

## BILL NO. 17-13

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AN ORDINANCE AMENDING CHAPTER 29, TRAFFIC AND MOTOR VEHICLES, OF THE LEE'S SUMMIT CODE OF ORDINANCES, BY REPEALING, ARTICLE I. – IN GENERAL, SECTIONS 29-1 DEFINITIONS, 29-7 OBEDIENCE TO POLICE AND FIRE DEPARTMENT OFFICIALS, ARTICLE III. – OPERATION OF VEHICLES, SECTIONS 29-141 DEFINITIONS, 29-142 DRIVING WHILE INTOXICATED, 29-143 DRIVING WITH EXCESSIVE BLOOD ALCOHOL CONTENT, 29-144 IMPLIED CONSENT TO TESTS FOR ALCOHOL AND DRUGS, 29-150 CHEMICAL TESTS, RESULTS ADMITTED INTO EVIDENCE, WHEN, EFFECT OF AND ARTICLE X. – CRASHES, SECTION 29-656 LEAVING THE SCENE OF A MOTOR VEHICLE CRASH; AND ENACTING IN LIEU THEREOF EIGHT NEW SECTIONS OF LIKE NUMBER AND SUBJECT, OF THE CODE OF ORDINANCES OF THE CITY OF LEE'S SUMMIT, MISSOURI TO REVISE THE PROVISIONS RELATING TO THE TRAFFIC AND MOTOR VEHICLES IN ACCORDANCE WITH REVISIONS TO STATE LAW.

WHEREAS, the State of Missouri adopted Senate Bill 491 as part of a comprehensive overhaul to the Missouri Criminal Code. As part of the revisions certain amendments were made to the state laws regulating traffic and motor vehicles; and,

WHEREAS, Chapter 29 of the Code of Ordinances of the City of Lee's Summit regulates traffic and motor vehicles within the City of Lee's Summit and provisions of it are substantially similar to state law; and,

WHEREAS, the City of Lee's Summit desires to amend certain sections of Chapter 29 Traffic and Motor Vehicles to be in accordance with the revisions of the Revised Criminal Code of Missouri for the efficient administration and regulation of the traffic laws within the city.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. That Chapter 29, Traffic and Motor Vehicles. Article I. – In General, Section 29-1, Definitions of the Code of Ordinances for the City of Lee's Summit shall be amended to read as follows:

Sec. 29-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Aircraft* shall mean any contrivance, now known or hereafter invented, used or designed for navigation of or flight in the air.

*All-terrain vehicle* shall mean any motorized vehicle manufactured and used exclusively for off-highway use which is fifty (50) inches or less in width, with an unladen dry weight of one thousand (1000) pounds or less, traveling on three (3), four (4) or more low-pressure tires with a seat designed to be straddled by the operator, or with a seat designed to carry more than one person, and handlebars for steering control.

*Alley* or *alleyway* shall mean any street with a roadway of less than twenty (20) feet in width.

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*Authorized emergency vehicle* shall mean a vehicle publicly owned and operated as an ambulance, or a vehicle publicly owned and operated by the State Highway Patrol, Police or Fire Department, sheriff or constable or deputy sheriff, traffic officer or any privately-owned vehicle operated as an ambulance when responding to emergency calls, and operated in accordance with RSMo 307.175.

*Bicycles* shall mean every vehicle propelled solely by human power upon which any person may ride, having two (2) tandem wheels, except scooters and similar devices.

*Bus* shall mean any vehicle or motor car designed and used for the purpose of carrying more than seven (7) persons.

*Business district* shall mean the territory contiguous to and including a highway when within any six hundred (600) feet along the highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, office buildings, railroad stations and public buildings which occupy at least three hundred (300) feet of frontage on one side or three hundred (300) feet collectively on both sides of the highway.

*Central business or traffic district* shall mean all streets and portions of streets within the area described by ordinance as such.

*Chauffeur* shall mean an operator who operates a motor vehicle in the transportation of persons or property and who receives compensation for such service in wages, salary, commission or fare; or who as owner or employee operates a motor vehicle carrying passengers or property for hire; or who regularly operates a commercial motor vehicle of another person in the course of or as incident to his employment but whose principal occupation is not the operating of such motor vehicle; except that a school bus operator as exempted under RSMo 302.051 shall not be considered a chauffeur.

*Commercial vehicle* shall mean every vehicle designed, maintained, or used primarily for the transportation of property.

*Controlled-access highway* shall mean every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the highway, street or roadway except at such points only and in such manner as may be determined by the public authority having jurisdiction over the highway, street or roadway.

*Crash* shall mean a collision between a vehicle and another vehicle, railroad train, person or stationary object; the overturn or upset of a vehicle which results in property damage, personal injury or death; an entry into or emerging from a moving vehicle by a person which results in personal injury or death to such person.

*Crosswalk* shall mean:

- A. That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; or,

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- B. Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

*Curb loading zone* shall mean a space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

*Daytime* shall mean from the time the streetlights are turned off until they are turned on or, in any event, from thirty (30) minutes before sunrise until thirty (30) minutes after sunset.

*Driver* shall mean every person who drives or is in actual physical control of a vehicle.

*Electric powered assistive mobility device* shall mean a self-balancing, two (2) non-tandem wheeled device designed to transport only one person, with an electric propulsion system with an average power of seven hundred fifty (750) watts (one horsepower), whose maximum speed on a paved level surface, when powered solely by such a propulsion system while ridden by an operator who weighs one hundred seventy (170) pounds, is less than twenty (20) miles per hour.

*Fire lane* shall mean an area so designated by the City Traffic Engineer pursuant to Section 29-58.

*Freight curb loading zone* shall mean a space adjacent to a curb for the exclusive use of vehicles during the loading or unloading of freight or passengers.

*Highway* shall mean the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

*Intersection* shall mean:

- A. The area embraced within the prolongation or connection of the lateral curblines or, if none, the lateral boundary lines of the roadways of two (2) highways which join one another at or approximately at right angles or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.
- B. Where a highway includes two (2) roadways thirty (30) feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. If such intersecting highway also includes two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways of such highways shall be regarded as a separate intersection.

*Laned roadway* shall mean a roadway which is divided into two (2) or more clearly marked lanes for vehicular traffic.

*Motor vehicle* shall mean any self-propelled vehicle not operated exclusively upon tracks, except farm tractors.

*Motorcycle* shall mean every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor.

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*Motorized bicycle* shall mean any two-wheeled or three-wheeled device having an automatic transmission, only capable of achieving a maximum speed of thirty (30) miles per hour on level ground.

- A. If equipped with a gasoline motor, the motor cylinder capacity shall not be more than fifty (50) cubic centimeters, which produces less than three (3) gross brake horsepower; or,
- B. If equipped with an electric motor, the motor shall produce less than two thousand two hundred thirty-seven and one-tenth (2,237.1) watts of power
- C. A motorized bicycle shall be considered a motor vehicle for purposes of any homeowner's or renter's insurance policy.

*Motorized wheel chair or power scooter* shall mean a moveable single chair mounted on wheels propelled by an electric motor, whose maximum speed on a paved level surface is less than twelve (12) miles per hour, and is intended to be operated by a person with a walking related disability.

*Nighttime* shall mean from the time the streetlights are turned on until they are turned off or, in any event, from thirty (30) minutes after sunset until thirty (30) minutes before sunrise.

*Official time standard* shall mean standard time or daylight saving time as may be in current use in the City.

*Official traffic-control devices* shall mean all signs, signals, markings and devices not inconsistent with this chapter and placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning or guiding traffic.

*One-way streets or alleys* shall mean any street or alley upon which all vehicular traffic is restricted to movement in one direction only.

*Operator* shall mean every person, other than a chauffeur, who drives or is in actual physical control of a motor vehicle or aircraft upon a street, highway or roadway or who is exercising control over or steering a vehicle or aircraft being towed by another vehicle.

*Other motorized devices* shall mean any gasoline or electric powered device that is not a motor vehicle, motorized bicycle, all terrain vehicle, electric powered assistive mobility device, or motorized wheelchair or power scooter operated by a person with a disability.

*Owner* shall mean a person, other than a lienholder, having the property in or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes a lessee under a lease not intended as security.

*Park, parking* shall mean the standing of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actively engaged in loading or unloading merchandise or passengers.

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*Park, parking of aircraft* shall mean the standing or parking of an aircraft, whether occupied or not, on a street, highway or roadway.

*Parking meter* shall mean a device for the purpose of measuring the time elapsed since the deposit of a coin in the slot provided, and equipped with the mechanism to indicate the legal time a vehicle may remain parked in a designated space.

*Passenger curb loading zone* shall mean a place adjacent to a curb reserved for the exclusive use of vehicles during the loading and unloading of passengers.

*Pedestrian* shall mean any person afoot or a person with a walking related disability operating a motorized wheel chair or power scooter.

*Pedestrian safety zone* shall mean the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

*Private road or driveway* shall mean every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

*Public building* shall mean a building used or owned by the City, the County, any legally constituted park district, the Federal government, or the State or any legally constituted subdivision thereof.

*Railroad* shall mean a carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.

*Railroad sign, signal* shall mean any sign, signal or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

*Railroad train* shall mean a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except streetcars.

*Registration* shall mean the registration certificate and registration plates issued under the laws of this State and by ordinances of this City pertaining to the registration and licensing of vehicles.

*Residence district* shall mean the territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of three hundred (300) feet or more is in the main improved with residences or residences and buildings in use for business.

*Right-of-way* shall mean the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other.

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*Roadway* shall mean that portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. If a highway includes two (2) or more separate roadways the term "roadway" as used in this chapter shall refer to any such roadway separately but not to all such roadways collectively.

*School bus* shall mean every motor vehicle owned by a public or governmental agency and operated for the transportation of children to and from school or privately owned and operated for compensation for the transportation of children to and from school or any associated school activities.

*Sidewalk or Shared Use Path* shall mean that portion of a street between the curblines or the lateral lines of a roadway and the adjacent property lines, intended for the use of pedestrians, with or without mobility aids, bicyclists and other non-motorized transportation modes if such use is not otherwise prohibited by ordinance, including that part of a private road or driveway within the connections of the lateral lines of the sidewalks or shared use path on opposite sides of the private road or driveway measured from the curbs or, in the absence of curbs, from the edges of the traversable private road or driveway.

*Stand, standing* shall mean the halting of a vehicle, whether occupied or not, other than for the purpose of and while actually engaged in receiving or discharging passengers.

*Stand, standing of aircraft* shall mean the halting of an aircraft, whether occupied or not.

*State highway* shall mean a highway maintained by the State as a part of the State highway system.

*Stop* shall mean, when required, complete cessation from movement.

*Stop and stopping* shall mean, when prohibited, any halting even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.

*Street and highway* shall mean the entire width between the lines of every way publicly maintained when any part thereof is open to the uses of the public for purposes of vehicular travel.

*Taxicab* shall mean a motor driven passenger conveyance, propelled by electric or gas power, held for public hire, at designated places, charging upon a time or distance basis, carrying passengers to destinations without following any fixed routes.

*Taxicab stand* shall mean that portion of a public street approved for the standing of taxicabs and so marked.

*Through highway* shall mean every highway or portion thereof on which vehicular traffic is given preferential right-of-way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield right-of-way to vehicles on such through highway in obedience to either a stop sign or a yield sign, when such signs are erected as provided in this chapter.

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*Through streets* shall mean every street or portion thereof on which vehicular traffic is given preferential right-of-way, and at the entrance to which vehicular traffic from intersecting streets is required by law to yield right-of-way to vehicles on such through streets in obedience to either a stop sign or a yield sign, when such signs are erected as provided in this chapter.

*Traffic* shall mean pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances, either singly or together, while using any highway for purposes of travel.

*Traffic-control signal* shall mean any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.

*Traffic-control signs* shall mean all signs, markings and devices, other than signals, not inconsistent with this chapter, placed or erected by the authority of the Council, for the purpose of guiding, directing, warning or regulating traffic.

*Traffic Division* shall mean the Traffic Division of the Police Department of the City or, if a traffic division is not established, the Police Department of the City.

*Trailer* shall mean every vehicle, with or without motive power, designed for carrying persons or property and for being drawn by a motor vehicle.

*Truck* shall mean any vehicle, machine, tractor, trailer or semitrailer, or any combination thereof, propelled or drawn by mechanical power and designed and used in the transportation of property upon the highway.

*Vehicle* shall mean any self-propelled mechanical device, designed to carry a person or persons, including vehicles propelled or drawn by horses or human power, but excluding vessels, aircraft or vehicles used exclusively on fixed rails or tracks.

(Code 1988, § 29-1; Ord. No. 5967, § 1, 6-2-2005; Ord. No 7344, § 1, 7-11-13)

**Cross reference**— Definitions and rules of construction generally, § 1-2.

**State Law reference**— Similar definitions, RSMo 300.010, 302.010, 304.044, 307.180, 577.001.

SECTION 2. That Chapter 29, Traffic and Motor Vehicles. Article I. – In General, Section 29-7. Obedience to Police and Fire Department Officials of the Code of Ordinances for the City of Lee's Summit shall be amended to read as follows:

Sec. 29-7. - Obedience to Police and Fire Department officials.

No person shall knowingly fail or refuse to comply with any lawful order or direction of a police officer or fire department official.

(Code 1988, § 29-7)

State Law reference -- RSMo 300.080.

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SECTION 3. That Chapter 29, Traffic and Motor Vehicles. Article III. – Operation of Vehicles, Section 29-141 Definitions of the Code of Ordinances for the City of Lee's Summit shall be amended to read as follows:

Sec. 29-141. - Definitions.

- A. As used in this division, the terms "drive," "driving," "operates" and "operating" mean physically driving or operating a vehicle.
- B. As used in this division, a person is "intoxicated" or in an "intoxicated condition" when such person is under the influence of alcohol, a controlled substance or drug or any combination thereof.
- C. As used in this division, the term "percent by weight of alcohol" shall have the same meaning as provided in RSMo 577.012.2.

(Code 1988, § 29-141)

**Cross reference**— Definitions and rules of construction generally, § 1-2.

**State Law reference**— Similar provisions, RSMo 577.001.

SECTION 4. That Chapter 29, Traffic and Motor Vehicles. Article III. – Operation of Vehicles, Section 29-142 Driving while Intoxicated of the Code of Ordinances for the City of Lee's Summit shall be amended to read as follows:

Sec. 29-142. - Driving while intoxicated.

A person commits an offense of driving while intoxicated if he or she operates a vehicle while in an intoxicated condition.

(Code 1988, § 29-142)

**State Law reference**— Similar provisions, RSMo 577.010.

SECTION 5. That Chapter 29, Traffic and Motor Vehicles. Article III. – Operation of Vehicles, Section 29-143 Driving with Excessive Blood Alcohol Content of the Code of Ordinances for the City of Lee's Summit shall be amended to read as follows:

Sec. 29-143. - Driving with excessive blood alcohol content.

- A. A person commits the offense of driving with excessive blood alcohol content if such person operates:
  - 1. A vehicle while having eight-hundredths (.08) of one (1) percent or more by weight of alcohol in his or her blood; or
  - 2. A commercial motor vehicle while having four one-hundredths (.04) of one percent or more by weight of alcohol in his or her blood.



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- B. As used in this section, percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred (100) milliliters of blood or two hundred ten (210) liters of breath and may be shown by chemical analysis of the person's blood, breath, saliva or urine. For the purposes of determining the alcoholic content of a person's blood under this section, the test shall be conducted in accordance with the provisions of Sections 577.020 to 577.041 RSMo.

(Code 1988, § 29-143; Ord. No. 5220, § 1, 10-4-2001)

**State Law reference**— Similar provisions, RSMo 577.012.

SECTION 6. That Chapter 29, Traffic and Motor Vehicles. Article III. – Operation of Vehicles, Section 29-144 Implied Consent to Tests for Alcohol and Drugs of the Code of Ordinances for the City of Lee's Summit shall be amended to read as follows:

Sec. 29-144. - Implied consent to tests for alcohol and drugs.

Any person who operates a motor vehicle upon the streets of the City shall be deemed to have given consent, subject to the provisions of RSMo 577.020 to 577.041, to a chemical test or tests of the person's breath, blood, saliva or urine for the purpose of determining the alcohol or drug content of the person's blood if arrested for any offense arising out of acts which the arresting officer had reasonable grounds to believe were committed while the person was operating a vehicle while in an intoxicated condition. The test shall be administered at the direction of the arresting officer whenever the person has been arrested for the offense.

(Code 1988, § 29-144)

**State Law reference**— Similar provisions, RSMo 577.020.

SECTION 7. That Chapter 29, Traffic and Motor Vehicles. Article III. – Operation of Vehicles, Section 29-150 Chemical Tests, Results Admitted Into Evidence, When, Effect Of; of the Code of Ordinances for the City of Lee's Summit shall be amended to read as follows:

Sec. 29-150. - Chemical tests, results admitted into evidence, when, effect of.

- A. Upon the trial of any person for violation of any of the provisions of Section 29-142 or 29-143 of this Code, arising out of acts alleged to have been committed by any person while operating a motor vehicle while in an intoxicated condition or with an excessive blood alcohol content, the amount of alcohol in the person's blood at the time of the act, as shown by any chemical analysis of the person's blood, breath, saliva, or urine, is admissible in evidence and the provisions of subdivision (5) of Section 491.060 RSMo, shall not prevent the admissibility or introduction of such evidence if otherwise admissible.
- B. If a chemical analysis of the defendant's breath, blood, saliva, or urine demonstrates there was eight-hundredths of one percent or more by weight of alcohol in the person's blood, this shall be prima facie evidence that the person was intoxicated at the time the specimen was taken. If a chemical analysis of the defendant's breath, blood, saliva, or urine demonstrates that there was less than eight-hundredths of one percent of alcohol in

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the defendant's blood, any charge alleging a criminal offense related to the operation of a vehicle while in an intoxicated condition or with an excessive blood alcohol content shall be dismissed with prejudice unless one or more of the following considerations cause the court to find a dismissal unwarranted:

1. There is evidence that the chemical analysis is unreliable as evidence of the defendant's intoxication at the time of the alleged violation due to the lapse of time between the alleged violation and the obtaining of the specimen;
  2. There is evidence that the defendant was under the influence of a controlled substance, or drug, or a combination of either or both with or without alcohol; or
  3. There is substantial evidence of intoxication from physical observations of witnesses or admissions of the defendant.
- C. Percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred milliliters of blood or grams of alcohol per two hundred ten (210) liters of breath.
- D. The foregoing provisions of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was intoxicated.
- E. A chemical analysis of a person's breath, blood, saliva or urine, in order to give rise to the presumption or to have the effect provided for in Subsection A. of this section, shall have been performed as provided in Section 29-144, referencing RSMo 577.020 to 577.041, and in accordance with methods and standards approved by the State Department of Health.

(Ord. No. 5221, § 1, 10-4-2001)

**State Law reference -- RSMo 577.037.**

SECTION 8. That Chapter 29, Traffic and Motor Vehicles. Article X. - Crashes, Section 29-656 Leaving the Scene of a Motor Vehicle Crash of the Code of Ordinances for the City of Lee's Summit shall be amended to read as follows:

Sec. 29-656. - Leaving the scene of a motor vehicle crash.

A person commits the offense of leaving the scene of an accident when:

- A. Being the operator of a vehicle involved in an accident resulting in injury or death or damage to property of another person; and,
- B. Having knowledge of such accident he or she leaves the place of the injury, damage or accident without stopping and giving the following information to the other party or to a law enforcement officer, or if no law enforcement officer is in the vicinity, then to the nearest law enforcement agency:
  - (1) his or her name;
  - (2) his or her residence, including city and street number;

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- (3) the registration or license number for his or her vehicle; and
- (4) his or her operator's license number, if any.

C. For the purposes of this section, all peace officers shall have jurisdiction, when invited by an injured person, to enter the premises of any privately owned parking lot or parking facility for the purpose of investigating a crash and performing all necessary duties regarding such crash.

(Code 1988, § 29-656)

**State Law reference**— Similar provisions, RSMo 577.060.

SECTION 9. That all ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION 10. That should any section, sentence or clause of this Ordinance be declared invalid or unconstitutional, such declaration shall not affect the validity of the remaining sections, sentences, or clauses.

SECTION 11. That this Ordinance shall be in full force and effect from and after the date of its passage and adoption, and approval by the Mayor.

PASSED by the City Council of the City of Lee's Summit, Missouri, this \_\_\_\_ day of \_\_\_\_\_, 2017.

ATTEST:

\_\_\_\_\_  
Mayor *Randall L. Rhoads*

\_\_\_\_\_  
City Clerk *Denise R. Chisum*

APPROVED by the Mayor of said city this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

ATTEST:

\_\_\_\_\_  
Mayor *Randall L. Rhoads*

\_\_\_\_\_  
City Clerk *Denise R. Chisum*

APPROVED AS TO FORM:

\_\_\_\_\_  
Chief Counsel of Public Safety *Beth Murano*