

**ORDINANCE NO. 778**  
**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARPINTERIA,**  
**CALIFORNIA, AMENDING IN ITS ENTIRETY CHAPTER 8.52 (SMOKING**  
**REGULATIONS) OF THE CARPINTERIA MUNICIPAL CODE**

**WHEREAS**, the City of Carpinteria (the “City”) is a municipal corporation, duly organized under the constitution and laws of the State of California; and

**WHEREAS**, the U.S. Surgeon General has concluded that there is no risk-free level of exposure to secondhand smoke<sup>1</sup> and the California Air Resources Board identified secondhand smoke as a toxic air contaminant for which there is no safe level of exposure;<sup>2</sup> and

**WHEREAS**, secondhand smoke is responsible for an estimated 34,000 heart disease-related and 7,300 lung cancer-related deaths among adult nonsmokers each year;<sup>3</sup> and

**WHEREAS**, in children, secondhand smoke causes ear infections, more frequent and severe asthma attacks, respiratory infections, and increases the risk of Sudden Infant Death Syndrome (SIDS); and

**WHEREAS**, several studies indicate that secondhand cannabis smoke has been identified as a health hazard. This finding is supported by the following objective studies:

- The California Environmental Protection Agency includes cannabis smoke on the Proposition 65 list of chemicals known to the state of California to cause cancer;<sup>4</sup>
- Cannabis smoke contains at least 33 known carcinogens;<sup>5</sup>
- In one study, exposure to cannabis smoke in an unventilated setting resulted in detectible levels of cannabinoids in non-smoker participants’ blood and urine,

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<sup>1</sup> U.S. Department of Health and Human Services. *The Health Consequences of Involuntary Exposure to Tobacco Smoke. A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health (2006) available at:

[https://www.ncbi.nlm.nih.gov/books/NBK44324/pdf/Bookshelf\\_NBK44324.pdf](https://www.ncbi.nlm.nih.gov/books/NBK44324/pdf/Bookshelf_NBK44324.pdf) (accessed February 28, 2024).

<sup>2</sup> Air Resources Board, California Environmental Protection Agency. *Frequently Asked Questions — Environmental Tobacco Smoke*, available at: <https://ww2.arb.ca.gov/our-work/programs/environmental-tobacco-smoke-identified-toxic-air-contaminant> (accessed February 28, 2024).

<sup>3</sup> U.S. Department of Health and Human Services. *The Health Consequences of Smoking: 50 Years of Progress. A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. 2014. Available at: [https://www.ncbi.nlm.nih.gov/books/NBK179276/pdf/Bookshelf\\_NBK179276.pdf](https://www.ncbi.nlm.nih.gov/books/NBK179276/pdf/Bookshelf_NBK179276.pdf) (accessed February 28, 2024).

<sup>4</sup> California Environmental Protection Agency. *Evidence on the Carcinogenicity of Cannabis Smoke*. Sacramento, CA: California Environmental Protection Agency, Office of Environmental Health Hazard Assessment, Reproductive and Cancer Hazard Branch (2009) available at: <https://oehha.ca.gov/media/downloads/proposition-65/chemicals/finalmismokehaid.pdf> (accessed February 28, 2024).

<sup>5</sup> *Id.*

and participants experienced minor increases in heart rate and impaired cognitive performance;<sup>6</sup>

- A recent systematic review of the literature concluded that secondhand exposure to cannabis smoke leads to cannabinoid metabolites in bodily fluids and individuals experiencing self-reported psychoactive effects;<sup>7</sup> and

**WHEREAS**, medical cannabis is known to help patients address symptoms related to glaucoma, epilepsy, arthritis, and anxiety disorders, among other illnesses,<sup>8</sup> and under the Compassionate Use Act of 1996, doctors may recommend the medical use of cannabis to a patient; and

**WHEREAS**, in addition to secondhand smoke from tobacco products, exposure to electronic smoking device aerosol may be considered a health hazard and has immediate impacts on the human respiratory and cardiovascular system, posing a risk to human health, as evidenced by the following:

- Research has found at least twelve chemicals in electronic smoking device aerosol known to the State of California to cause cancer, birth defects, or other reproductive harm,<sup>9</sup> such as formaldehyde, acetaldehyde, lead, nickel, chromium, arsenic, and toluene;<sup>10</sup>
- Electronic smoking device aerosol is not harmless water vapor as it contains varying concentrations of particles and chemicals with some studies finding particle sizes and nicotine concentrations similar to, or even exceeding, conventional cigarette smoke;<sup>11</sup>
- Evidence continues to build that exposure to electronic smoking device aerosol, including secondhand exposure, has immediate impacts on the human respiratory and cardiovascular systems, and poses a risk to human health;<sup>12</sup>

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<sup>6</sup> Herrmann, ES, Cone, EJ, Mitchell, JM, et al. *Non-Smoker Exposure to Secondhand Cannabis Smoke II: Effect of Room Ventilation on the Physiological, Subjective, and Behavioral/Cognitive Effects*. *Drug Alcohol Depend.* (2015) 151:194–202. Doi: 10.1016/j.drugalcdep.2015.03.019, available at

<https://www.sciencedirect.com/science/article/abs/pii/S037687161500160X?via%3Dihub>.

<sup>7</sup> Holitzki H, Dowsett LE, Spackman E, Noseworthy T, Clement F. *Health effects of exposure to second- and third-hand marijuana smoke: a systematic review*. *CMAJ Open.* 2017;5(4):E814-E822. doi:10.9778/cmajo.20170112.

<sup>8</sup> National Academies of Sciences, Engineering, and Medicine. “4. Therapeutic Effects of Cannabis and Cannabinoids.” *The Health Effects of Cannabis and Cannabinoids: The Current State of Evidence and Recommendations for Research*. (2017). <https://www.ncbi.nlm.nih.gov/books/NBK425767/>

<sup>9</sup> Office of Environmental Health Hazard Assessment, California Environmental Protection Agency, *The Proposition 65 list*. <https://oehha.ca.gov/proposition-65/proposition-65-list> (accessed February 28, 2024); California Tobacco Control Program, California Department of Public Health. *State Health Officer’s Report on E-Cigarettes: A Community Health Threat* (2015) available at: [www.cdph.ca.gov/Programs/CCDPPH/DCDIC/CTCB/CDPH%20Document%20Library/Policy/ElectronicSmokingDevices/StateHealthEcigReport.pdf](http://www.cdph.ca.gov/Programs/CCDPPH/DCDIC/CTCB/CDPH%20Document%20Library/Policy/ElectronicSmokingDevices/StateHealthEcigReport.pdf); National Academies of Sciences, Engineering, and Medicine. *Public Health Consequences of E-Cigarettes* (2018) Washington, DC: The National Academies Press available at: <https://www.nap.edu/catalog/24952/public-health-consequences-of-e-cigarettes>

<sup>10</sup> Fowles J, Barreau T, Wu N. *Cancer and Non-Cancer Risk Concerns from Metals in Electronic Cigarette Liquids and Aerosols*. *Int J Environ Res Public Health* (2020) 17(6):2146. doi: 10.3390/ijerph17062146.

<sup>11</sup> *Public Health Consequences of E-Cigarettes, supra*.

<sup>12</sup> *Id.*

- Given the increasing prevalence of electronic smoking device use, especially among youth and young adults, widespread nicotine exposure resulting in addiction and other harmful consequences is a serious concern;<sup>13</sup>
- Indoor air experts and health authorities, including the U.S. Surgeon General, American Society of Heating Refrigerating and Air Conditioning Engineers, and the State of California Tobacco Education and Research Oversight Committee (TEROC), all support inclusion of electronic smoking devices in regulations of smoking and other tobacco product use;<sup>14</sup> and

**WHEREAS**, research demonstrates that secondhand smoke in multi-unit residences or common interest developments can and does transfer between units, creeping under doorways and through wall cracks;<sup>15</sup> and

**WHEREAS**, the U.S. Surgeon General has concluded that eliminating smoking in indoor spaces is the only way to fully protect nonsmokers from secondhand smoke exposure; and that separating smokers from nonsmokers, cleaning the air, and ventilating buildings cannot completely prevent secondhand smoke exposure;<sup>16</sup> and

**WHEREAS**, several studies have confirmed that smoke-free multi-unit residence policies are an effective method to reduce secondhand smoke exposure in multi-unit residences; and

**WHEREAS**, secondhand smoke in multi-unit residences is a significant threat to the health and safety of California children;<sup>17</sup> and

**WHEREAS**, research consistently demonstrates that a majority of tenants in multi-unit residences, including a large portion of smokers, supports smoke-free policies in multi-unit residences, and that support is even greater among residents with children; and

**WHEREAS**, 100 California cities and counties have adopted smoke-free multi-unit residence ordinances;<sup>18</sup> and

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<sup>13</sup> *Id.*

<sup>14</sup> U.S. Department of Health and Human Services. *E-Cigarette Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. (2016) available at: <https://www.ncbi.nlm.nih.gov/books/NBK538680/>

<sup>15</sup> DiGiacomo SI, Jazayeri MA, Barua RS, Ambrose JA. Environmental Tobacco Smoke and Cardiovascular Disease, *Int J Environ Res Public Health* (2018) 16(1):96. doi: 10.3390/ijerph16010096.

<sup>16</sup> *The Health Consequences of Involuntary Exposure to Tobacco Smoke. A Report of the Surgeon General* (2006) *supra*.

<sup>17</sup> Centers for Disease Control and Prevention (CDC). *CDC Vital Signs — Secondhand Smoke: An Unequal Danger*. (February 2015) available at: [www.cdc.gov/vitalsigns/pdf/2015-02-vitalsigns.pdf](http://www.cdc.gov/vitalsigns/pdf/2015-02-vitalsigns.pdf) (accessed April 10, 2023).

<sup>18</sup> American Nonsmoker's Rights Foundation, *U.S. Laws for 100% Smokefree Multi-Unit Housing* (January 1, 2024) available at <http://no-smoke.org/wp-content/uploads/pdf/smokefreemuh.pdf>.

**WHEREAS**, there is no Constitutional right to smoke; and

**WHEREAS**, California law declares that anything which is injurious to health or obstructs the free use of property, so as to interfere with the comfortable enjoyment of life or property, is a nuisance; and

**WHEREAS**, there are significant savings from adopting a smoke-free multi-unit housing policy, as evidenced by the following:

- Prior to implementation, the U.S. Department of Housing and Urban Development's smoke-free public housing policy was conservatively estimated to produce an annual savings of 4 to 8 million dollars a year for U.S. public housing authorities in renovation-related costs,<sup>19</sup> and 30 to 109 million dollars per year in health care costs in California alone;<sup>20</sup>
- Implementing statewide smoke-free policies in multi-unit housing properties would save property owners in California an estimated \$18.1 million in renovation expenses each year;<sup>21</sup> and

**WHEREAS**, local governments have broad latitude to declare nuisances and are not constrained by prior definitions of nuisance; and

**WHEREAS**, State law allows local governments to adopt ordinances that permit residential rental agreements to prohibit smoking tobacco products within rental units; and

**WHEREAS**, State law prohibits smoking within 25 feet of playgrounds as well as within 20 feet of government buildings and expressly authorizes local communities to enact additional restrictions; and

**WHEREAS**, state law explicitly permits cities and counties to enact local tobacco retail licensing ordinances, and allows for the suspension or revocation of a local license for a violation of any state tobacco control law (Cal. Bus. & Prof. Code § 22971.3); and

**WHEREAS**, California Business and Professions Code section 22952 raised the minimum age limit to purchase tobacco or tobacco-related products to 21 years of age in California; and

**WHEREAS**, California Business and Professions Code section 22952(b) establishes that retailers of tobacco products are required to post conspicuously, at each point of purchase, notices with specific requirements; and

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<sup>19</sup> McFarlane A, Djoko Y, Woodward A. Instituting Smoke-Free Public Housing: An Economic Analysis, *Cityscape*, 2017;19(3):435-448. Available at: <https://www.huduser.gov/portal/periodicals/cityscape/vol19num3/ch24.pdf>.

<sup>20</sup> King BA, Peck RM, Babb SD. National and State Cost Savings Associated with Prohibiting Smoking in Subsidized and Public Housing in the United States, *Prev Chronic Dis*. 2014;11:E171. doi: 10.5888/pcd11.140222.

<sup>21</sup> Ong MK, Diamant AL, Zhou Q, Park HY, Kaplan RM. Estimates of smoking-related property costs in California multiunit housing, *Am J Public Health*, 2012; 102(3):490-493. doi:10.2105/AJPH.2011.300170.

**WHEREAS**, to provide for the public health, safety, and welfare by discouraging the inherently dangerous behavior of smoking around non-smokers, especially children; to protect the public from exposure to secondhand smoke where they live, work, and play; and to protect the public from nonconsensual exposure to secondhand smoke in and around their homes, the City desires to amend Chapter 8.52 of Title 8 of the Carpinteria Municipal Code ("Smoking Regulations") in its entirety, particularly to prohibit smoking, including tobacco, cannabis, and electronic smoking device vapor or aerosol, in multi-unit residences, including apartments, owner-occupied multi-unit housing and common interest developments, such as condominiums, and to implement the signage requirements of California Business and Professions Code section 22952.

**NOW THEREFORE**, the City Council of the City of Carpinteria does ordain as follows:

**SECTION 1. Incorporation of Recitals**

The above recitals are true and correct and are incorporated herein, and are each relied upon independently by the City Council for its adoption of this Ordinance.

**SECTION 2. Amendment to Code**

Chapter 8.52 of the Carpinteria Municipal Code should be revised to read as follows:

**Chapter 8.52- Smoking Regulations**

**8.52.010 Title.**

The regulations contained in this chapter may be known and referred to as the "smoking regulation code."

**8.52.020 Purpose.**

This chapter is enacted with the specific intent to:

- A. Prohibit smoking in certain public places not preempted by California Labor Code section 6404.5, which provides further smoking regulations;
- B. Protect the public health, safety and general welfare by prohibiting smoking in certain public places under circumstances where other persons will be exposed to secondhand smoke;
- C. Ensure a cleaner and more hygienic environment for the City, its residents, and its natural resources, including its creeks and streams;
- D. Strike a reasonable balance between the needs of persons who smoke and the needs of nonsmokers, including residents and visitors, particularly children, to breathe smoke-free air, recognizing the threat to public health and the environment which smoking causes;



- E. Regulate the manner in which tobacco products are sold; and
- F. Designate the enforcing mechanism for this chapter and for Labor Code section 6404.5.

### **8.52.030 Definitions**

The following definitions shall govern construction of this chapter unless indicated otherwise. For purposes of this chapter, these definitions shall supersede the same terms that are defined elsewhere in this Code.

“Arm’s Length Transaction” means a sale in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither of which is under any compulsion to participate in the transaction. A sale between relatives, related companies or partners, or a sale for which a significant purpose is avoiding the effect of a violation of this chapter, is not an “arm’s length transaction.”

“Association” means a nonprofit corporation or unincorporated association created for the purpose of managing a common interest development.

“Business” means any sole proprietorship, partnership, joint venture, corporation, association or other entity formed for profit-making purposes or that has an employee.

“Cannabis” has the meaning set forth in California Health and Safety Code section 11018, as that section may be amended from time to time.

“Common area” means every area of a multi-unit residence that residents of more than one unit are entitled to enter or use, including, but not limited to, halls, pathways, lobbies, courtyards, elevators, stairs, community rooms, playgrounds, gym facilities, swimming pools, parking garages, parking lots, grassy or landscaped areas, restrooms, laundry rooms, cooking areas, and eating areas.

“Common interest development” means any of the following:

1. A community apartment project as defined in section 4105 of the Civil Code.
2. A condominium project as defined in section 783 of the Civil Code.
3. A planned development as defined in section 6562 of the Civil Code.
4. A stock cooperative as defined in section 11003.2 of the Business and Professions Code.

“Code compliance officer” means the city code compliance officer or duly authorized designee of the city code compliance officer.

“Dining area” means any area available to or customarily used by the general public that is designed, established or regularly used for consuming food or drink.

“Electronic smoking device” means an electronic and/or battery-operated device which can be used to deliver an inhaled dose of nicotine or other substances, including any component, part, or accessory of such a device, whether or not sold separately.

“Electronic smoking device” includes, but is not limited to, any device manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other similar product name or descriptor.

“Employee” means any person who is employed or retained as an independent contractor by any employer as defined in this section; or any person who volunteers his or her services for an employer, association, nonprofit or volunteer entity.

“Employer” means any person, partnership, corporation, association, nonprofit or other entity that employs or retains the service of one or more persons, or supervises volunteers.

“Enclosed” means:

1. Any covered or partially covered space having more than fifty percent (50%) of its perimeter area walled in or otherwise closed to the outside such as, for example, a covered porch with more than two walls; or
2. Any space open to the sky (hereinafter “uncovered”) having more than 75 percent of its perimeter area walled in or otherwise closed to the outside, such as, for example, a courtyard.

“Health officer” means the county health officer or the duly authorized designee of the county health officer.

“Landlord” means any person or agent of a person who owns, manages, or is otherwise legally responsible for a unit in a multi-unit residence that is leased to a residential tenant. For purposes of this chapter, a tenant who sublets their unit (e.g., a sublessor) is not a landlord.

“Multi-unit residence” means property containing two (2) or more units, including, but not limited to, apartment buildings, condominium complexes, senior and assisted living facilities, and long-term health care facilities. The following are not included in the definition of a multi-unit residence:

- (1) a mobile home park;
- (2) a campground;
- (3) a one-family dwelling, as defined in section 14.08.200 of this Code, except if used as a health care facility subject to licensing requirements; and
- (4) a one-family dwelling, as defined in section 14.08.200 of this Code, with an

accessory dwelling unit or junior accessory dwelling unit, as defined in section 14.72.020 of this Code, except if the one-family dwelling, accessory dwelling unit, or junior accessory dwelling unit is used as a health care facility subject to licensing requirements.

“Nonprofit entity” means any entity that meets the requirements of California Corporations Code section 5003 as well as any corporation, unincorporated association or other entity created for charitable, religious, philanthropic, educational, political, social or similar purposes, the net proceeds of which are committed to the promotion of the objectives of the entity and not to private gain. A public agency is not a nonprofit entity within the meaning of this section.

“Person” means any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

“Place of employment” means any area under the legal or de facto control of an employer, business or nonprofit entity that an employee or the general public may have cause to enter in the normal course of operations, but regardless of the hours of operation, including, for example, indoor and outdoor work areas, construction sites, vehicles used in employment or for business purposes, taxis, employee lounges, conference and banquet rooms, bingo and gaming facilities, long-term health facilities, warehouses and private residences that are used as childcare or healthcare facilities subject to licensing requirements.

“Playground” means any park or recreational area designed in part to be used by children that has play or sports equipment installed or has been designated or landscaped for play or sports activities, or any similar facility located on public or private school grounds, or on city property.

“Premises” means a lot or contiguous lots and any improvements thereon such as is usually described in a deed, deed of trust or mortgage, and includes legally separate but contiguous pieces of land that are owned by the same person or are under common control.

“Public place” means any public or private place open to the general public regardless of any fee or age requirement, including, for example, streets, sidewalks, parking lots, parking garages, plazas, bars, restaurants, clubs, stores, stadiums, parks, playgrounds, taxis and buses. For the purposes of the provisions of this chapter, a “public place” does not mean a private residence except for (a) residences used as a child care, health care, board and care, or community foster care facility as such terms are defined by the state Health and Safety Code or (b) the common areas of multi-unit residences, such as apartment buildings and condominiums.

“Reasonable distance” means the greatest distance practicable that ensures that occupants of an area in which smoking is prohibited are not exposed to secondhand smoke created by smokers outside the area. This distance shall be at least 25 feet,



except where physical constraints prevent such distance, and then the distance may only be reduced upon a showing of physical necessity. Under no circumstances shall the distance be less than 15 feet.

"Recreational area" means any public or private area open to the public for recreational purposes whether or not any fee for admission is charged, including without limitation, parks, trails, gardens, sporting facilities, stadiums and playgrounds.

"Restaurant" means any coffee shop, cafeteria, luncheonette, tavern, cocktail lounge, sandwich stand, soda fountain, private and public school cafeteria, eating establishment, boardinghouse or guest house or similar establishment which gives or offers for sale food or drink to the public.

"Secondhand smoke" means smoke that is generated from the burning end of a lighted tobacco, weed or plant product, or smoke that is exhaled by a person who smokes after inhaling or ingesting a lit tobacco, weed or plant product, or the aerosolized or vaporized substance that is exhaled by a smoker after inhaling an "electronic smoking device."

"Self-service display" means an open display of tobacco products and point-of-sale tobacco promotional products that the public has access to without the intervention of an employee.

"Smoking" or to "smoke" means

1. inhaling, exhaling, or burning, any tobacco, nicotine, cannabis, or plant product, whether natural or synthetic, except when the combusting or vaporizing material containing no tobacco, nicotine, or cannabis and the purpose of inhalation is solely olfactory, such as, for example, smoke from incense;
2. carrying any lighted, heated, or activated tobacco, nicotine, cannabis, or plant product, whether natural or synthetic, intended for inhalation; or
3. using an "electronic smoking device."

"Tobacco paraphernalia" means cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, e-liquids, and any other item designed for smoking, preparation, storing or consumption of tobacco products.

"Tobacco product" means any substance containing tobacco leaf, and any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, but does not include any cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence.

"Tobacco retailer" means any person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, tobacco products or tobacco paraphernalia. "Tobacco retailing" shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco, tobacco products, or tobacco paraphernalia sold, offered for sale, exchanged, or offered for exchange.

"Tobacco retailer license" or "license" shall mean a business license that permits the retail sale of tobacco products and/or tobacco paraphernalia.

"Tobacco vending machine" means any machine or device designated for or used for the vending of cigarettes, cigars, tobacco or tobacco products upon the insertion of coins, bills, trade checks, slugs or other form of legal tender or consideration.

"Unenclosed area" means any area which is not enclosed.

"Unit" means a personal dwelling space, even where lacking cooking facilities or private plumbing facilities, and includes any associated exclusive-use enclosed area or unenclosed area, such as, for example, a private balcony, porch, deck, or patio. "Unit" includes, but is not limited to, an apartment; a condominium; a townhouse; a room in a long-term health care facility, assisted living facility, or hospital; a hotel or motel room; a room in a single room occupancy facility; a room in a homeless shelter; a mobile home; a camper vehicle or tent.

"Vendor-assisted" means that only a store employee has access to the tobacco product and assists a customer by supplying the product. The customer does not take possession of the product until it is purchased.

#### **8.52.040 Secondhand Smoke Generally**

For all purposes within the jurisdiction of the city, the nonconsensual exposure to secondhand smoke and the uninvited presence of secondhand smoke on property in violation of this chapter shall constitute a nuisance, as is further described by Chapter 9.70 of this Code.

#### **8.52.050 Public and Other Places Where Smoking Shall Be Prohibited**

Except as otherwise provided by this chapter or by state or federal law, smoking shall be prohibited everywhere in the city, including but not limited to:

- A. Public places;
- B. Residences used as a child care, health care, board and care, or community foster care facility as such terms are defined by the state Health and Safety Code;
- C. Common areas of multi-unit residences, such as apartment buildings and condominiums;

- D. Effective July 1, 2025, anywhere on the premises of a multi-unit residence, including inside multi-unit residence units, common areas, and other outdoor areas.
- E. Places of employment;
- F. Enclosed and unenclosed places of hotels, businesses, restaurants, bars and other public accommodations;
- G. Buses or other means of public transit, and ticket, boarding and waiting areas of public transit depots and bus stops, enclosed or not;

**8.52.060 Places Where Smoking May Be Permitted**

Except where prohibited by state or federal law, and by Chapter 12.24.020.21A of this Code, smoking may be permitted in the following locations within the city notwithstanding section 8.52.050:

- A. One-family dwellings as defined at Chapter 14.08.200 of the Municipal Code. This chapter does not preclude private regulation of smoking at one family dwellings;
- B. Designated smoking areas on private property provided that all of the following conditions are met:
  - 1. The area is located a reasonable distance from:
    - a. any doorway or opening into an enclosed area; and
    - b. any access way to a public place;
  - 2. The area has a clearly marked perimeter;
  - 3. The area is posted with one or more conspicuously displayed sign(s) identifying the area as a designated outdoor smoking area pursuant to section 8.52.110 of this code;
  - 4. Appropriate ash can(s) are placed in the smoking area and are maintained regularly by the owner, operator or manager of the smoking area;
  - 5. No consistent complaints of secondhand smoke are filed with the city; and
  - 6. The area is well lit.
- C. Designated smoking areas (DSAs) on public property approved by the city council and developed and maintained as such by the city. Prior to creating a

DSA, the city council shall make a finding that the DSA is consistent with the purposes of this chapter;

- D. Smoking areas at public events which have been approved as part of a Special Event Permit or Temporary Use Permit issued by the city.
- E. Inside a private vehicle when no minor is in or within 25 feet of the private vehicle.
- F. Any unenclosed area in which no nonsmoker is present and, due to the time of day or other factors, it is not reasonable to expect another person to arrive

#### **8.52.070 Modifications of Designated Smoking Area (DSA)**

The city reserves the right to prohibit or require modifications to a DSA at a certain location if it undermines the purposes of this chapter.

#### **8.52.080 Smoking Prohibited in Multi-Unit Residences**

- A. Effective July 1, 2025, smoking is prohibited in all units and common areas of multi-unit residences.
- B. Notwithstanding any other provisions of this chapter, smoking of cannabis for medical purposes with a doctor's recommendation as permitted by California Health and Safety Code sections 11362.7 et seq. in any unit of a multi-unit residence is not prohibited by this chapter. Notwithstanding the foregoing, such use of cannabis may be prohibited or regulated by other provisions of this code, state law, or federal law.
- C. All common areas of multi-unit residences shall have signage indicating that smoking is prohibited consistent with the sign requirements of section 8.52.110.
- D. If the City receives a complaint of a violation of subdivision A, it may issue a notice to the person(s) responsible, informing them of the requirements of this Chapter. The tenant(s) of a unit, or owner-occupant(s) of an owner-occupied unit, shall be deemed the person(s) responsible for the violation where the violation was caused by the tenant(s) or owner-occupant(s) of the unit, or one or more persons subject to the control of, or present by invitation or permission of, the tenant(s) or owner-occupant(s).
- E. Sales contracts for condominiums entered into on or after July 1, 2025 shall disclose the requirements of this Chapter.
- F. Any person may bring a civil action to enforce this section to prevent future violations and may sue to recover actual or statutory damages, including court costs, and attorney's fees. However, this Chapter does not create a private right of action for a tenant against a landlord for any damages the tenant may suffer due to another tenant's breach of any smoking provision in a lease or other

rental agreement, so long as the landlord has fully complied with the terms of this section and section 8.52.090.

### **8.52.090 Requirements for Multi-Unit Residences**

- A. As of July 1, 2025, the landlord or association shall deliver to each unit of a multi-unit residence, a copy of this Chapter and a written notice clearly stating:
  - 1. As of July 1, 2025, all units are designated nonsmoking units and smoking is prohibited in a unit, including any associated private balcony, porch, deck, or patio.
  - 2. Smoking in all common areas or outdoor areas, except for specifically designated smoking areas, is a violation of this Chapter.
  
- B. Every landlord or association shall provide prospective tenants, and/or prospective buyers of units, a copy of this Chapter and written notice clearly stating that:
  - 1. As of July 1, 2025, Smoking is prohibited in units, including any associated private balcony, porch, deck, or patio; and
  - 2. Smoking is prohibited in all common areas and outdoor areas, except for specifically designated smoking areas.
  
- C. Every seller of a unit in a common interest development shall provide prospective buyers or renters a copy of this Chapter and written notice clearly stating that:
  - 1. As of July 1, 2025, smoking is prohibited in units, including any associated private balcony, porch, deck, or patio; and
  - 2. Smoking is prohibited in all common areas and outdoor areas, except for specifically designated smoking areas.
  
- D. As of July 1, 2025, the person or persons with legal control over common areas shall post and maintain clear and unambiguous “No Smoking” signs at entrances and exits, in common areas, and in conspicuous places adjoining the property grounds. In addition, as of July 1, 2025, the person or persons with legal control over the multi-unit residences shall post and maintain signs in sufficient numbers and locations to indicate that smoking is prohibited in all units. The absence of signs shall not be a defense to a violation of any provision of this Chapter. “No Smoking” signs are not required inside or on doorways of units.
  
- E. Landlords or associations with knowledge of violations shall take reasonable steps to investigate and enforce the regulations, including a written notice to the

resident of the knowledge of the violation, a request to cease the violation, and the course of action to be taken if the violation is not corrected.

#### **8.52.100 Allowing, Aiding or Abetting Smoking**

- A. No person, employer, business or nonprofit entity shall knowingly permit smoking in an area under his, her or its legal or de facto control in which smoking is prohibited by this Chapter or other law.
- B. Except as provided in section 8.52.120 of this code, no person, employer, business or nonprofit entity shall allow the placement or maintenance of a receptacle for smoking waste in an area under his, her or its legal or de facto control in which smoking is prohibited by this chapter or other law, provided however, that a receptacle may be placed at the entry to a nonsmoking area, along with a "No Smoking" sign, in order to encourage any smokers in violation of this chapter to immediately extinguish and properly dispose of smoking materials.
- C. No person shall intimidate, threaten, effect a reprisal or retaliate against another person who seeks to attain compliance with one or more of this chapter's provisions.

#### **8.52.110 Signs**

Notwithstanding this provision, the presence or absence of signs shall not be a defense to the violation of any other provision of this Chapter.

- A. "No Smoking" or "Smoke Free" signs, with letters of not less than one inch in height or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) or any alternative signage approved by the Community Development Director may be conspicuously posted by the person, employer, business or nonprofit entity who or which has legal or de facto control of such place at each entrance to a public place in which smoking is prohibited by this chapter.
- B. Within designated smoking areas, one or more conspicuously displayed sign(s) shall be posted identifying the area as such. Signs shall adhere to the following requirements: signs with arrows directing the public to the designated smoking area may be allowed; signs shall be no smaller than three (3) inches high and eight (8) inches long with a pictorial representation of a burning cigarette; signs shall contain "Designated Smoking Area" or similar and shall be posted prominently between five (5) feet and seven (7) feet above the floor or ground; and all signs are subject to approval by the Community Development Director at his or her discretion.
- C. No person shall alter, deface, obscure, remove or destroy a sign or placard that this chapter authorizes.



**8.52.120 Smoking Waste**

Except for disposal of smoking waste in a smoking waste receptacle, no person shall dispose of smoking waste: (1) in or upon a public street or sidewalk; (2) in an area in which smoking is prohibited by this Chapter or other law; or (3) in any area a reasonable distance therefrom.

**8.52.130 Requirement for Tobacco Retailer License**

It is unlawful for any person to act as a tobacco retailer without first obtaining and maintaining a valid tobacco retailer license pursuant to this chapter for each location at which that activity is to occur. Tobacco retailer licenses are valid for one year. An application to renew a tobacco retailer license shall be submitted prior to the expiration of the license.

**8.52.140 Tobacco Retailers must operate at a Fixed Location**

No tobacco retailer license may be issued to authorize tobacco retailing at other than a fixed location. For example, tobacco retailing by persons on foot or from vehicles is prohibited.

**8.52.150 Prohibition of Tobacco Retailing within Certain Areas of the City**

No tobacco retailer license may be issued to authorize a tobacco retailer in the areas of the City described in sections 14.20.075 and 14.22.070 of this Code.

**8.52.160 Application Procedure**

- A. An application for a tobacco retailer license, plus one copy shall be submitted to the Community Development Department in the name of the person proposing to conduct tobacco retailing and shall be signed by such person or an authorized agent thereof.

It is the responsibility of each proprietor to be informed regarding all laws applicable to tobacco retailing, including those laws affecting the issuance of a tobacco retailer's license. No proprietor may rely on the issuance of a license as a determination by the City of Carpinteria that the proprietor has complied with all laws applicable to tobacco retailing. A license issued contrary to this chapter, contrary to any other law, or on the basis of false or misleading information supplied by a proprietor shall be revoked pursuant to section 8.52.260 of this Chapter. Nothing in this Chapter shall be construed to vest in any person obtaining and maintaining a tobacco retailer's license any status or right to act as a tobacco retailer in contravention of any provision of law.

All applications shall be submitted on a form supplied by the City and shall contain the following information:

1. The name, address, and telephone number of each proprietor of the business seeking a license.
2. The business name, address, and telephone number of the single fixed

location for which a license is sought.

3. A single name, mailing address and email address authorized by each proprietor to receive all communications and notices (the "Authorized Address") required by, authorized by, or convenient to the enforcement of this chapter. If an Authorized Address is not supplied, each proprietor shall be understood to consent to the provision of notice at the business address specified in subparagraph (2) above.
  4. Proof that the location for which a tobacco retailer's license is sought has been issued a valid state tobacco retailer's license by the Department of Tax and Fee Administration.
  5. Whether or not any proprietor or any agent of the proprietor has admitted violating, or has been found to have violated, this chapter or any other local and state laws, rules and regulations related to tobacco retailing and, if so, the dates and locations of all such violations within the previous five years.
- B. All information specified in an application pursuant to this section shall be subject to disclosure under the California Public Records Act (California Government Code section 6250 et seq.) or any other applicable law, subject to the laws' exemptions.

#### **8.52.170 Issuance of Tobacco Retailer License**

- A. Within thirty days of the City's receipt of an application for a tobacco retailer license, the City shall issue a license, unless it has been determined by the City that the issuance of the license should be denied, based on the following criteria:
1. The information presented in the application is incomplete, inaccurate or false; or
  2. The application seeks authorization for tobacco retailing by a person or at a location for which a suspension is in effect pursuant to section 8.52.260 of this chapter; or
  3. The application seeks authorization for tobacco retailing in an area that is in violation of sections 14.20.075 and 14.22.070 of this Code.
  4. The application seeks authorization for tobacco retailing that is prohibited pursuant to this chapter (e.g., mobile vending), that is unlawful pursuant to this code, or that is unlawful pursuant to any other law.
- B. A denial of a tobacco retailer license may be appealed pursuant to section 8.52.260 of this chapter.

- C. A licensed tobacco retailer shall inform the City in writing of any change in the information submitted on an application for a tobacco retailer's license within ten (10) business days of a change.
- D. The City shall keep a permanent record of all tobacco retailer licenses issued, but may destroy such records as provided by law with the approval of the City Council.

#### **8.52.180 Display of Tobacco Retailer License**

Each licensee shall prominently display the tobacco retailer license at each location where tobacco retailing occurs.

#### **8.52.190 Fees for Tobacco Retailer License**

- A. The initial or renewal fee for a tobacco retailer license shall be established in a master fee schedule adopted by resolution of the City Council. The fee shall be paid to the City when a tobacco retailer license application is submitted.
- B. Renewal. Renewal fees, paid to the City, are due the first business day after the date of expiration of a tobacco retailer license. A tobacco retailer will be allowed a 30-day grace period to pay the renewal fee if the renewal fee has not been paid by the end of the grace period, a penalty of 50 percent of the renewal fee shall be added to the renewal fee. If the renewal fee and any applicable late penalty are not paid within 90 days after the date of expiration of a tobacco retailer license, then the City shall automatically revoke the license. Thereafter, if the licensee desires to resume tobacco retailing, a new license application must be submitted to the Community Development Department in accordance with section 8.52.160, along with the license fee and late penalty.

#### **8.52.200 Tobacco Retailer Licenses Are Nontransferable**

- A. A tobacco retailer license is nontransferable. If a person to whom a tobacco retailer license has been issued, changes the business location or sells the business, then that person must obtain a new license prior to acting as a tobacco retailer at the new location, or the buyer of the business must obtain a license in the buyer's name before acting as a tobacco retailer.
- B. Prior violations at a location shall continue to be counted against a location and license suspension periods shall continue to apply to a location unless:
  - 1. The location is being or has been fully transferred to a new owner; and
  - 2. The new owner(s) provide the City with clear and convincing evidence that the new owner(s) is acquiring or has acquired the location in an arm's length transaction.

#### **8.52.210 License Conveys a Limited Conditional Privilege**

Nothing in this chapter shall be construed to grant any person obtaining and maintaining

a tobacco retailer's license any status or right other than the limited conditional privilege to act as a tobacco retailer at the location in the City of Carpinteria identified on the face of the license. For example, nothing in this chapter shall be construed to render inapplicable, supersede, or apply in lieu of, any other provision of applicable law, including but not limited to, any provision of this code, or any condition or limitation on smoking in an enclosed place of employment pursuant to California Labor Code section 6404.5. Obtaining a tobacco retailer license does not make the retailer a "retailer wholesale tobacco shop" for the purposes of California Labor Code section 6404.5.

#### **8.52.220 Positive Identification Requirements for Sale of Tobacco Products and Tobacco Paraphernalia**

No person engaged in tobacco retailing shall sell or transfer a tobacco product or tobacco paraphernalia to another person who appears to be under the age of 21, without first examining the identification of the recipient to confirm that the recipient is at least the minimum age under state law to purchase and possess tobacco products or tobacco paraphernalia.

#### **8.52.230 Minimum Age for Persons Selling Tobacco Products and Tobacco Paraphernalia**

No person who is younger than the minimum age established by state law for the purchase or possession of tobacco products or tobacco paraphernalia shall engage in tobacco retailing.

#### **8.52.240 False and Misleading Advertising Prohibited**

A tobacco retailer without a valid tobacco retailer license, including for example, a tobacco retailer license that has been suspended or revoked, shall not display any advertisement promoting the sale or distribution of tobacco products or tobacco paraphernalia at the tobacco retailer's location and shall keep all such products out of public view.

#### **8.52.250 Compliance Monitoring**

- A. Compliance with the tobacco retailer license provisions of this chapter shall be primarily enforced by the Santa Barbara County Sheriff, in conjunction with the Public Health Department. However, any peace officer may enforce the penal provisions of this chapter.
- B. The Sheriff will check the compliance of each tobacco retailer one to three times per 12-month period. However, the Sheriff may check the compliance of a tobacco retailer more or less often, depending on a tobacco retailer's compliance history. Nothing in this paragraph shall create a right of action for any tobacco retailer or other person, against the city, county or its agents.

#### **8.52.260 Revocation or Suspension of Tobacco Retailer License and Appeals**

- A. Suspension.

1. A tobacco retailer license may be suspended if the City finds that the licensee, or an agent or employee thereof, has violated:
    - a. Any provision of this chapter; or
    - b. Any state law governing the sale, distribution, advertisement or display of tobacco, tobacco products or tobacco paraphernalia, including, but not limited to, Penal Code section 308(a), Business and Professions Code section 22950 et seq. (Stop Tobacco Access to Kids Enforcement Act (STAKE Act)), and Business and Professions Code section 25612.5(c)(7).
  2. Suspension periods.
    - a. Upon a first finding by the City of a violation of this chapter by a licensee, or an agent or employee thereof, within any five-year period, the license may be suspended for up to 30 days.
    - b. Upon the second finding by the City of a violation of this chapter by a licensee, or an agent or employee thereof, within any five-year period, the license may be suspended for up to 90 days.
    - c. Upon the third finding by the City of a violation of this chapter by a licensee, or an agent or employee thereof, within any five-year period, the license may be suspended for up to 12 months. However, if the licensee is operating within 1,000 feet of a school pursuant to section 8.52.150 of this chapter, upon the third finding by the city of a violation by a licensee or by any agent or employee of a licensee within any five-year period the tobacco retailer license may be permanently revoked by the City Council at a public hearing.
- B. Revocation.
1. A tobacco retailing license may be revoked if the City finds that one or more of the bases for denial exists pursuant to section 8.52.170(A). The revocation shall be without prejudice to the filing of a new application for a license following correction of the conditions that required revocation of the license.
  2. On revocation of a license, no part of the money paid to the City as a fee shall be returned.
- C. Appeal of Denial, Revocation and/or Suspension. The decision of the City to revoke, suspend, or deny the issuance of a tobacco retailer license can be appealed. All appeals must be in writing and filed with the Community Development Department within ten days of receipt of notice of denial, or within ten days of the effective date of the notice of revocation or suspension of a tobacco retailer license. The City shall set an appeal hearing at the earliest

practicable time and shall give written notice of the hearing to the parties at least ten days before the date of the hearing. At the hearing any relevant evidence shall be admitted. Within a reasonable time after the conclusion of the hearing, the City shall make a written decision. An appeal shall stay all proceedings until the appeal is resolved. Any decision rendered by the City shall be a final administrative decision.

- D. Settlement in Lieu of Appeal Hearing. For a first or second alleged violation of this chapter within any five-year period, the City may engage in settlement negotiations and may enter into a settlement agreement with a tobacco retailer alleged to have violated this chapter, provided that a timely appeal has been filed. Settlements shall not be confidential.
1. After a first alleged violation, any settlement must contain the following minimum terms:
    - a. Suspension of the tobacco retailer license for at least 15 days;
    - b. A settlement payment to the City of at least 1,000 dollars; and
    - c. An admission by the licensee that the violation occurred and a stipulation that the violation will be counted when considering what penalty will be assessed for any future violations.
  2. After a second alleged violation, any settlement must contain the following minimum terms:
    - a. Suspension of the tobacco retailer license for at least 45 days;
    - b. A settlement payment to the City of at least 5,000 dollars; and
    - c. An admission by the licensee that the violation occurred and a stipulation that the violation will be counted when considering what penalty will be assessed for any future violations.

#### **8.52.270 Minors—Posting of signs**

Any person, business, tobacco retailer, or owner, manager or operator of any establishment that sells tobacco products shall post plainly visible signs at the point of purchase of tobacco products which state:

“The Sale of Tobacco Products to Persons Under 21 Years of Age is Prohibited by Law and Subject to Penalties. To Report an Unlawful Tobacco Sale, Call 1-800-5 ASK-4-ID. Valid identification may be required.”



Signs must meet the requirements of State law under California Business and Professions Code section 22952. The letters of said signs must be readable by the consumer and must not be altered, covered, or obliterated in whole or in part.

**8.52.280 Sale and distribution of tobacco products**

It is unlawful for any person, business or tobacco retailer to sell, permit to be sold, offer for sale or display for purposes of sale by means of self-service displays or by any means other than vendor-assisted sales, any tobacco products other than cartons of cigarettes, multi-container packages of smokeless tobacco and cigars and pipe tobacco. Cartons of cigarettes, multi-container packages of smokeless tobacco, and cigars and pipe tobacco may be sold by means of self-service merchandising only when these products are under direct surveillance of a store employee. Tobacco products shall be deemed to be under direct surveillance of an employee only if the tobacco products themselves (and not just the racks, shelves, kiosks, etc., where the products are displayed) are in plain view of the store employee.

**8.52.290 Vending machines.**

No person, business, tobacco retailer or other establishment located within the city shall locate, install, keep, maintain or use, or permit the location, installation, keeping, maintenance, or use of, on his, her or its premises any vending machine for the purpose of selling or distributing any tobacco product. This provision shall not apply to vending machines which are located in bars, provided that such vending machines in bars must be located at least 25 feet from any entry into the bar.

**8.52.300 Out-of-package sales.**

No person, business, tobacco retailer or other establishment shall sell or offer for sale cigarettes or other tobacco or smoking products not in the original packaging provided by the manufacturer and with all required health warnings.

**8.52.310 Enforcement.**

The code compliance officer, or any peace officer may enforce the provisions of this chapter.

**8.52.320 Citizen complaints.**

Any citizen who desires to register a complaint under the provisions of this chapter may request the code compliance officer to initiate enforcement. However, for complaints regarding violations of section 8.52.080 (Smoking Prohibited in Multi-Unit Residences), the sole remedy shall be as described in section 8.52.080(F).

**8.52.330 Violation—Premises.**

It shall be unlawful for any person who owns, manages or operates any premises subject to regulations of this chapter to fail to comply with its provisions. No person shall cause, permit, aid, abet or conceal a violation of any provision of this chapter.

**8.52.340 Violation—Individuals.**

It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this chapter.

**8.52.350 Violation—Penalty.**

In addition to any other remedy available at law, violation of any provision of this chapter shall be subject to Chapter 1.06 (Administrative Remedies) and Chapter 1.08 (Penalties) of this Code. The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.

**8.52.360 Separate offense.**

A separate offense is committed for each and every day, or part of a day, during which any violation is caused, committed, continued or permitted. Each offense is punishable separately from every other offense

**8.52.370 Public education—Purposes of chapter.**

The code compliance officer, in conjunction and coordination with the county health officer of the county of Santa Barbara and, where feasible, appropriate health or safety oriented community-based organizations and coalitions, shall engage in a continuing program to explain and clarify the purposes of the provisions of the chapter to citizens affected by it, and to guide business owners, operators and managers in their compliance with it.

**8.52.380 Governmental cooperation.**

The city manager shall request all governmental and educational agencies which maintain an office within the city to establish local operating procedures to cooperate and comply with this chapter.

**8.52.390 Other laws.**

The provisions of this chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws. Further, it is not the intent of the provisions of this chapter to regulate smoking where such regulation has been preempted by the state.

**SECTION 3. Severability.**

This Chapter and the various sections thereof are severable. Should any part of this ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council hereby declared that it would have passed and adopted this Ordinance, and each and every provision hereof, irrespective of the fact that one or more provisions may be declared invalid.

**SECTION 4. CEQA Exemption**

The City Council finds the proposed ordinance amendment to be exempt from CEQA pursuant to State CEQA Guidelines section 15060(c)(2) (activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project) as defined in section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

**SECTION 5. Effective Date.**

This ordinance shall take effect and be in force thirty (30) days from and after its passage.

**PASSED, APPROVED AND ADOPTED** this 8th day of July, 2024 by the following vote:

AYES: COUNCILMEMBER(S): Lee, Nomura, Solorzano, Alarcon, Clark

NOES: COUNCILMEMBER(S): None

ABSENT: COUNCILMEMBER(S): None

ABSTAIN: COUNCILMEMBER(S): None

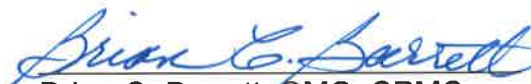
  
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Mayor, City of Carpinteria

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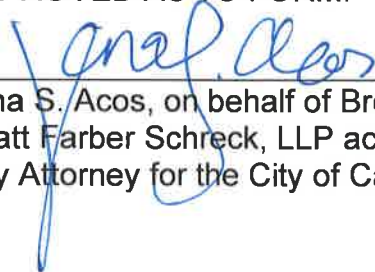
  
\_\_\_\_\_  
Brian C. Barrett, CMC, CPMC  
City Clerk, City of Carpinteria



I hereby certify that the foregoing Ordinance was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of Carpinteria held July 8, 2024.

  
\_\_\_\_\_  
Brian C. Barrett, CMC, CPMC  
City Clerk, City of Carpinteria

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Jena S. Acos, on behalf of Brownstein  
Hyatt Farber Schreck, LLP acting as  
City Attorney for the City of Carpinteria