ORDINANCE NO. 2009-

AN ORDINANCE MODIFYING THE DEFINITION FOR PLACE OF ASSEMBLY; MODIFYING REFERENCES TO RELIGIOUS INSTITUTIONS AND ORGANIZATIONS; RECLASSIFYING CHURCHES AS PLACES OF ASSEMBLY; MODIFYING USE STATUS OF CHURCHES IN THE R-4 RESIDENTIAL DISTRICT FROM PERMITTED USE TO CONDITIONAL USE; MODIFYING STANDARDS FOR CHURCH BUILDINGS AND SITES; AND ADDING PROVISIONS AND STANDARDS FOR COLUMBARIA; THEREBY AMENDING CHAPTERS 6,10,11,12,13,19, and 21 OF THE CITY CODE

The City Council of the City of Bloomington, Minnesota ordains:

Section 1. That Chapter 6 of the City Code is hereby amended by deleting those words that are contained in brackets [ ] and adding those words that are underlined, to read as follows:

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CHAPTER 6. FIRE PROVISIONS

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ARTICLE III. FIRES AND FALSE ALARMS

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SEC. 6.28. NOTIFICATION OF FIRE DEPARTMENT.

(a) The manager or person in control of any <u>place of assembly for worship</u> [~~church~~], school, theater, institutional building, hotel, public assembly unit, cafe, restaurant, factory, warehouse, mercantile building, or any multiple dwelling capable of housing eight or more families or having 24 or more sleeping rooms above the first floor, or any other person who discovers a fire, smoke, heat or gases indicating that there is a fire in such building or upon the activation of a water flow fire alarm signal, shall immediately call the Fire Department upon the discovery of such fire, water flow alarm, smoke, heat or gases in any such building.

***

Section 2. That Chapter 10 of the City Code is hereby amended by deleting those words that are contained in brackets [ ] and adding those words that are underlined, to read as follows:

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CHAPTER 10. ENVIRONMENTAL CONTROL

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ARTICLE IV. NOISE CODE

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SEC. 10.29.02. NOISE SOURCE REQUIREMENTS.

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(a) A noise source (excluding motor vehicles operating on public highways, locomotives and railroad cars, snowmobiles, construction equipment at construction sites, maintenance of utility easements, and snow plowing) within the following zoning districts (as defined in this Code) shall not exceed the L10 noise levels set forth below.

(3) Residential Zoning District (which may include but is not limited to single-family dwellings, private schools, day-care centers, private garages, permitted home occupations, place(s) of assembly for worship [~~churches~~], public stables, marinas, multiple dwellings, and retail shops) - 60 dBA in the daytime (7:00 A.M. to 10:00 P.M.) and 50 dBA in the nighttime (10:00 P.M. to 7:00 A.M.) as measured on the property line of the source.

***

Section 3. That Chapter 11 of the City Code is hereby amended by deleting those words that are contained in brackets [ ] and adding those words that are underlined, to read as follows:

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CHAPTER 11. WATER, WASTEWATER, STORM WATER AND RECYCLING

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ARTICLE IV. STORM WATER

***

SEC. 11.45. RATES AND CHARGES.

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(b) **Storm water drainage charges.** In determining charges the City Council shall by resolution establish a basic system rate to be charged against one acre of land having a Utility REF of one. The charge to be made against each parcel of land shall then be determined by multiplying the Utility REF for the parcel's land use classification times the parcel's acreage times the basic system rate. The Volume, Quality and Utility REF's for the following land uses within the City and the billing classifications for such land uses are as follows:

CLASSIFICATION	LAND USES	Volume REF	Quality REF	Utility REF
1	Cemeteries, Parks, Golf Courses	0.41	0.50	0.43
2	Single-family and Duplex Residential	1.00	1.00	1.00
3	Public and Private Schools and Institutional Uses	1.36	3.05	1.67
4	Multiple-family Residential and Place(s) of Assembly for Worship [~~Churches~~]	2.18	3.21	2.37
5	Commercial and Industrial	3.79	6.10	4.22

***

Section 4. That Chapter 12 of the City Code is hereby amended by deleting those words that are contained in brackets [ ] and adding those words that are underlined, to read as follows:

***

CHAPTER 12. PUBLIC PEACE AND SAFETY

***

ARTICLE II. PROHIBITED CONDUCT

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SEC. 12.50. AUTHORIZED LOCATIONS.

Lawful gambling authorized by the state Gambling Control Board may be conducted only at the following locations:

***

(3) Place of <u>assembly for</u> worship as defined in Section 13.01.01 of this Code.

***

Section 5. That Chapter 13 of the City Code is hereby amended by deleting those words that are contained in brackets [ ] and adding those words that are underlined, to read as follows:

***

CHAPTER 13. ALCOHOLIC BEVERAGE CONTROL

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ARTICLE I. 3.2 PERCENT MALT LIQUOR

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SEC. 13.01.01. DEFINITIONS.

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Place of <u>Assembly for</u> Worship - A building that is principally used as a place where people of the same faith or religion regularly assemble for worship.

***

SEC. 13.03. LICENSE APPLICATION.

In addition to the information that may be required by the Minnesota Department of Public Safety, the application for a license under this Article shall request the following information:

(1) For all applications, except applications for an On-Sale Special Event License:

***

(C) The legal description of the premises to be licensed together with a plot plan of the area showing dimensions, location of buildings, street access, parking facilities, and the locations of the nearest place of assembly for worship and school.

***

ARTICLE III. INTOXICATING LIQUOR

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SEC. 13.40. LICENSE APPLICATION.

In addition to the information that may be required by the Department of Public Safety, the application for a license under this Article, except applications for an On-Sale Special Event License, which shall be governed by Section 13.57.01 of this Article, shall request the following information:

(1) For all applicants:

***

(C) The legal description of the premises to be licensed together with a plot plan of the area showing dimensions, location of buildings, street access, parking facilities, and the locations of the nearest place of assembly for worship and school.

***

SEC. 13.47. LOCATIONS INELIGIBLE FOR LICENSE.

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(c) No off-sale license under this Article shall be granted to any location within 300 feet of a school or a place of worship. In the case of a school, the distance shall be measured in a straight line from the lot on which the establishment to be licensed is located to the nearest point of the lot on which the school is located. In the case of a place of worship, the distance shall be measured in a straight line from the lot on which the establishment to be licensed is located to the nearest point of the place of worship building. However, in the case of establishments located in shopping centers, the distance shall be measured from the main entrance of the business to be licensed. A location for which a license was granted in 1989, or lawfully granted thereafter, and at which a licensee has been in continuous operation, is not ineligible for a license by reason of proximity to a school or a place of assembly for worship.

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ARTICLE IV. BOTTLE CLUBS

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SEC. 13.60. LICENSE APPLICATION.

In addition to the information which may be required by the Department of Public Safety, the application for a license under this Article shall request the following information:

***

(7) The legal description of the premises to be licensed together with a plot plan of the area showing dimensions, location of buildings, street access, parking facilities, and the locations of the nearest place of assembly for worship and school.

***

Section 7. That Chapter 19 of the City Code is hereby amended by deleting those words that are contained in brackets [ ] and adding those words that are underlined, to read as follows:

***

CHAPTER 19. ZONING

***

ARTICLE I. GENERAL PROVISIONS

***

SEC. 19.03. DEFINITIONS.

***

Cemetery - An area used for the burial or entombment of one or more deceased persons, including graveyards, mausoleums, and columbaria [~~urn entombment areas~~].

***

Columbarium – (plural columbaria or columbariums) a place such as a vault for the respectful and usually public storage of cremated human remains within cinerary urns. Columbaria are accessory to places of assembly for worship, cemeteries or mausoleums.

***

Places of assembly - A facility providing for the assembly of persons for interaction as a primary use, including [~~but not limited to auditoriums,~~] community centers, and religious institutions, also referred to as place(s) of assembly for worship [~~and other places of assembly~~]. Place(s) of assembly do not include community education or art centers, schools, instructional centers, daycare facilities, family day shelters, conservatories, convention centers, libraries, museums, residential dwellings, recreational and entertainment facilities, theaters or social service distribution facilities which fall under separate definitions in this Code.

***

ARTICLE III. ZONING DISTRICT MAP, ZONING DISTRICTS AND DISTRICT USES

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SEC. 19.27. SINGLE-FAMILY RESIDENTIAL (R-1A, R-1) DISTRICTS.

(d) **Conditional uses** -

***

(1) Places of assembly [~~Churches~~], private schools, including music and dance schools, and licensed day-care facilities serving thirteen (13) or more persons.

***

SEC. 19.27.01. LARGE LOT SINGLE FAMILY RESIDENTIAL DISTRICT RS-1.

***

(b) **Uses** -

(3) Conditional Uses -

***

C. Place of assembly [~~Churches~~].

***

SEC. 19.28. MULTIPLE-FAMILY RESIDENTIAL (R-4) DISTRICTS.

***

(b) **Permitted uses** -

***

(2) Reserved [~~Churches~~].

***

(d) **Conditional uses** -

(1) Conditional uses allowed in Single-family Residential Districts.

***

SEC. 19.28.01. MULTIPLE-FAMILY RESIDENTIAL (RM-12) DISTRICTS.

***

(d) **Conditional uses** -

(1) Places of assembly [~~Churches~~] and related facilities ("related facilities" does not include a cemetery).

***

SEC. 19.28.02. MULTIPLE-FAMILY RESIDENTIAL (RM-24) DISTRICTS.

***

(d) **Conditional uses** -

(1) Places of assembly [~~Churches~~] and related facilities ("related facilities" does not include a cemetery).

***

SEC. 19.33. INDUSTRIAL (I-1, I-2, AND I-3) DISTRICTS.

***

(d) **Conditional uses -**

***

(23) Places of assembly [~~Churches as temporary~~] uses in the Industrial Park (I-1) and Limited Industry (I-2) Zoning Districts.

***

SEC. 19.34. FREEWAY DEVELOPMENT (FD-1 AND FD-2) DISTRICTS.

(d) **Conditional uses** -

***

(21) Places of assembly [~~Churches as temporary uses in the Freeway Development (FD-1) and Freeway Development (FD-2) Zoning Districts~~].

***

SEC. 19.38.03. AIRPORT RUNWAY OVERLAY DISTRICTS.

***

(c) **Uses** - All permitted principal, provisional, conditional, interim and accessory uses allowed in the primary zoning district are allowed in the Airport Runway Overlay Districts with the exception of the following prohibited uses:

(1) **Airport Runway (AR-17) Overlay District:**

***

(B) Within the portion of the Airport Runway (AR-17) Overlay District designated as Safety Zone B as contained in Section V Land Use Safety Zoning of the 2004 MSP Zoning Ordinance and shown on MSP Zoning Map Safety Zones-Plate SZ-21 and Plate SZ-27, the following uses are prohibited unless a variance permitting the use is granted by the Board of Adjustment established by the 2004 MSP Zoning Ordinance:

***

(III) Places of assembly [~~Churches~~].

***

ARTICLE IV. DISTRICT REGULATIONS

***

SEC. 19.47. HEIGHT.

***

(d) **Applicability -**

***

(2) **Exceptions** - The requirements of Section 19.47 of this Code shall apply to all structures and developments otherwise permitted under this Code except:

***

(C) Places of assembly for worship [~~church~~] sanctuaries, steeples and bell towers.

***

ARTICLE V. PERFORMANCE STANDARDS

***

SEC. 19.63. PLACES OF ASSEMBLY. [~~PERFORMANCE STANDARDS FOR CHURCH BUILDINGS AND SITES.~~]

[~~(a) **Architectural control** - The building plan, including the site plan for the church shall be certified by an architect registered in the State of Minnesota, stating that he has personally viewed the site and has designed the building to fit the site as planned and to be harmonious with the neighboring buildings, topography and natural surroundings and in accordance with the purposes and objectives of the Zoning Code.~~

~~(b) **Site plan** - At the time of an application for a conditional use permit, the applicant shall file three copies of a site plan for the church site in accordance with the following provisions: A plot plan which shall adequately illustrate existing and proposed parking area and spaces; garage locations; driveways; loading area; landscaping and screening including location, spacing, species and size of trees and shrubs, existing buildings, proposed buildings, dimensions of lot, parking areas, setbacks and distances between major elements of the use; existing topography and proposed final contours.~~

~~(c)~~](a) [~~**Other performance s**~~]**Standards** – Freestanding place of assembly uses and sites must comply with the following standards.

***

(2) Reserved. [~~The City Council may, when recommended by the Planning Commission, require a larger minimum site area for those churches that provide facilities in addition to the main sanctuary such as classrooms, Sunday school rooms, offices and other assembly areas.~~]

***

(5) Minimum building setback from property lines other than public street rights-of-way 60 feet except a 25 foot side or rear yard setback will be permitted where such side or rear yard is adjacent to nonresidentially used [~~zoned~~] property.

(6) Notwithstanding the provisions of Section 19.47 of this Code, an additional one foot setback is required for each foot of height of the place of assembly [~~church~~] in excess of 35 feet.

***

(8) Parking lot shall cover no more than 50 percent of the [~~church~~] site.

(9) No parking shall be permitted on the site in front of the place of assembly [~~church~~] except where a parking lot exists on a [~~church~~] site under the provisions of a previously approved conditional use permit. No exterior storage, motor vehicle parking or motor vehicle storage is permitted on the site except when incidental to allowed uses in place on the site. Exterior storage must meet the standards of City Code Section 19.50. [~~If the site abuts more than one street or a planned future street, each street shall be treated as a front.~~]

(10) Bell towers, steeples, spires and similar structures must meet the following standards:

***

(C) Antenna Mounting. When antennas are mounted on bell towers, steeples, spires or similar structures, the following standards apply:

(i) Design. The structure must be designed to visually appear as a bell tower, steeple, spire or similar structure and not be identifiable as an antenna tower. To ensure that a bell tower, steeple, spire or similar structure that supports antennas is fully camouflaged and appears to be a planned architectural element rather than an antenna tower, the design of the bell tower, steeple, spire or similar structure must replicate the unique design features of the place of assembly [~~church~~] principal building structure, must be constructed of materials and use colors that complement and effectively integrate it with the principal structure [~~church~~] and must not be a replication of a similar structure that supports antennas at another site within the city. The number of bell towers, steeples, spires or similar structures on an individual site must be compatible with the design of the principal structure [~~church~~]. If more than one bell tower, steeple, spire or similar structure is present on a site, each must be architecturally coordinated with the other and they must appear as planned design elements.

(ii) Antenna Visibility. The antennas, cables and associated mounting devices must be screened or otherwise concealed from view.

(iii) Equipment. The associated ground equipment must meet the setback requirements of the structure and must be fully screened by a wall or fence that is architecturally compatible with the principal structure [church].

([d]b) **Screening**. Where a place of assembly [church] is adjacent to a residential use [or zone, the church shall provide] screening must be provided along the boundary adjacent to [the used residential any property used for residential purposes. Such screening shall consist of a solid fence or wall [or equivalent as approved by the City Council when recommended by the Planning Commission] not less than five feet high, but shall not extend within 15 feet of any street or driveway. Such screening will not be required along a public [the] street. The provisions of subsection 19.52(e)(1) shall apply to place of assembly [church] sites. This provision may be waived by the City Council at the time of approval of site plans if the Council finds that no adverse impact on adjacent properties will be created by such waiver, or if the Council finds that requiring such screening would have an adverse impact on adjacent residential properties.

([e]c) **Expansion, Alteration or Addition.** If a conditional use permit is granted for an expansion, addition or alteration to an existing place of assembly [church], the combination of the existing place of assembly [church] and proposed development shall not exceed the following:

(1) The combined total building coverage will not exceed 15 percent of the place of assembly [church] site.

(2) The required parking for the combined total building will not cover more than 70 percent of the place of assembly [church] site.

(d) **Columbaria**. Columbaria are permitted as accessory uses to any freestanding place of assembly for worship subject to the following standards:

(1) Location. If located exterior to the principal structure, columbaria must satisfy the minimum setback requirements of the principal structure;

(2) Size. Columbaria, not counting landscaping, plazas or screening, may not exceed 600 square feet;

(3) Height. Columbaria may not exceed seven feet in height;

(4) Screening. If not themselves designed as a screen wall, columbaria must be fully screened from all adjacent residential properties during the entire year. If designed as a screenwall and not otherwise screened from adjacent residential properties, columbaria openings must not be visible from adjacent residential properties; and

(5) Preserving Redevelopment Potential. Given that places of assembly for worship are sometimes redeveloped as other uses, given that such redevelopment is in the public interest when a place of assembly for worship site becomes vacant, and given that columbaria can create an impediment for redevelopment, the following additional standards apply:

(A) Columbaria must be removed from the site upon vacancy;

(B) Any agreement or lease signed with the legal representatives of columbaria occupants must specify that the remains be removed from the columbaria upon site vacancy, specify what will happen to the remains at that time and specify that the place of assembly for worship has authority to remove and dispose of the remains upon site vacancy if the legal representatives do not.

(C) Model agreements or leases must be submitted for City review in conjunction with the columbaria application.

(6) Approval Process. Columbaria must receive Final Site and Building Plan approval prior to construction.

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ARTICLE VIII. ANTI-BLIGHT REGULATIONS

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SEC. 19.81. FINDINGS OF THE CITY COUNCIL.

The City Council of the City of Bloomington makes the following findings regarding the effect sexually-oriented businesses have on the character of the City's neighborhoods. In making the findings, the City Council accepts the recommendations of a staff committee that has studied the experiences of other urban areas in the nation where sexually-oriented businesses have located.

(a) Sexually-oriented businesses can exert a dehumanizing influence on persons attending places of assembly for worship; children attending state-licensed family day care homes, state-licensed group family day care homes, and state-licensed child care centers; students attending schools; and people using public parks and libraries.

***

SEC. 19.83. DEFINITIONS.

***

Place of Assembly for Worship - a building or space that is principally used as a place where people of the same faith or religion regularly assemble for worship.

***

SEC. 19.84. ZONING REGULATIONS.

***

(b) In use districts in which sexually-oriented businesses are permitted uses, the following conditions shall be met prior to a sexually-oriented business being allowed:

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(2) No sexually-oriented business shall be located closer than 500 feet from any single-family dwelling, place of assembly for worship, school, public park, state-licensed family day care home, state-licensed group family day care home, public library, or state-licensed child care center. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point of the actual business premises of the sexually-oriented business to the nearest point of the actual premises used as a single-family dwelling, place of assembly for worship, school, park, or state-licensed family day care home, state-licensed group family day care home, or state-licensed child care center.

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ARTICLE X. SIGN REGULATIONS

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SEC. 19.118. TEMPORARY SIGNS FOR PLACES OF ASSEMBLY FOR WORSHIP, SCHOOLS, PARKS, AND PUBLIC BUILDINGS.

(a) **Purpose.** The City Council finds that places of assembly for worship, schools, parks, and public buildings have unique needs warranting special regulations to communicate information and to announce special events and activities. The following regulations have been formulated to address the need for temporary signs.

(b) **On-Site Temporary Signs.** On-site temporary signs shall comply with the following standards:

(1) **Maximum Size and Number.** A maximum of one temporary sign shall be allowed per street frontage, whether it takes the form of a wall sign or freestanding sign. The maximum size per temporary wall sign shall be one hundred (100) square feet and the maximum size per temporary freestanding sign shall be thirty-two (32) square feet.. [~~One (1) sign with a maximum size of thirty- two (32) square feet is allowed per street frontage, and one (1) sign with a maximum of sixteen (16) square feet is allowed per street frontage. There shall be no more than one (1) freestanding sign on any street frontage.~~]

(2) **Maximum Height and Minimum Setbacks.** Temporary signs greater than six (6) square feet shall maintain a minimum setback of twenty (20) feet from any street right-of-way line. If the sign is six (6) square feet or less with a height of three (3) feet or less, the temporary sign may be placed a minimum of ten (10) feet from ~~t~~he street right-of-way line. No wall sign shall be placed above the top of the wall on which it is located. For the purposes of this Section, all setbacks are measured from existing property lines rather than planned widened rights-of-way lines.

(3) **Maximum Time Period for Signage.** Both signs are allowed at any time during the year.

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(5) Temporary signs shall not be used in lieu of permanent identification signs for accessory uses in the building(s).

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(c) **Off-Site Temporary Signs.** Off-site temporary signs shall comply with the following standards:

(1) **General Provision.** Temporary off-site signs shall be used only for special events at places of assembly for worship, schools, parks, and public buildings.

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(d) **Sign Permit Requirements.** Sign permits shall be required pursuant to Section 14.553 of this Code. [~~Stickers containing the start and end dates for the signs, the contact person or organization and a telephone number for the responsible party shall be affixed to each off-site temporary sign for special events for places of assembly for worship, schools, parks, and public buildings~~.] A temporary sign permit is not required for a temporary identification sign.

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Section 8. That Chapter 21 of the City Code is hereby amended by deleting those words that are contained in brackets [ ] and adding those words that are underlined, to read as follows:

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CHAPTER 21. ZONING AND LAND DEVELOPMENT

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ARTICLE III. DEVELOPMENT STANDARDS

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Sec. 21.301.06. PARKING AND LOADING.

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(d) **Number of off-street parking spaces required**.

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MINIMUM OFF-STREET PARKING REQUIREMENTS	
NON-RESIDENTIAL	
~~[Place of Assembly, Indoor or Outdoor Theater, Auditorium, Library, Museum, Arena, Community Center, Religious Institution, Mortuary, Stadium, Dance Hall, and other Places of Assembly]~~ Arena; Dance Hall; Library; Mortuary; Museum; Place of Assembly; Stadium; or Theater, Indoor or Outdoor	Spaces equal in number to one-third capacity in persons. If use includes an educational component, those facilities are required to provide additional parking as provided in the ordinance under Educational Institutions

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Passed and adopted this _____ day of _____ , 2009.

_____
Mayor

ATTEST:

_____
Secretary to the Council

APPROVED:

_____
City Attorney