	\$100.00
Moderate Priority: 4" - 12" caliper/DBH	50% of caliper/DBH inch	\$200.00
High Priority: 12"-24" caliper/DBH	75% of caliper/DBH inch	\$300.00
Other: Trees prohibited from removal by 415.190(B), except as authorized in 415.190(D).	100% of caliper/DBH inch	\$400.00

* All replacement trees shall be at least 2.5" caliper and selected from the species list managed by the Parks, Recreation, and Trees Commission.

Section 240.470 through Section 240.490 (Reserved)

Article V. Violation and Penalty


Section 240.500 Violation and Penalty

- A. Each individual or entity found to be in violation of the provisions of Chapter shall severally for each such violation shall be fined not more than one thousand dollars (\$1,000) or six months jail time, or both such fine and jail.
- B. The imposition of a penalty for any violation or noncompliance shall not excuse any violation, permit a violation to continue, or excuse any obligation to remedy any violation.
- C. The imposition of a penalty shall not prohibit any action by the City to enforce compliance, prevent a violation, or remedy a violation of this Chapter.
- D. Each day that violation occurs or is permitted to continue shall constitute a separate offense.

SECTION 2: This Ordinance shall be in force and take effect from after publication according to law.

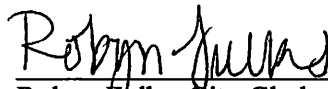
PASSED AND APPROVED by the City Council this 20 day of November, 2024.

APPROVED by the Mayor this 20 day of November, 2024.



Solana Flora, Mayor

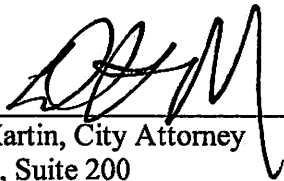
ATTEST:



Robyn Fulks, City Clerk

APPROVED BY:

PAYNE & JONES, CHARTERED



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