ORDINANCE NO. 17846

AN ORDINANCE introduced by Mayor Felker, amending Chapter 48 of the Code of the City of Topeka, Comprehensive Zoning Regulations for the City of Topeka and unincorporated areas of Shawnee County by creating Landscape Requirements and regulations for the City of Topeka, Kansas, and specifically repealing City of Topeka Ordinance No. 17786.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. City of Topeka Code Chapter 48, Landscaping Requirements for the City of Topeka.

Article XXXVIII Landscape Requirements.

Purpose: The purpose of this Article is to enhance, protect, and promote the aesthetic, ecological, and economic environment in the City of Topeka through landscaping associated with new construction. Landscaping achieves the following goals:

1. Preserves and enhances Topeka’s urban forest;
2. Promotes the reestablishment of vegetation in urban areas for health and urban wildlife reasons;
3. Establishes and enhances a visual character which recognizes aesthetics and safety issues;
4. Promotes the compatibility between land uses by reducing the visual, noise, and lighting impacts of specific development on users of the site and abutting properties;
5. Unifies development, and enhances and defines public and private places;
6. Promotes the use and retention of existing vegetation;
7. Aids in energy conservation by providing shade from the sun and shelter from the wind;
8. Mitigates the loss of natural resources; and
9. Reduces soil erosion, and the volume and rate of discharge of storm-water run-off.

Section 2. Definitions.
The following words, terms and phrases, when used, shall have the meaning ascribed to them herein, except when the context clearly requires otherwise.

City Forester: Refers to the City of Topeka Forester or designated authority.

D.B.H.: Diameter at Breast Height. D.B.H. is used for trees with a diameter greater than twelve (12) inches and is measured four (4) feet above the ground.

Developed Area: All land area disturbed during the construction of structures, parking facilities, landscaped areas, and similar improvements.

Developer: The legal or beneficial owner of a lot or parcel or any land proposed for development and/or inclusion in a development, including the owner of an option, contract to purchase, or lease.

Development: The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure or parking facility, or their environs.
<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
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<tbody>
<tr>
<td>Diameter Caliper:</td>
<td>The size of a tree measured through the tree trunk. For trees less than</td>
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<td>four (4) inches in diameter, it is measured six (6) inches from the ground.</td>
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<td></td>
<td>For trees between four (4) inches and twelve (12) inches in diameter, it</td>
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<td>is measured twelve (12) inches from the ground.</td>
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<tr>
<td>Groundcover:</td>
<td>An evergreen or deciduous planting less than twenty-four (24) inches in</td>
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<td>height; Turf grass is specifically excluded.</td>
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<tr>
<td>Irrigation System:</td>
<td>A permanent underground piping and sprinkler head system designed using</td>
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<td>industry standard methods to provide uniform irrigation coverage over a</td>
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<td>landscaped area.</td>
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<td>Landscaped Area:</td>
<td>Any area planted with groundcover, trees, shrubs, or other plant material</td>
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<td>that meets the provisions contained herein.</td>
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<tr>
<td>Mono-Culture:</td>
<td>A single type of species of planting.</td>
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<td>Mulch:</td>
<td>A natural planting material such as pine straw or tree bark used to</td>
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<td>control weed growth, reduce soil erosion and reduce water loss.</td>
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<tr>
<td>Parking Lot:</td>
<td>Any off-street, unenclosed ground level facility used for the purpose of</td>
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<td>temporary storage of motor vehicles.</td>
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<td>Included within this definition are unenclosed carports.</td>
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</tbody>
</table>
associated with any or all development governed by this Article. Enclosed parking facilities, such as single or multi-story garages or parking facilities constructed within the confines of a larger building or structure, or parking facilities associated with residential development are not included within this definition.

Parking Lot Planting: A planting required due to the construction of non-covered surface parking.

Parking Lot Island: A planting island contained completely within the confines of a parking facility.

Parallel Planting Peninsula: A planting island that extends out into the parking area, and is bounded on at least one side by the outer edge of the asphalt or building.

Recommended Tree: Any one of the trees listed in "Recommended Trees" of this Chapter. These trees are well suited for the soils and climate of Topeka, Kansas.

Significant Tree: Any tree with a diameter caliper of six (6) inches or greater.

Shrub: An evergreen or deciduous planting no less that twenty-four (24) inches in height.

**Section 3. Applicability.**

All requirements set forth in this Article are applicable as follows:
(A) Any construction within the "O&I-1," "O&I-2," "O&I-3," "C-1," "C-2," "C-3," "C-4," "M-S," "I-1," "I-2," "X-1," "X-2," "X-3," and all Planned Unit Development districts; and any construction of any parking lots in the "C-5" zoning district. Multi-family dwelling developments (buildings composed of four or more dwelling units), churches or other religious or institutional uses in any zoning district and all developments constructed under the provision of a "Conditional Use Permit," in any zoning district, are also subject to this Article.

(B) An alteration to an existing structure which increases or decreases the amount of gross floor area of such structure by more that fifty (50) percent and an alteration to a parking lot which increases or decreases the gross area of the parking lot by more than fifty (50) percent shall be required to come into compliance with all landscaping provisions contained in this Article.

(C) The provisions of this Article shall apply to all legal nonconforming uses as established and defined in Section 48-1.03 of the Comprehensive Zoning Regulations.

Section 4. Exceptions.

(A) Nothing contained herein shall affect in any way the rights of, or exercise by, any public utility of its present and future acquired rights to clear trees and other growth from lands used by the public utility. The utility shall cooperate and coordinate with the City of Topeka Forester when clearing or pruning in the right-of-way.

(B) Nothing contained herein shall reduce required lines of sight and traffic visibility standards adopted by the City of Topeka.
(C) All pervious surface areas of public and private parks, playgrounds, playing fields, and other outdoor recreation facilities shall be excluded from the calculation of base points as required by this Article.

Section 5. Landscape Plans.

(A) Requirements generally:

Landscape plans shall be submitted at the time of application for a building permit, and also at the time of application for Planned Unit Developments and Conditional Use Permits. All landscaping plans shall include the following information:

(1) North point and scale.

(2) The dimensions drawn to scale of the developed area.

(3) Topographic information and final grading adequate to identify and properly specify planting for areas needing slope protection.

(4) The location, size, and surface of materials for all structures and parking areas.

(5) The location, size, and type of all utilities and structures with notation, where appropriate, as to any safety hazards to avoid during installation of landscaping.

(6) The location, size, type, and quantity of all proposed landscaping materials, along with common and botanical names of all plant species. The size, grading, and condition shall be specified according to Kansas Nursery and Landscape Association standards.
(7) The location, size, and common name of all existing plant materials to be retained on the site. Procedures for preserving existing trees during construction shall be submitted and followed accordingly.

(8) Mature sizes of plant materials shall be drawn to scale and called out on the plan by a common name or appropriate key.

(9) Location of hose connections and other watering sources.

(10) The location of all trees, twelve (12) inch diameter caliper or greater measured four and one half (4½) inches D.B.H. above ground level that are proposed for removal.

(11) All screening required by this Article.

(12) Landscape plans shall be submitted on a separate drawing sheet(s) of a standard size (preferable 24 inches x 36 inches) and drawn to a standard scale.

(13) Landscape plans shall demonstrate that all planting requirements have been met using the point system format illustrated in Template 1.

(14) If the developed area is required to buffer, the landscape plan shall depict the buffer area.

(15) Plants outside of the construction area need not be shown on the Landscape Plan.

(16) Alternate plans which meet the spirit and intent of this Article may be submitted to the Planning Director for approval.
Landscape Plans shall be drawn by an architect, landscape architect, engineer, or Kansas Nursery and Landscape Association (KNLA) certified landscaper.

Significant trees located within public right-of-way which abuts the developed area shall be shown on the landscape plan.

Certificate of Approval and Appeal:

If the Planning Director or designee determines following review of the landscape plan that the plan meets the provisions of this Article then the Planning Director or designee shall issue a Certificate of Approval.

A Developer who is aggrieved by the administration of this Article may file an appeal with the Metro Board of Zoning Appeals in accordance with the provisions of Article XXXIV, Appeals.

**Template 1.**

| Square footage of developed area: | __________________________ |
| Base points required: | __________________________ (See Table 1) |
| Parking lot points required: | __________________________ (1.5 points per parking space) |
| Total points required: | __________________________ |
| Existing tree credits claimed: | __________________________ |
| Irrigation credits claimed: | __________________________ |
| Total points obtained: | __________________________ |
| Residential buffer yard required? | _____ yes _____ no |
| Parking lot buffer required? | _____ yes _____ no |
Section 6. Landscape requirements.

(A) Planting Requirements/Point System:

The developer may use any combination of plantings to obtain the necessary number of points required for the developed area. Different developed areas will lend themselves to different types of plantings. This Article encourages creativity and diversity in landscaping. In no case, shall a mono-culture of plantings be allowed. A variation of plantings, at least three different species, is required.

Each landscape plan must equal or exceed a minimum number of base points in order to obtain approval. The number of points required depends on the size of the developed area (see Table 1). In order to obtain points, the plantings must be placed on the developed property and not on the public right-of-way.

Table 1. Number of Points Required for the Site

<table>
<thead>
<tr>
<th>Square Footage of the Developed Area</th>
<th>Number of Points Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-5,000</td>
<td>17 (+ 1.5 per parking space)</td>
</tr>
<tr>
<td>greater than 5,000</td>
<td>17 points plus one point for each additional 300 square feet of developed area (+1.5 per parking space)</td>
</tr>
</tbody>
</table>

When only a portion of a large lot is developed (e.g. only one acre of a ten acre lot), only the developed area shall be considered when determining the number of points required.
Table 2. Point Values for Various Plantings

<table>
<thead>
<tr>
<th>Type of Plant Material</th>
<th>Minimum Size</th>
<th>Point Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Large Tree</td>
<td>2.0 inches – 2.5 inches Caliper</td>
<td>11</td>
</tr>
<tr>
<td>Medium Tree</td>
<td>1.25 inches – 1.5 inches Caliper</td>
<td>8</td>
</tr>
<tr>
<td>Understory Tree</td>
<td>Single Trunk: 1.25 inches – 1.5 inches Caliper</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>Multiple Trunk: 6 feet – 8 feet in height</td>
<td>5</td>
</tr>
<tr>
<td>Coniferous Tree</td>
<td>1.25 inches – 1.5 inches Caliper</td>
<td>8</td>
</tr>
<tr>
<td>Shrub</td>
<td>24 inches at planting</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Ornamental Grasses</td>
<td>1</td>
</tr>
<tr>
<td>Groundcover</td>
<td>1 gallon Minimum</td>
<td>.25</td>
</tr>
<tr>
<td>Landscape Berm</td>
<td>30 inches Minimum height; 3 foot minimum length</td>
<td>1</td>
</tr>
</tbody>
</table>

(B) Parking Lot Requirements:

All street-level parking lots shall be landscaped in accordance with the following requirements:

1. In addition to the number of base points required, 1.5 additional points are required for each parking space proposed. These additional points may be achieved by planting parking lot trees and/or parking lot shrubs. For example, a 10,000 square developed area with ten parking spaces requires 33 base points plus 1.5 points per parking space. The total point requirement for this developed area is 48; 33 base points and 15 parking lot points designated as parking lot trees or parking lot shrubs.

2. On parking lots with less than 24 parking spaces, parking lot trees/shrubs may be spaced around the perimeter of the lot as desired to provide a uniform and attractive design.

3. On lots with more that 24 parking spaces, landscaping shall be provided on parking lot islands and/or parking lot peninsulas within the
confines of the developed parking lot. These plantings shall be located to minimize and break the expanse of asphalt and concrete. Each parking lot island or peninsula shall be equivalent in size to one parking space.

(C) Buffers and Buffer Zones:

A developed area may be required to buffer certain portions of the development as provided for herein. If a developed area is required to buffer, the more stringent buffer requirements contained herein shall apply.

(1) Residential Zone Buffer: On any commercial, industrial, institutional, PUD, conditional use permit, or multi-family development (three or more units), adjacent to a residential zoning district, a landscaped buffer along the property line(s) of the developing property is required. The buffer shall run the entire length of the abutting lot line(s). The type of buffer may consist of any combination of the following:

(a) A solid opaque fence not less that six (6) feet in height, and a six (6) foot wide buffer of landscaped plantings located on the outside of the fence;

(b) A landscaped buffer no less than six (6) feet in width, planted with a series of evergreen plantings which will grow to at least six (6) feet in height and spaced in a manner to provide an impervious visual barrier;

(c) A landscaped berm at least thirty (30) inches in height continuing the entire length of the abutting property line. A
landscape credit of one (1) point per three (3) linear feet of landscaped berm may be claimed in order to meet the point requirements for the developing property. Such berm must be planted with trees and/or shrubs in order to receive point credits.

(d) Natural, undisturbed forest at least twenty (20) feet in width that provides a nearly impervious visual barrier due to the dense nature of the plants and/or trees. If this option is chosen, the Planning Director shall determine whether the barrier is satisfactory through a site inspection prior to plan approval. Protective measures shall be provided during construction to ensure the area is protected from damage due to construction.

(2) Parking Lot Buffer: All parking lots shall be buffered with landscaping as follows:

(a) An area not less that four (4) feet in width shall be located between a parking lot and an adjacent property line of a non-residential zoning district. Such buffering shall not be required where an equivalent buffer exists on the adjoining property.

(b) A landscaped setback not less that twenty (20) feet shall be located between all parking lots and any public street right-of-way. Landscaped setbacks shall only be required for lots platted after the adoption of this Article.
Section 7. Existing tree credits.

In order to encourage the preservation of existing trees, credit towards required base points may be given in the event existing trees are preserved.

(A) For each existing Significant Tree with a D.B.H. between six (6) inches and ten (10) inches that is preserved on the landscape plan, a credit of fifteen (15) base points will be applied. For each existing Significant Tree with a D.B.H. between eleven (11) inches and twenty-four (24) inches, a credit of twenty (20) base points will be applied. For each existing Significant Tree with a D.B.H. over twenty-four (24) inches, a credit of twenty-five (25) base points will be applied. Any Significant Tree that dies during construction, or because of construction, must be replaced with a similar species, or a species approved by the City Forester, to equal or exceed the point value of the lost tree.

(B) Trees for which a developer wishes to receive credit must be in the developed area.

Section 8. Irrigation system credits.

In order to sustain the benefits of landscaped areas as required by this Article, credits may be authorized if the developer provides an industry standard irrigation system. Credits may be authorized as follows:

(A) A maximum of twenty (20) percent of the total irrigated area may be deducted from the calculation of base points if developer installs an industry standard, permanent, underground irrigation system. Such deduction may be authorized only from the square footage of the area covered by the irrigation system.
(B) If an underground irrigation system is claimed for credit against the base point formula, installation and operation plans of the irrigation system must be submitted to the Planning Director for approval.

(C) Credits authorized for irrigation systems shall not reduce the requirements for Residential Zone Buffers or Parking Lot Buffers as established by this Article.

Section 9. Stormwater Best Management Practice Credits.

Credits may be authorized up to 20% when stormwater best management practices are incorporated into the landscape plan, subject to the approval of the Water Pollution Control Division, City of Topeka. Such practices shall adhere to recognized principles of stormwater drainage engineering and consists of but are not limited to:

- Bioretention Systems
- Open Vegetated Channels
- Filter Strip
- Dry and Wet Swales
- Detention Systems
- Retention/Wetland Systems
- Stream Buffers

A point value of credit for stormwater best management practices shall be established by separate resolution of the City of Topeka.

Section 10. Enforcement.

The owner is responsible for all maintenance and upkeep of planted materials trees in perpetuity within his/her development. Failure by the developer and/or owner to comply with the applicable provisions of the Article on Landscape Requirements shall cause the
developer and/or owner to be ineligible for any additional building permits. No additional
building permits shall issue until the developer and/or owner has complied with the article
or made arrangements satisfactory to the Planning Director for compliance.

After all plantings are completed, the developer will schedule an inspection of the
plantings with the Planning Department and landscaping installer. If all plantings are in
good condition, the Planning Department will issue a Certificate of Completion to the
developer and building official.

If plantings are subsequently determined by the Planning Director to be damaged, in
poor condition, diseased, or dead, the Planning Director may issue notice to the real
property owner of record requiring maintenance and/or the replacement of plantings in
order to bring the developed area into compliance with the approved landscape plan. If the
required maintenance or replacement is not accomplished within one growing season
which is considered to begin May 10 and end October 15, the Planning Director on behalf
of the City shall cause the required maintenance or replacement of plantings to be
accomplished and cost thereof shall be assessed against the real property as a service
assessment.

**Section 11. General information.**

(A) Trees located within the public right-of-way

(1) The removal of significant trees within the public right-of-way is
prohibited without written permission of the City Forester.

(2) Any significant tree located within a public right-of-way which abuts
the developed area shall be shown on the Landscape Plan.

Significant trees within the right-of-way which abuts the developed
area may be used as existing tree credits with the approval of the Planning Director.

(3) The developer must notify the City of Topeka Forester immediately if any significant tree located within a public right-of-way is damaged during construction of the development project. Upon inspection, the City Forester may require that the damaged tree be removed and replaced by the developer. The replacement tree shall be a similar species with a minimum caliper of 2.5 inches. Care and maintenance of the replacement tree shall be the responsibility of the developer or property owner for a period of three (3) years.

Section 12. **Size and quality requirements.**

(1) Any large tree planted to meet minimum requirements of this Article shall have at least a 2 inch to 2.5 inches diameter caliper. Any medium tree, understory tree, or coniferous tree planted to meet minimum requirements of this Article shall have a diameter caliper of 1.25 inches to 1.5 inches, except that multi-stemmed understory trees shall be between six (6) and eight (8) feet in height. Deviations from the Recommended Tree List may be approved through a written request to the City Forester.

(2) All trees planted to meet the minimum requirements of this Article shall be in a healthy condition at the time of planting.

(3) Shrubs planted to meet the minimum requirements of this Article shall be at least twelve (12) inches in height at the time of planting.
Grass shall be planted in such as manner as to completely cover all exposed soil after one full growing season.

No bare ground shall be left exposed. Grass or other groundcover or mulch, such as pine straw or tree bark, shall cover all bare ground.

Irrigation is not required but is recommended.

Any planting that dies shall be replaced within on full growing season.

Section 13. Recommended species.

(A) Trees:

The following is a list of recommended trees for fulfillment of the provisions of this Article. Generally, these trees are suitable for the City of Topeka’s environment. The City Forester shall determine the point values for plantings not listed.

1. Understory or Ornamental Trees

(25 feet tall or less)

1.25 inches – 1.5 inches diameter caliper:

5 points

a. Japanese Whitespire Birch
b. Ornamental Pear (Aristocrat or Capital)
c. Redbud
d. Smoketree
e. Flowering Crabapple
f. Chinese Fringetree
g. Magnolia (Little Girl Hybrids or Royal Star)
h. Japanese Maple
i. Amur Maple (Flame or Autumn Blaze)
j. Whitebud
k. "Forest Pansy" Redbud
l. "Oklahoma" Redbud
m. Thornless Cockspur Hawthorne
n. Flowering Dogwood
o. Japanese Tree Lilac
p. American Hornbeam
q. American Hophornbeam
2. **Medium Shade Trees**

(25 feet – 45 feet tall)

1.25 inches – 1.5 inches diameter caliper: 8 points

- a. Zelkova
- b. Sweetgum
- c. Red Maple
- d. Shantung Maple
- e. Sugar Maple
- f. White Ash
- g. River Birch
- h. Honeylocust
- i. Linden
- j. Cypress
- k. Blackgum
- l. Buckeye
- m. Catalpa
- n. Lacebark Elm
- o. Horsechestnut
- p. Korean Mountain Ash
- q. Japanese Pagodatree
- r. Yellowwood
- s. Norway Maple
- t. Autumn Blaze Maple

3. **Large Canopy Trees**

(45 feet tall or greater)

2.0 inches – 2.5 inches diameter caliper: 11 points

- a. Kentucky Coffeetree
- b. Ginkgo
- c. English Oak
- d. Chinkapin Oak
- e. Red Oak
- f. Sawtooth Oak
- g. Shingle Oak
- h. Swamp White Oak
- i. Londonplane Tree
- j. Hackberry
- k. Burr Oak
449  l.  White Oak
450  m.  Willow Oak
451  n.  Walnut
452  o.  Tuliptree
453
454  4. **Coniferous Trees**  
455      a.  Upright Juniper
456      b.  Eastern Red Cedar
457      c.  Eastern White Pine
458      d.  Limber Pine
459      e.  Southwestern White Pine
460      f.  Norway Spruce
461      g.  White Spruce
462      h.  Serbian Spruce
463
464  B. **Shrubs**  
465      1.  Barberry
466      2.  Boxwood
467      3.  Burning Bush
468      4.  Butterfly Bush
469      5.  Cotoneaster
470      6.  Dogwood
471      7.  Forsythia
472      8.  Holly
473      9.  Hydrangea
474      10.  Lilac
475      11.  Mahonia
476      12.  Pyracantha
477      13.  Serviceberry
478      14.  Spirea
479      15.  Viburnum
480      16.  Weigela
481      17.  Althea Azalea
482      18.  Bayberry
483      19.  Buckthorn
484      20.  Chokeberry
485      21.  Euonymus
486      22.  Hypericum
487      23.  Juniper
488      24.  Privet
489      25.  Quince
490      26.  Sumac
491      27.  Sweetspire
492      28.  Yew
        29.  Keria

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30. Potentilla

C. Ornamental Grasses  
1 point

1. Blue Fescue
2. Bluestem
3. Moor Grass
4. Northern Sea Oats
5. Pampas Grass
6. Reed Grass
7. Ribbon Grass
8. Sedge
9. Silver Grass
10. Switch Grass
11. Feather Reed Grass
12. Fountain Grass
13. Maiden Grass
14. Indian Grass
15. Silver Grass

D. Groundcovers  
.25 point

1. Ajuga
2. Euonymus
3. Ivy
4. Liriope
5. Vinca Minor
6. Bishops Weed
7. Leadwort
8. Pachysandra
9. Sedum
10. Honeysuckle
11. Creeping Mahonia
12. Creeping Wintergreen

Section 14. If any section or provision or part thereof of this resolution/ordinance shall be adjudged invalid or unconstitutional by a court of competent jurisdiction, such adjudication shall not affect the validity of the resolution/ordinance as a whole or any section, provision or portion thereof not adjudged invalid or unconstitutional.

Section 15. City of Topeka Ordinance No. 17786 is hereby specifically repealed.
Section 16. This Ordinance shall take effect and be in force from and after its passage, approval and publication in the City newspaper on June 19, 2002.

PASSED and APPROVED by the City Council June 11, 2002.

[Signature]
Harry Felker, Mayor

ATTEST:

[Signature]
Iris E. Walker
City Clerk

APPROVED AS TO FORM AND LEGALITY
DATE 6/12/02 BY
TO BE CODIFIED X
NOT TO BE CODIFIED