

ORDINANCE NO. 2009-050

AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS, AMENDING TITLE XV (LAND USAGE) OF THE CODE OF ORDINANCES TO: (1) AMEND SUBSECTION 155.005 TO DELETE DEFINITIONS OF "AVERAGE SLOPE"; (2) AMEND SUBSECTION 155.078(H) (STEEP SLOPE); (3) AMEND PORTIONS OF SECTION 155.077 (DEVELOPMENT PLAN REVIEW); (4) AMEND CHAPTER 151 (BUILDING REGULATIONS; CONSTRUCTION) TO CREATE A NEW SUBSECTION 151.20 ENTITLED "STEEP SLOPE"; (5) AMEND SUBSECTION 155.078 (IMPERVIOUS COVER); AND AMEND A PORTION OF SECTIONS 155.035-.043, 155.045-.061, AND 155.091 (ZONING DISTRICTS), IN ORDER TO CLARIFY THE STEEP SLOPE AND IMPERVIOUS COVER REGULATIONS FOR THE CITY OF WIMBERLEY; AND PROVIDING FINDINGS OF FACT, A REPEALING CLAUSE, TO PROVIDE A SAVINGS AND SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Wimberley, Texas (the "City") seeks to provide for the health, safety and welfare of its citizens; and,

WHEREAS, the Council finds that the construction of structures on steep slopes, if not done properly, may contribute to the loss of life and property, create health and safety hazards, disruption of commerce and governmental services, all of which adversely affect the public health, safety and general welfare; and,

WHEREAS, the regulations proposed herein are not designed to deny the right of property owners to develop their property, but to allow environmentally sensitive construction that not only prevents potential damage, but also enhances the natural terrain and preserves the beauty of the Wimberley valley; and,

WHEREAS, the City has the authority to regulate the uses and construction methods within the City's corporate pursuant to Texas Local Government Code Chapters 51, 52 and 212; and,

WHEREAS, in the course of adopting the regulations established by the Code, the Planning and Zoning Commission and City Council gave careful consideration to the unique qualities of the City, including the demographics of its inhabitants, the community's history, geography, natural resources, existing structures, property values, workforce, education levels, commercial base, surrounding communities, public facilities and infrastructure; and,

WHEREAS, the regulations established by the Code have been adopted with reasonable consideration, among other things, its peculiar suitability for the particular uses, with a view of conserving property values and encouraging the most appropriate use of land in the City; and,

WHEREAS, the regulations established by the Code are in furtherance of the public interest, for the good government, peace, order, trade and commerce of the City and necessary and proper for carrying out the power granted by law to the City; and

WHEREAS, parties in interest and citizens have had an opportunity to be heard at public hearings conducted by the Planning and Zoning Commission and City Council, agendas for each meeting were posted at City Hall more than seventy-two (72) hours prior to the respective hearing.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WIMBERLEY, TEXAS, THAT:

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

Section 2. Amendment.

A. THAT the City of Wimberley Code of Ordinances, Title XV (Land Usage), is hereby amended to delete the following definitions from section 155.005 (Definitions):

“Average Slope: 2 Point Horizontal Method”

“Average Slope: 2 Point Surface Method”

B. THAT the City of Wimberley Code of Ordinances, Title XV (Land Usage), subsections 155.077(C)(6)(a) and 155.077(D) (Development Plan Review) are hereby amended to read as follows:

“§ 155.077(C)(6)

(a) Level 1 Development Plan Review (see division (D)(2)) applies to single-family residential zoning for lots where the average slope of the net site area or the average slope of the building footprint is less than 15%.

§ 155.077(D)

(D) *Development plan submission requirements.* Submission requirements for development plan review depend on the development plan review level required by division (C)(6). All required items and information must be received by the city, in order for a development plan review submission to be considered complete; incomplete submissions will not be reviewed until all deficient items and information have been received. The Director or his or her designee shall determine the number of copies required of documents submitted for development plan review.

(1) Development plan submissions of either level shall include all of the following:

(a) Application form (to be provided by the city) signed by the owner or his or her designated representative. If the applicant is not the owner of the subject property, then he or she

shall submit verification in the form of a notarized statement that he or she is acting as an authorized agent for the property owner;

(b) Filing fee (see Chapter 35 Fee Schedule); and

(c) Verification that all taxes and assessments on the subject property have been paid.

(2) Level 1 development plan review submissions shall include at least the following.

(a) Four copies of a map measured 11 inches by 17 inches (tabloid size) drawn to scale with the scale and north direction shown, including an electronic version in a format acceptable to the City, which shall show information including but not limited to the following:

1. Legal configuration, area, and dimensions of the property;
2. Locations and identity of contiguous streets or roads;
3. Locations of existing buildings and other structures;
4. Locations and descriptions of existing and proposed utility services and easements, including size of water and sewer mains and laterals;
5. Maximum areas and extents for proposed or future buildings and structures;
6. Maximum areas and extents of roads, driveways, parking areas, and intersections with city streets or roads;
7. Areas reserved as open space, parks, playgrounds, or school sites;
8. Areas and extents of setbacks including special setbacks required to reduce impacts on adjacent property;
9. Areas of screening features required to reduce impacts on adjacent property;
10. Areas and extents of storm water detention and filtration facilities;
11. Areas and extents of on-site wastewater treatment facilities;
12. Areas encompassing natural watercourses, caves, sinkholes, aquifer recharge features, creeks, and bodies of water;
13. Areas within a studied floodplain or floodway; and
14. Areas and extents of significant vegetation and other natural features.

(b) The areas (divisions (D)(2)(a)5. - (D)(2)(a)11. above) for the proposed development features may be approximate, to provide development flexibility, but with sufficient accuracy to clearly and unambiguously define the scope and density of the development, and may be subject to change at the time of physical development to comply with development regulations of this chapter. Areas for features required by this chapter and by regulations of the state and county shall take precedence over other areas on the property.

(c) The plan shall include, on the face of the map or on attachments, sufficient notes and narrative to fully explain the purpose, intent, and impact of all development features, both existing and proposed or future, and any other documents relative to the proposed development. These notes and narrative shall include but may not be limited to the following:

1. All information required by a concurrent zoning application;
2. The existing development on all abutting sites and the zoning classification thereof;
3. Impervious cover percentage;
4. Disturbed surface percentage including caliche or unimproved roads;
5. Building coverage percentage;
6. Building site and lot slope percentage;
7. Parking space calculations based on parking ratios for various uses in the development;
8. Signage plan; and
9. Storm water management plan.

(3) Level 2 development plan review submissions shall include, but may not be limited to, the following.

(a) Four copies of a map measured 24 inches by 36 inches drawn to scale with the scale and north direction shown, including an electronic version in a format acceptable to the City, which shall show all the information required by division (D)(2)(a) above, plus information including but not limited to the following:

1. Footprints of all proposed or future buildings and structures showing possible locations within the areas defined in division (D)(2)(a)5. above;
2. Dimensions and locations of roads, driveways, parking areas, and intersections showing possible locations within the areas defined in division (D)(2)(a)6. above;

3. Dimensions and possible locations of storm water detention and filtration facilities within the areas defined in division (D)(2)(a)10. above;

4. Dimensions and possible locations of on-site wastewater treatment facilities within the areas defined in division (D)(2)(a)11. above;

5. Dimensions and locations of specimen trees of 4-inch caliper or greater within the areas defined in division (D)(2)(a)12. above;

6. Areas and extents of steep slopes (greater than 15%). A separate or included topographic map with interval no greater than 3 feet shall be required;

7. A sealed geotechnical survey signed and sealed by an engineer licensed in the state of Texas; and

8. An analysis of planned changes in the natural features delineated in the areas defined in division (D)(2)(a)13. above.

(b) The plan shall include all information listed in divisions (D)(2)(c) and (D)(2)(d), and the additional documents and plans as follows:

1. Complete sets of engineering and construction drawings for all site work and for all required public improvements (such as water, wastewater, grading and storm drainage, streets, alleys, fire lanes and hydrants, and the like);

2. Final plat or replat submission, as per Chapter 154, if the property has not yet been platted, or if additional easements or rights-of-way will need to be established for the proposed development;

3. Landscaping and irrigation plans;

4. Building facade (elevation) plans;

5. For areas and extents of steep slopes (greater than 15%), the structural engineering plans of the foundation for all proposed structures on the site sealed by a structural engineer licensed in the state of Texas;

For areas and extents of steep slopes (greater than 15%), written proof of submission of all plans to the head or designee of each emergency services entities to include but not limited to fire, sheriff and emergency medical services. Prior to approval of any plans the applicant shall submit a written evidence of approval of each emergency service entity which services the area verifying they have reviewed the plans, the date of the plans reviewed and whether or not a steep slope in excess of 15% shall be a threat or hindrance to the provision of emergency services to the property; and whether or not it diminishes the public health safety and welfare of the occupants and surrounding properties. Failure to obtain the written approval of all applicable emergency service entities shall result in automatic denial of the application by the City.; and

failure to obtain written approval specifying that services can be provided by all applicable emergency service entities to the subject property shall result in automatic denial of the application by the City.

7. Any other additional information and materials (plans, maps, exhibits, legal description of property, information about proposed uses, and the like) as deemed necessary by the Director or his or her designee.

(4) As supplemental requirements, the city may require other information for a specific development plan. Approval of a development plan may establish conditions for construction based upon this information that may include, but is not limited to:

- (a) Geologic information;
- (b) Water yields;
- (c) Flood data;
- (d) Environmental information;
- (e) Traffic impact analysis;
- (f) Existing and proposed road capacities;
- (g) Market and economic data;
- (h) Hours of operation;
- (i) Elevations and perspective drawings; and
- (j) Outdoor lighting plan.

(5) Provision of the above items shall conform to the principles and standards of this chapter. To ensure the submission of adequate information, the Director, or his or her designee, is hereby empowered to maintain and distribute a separate list of specific requirements for development plan review applications. Upon periodic review, the Director, or his or her designee, shall have the authority to update the requirements for development plan review applications.”

C. THAT the City of Wimberley Code of Ordinances, Title XV (Land Usage), subsection 155.078(H) (Steep Slope) is hereby amended to read as follows:

“(H) *Steep slope regulations.* All construction subject to the steep slope regulations shall comply with the requirements herein, in section 155.077 (Development Plan Review), section 151.20 (Steep Slope) and all other applicable Code provisions.”

D. THAT the City of Wimberley Code of Ordinances, Title XV (Land Usage), is hereby amended and amend chapter 151 (Building Regulations; Construction) to create a new subsection 151.20 entitled “Steep Slope” to read as follows:

“§ 151.20 Steep Slope

(H) *Steep slope regulations.*

(1) *Objective.* The objective of this division is to allow the development of property and construction of structures which can be harmoniously, appropriately, and safely located on steep slopes, and thereby serve the following additional objectives:

- (a) Prevent soil erosion;
- (b) Protect surface waters from sedimentation, turbidity, runoff of storm water, and effluent from sewage disposal systems;
- (c) Preserve tree cover and other vegetative cover;
- (d) Protect wildlife habitat;
- (e) Preserve scenic views;
- (f) Protect natural areas; and
- (g) Maintain ecological balance.

(2) *Average slope, topographic map method.* See definitions in § 155.005.

(3) *Lot size multiplier.* The minimum and maximum lot size for a zoning district shall be increased according to the average slope of the lot according to the following table.

<i>Table B</i>	
Average Slope	Lot Size Multiplier
0 to 15%	1.0 x
16 to 20%	1.4
21 to 25%	3.3
26 to 30%	10.0
31 to 35%	20.0

(4) *Building site slope.* The building site slope is the difference between the highest point and lowest point in the area planned to be disturbed or actually disturbed divided by the horizontal distance between those points.

(a) $S = 100 \times (E1 - E2)/D$

Where S is the average building site slope in percent;

E1 is the elevation of the highest point in the disturbed area;

E2 is the elevation of the lowest point in the disturbed area; and

D is the horizontal distance between point E1 and point E2.

(b) Development on a lot not platted under Chapter 154 of this code shall use the building site slope instead of average slope and be exempt from the density reduction requirements of division (H)(3) above if all of the following conditions apply:

1. The building site slope is no greater than 25%;
2. The lot is zoned single-family;
3. Secondary and accessory buildings or other constructions on the lot are at sites with a slope no greater than that of the primary building; and
4. Building site locations are approved by the Building Official.

(5) *Cut limits.*

(a) For an open cut made on any slope, the cut depth shall be no greater than 5 feet.

(b) For a filled cut made on any slope, where the cut is filled and the original surface grade restored around a building, the depth of the cut shall be no greater than 10 feet.

(c) The depth of a cut shall be measured as the greatest vertical distance from any point within the excavation to the rim of the cut.

(d) Open cuts shall be fully revetted using stone, brick, or timber, or a combination thereof. Revetments shall be stabilized to prevent collapse of the cut wall. The developer or owner shall be required to repair any cut wall collapse whenever it may occur.

(e) Multiple open cuts may be made if they are separated by a horizontal distance by not less than 2 times the height of the greater of adjacent cuts.

(6) *Fill limits.* Fills on any slope shall have a depth no greater than 10 feet including the exposed portion of the fill and a buried portion (under a building or a paved area). Fills on any

slope shall have a length no greater than 60 feet including the exposed portion of the fill and a buried portion (under a building or a paved area).

(a) The exposed portion of a fill shall have a finished slope not exceeding 33% and shall be fully re-vegetated or surfaced with rocks and vegetation arranged to have a natural appearance.

(b) The depth of a fill shall be measured as the greatest vertical distance from any point at the low end of the fill to any point at the high end of the fill.

(c) The length of a fill shall be measured as the horizontal distance from the lowest point of the fill to the highest point of the fill.

(7) *Ridge development.* A building placed within 100 feet horizontally or 50 feet vertically of a ridge shall be screened by natural and installed vegetation as follows.

(a) The view of the facade and roof of the building shall be screened by natural or installed vegetation by at least 75% of its vertical extent for at least 67% of all horizontal angles of view from below or from other hills.

(b) A landscape plan shall be approved by the city that includes all of the following:

1. The type, size, and location of the natural and installed plant material;
2. Evidence of compliance with division (H)(7)(b)1. of this section;
3. The provisions to ensure the viability of the plant material; and
4. A requirement for perpetual maintenance of the plant material in the landscape plan to become a recorded covenant on the land.

(c) For the purpose of this section the average slope, in percent, may be calculated according to the average slope method as defined in § 155.005.

(8) *Private roads and driveways.* Private roads and driveways on land where the average slope or building site slope exceeds 15% shall be constructed to have a slope not to exceed 15%, where possible, and shall follow the contours of the land. For private roads and driveways (greater than 15%), written proof of submission of all plans to the head or designee of each emergency services entities to include but not limited to fire, sheriff and emergency medical services is required. Prior to approval of any plans the applicant shall submit a written evidence of approval of each emergency service entity which services the area verifying they have reviewed the plans, the date of the plans reviewed and whether or not a steep slope in excess of 15% shall be a threat or hindrance to the provision of emergency services to the property; and whether or not it diminishes the public health, safety and welfare of the occupants and surrounding properties. Failure to obtain the written approval of all applicable emergency service entities shall result in automatic denial of the application by the City; and failure to

obtain written approval specifying that services can be provided by all applicable emergency service entities to the subject property shall result in automatic denial of the application by the City. Bar ditches, culverts, watercourses, detention and retention ponds, and runoff dispersion structures shall be installed as required as determined by the city.

(9) *Definitions.* For the purpose of this division (H), the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUILDING HEIGHT. To be established pursuant to the definition of height in § 155.005.

BUILDING SITE. The entire area planned to be disturbed or actually disturbed from its pre-construction or natural condition whether or not part of the area is eventually restored to the pre- construction condition and grade. The area includes porches and decks connected to a building and any area under a roof.

RIDGE. Exists on rising land at the point at least 100 feet above the base of the rise, where the slope changes from 25% or more to 15% or less, and above which there is no further rise of land with slope in excess of 25%. The base of the rise is the point, as the land rises, where the slope becomes 25% or more.

RIDGE LINE. The line along the crest of a hill where the condition of a ridge exists.”

E. THAT the City of Wimberley Code of Ordinances, Title XV (Land Usage), subsection 155.078(M) (Impervious Cover) is hereby amended to read as follows:

“(M) *Impervious cover.* Impervious cover shall be calculated as a percentage of the net site area.”

F. THAT the following subsections of the City of Wimberley Code of Ordinances, Title XV (Land Usage), are hereby amended to read as follows:

“§ 155.035 RESIDENTIAL ACREAGE; RA.

(D) *Development regulations.*

(5) Maximum impervious cover: 20%. Impervious cover shall be calculated as a percentage of the net site area.

§ 155.036 RURAL RESIDENTIAL 1; R-1.

(D) *Development regulations.*

(5) Maximum impervious cover: 20%. Impervious cover shall be calculated as a percentage of the net site area.

§ 155.037 SINGLE-FAMILY RESIDENTIAL 2; R-2.

(D) *Development regulations.*

(5) Maximum impervious cover: 35%. Impervious cover shall be calculated as a percentage of the net site area.

§ 155.038 SINGLE-FAMILY RESIDENTIAL 3; R-3.

(D) *Development regulations.*

(5) Maximum impervious cover: 45%. Impervious cover shall be calculated as a percentage of the net site area.

§ 155.039 SINGLE-FAMILY RESIDENTIAL 4; R-4.

(D) *Development regulations.*

(6) Maximum impervious cover: 60%. Impervious cover shall be calculated as a percentage of the net site area.

§ 155.040 TWO-FAMILY RESIDENTIAL (DUPLEX); R-5.

(D) *Development regulations.*

(6) Maximum impervious cover: 60%. Impervious cover shall be calculated as a percentage of the net site area.

**§ 155.041 MULTI-FAMILY RESIDENTIAL 1
(TRIPLEX/QUADRIPLEX/APARTMENTS); MF-1.**

(D) *Development regulations.*

(11) Maximum impervious coverage: 50%. Impervious cover shall be calculated as a percentage of the net site area.

§ 155.042 MULTI-FAMILY RESIDENTIAL 2 (APARTMENTS); MF-2.

(D) *Development regulations.*

(12) Maximum impervious coverage: 70%. Impervious coverage shall be calculated as a percentage of the net site area.

§ 155.043 MOBILE HOME; MH.

(E) *Development regulations.*

(8) Maximum impervious cover: 50%. Impervious cover shall be calculated as a percentage of the net site area.

§ 155.045 OFFICE - LOW IMPACT; O-1.

(D) *Development regulations.*

(4) Maximum impervious cover: 60%. Impervious coverage shall be calculated as a percentage of the net site area.

§ 155.046 OFFICE - HIGH IMPACT; O-2.

(D) *Development regulations.*

(4) Maximum impervious cover: 60%. Impervious coverage shall be calculated as a percentage of the net site area.

§ 155.047 COMMERCIAL - LOW IMPACT; C-1.

(D) *Development regulations.*

(4) Maximum impervious cover: 70%. Impervious coverage shall be calculated as a percentage of the net site area.

§ 155.048 COMMERCIAL - MODERATE IMPACT; C-2.

(D) *Development regulations.*

(4) Maximum impervious coverage: 70%. Impervious cover shall be calculated as a percentage of the net site area.

§ 155.049 COMMERCIAL - HIGH IMPACT; C-3.

(D) *Development regulations.*

(4) Maximum impervious coverage: 70%. Impervious coverage shall be calculated as a percentage of the net site area.

§ 155.050 HIGHWAY COMMERCIAL; HC.

(D) *Development regulations.*

(4) Maximum impervious cover: 70%. Impervious coverage shall be calculated as a percentage of the net site area.

§ 155.051 INDUSTRIAL - LOW IMPACT; I-1.

(D) *Development regulations.*

(4) Maximum impervious coverage: 70%. Impervious coverage shall be calculated as a percentage of the net site area.

§ 155.052 INDUSTRIAL - HIGH IMPACT; I-2.

(D) *Development regulations.*

(4) Maximum impervious coverage: 50%. Impervious coverage shall be calculated as a percentage of the net site area.

§ 155.053 ANIMAL SALES/SERVICES; AS/S.

(D) *Development regulations.*

(4) Maximum impervious coverage: 50%. Impervious coverage shall be calculated as a percentage of the net site area.

§ 155.054 LODGING; L-1.

(E) *Development regulations.*

(7) Maximum impervious coverage: 70%. Impervious coverage shall be calculated as a percentage of the net site area.

§ 155.055 LODGING; L-2.

(E) *Development regulations.*

(8) Maximum impervious coverage: 60%. Impervious coverage shall be calculated as a percentage of the net site area.

§ 155.056 INDUSTRIAL PARK; IP.

(D) *Development regulations.*

(7) Maximum impervious cover: 65%. Impervious coverage shall be calculated as a percentage of the net site area.

§ 155.057 PUBLIC PROTECTION/UTILITY; PPU.

(D) *Development regulations.*

(3) Maximum impervious cover: 90%. Impervious cover shall be calculated as a percentage of the net site area.

§ 155.058 PARTICIPANT RECREATION - LOW IMPACT; PR-1.

(D) *Development regulations.*

(5) Maximum impervious cover: 65%. Impervious coverage shall be calculated as a percentage of the net site area.

§ 155.059 PARTICIPANT RECREATION - HIGH IMPACT; PR-2.

(D) *Development regulations.*

(5) Maximum impervious cover: 70%. Impervious coverage shall be calculated as a percentage of the net site area.

§ 155.060 PUBLIC FACILITIES; PF.

(D) *Development regulations.*

(2) Maximum impervious cover: 60%. Impervious coverage shall be calculated as a percentage of the net site area.

§ 155.061 NEIGHBORHOOD SERVICES DISTRICT; NS.

(D) *Development regulations.*

(4) Maximum impervious cover: 60%. Impervious coverage shall be calculated as a percentage of the net site area.

§ 155.091 CITY CENTER OVERLAY DISTRICT; VC.

(G) *Site development standards.*

(4) Maximum impervious cover: NA (Square), 90% - other. Impervious cover shall be calculated as a percentage of the net site area.”

Except as expressly amended herein, the Code of Ordinances shall remain in full force and effect.

Section 3. All ordinances or parts of ordinances in force when the provisions of this Ordinance become effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed, but only to the extent of any such conflict.

Section 4. Should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect

the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Ordinances as a whole.

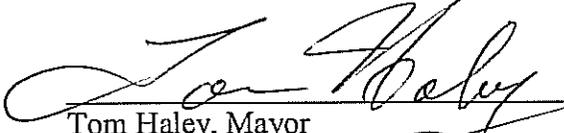
Section 5. This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide.

Section 6. Open Meetings. That it is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meeting Act, Capt. 551, Loc. Gov't. Code.

PASSED AND APPROVED First Reading this 19th day of Nov., 2009, by a vote of 5 (Ayes) to 0 (Nays) 0 (Abstain) vote of the City Council of the City of Wimberley, Texas.

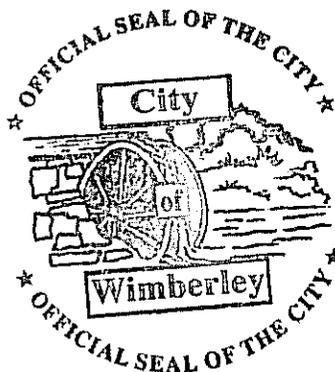
PASSED AND APPROVED Second Reading this 3rd day of Dec., 2009, by a vote of 5 (Ayes) to 0 (Nays) 0 (Abstain) vote of the City Council of the City of Wimberley, Texas.

CITY OF WIMBERLEY, TEXAS

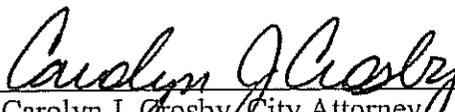

Tom Haley, Mayor

ATTEST:


Cara McPartland, City Secretary



APPROVED AS TO FORM:


Carolyn J. Crosby, City Attorney