

ORDINANCE NO. 3125-17

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE TO AMEND CHAPTER 9.86 OF TITLE 9 (PUBLIC PEACE, SAFETY OR WELFARE) AND VARIOUS SECTIONS OF TITLE 19 (ZONING) OF THE SUNNYVALE MUNICIPAL CODE TO UPDATE THE EXISTING PROHIBITION AGAINST COMMERCIAL MARIJUANA ACTIVITY IN THE CITY TO INCLUDE NON-MEDICAL MARIJUANA, TO REASONABLY REGULATE INDOOR PERSONAL CULTIVATION OF MARIJUANA CONSISTENT WITH STATE LAW, AND TO PROHIBIT OUTDOOR PERSONAL CULTIVATION OF MARIJUANA

WHEREAS, the Control, Regulate and Tax Adult Use of Marijuana Act ("the AUMA") was approved by California voters on November 8, 2016; and

WHEREAS, the AUMA legalizes the possession, use, and cultivation of non-medical marijuana for those who are 21 years of age or older and authorizes a comprehensive State system to regulate commercial marijuana activity; and

WHEREAS, under the AUMA, cities may adopt and enforce local ordinances, including zoning and land use requirements, to regulate marijuana businesses or to completely prohibit the establishment or operation of such businesses within the City's jurisdiction, and the state will not approve a state license for a business that violates local ordinances; and

WHEREAS, effective January 1, 2016, 3 bills (AB 266, AB 243, and SB 643), collectively known as the Medical Cannabis Regulation and Safety Act ("MCRSA"), govern cultivation, processing, transporting, testing, and distribution of medical marijuana to qualified patients; and

WHEREAS, on April 19, 2016, the Sunnyvale City Council adopted Ordinance Number 3077-16, clarifying the City of Sunnyvale's longstanding prohibition on cultivation, distribution, sale, and delivery of medical marijuana in the City of Sunnyvale to ensure that the City maintained local control of these issues after passage of the MCRSA; and

WHEREAS, under the Federal Controlled Substances Act, 21 U.S.C. § 801 et seq., the use, possession, and cultivation of marijuana for both medical and recreational uses are currently unlawful and subject to federal prosecution; and

WHEREAS, while marijuana cultivation and all commercial medical marijuana uses are prohibited under the City's current zoning regulations, the Sunnyvale Municipal Code does not currently expressly regulate the cultivation and delivery of non-medical marijuana within its jurisdiction; and

WHEREAS, contrary to the AUMA, current City regulations prohibit cultivation for personal use of marijuana in the City of Sunnyvale; and

WHEREAS, commercial marijuana activities, whether related to medical or recreational marijuana, can adversely affect the health, safety, and well-being of City residents. According to the Attorney General's August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, marijuana cultivation or other concentration of marijuana in any location without adequate security increases the risk that surrounding homes or businesses may be negatively impacted by nuisance activity, including but not limited to loitering or crime; and

WHEREAS, several California cities and cities in states that have legalized recreational marijuana have reported negative impacts of marijuana cultivation, processing and distribution activities, including offensive odors, illegal sales and distribution of marijuana, trespassing, theft, violent robberies and robbery attempts, fire hazards, and problems associated with mold, fungus, and pests; and

WHEREAS, marijuana plants, as they begin to flower and for a period of two months or more, produce a strong odor, offensive to many people, and detectable far beyond property boundaries if grown outdoors. This condition also creates an attractive nuisance, alerting persons to the location of the valuable plants, and creating a risk of burglary, robbery or armed robbery; and

WHEREAS, when marijuana is grown and/or processed indoors, growing and processing equipment can have the potential to cause harm to persons or property by creating fire hazards. Many cities in the state have reported or responded to fires resulting from marijuana activity. Indoor cultivation operations are frequently unattended and utilize high wattage grow lamps, generators, or other equipment, or may be illegally wired to allow such equipment to function. This excessive energy use can overload electrical systems and cause fires. Notable recent fires associated with marijuana related activities include a December 2015 explosion at a home in Petaluma associated with production of marijuana oil, an October 2015 fire at a home with an indoor grow in Rialto started by an electrical panel that burst, a May 2015 fire at a commercial building in Sun Valley with an indoor marijuana grow house, and an explosion/fire in April 2015 at a Silver Lake home caused by an indoor marijuana operation; and

WHEREAS, criminal activity is also associated with mobile marijuana dispensaries and deliveries, which are targets for armed robbery; and

WHEREAS, based on the experiences of other cities, these negative effects on the public health, safety, and welfare are likely to occur, and continue to occur, in the City if marijuana cultivation, processing, distribution, and other commercial activities—whether associated with recreational or medical marijuana - are permitted to operate or if permits, licenses, or similar entitlements were issued for such operation, and that such operation poses a current threat to the public health, safety, and welfare in the City due to the negative impacts of such activities as described above; and

WHEREAS, marijuana laws do not confer a land use right or the right to create or

maintain a public nuisance, and the MCRSA requires the city to prohibit cultivation uses, either expressly or otherwise under the principles of permissive zoning, or the State will become the licensing authority. The MCRSA also requires delivery services to be expressly prohibited by local ordinance, if the City desires to prohibit delivery. Similarly, the AUMA gives cities explicit authority to adopt and enforce local ordinances, including zoning and land use requirements, to regulate marijuana businesses or to completely prohibit the establishment or operation of such businesses within the city's jurisdiction. No State license will be approved for a business that violates local ordinances; and

WHEREAS, the City Council desires to update the marijuana regulations in the Sunnyvale Municipal Code to maintain the City's existing prohibition on commercial marijuana activities, and expressly make clear, in light of passage of the AUMA, that all such uses (whether medical or recreational) continue to be prohibited in all zones throughout the City, preserve local control over such uses, and protect the public from the health and safety risks described above; and

WHEREAS, the Planning Commission held a duly noticed public hearing on August 28, 2017, at which time it considered all evidence presented, both written and oral and at the end of the hearing recommended that the Council adopt the recommended changes to the City's zoning code; and

WHEREAS, the City Council held a duly noticed public hearing on this ordinance on September 26, 2017, at which time it considered all evidence presented, both written and oral.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. CHAPTER 9.86 AMENDED. Chapter 9.86 (Medical Marijuana) of Title 9 (Public Peace, Safety or Welfare) of the Sunnyvale Municipal Code is hereby amended to read as follows:

Chapter 9.86. MARIJUANA

- 9.86.010. Purpose**
- 9.86.020. Definitions.**
- 9.86.030. Prohibited activities.**
- 9.86.040. Personal marijuana cultivation regulations.**
- 9.86.050. Violation – Penalty.**
- 9.86.060. Public Nuisance.**
- 9.86.070. Severability.**

9.86.010. Purpose.

The purpose of this chapter is to reflect the intent of the City of Sunnyvale to (1) expressly prohibit outdoor personal and commercial cultivation, delivery, distribution and other commercial activity related to medical and recreational marijuana; (2) reasonably regulate personal indoor cultivation of marijuana

consistent with State law; (3) not administer a conditional permit program for marijuana cultivation under the Medical Marijuana Regulation and Safety Act (Health & Safety Code §11362.777) or the Adult Use of Marijuana Act (“AUMA”); (3) exercise its local authority to regulate and enforce activities related to medical and recreational marijuana, including but not limited to prohibitions on commercial cultivation, processing, distribution and delivery; and (4) exercise its police power to enact and enforce regulations to benefit the health, safety and welfare of the Sunnyvale community.

9.86.020. Definitions.

(a) “AUMA” refers to the Control, Regulate and Tax Adult Use of Marijuana Act approved by California voters on November 8, 2016.

(b) “Commercial cannabis activity” or “commercial marijuana activity” includes both “commercial cannabis activity” and “commercial marijuana activity” as set forth in California Business & Professions Code §19300.5 and 26001(d) as may be amended, and means and includes cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of marijuana or marijuana products. “Commercial marijuana activity” also includes the activities of any business or nonprofit licensees by the state or other government entity under chapter 3.5. of Division 8 or Division 10 of the Business and Professions Code.

(c) “Concentrated cannabis” has the same meaning as defined in Business and Professions Code section 19300.5(g), and includes manufactured cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product’s potency.

(d) “Cooperative” means two or more persons collectively or cooperatively cultivating, using, transporting, possessing, administering, delivering or making available medical marijuana, with or without compensation.

(e) “Cultivation” has the same meaning as defined in Business and Professions Code section 26001(e), and includes any activity involving the planting, growing, harvesting, drying, curing, grading, trimming or processing of marijuana.

(f) “Delivery” has the same meaning as provided in California Business & Professions Code 26001(h) as may be amended and includes the commercial transfer of marijuana to a customer. Delivery also includes the use by a retailer of any technology platform, whether owned or controlled by the retailer or independently licensed, that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of marijuana or marijuana products.

(g) “Distribution” means the procurement, sale and transport of medical marijuana or medical marijuana products between entities licensed pursuant to the Medical Cannabis Regulation and Safety Act or AUMA.

(h) “Fully enclosed and secure structure” means a space within a building, greenhouse, or other structure that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, provides complete visual screening, and which is accessible only through one or more lockable doors.

- (i) “Indoors” means within a fully enclosed and secure structure.
- (j) “Marijuana” or “Cannabis” shall have the same definition as set forth in California Health & Safety Code section 11018 and shall include all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Marijuana” shall also include, but is not limited to “Cannabis” as defined in Business & Professions Code § 19300.5(f), as may be amended from time to time. Marijuana does not include industrial hemp, as defined in Food and Agriculture Code section 81000 or Health and Safety Code section 11018.5, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.
- (k) “Marijuana product” means marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including but not limited to concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis and other ingredients.
- (l) “MCRSA” means the Medical Cannabis Regulation and Safety Act (formerly known as the “MMRSA” or “Medical Marijuana Regulation and Safety Act”) as contained, codified, enacted and signed into law on October 9, 2015 as Assembly Bills 243, 266, and Senate Bill 643, and as amended by Assembly Bill 21(2016).
- (m) “Medical marijuana dispensary” shall have the same definition as set forth in Business & Professions Code § 19300.5(n), as may be amended from time to time. For purposes of this Chapter, “dispensary” shall also include a cooperative. “Dispensary” shall not include the following uses, so long as such uses comply with this Code, Health and Safety Code Section 11362.5 et seq., and other applicable law:
 - (1) - (5) [Text unchanged]
- (n) “Outdoors” means any location that is not within a fully enclosed and secure structure.
- (o) “Person” includes any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit.
- (p) “Private residence” means a house, apartment unit, mobile home, or other similar dwelling.
- (q) “Processing” means any method used to prepare marijuana or its byproducts for commercial retail and/or wholesale including but not limited to drying, cleaning, curing, packaging, or extracting active ingredients to create marijuana related products or concentrates, including but not limited to edible or topical products.

9.86.030. Prohibited activities.

- (a) Commercial marijuana activity. Commercial cannabis activities of all types are expressly prohibited in all zones and all specific plan areas in the City of Sunnyvale. No person shall establish, operate, conduct or allow a commercial cannabis activity anywhere within the City. This subsection is meant

to prohibit all activities for which a state license is required pursuant to the AUMA or MCRSA, and the City will not issue any permit, license, or other entitlement for any activity for which a state license is required under the AUMA or MCRSA.

(1) Control of real property. A property owner may not allow any person or business to establish, operate, maintain, conduct or engage in commercial marijuana activity prohibited by this Chapter on any real property owned or controlled by that property owner that is located in the City.

(b) Deliveries. To the extent not already covered by subsection (a) above, all deliveries of marijuana or marijuana products are expressly prohibited within the City of Sunnyvale. No person shall conduct or perform any delivery or marijuana or marijuana products that either originates from or terminates within the City of Sunnyvale.

(c) Outdoor cultivation. To the extent not already prohibited by subsection (a), outdoor marijuana cultivation is expressly prohibited in all zones and all specific plan areas of the City. No person, including a qualified patient or primary caregiver, shall cultivate any amount of cannabis out of doors in the City, for any purpose.

9.86.040. Personal marijuana cultivation regulations.

Indoor cultivation of six (6) or fewer live marijuana plants is permitted within a single private residence, or upon the grounds of that residence or inside an accessory structure located on the grounds of a private residence, to the extent such cultivation is authorized by state law and is in strict compliance with the following requirements:

(a) Marijuana cultivation is permitted only within fully enclosed and secure structures inaccessible to minors. Cultivation areas must be secured by lock and key or other security device which prevents unauthorized entry, and shall not be visible from the exterior of a residence or a public right of way.

(b) Marijuana cultivation is limited to six (6) plants total, whether mature or immature, regardless of how many qualified residents reside on the grounds of a private residence.

(c) Marijuana cultivation, including but not limited to any lighting, plumbing, building, or electrical components used for cultivation, must comply with current requirements in Title 16 of this Code.

(d) Lighting used for marijuana cultivation may not exceed 1000 watts per light, unless certified by a licensed electrical contractor. High intensity discharge (HID) lighting, including but not limited to mercury-vapor lamps, high-pressure sodium (HPS) lamps, metal-halide (MH) lamps, ceramic MH lamps, sodium-vapor lamps, high-pressure sodium vapor lamps, and xenon short-arc lamps are prohibited in cultivation areas. Use of light-emitting diodes (LEDs), compact fluorescent lamps (CFLs) or fluorescent lighting is encouraged.

(e) The use of gas products including but not limited to CO₂ and butane, CO₂ and ozone generators, or other flammable solvents for marijuana cultivation or processing is prohibited.

(f) Area(s) where marijuana is cultivated must contain adequate ventilation and filtration systems to ensure that odors from cultivation activities are not detectable by a person with a typical sense of smell from any adjoining lot, parcel, tract, public right of way, building unit or residential unit, and designed to prevent mold and moisture and otherwise protect the health and safety of persons residing in the residence.

(g) Marijuana cultivation may not be conducted in a manner that constitutes a public nuisance. A public nuisance may exist if the cultivation produces light, glare, heat, noise, vibration, odors, smells, or other olfactory stimulus that is or whose effect is either detrimental to public health, safety, or welfare or interferes with the reasonable enjoyment of property.

(h) The residential structure shall remain at all times a residence, with legal and functioning cooking, sleeping, and sanitation facilities with proper ingress and egress. These rooms may not be used for marijuana cultivation where cultivation will prevent their primary use for cooking meals, sleeping, and bathing. Chemicals used for marijuana cultivation shall not be stored inside habitable areas of the residence or within public view from neighboring properties or public rights of way.

(i) Cultivation of marijuana shall not displace required off-street parking or violate any other provisions of the Sunnyvale Municipal Code. For example, in the single-family residential (R-1) zone district, the requirement is to maintain covered parking for two vehicles.

9.86.050. Violation—Penalty.

[Renumbered; text unchanged]

9.86.060. Public nuisance.

[Renumbered; text unchanged]

9.86.070. Severability.

[Renumbered; text unchanged]

SECTION 2. TABLE 19.18.030 AMENDED. TABLE 19.18.030 of Chapter 19.18 (Residential Zoning Districts) of the Sunnyvale Municipal Code is hereby amended to read as follows:

Table 19.18.030
Permitted, Conditionally Permitted and Prohibited Uses in Residential
Zoning Districts

In the table, the letters and symbols are defined as follows:

P = Permitted use

MPP = Miscellaneous Plan Permit required

UP = Use Permit required

SDP = Special Development Permit required

N = Not permitted, prohibited

RESIDENTIAL ZONING DISTRICTS	R-0/R-1	R-1.5	R-1.7/PD	R-2	R-3	R-4	R-5	R-MH
1. – 6. <i>[Text unchanged.]</i>								
7. <i>Other uses.</i>								
A. – M. <i>[Text unchanged.]</i>								
N. <i>[Renumbered, Text unchanged]</i>								

^{1 – 6} [Text unchanged.]

SECTION 3. TABLE 19.20.030 AMENDED. Table 19.20.030 of Chapter 19.20 (Commercial Zoning Districts) of the Sunnyvale Municipal Code is hereby amended to read as follows:

Table 19.20.030
Permitted, Conditionally Permitted and Prohibited Uses in Commercial Zoning Districts

In the table, the letters and symbols are defined as follows:

P = Permitted use
UP = Use permit required
MPP = Miscellaneous plan permit
N = Not permitted, prohibited

COMMERCIAL ZONING DISTRICTS	C-1	C-2	C-3	C-4
1. – 9. <i>[Text unchanged.]</i>				
10. <i>Other</i>				
A. – J. <i>[Text unchanged.]</i>				
K. <i>[Renumbered, Text unchanged.]</i>				

^{1 – 9} [Text unchanged.]

SECTION 4. TABLE 19.22.030 AMENDED. TABLE 19.22.030 of Chapter 19.22 (Industrial Zoning Districts) of the Sunnyvale Municipal Code is hereby amended to read as follows:

Table 19.22.030
Permitted, Conditionally Permitted and Prohibited Uses in Industrial Districts

In the table, the letters and symbols are defined as follows:

P = Permitted use
MPP = Miscellaneous plan permit required
UP = Use permit required
N = Not permitted, prohibited
FAR = Floor area ratio restrictions
> = Greater than
N/A = FAR does not apply

Use Regulations by Zoning District USE	M-S Zoning Districts FAR ³	M-S Zoning Districts	M-S/POA Zoning Districts	M-3 Zoning Districts FAR ³	M-3 Zoning Districts
<i>1. – 5. [Text unchanged.]</i>					
6. Other					
<i>A. – Q. [Text unchanged.]</i>					
<i>R. [Text unchanged; renumbered.]</i>					

1 – 4 [Text unchanged.]

SECTION 5. TABLE 19.24.030 AMENDED. TABLE 19.24.030 of Chapter 19.24 (Office and Public Facilities Zoning Districts) of the Sunnyvale Municipal Code is hereby amended to read as follows:

Table 19.24.030

Permitted, conditionally permitted and prohibited uses in office, public facilities and civic center zones.

In the table, the letters and symbols are defined as follows:

P = Permitted use

UP = Use permitted required

MPP = Miscellaneous plan permit required

N = Not permitted, prohibited

OFFICE AND PUBLIC FACILITIES ZONING DISTRICTS	O	P-F
<i>1. – 5. [Text unchanged.]</i>		
6. Other		
<i>A. – L. [Text unchanged.]</i>		
<i>M. [Renumbered, Text unchanged.]</i>		

1 – 2 [Text unchanged.]

SECTION 6. TABLE 19.28.070 AMENDED. TABLE 19.28.070 of Chapter 19.28 (Downtown Specific Plan Districts) of the Sunnyvale Municipal Code is hereby amended to read as follows:

Table 19.28.070

Permitted, Conditionally Permitted and Prohibited Uses in Mixed Use, Commercial and Office DSP Blocks

In the table, the letters and symbols are defined as follows:

P = Permitted use

SDP = Special development permit required

MPP = Miscellaneous plan permit required

UP = Use permit required

N = Not permitted, prohibited

DSP MIXED USE, COMMERCIAL AND OFFICE BLOCKS	1	1a	2	3	7	13	18	20	21	22
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DSP MIXED USE, COMMERCIAL AND OFFICE BLOCKS	1	1a	2	3	7	13	18	20	21	22
<i>1. – 5. [Text unchanged.]</i>										
<i>6. Other Uses</i>										
<i>A. – N. [Text unchanged.]</i>										
<i>O. [Renumbered, Text unchanged.]</i>										

1 – 3 [Text unchanged.]

SECTION 7. TABLE 19.28.080 AMENDED. TABLE 19.28.080 of Chapter 19.28 (Downtown Specific Plan Districts) of the Sunnyvale Municipal Code is hereby amended to read as follows:

Table 19.28.080
Permitted, Conditionally Permitted and Prohibited Uses in Residential DSP Blocks

In the table, the letters and symbols are defined as follows:

P = Permitted use
SDP = Special development permit required
MPP = Miscellaneous plan permit required
UP = Use permit required
N = Not permitted, prohibited

DSP RESIDENTIAL BLOCKS	4, 5, 14, 15, 16, 23	6, 10a	8, 9, 10, 11, 12, 17	8a	8b, 9a
<i>1. – 5. [Text unchanged.]</i>					
<i>6. Other Uses</i>					
<i>A. – K. [Text unchanged.]</i>	N	N	N	N	N

1 – 3 [Text unchanged.]

SECTION 8. TABLE 19.29.050 AMENDED. TABLE 19.29.050 of Chapter 19.29 (Moffett Park Specific Plan District) of the Sunnyvale Municipal Code is hereby amended to read as follows:

Table 19.29.050
Permitted, Conditionally Permitted and Prohibited Uses in MPSP Subdistricts

In the table, the letters and symbols are defined as follows:

P = Permitted use. A Moffett Park Design Review Permit is required pursuant to Section 19.29.050(c). Development exceeding the standard FAR limit must be reviewed through a major permit.
SDP = Special development permit. A Moffett Park Special Development Permit is required.
MPP = Miscellaneous Plan Permit. A Miscellaneous Plan Permit is required.
N = Not permitted. Prohibited.

Use			Specific Plan Subdistrict		
			MP-TOD	MP-I	MP-C
1. – 7.		<i>[Text unchanged.]</i>			
8.		<i>Other</i>			
	A. – S.	<i>[Text unchanged.]</i>			
	T.	<i>[Renumbered, Text unchanged.]</i>			

SECTION 9. CHAPTER 19.62 AMENDED. Chapter 19.62 (Medical Marijuana) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

Chapter 19.62. MARIJUANA

19.62.010. Marijuana.

All commercial marijuana activities and outdoor cultivation, as defined in Chapter 9.86 and described in Section 9.86.030, are prohibited uses in all zoning districts in the city of Sunnyvale.

SECTION 10. CEQA - EXEMPTION. The City Council finds, pursuant to Title 14 of the California Code of Regulations, section 15305 (minor alterations in land use limitations in areas with an average slope of less than 20% that do not result in any changes in land use or density) and section 15061(b)(3) which is the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and CEQA does not apply where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment. The City has a longstanding history of regulation prohibiting all marijuana uses and permissive zoning provisions that already prohibit all uses that are being expressly prohibited by this ordinance. Therefore, this ordinance has no impact on the physical environment as it will not result in any changes.

SECTION 11. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 12. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 13. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in The Sun, the official publication of legal notices of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of

places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on September 26, 2017, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on _____, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:
RECUSAL:

ATTEST:

APPROVED:

City Clerk
Date of Attestation: _____

Mayor

(SEAL)

APPROVED AS TO FORM:

City Attorney