

ORDINANCE No. 978

AN ORDINANCE OF THE CITY COUNTY OF THE CITY OF LARKSPUR, CALIFORNIA, AMENDING CHAPTER 6.16 OF THE LARKSPUR MUNICIPAL CODE PROHIBITING SMOKING IN PUBLIC PLACES, PLACES OF EMPLOYMENT, OTHER AREAS, AND MULTI-UNIT HOUSING AND REGULATING THE SALE OF TOBACCO PRODUCTS TO PROTECT MINORS

WHEREAS, Chapter 6.16 of the Larkspur Municipal Code -- as adopted in 1992 and amended in 1993 and 1997 -- regulates tobacco smoking in certain enclosed public places, places of employment, restaurants, and cocktail lounges, as well as regulating the sale of tobacco products to minors; and

WHEREAS, on October 20, 2010, the Council held a workshop on proposed revisions to Chapter 6.16 as proposed by Smoke-Free Marin, a coalition that includes the County of Marin Health and Human Services Department and the American Lung Association; and

WHEREAS, on October 20, 2010, the Council provided feedback to staff regarding the proposed amendments, including direction as to which uses and activities should be covered by the ordinance and whether the Council wishes to include a "grandfather" provision or other form of exemption for tenants who have been in their units for a significant length of time.

WHEREAS, on January 19, 2011, the Council held a second workshop to discuss amendments to Chapter 6.16, at which time it directed staff to narrow the scope of application to multi-unit residences with shared walls, clarify the provision of ongoing education, ensure that recordkeeping is the responsibility of regulated entities instead of the City, and make other minor changes; and

WHEREAS, at that same meeting, the Council directed staff to prepare an amended smoking ordinance for introduction that includes the findings that show that tobacco regulation benefits the public health, safety, and welfare;

WHEREAS, tobacco use causes death and disease and continues to be an urgent public health challenge, as evidenced by the following:

- Tobacco-related illness is the leading cause of preventable death in the United States,¹ accounting for about 443,000 deaths each year;² and
- Scientific studies have concluded that tobacco use can cause chronic lung disease, coronary heart disease, and stroke, in addition to cancer of the lungs, larynx, esophagus, and mouth;³ and

WHEREAS, secondhand smoke has been repeatedly identified as a health hazard, as evidenced by the following:

- The U.S. Surgeon General concluded that there is no risk-free level of exposure to secondhand smoke;⁴ and

¹ US Department of Health and Human Services, Centers for Disease Control and Prevention. *Targeting Tobacco Use: The Nation's Leading Cause of Preventable Death*. 2008, p. 2. Available at: www.cdc.gov/nccdphp/publications/aag/pdf/osh.pdf.

² US Department of Health and Human Services, Centers for Disease Control and Prevention. "Smoking-Attributable Mortality, Years of Potential Life Lost, and Productivity Losses — United States, 2000-2004." *Morbidity and Mortality Weekly Report*, 57(45): 1226-1228, 2008. Available at: www.cdc.gov/mmwr/preview/mmwrhtml/mm5745a3.htm.

³ US Department of Health and Human Services, Centers for Disease Control and Prevention. *Targeting Tobacco Use: The Nation's Leading Cause of Preventable Death*. 2008, p. 2. Available at: www.cdc.gov/nccdphp/publications/aag/pdf/osh.pdf.

⁴ US Department of Health and Human Services, Office of the Surgeon General. *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*. 2007. Report highlights available at: www.surgeongeneral.gov/library/secondhandsmoke/factsheets/factsheet7.html.

- The California Air Resources Board placed secondhand smoke in the same category as the most toxic automotive and industrial air pollutants by categorizing it as a toxic air contaminant for which there is no safe level of exposure,⁵ and
- The California Environmental Protection Agency included secondhand smoke on the Proposition 65 list of chemicals known to the state of California to cause cancer, birth defects, and other reproductive harm,⁶ and

WHEREAS, exposure to secondhand smoke causes death and disease, as evidenced by the following:

- Secondhand smoke is responsible for as many as 73,000 deaths among nonsmokers each year in the United States;⁷ and
- Exposure to secondhand smoke increases the risk of coronary heart disease by approximately thirty percent;⁸ and

WHEREAS, the U.S. Food and Drug Administration conducted laboratory analysis of electronic cigarette samples and found they contained carcinogens and toxic chemicals to which users and bystanders could potentially be exposed;⁹ and

WHEREAS, tobacco use and exposure to secondhand smoke impose great social and economic costs, as evidenced by the following:

- From 2001-2004, the average annual health care expenditures attributable to smoking were approximately \$96 billion;¹⁰ and
- The medical and other costs to nonsmokers due to exposure to secondhand smoke were estimated at over \$10 billion per year in the United States in 2005;¹¹ and

WHEREAS, exposure to secondhand smoke anywhere has negative health impacts, and exposure to secondhand smoke does occur at significant levels outdoors, as evidenced by the following:

- Levels of secondhand smoke exposure outdoors can reach levels attained indoors depending on direction and amount of wind and number and proximity of smokers;¹² and

⁵ Resolution 06-01, Cal. Air Resources Bd. (2006) at 5. Available at: www.arb.ca.gov/regact/ets2006/res0601.pdf; See California Environmental Protection Agency, Air Resources Board. *News Release, California Identifies Secondhand Smoke as a "Toxic Air Contaminant."* Jan. 26, 2006. Available at: www.arb.ca.gov/newsrel/nr012606.htm.

⁶ California Environmental Protection Agency, Office of Environmental Health Hazard Assessment. *Chemicals Known to the State to Cause Cancer or Reproductive Toxicity*. 2006, p. 8 & 17. Available at: www.oehha.ca.gov/prop65/prop65_list/files/P65single081106.pdf.

⁷ US Department of Health and Human Services, Centers for Disease Control and Prevention. *Fact Sheet – Secondhand Smoke*. 2006. Available at: www.cdc.gov/tobacco/data_statistics/fact_sheets/secondhand_smoke/general_facts/index.htm.

⁸ Barnoya J and Glantz S. "Cardiovascular Effects of Secondhand Smoke: Nearly as Large as Smoking." *Circulation*, 111: 2684-2698, 2005. Available at: www.circ.ahajournals.org/cgi/content/full/111/20/2684.

⁹ US Food and Drug Administration. *News Release, FDA and Public Health Experts Warn About Electronic Cigarettes*. 2009. Available at: www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm173222.htm.

¹⁰ Centers for Disease Control and Prevention. *News Release, Slightly Lower Adult Smoking Rates*. 2008. Available at: www.cdc.gov/media/pressrel/2008/r081113.htm.

¹¹ Behan DF, Eriksen MP and Lin, Y. *Economic Effects of Environmental Tobacco Smoke*. Schaumburg, IL: Society of Actuaries, 2005, p. 2. Available at: [www.soa.org/files/pdf/ETSReportFinalDraft\(Final%203\).pdf](http://www.soa.org/files/pdf/ETSReportFinalDraft(Final%203).pdf).

¹² Klepeis NE, Ott WR, and Switzer P. *Real-Time Monitoring of Outdoor Environmental Tobacco Smoke Concentrations: A Pilot Study*. San Francisco: University of California, San Francisco and Stanford University, 2004, p. 34, 80. Available at: http://exposurescience.org/pub/reports/Outdoor_ETS_Final.pdf; See also Klepeis NE, Ott WR and Switzer P. "Real-Time Measurement of Outdoor Tobacco Smoke Particles." *Journal of Air and Waste Management Association*, 57: 522-534, 2007. Available at:

- Irritation from secondhand smoke begins at levels as low as 4 micrograms per cubic meter, and in some outdoor situations this level can be found as far away as 13 feet from the burning cigarette;¹³ and
- To be completely free from exposure to secondhand smoke in outdoor places, a person may have to move nearly 25 feet away from the source of the smoke, about the width of a two lane road;¹⁴ and

WHEREAS, nonsmokers who live in multi-unit dwellings can be exposed to neighbors' secondhand smoke, as evidenced by the following:

- Secondhand smoke can seep under doorways and through wall cracks;¹⁵ and
- Persons living in apartments near smokers can be exposed to elevated pollution levels for 24 hours a day, and at times, the particulate matter exposure can exceed the U.S. Environmental Protection Agency's 24-Hour Health Based Standard;¹⁶ and
- The 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;¹⁷ and

WHEREAS, smoking is the primary cause of fire-related injuries and deaths in the home, as evidenced by the following:

- Cigarettes, cigars, pipes and other smoking materials are the leading cause of fire deaths in the United States,¹⁸ causing an estimated 142,900 smoking-related fires, 780 deaths, 1,600 injuries, and \$606 million in direct property damage in 2006;¹⁹ and
- One in four fatalities from home fires caused by smoking is NOT the smoker whose cigarette started the fire, and 25% of those deaths were of neighbors or friends of the smoker;²⁰ and
- Smoking in a residence where long-term oxygen therapy takes place is

www.ashaust.org.au/pdfs/OutdoorSHS0705.pdf.

¹³ Junker MH, Danuser B, Monn C, et al. "Acute Sensory Responses of Nonsmokers at Very Low Environmental Tobacco Smoke Concentrations in Controlled Laboratory Settings." *Environmental Health Perspectives*, 109(10): 1046-1052, 2001. Available at:

www.pubmedcentral.nih.gov/picrender.fcgi?artid=1242082&blobtype=pdf; Repace JL. "Benefits of Smoke-Free Regulations in Outdoor Settings: Beaches, Golf Courses, Parks, Patios, and in Motor Vehicles." *William Mitchell Law Review*, 34(4): 1621-1638, 2008. Available at:

<http://tobacco.health.usyd.edu.au/site/supersite/contact/pdfs/WilliamMitchellRepace.pdf>.

¹⁴ Repace JL. "Benefits of Smoke-Free Regulations in Outdoor Settings: Beaches, Golf Courses, Parks, Patios, and in Motor Vehicles." *William Mitchell Law Review*, 34(4): 1621-1638, 2008. Available at:

<http://tobacco.health.usyd.edu.au/site/supersite/contact/pdfs/WilliamMitchellRepace.pdf>.

¹⁵ Wagner J, Sullivan DP, Faulkner D, et al. "Environmental Tobacco Smoke Leakage from Smoking Rooms." *Journal of Occupational and Environmental Hygiene*, 1: 110-118, 2004. Available at:

<http://eetd.lbl.gov/IEP/pdf/LBNL-51010.pdf>.

¹⁶ Klepeis N. *Measuring the Seepage of Tobacco Smoke Particles Between Apartment Units*. California's Clean Air Project, 2008. Available at:

http://ccap.etr.org/base/documents/Measuring_the_Seepage.pdf.

¹⁷ US Department of Health and Human Services, Office of the Surgeon General. *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*, 2006, p. 11. Available at: www.cdc.gov/tobacco/data_statistics/sgr/sgr_2006/index.htm#full.

¹⁸ Leistikow B, Martin DC and Milano CE. "Fire Injuries, Disasters, and Costs from Cigarettes and Cigarette Lights: A Global Overview." *Preventive Medicine*, 31: 91-99, 2000. Available at:

<http://leistikow.ucdavis.edu/SmokingFires.pdf>.

¹⁹ Hall JR. *U.S. Smoking-Material Fire Problem*. Quincy, MA: National Fire Protection Association, 2008, p. vii. Available at: www.nfpa.org/assets/files/PDF/IOS.Smoking.pdf. (Factsheet available at: www.nfpa.org/assets/files/PDF/smokingfactsheet.pdf.)

²⁰ Hall JR, Ahrens M, Rohr K, et al. *Behavioral Mitigation of Smoking Fires Through Strategies Based on Statistical Analysis*. US Department of Homeland Security, 2006, p. 17. Available at: www.usfa.dhs.gov/downloads/pdf/publications/fa-302-508.pdf.

very dangerous as oxygen is a fire accelerant, and 27% of fatalities due to smoking during long-term oxygen therapy occurred in multifamily dwellings,²¹ and

- The United States Fire Administration recommends that people smoke outdoors;²² and

WHEREAS, cigarette butts are a major and persistent source of litter, as evidenced by the following:

- It is estimated that over two billion cigarette butts are discarded every day worldwide, and that Americans alone discard more than 175 million pounds of cigarette butts every year;²³ and
- Cigarette butts are often cast onto sidewalks and streets, and frequently end up in storm drains that flow into streams, rivers, bays, lagoons and ultimately the ocean;²⁴ and
- Cigarette filters, made of plastic cellulose acetate, take approximately 15 years to decompose;²⁵ and

WHEREAS, creating smokefree areas helps protect the health of the 86.7% of Californians who are nonsmokers;²⁶ and

WHEREAS, most Californians do not smoke and a majority favor limitations on smoking indoors, outdoors, and in multi-unit residences, as evidenced by the following:

- A 2008 survey of California voters found that 75% thought that secondhand smoke is harmful, 64% were bothered by secondhand smoke, and 73% support laws restricting smoking in outdoor public places;²⁷ and
- 74% of Californians surveyed approve of apartment complexes requiring at least half of rental units be nonsmoking;²⁸ and
- 69% of Californians surveyed favor limiting smoking in outdoor common areas of apartment buildings and 78% support laws that create nonsmoking units;²⁹ and
- 62% of California renters feel that there is a need for laws to limit smoking in apartments;³⁰ and

²¹ US Department of Health and Human Services, Centers for Disease Control and Prevention. "Fatal Fires Associated with Smoking During Long-Term Oxygen Therapy – Maine, Massachusetts, New Hampshire, and Oklahoma, 2000 – 2007." *Morbidity and Mortality Weekly Report*, 57(31): 852-854, 2008. Available at: www.cdc.gov/mmwr/preview/mmwrhtml/mm5731a3.htm?s_cid=mm5731a3_e.

²² Hall JR, Ahrens M, Rohr K, et al. *Behavioral Mitigation of Smoking Fires Through Strategies Based on Statistical Analysis*. US Department of Homeland Security, 2006, p. 19. Available at: www.usfa.dhs.gov/downloads/pdf/publications/fa-302-508.pdf.

²³ Surfrider Foundation, San Diego Chapter, Hold on to Your Butt, www.surfridersd.org/hotyb.php.

²⁴ Surfrider Foundation, San Diego Chapter, Hold on to Your Butt, www.surfridersd.org/hotyb.php.

²⁵ Surfrider Foundation, San Diego Chapter, Hold on to Your Butt, www.surfridersd.org/hotyb.php.

²⁶ Hong M, Barnes RL and Glantz SA. *Tobacco Control in California 2003-2007: Missed Opportunities*. San Francisco: Center for Tobacco Control Research and Education, 2007, p. 9. Available at: <http://repositories.cdlib.org/cgi/viewcontent.cgi?article=1074&context=ctcre>.

²⁷ Goodwin Simon Victoria Research. *Study of California Voters' Attitudes About Secondhand Smoke Exposure*. Sacramento: Center for Tobacco Policy & Organizing, 2008, p. 1-3. Available at: www.center4tobaccopolicy.org/files/files/Results%20of%20SHS%20Poll%20November%202008.pdf.

²⁸ Goodwin Simon Victoria Research. *Study of California Voters' Attitudes About Secondhand Smoke Exposure*. 2008. Available at: www.center4tobaccopolicy.org/files/files/Results%20of%20SHS%20Poll%20November%202008.pdf (Statewide poll of 600 California voters, conducted November 2008).

²⁹ Goodwin Simon Victoria Research. *Study of California Voters' Attitudes About Secondhand Smoke Exposure*. 2008. Available at: www.center4tobaccopolicy.org/files/files/Results%20of%20SHS%20Poll%20November%202008.pdf (Statewide poll of 600 California voters, conducted November 2008).

³⁰ American Lung Association of California, Center for Tobacco Policy and Organizing. *Statewide*

WHEREAS, state law prohibits smoking within 25 feet of playgrounds and tot lots and expressly authorizes local communities to enact additional restrictions;³¹ and state law prohibits smoking within 20 feet of entryways and operable windows of government buildings;³² and

WHEREAS, California law prohibits smoking in virtually all indoor places of employment reflecting the state policy to protect against the dangers of exposure to secondhand smoke;³³ and

WHEREAS, a local ordinance that authorizes residential rental agreements to include a prohibition on smoking of tobacco products within rental units is not prohibited by California law;³⁴ and

WHEREAS, there is no Constitutional right to smoke;³⁵

WHEREAS, it is the intent of the City Council, in enacting this ordinance, to provide for the public health, safety, and welfare by discouraging the inherently dangerous behavior of smoking around non-tobacco users, especially children; by protecting nonsmokers from exposure to secondhand smoke where they live, work, and play; and by affirming and promoting a healthy environment in the City.

NOW THEREFORE, the City Council of the City of Larkspur does hereby ordain as follows:

SECTION 1. AMENDMENT TO THE LARKSPUR MUNICIPAL CODE. Chapter 6.16 "Prohibiting Tobacco Smoking in Public Places, Places of Employment and Restaurants and Cocktail Lounges and Regulating the Sale of Tobacco Products to Protect Minors" is hereby repealed in its entirety and replaced with Chapter 6.16 "Prohibiting Smoking in Public Places, Places of Employment, Other Areas, and Multi-Unit Housing and Regulating the Sale of Tobacco Products to Protect Minors."

Chapter 6.16

PROHIBITING SMOKING IN PUBLIC PLACES, PLACES OF EMPLOYMENT,
OTHER AREAS, AND MULTI-UNIT HOUSING AND REGULATING THE SALE OF
TOBACCO PRODUCTS TO PROTECT MINORS

Definitions.

- 6.16.010 Definitions
- 6.16.020 Prohibition of Smoking in Public Places, Places of Employment, and Certain Other Areas.
- 6.16.030 Nonsmoking Buffer Zones.
- 6.16.040 Smoking Restrictions in New Units of Multi-Unit Residences.
- 6.16.050 Nonsmoking Designations for Existing Units of a Common Interest Complex.
- 6.16.060 Nonsmoking Designations for Existing Units of a Rental Complex.
- 6.16.070 Required and Implied Lease Terms for All New and Existing Units in Rental Complexes.
- 6.16.080 Additional Duties of a Landlord of a Rental Complex with Less Than One Hundred Percent (100%) Nonsmoking Units.
- 6.16.090 Procedures and Requirements for Mandated Submissions.

Apartment Renter Study, 2004. Available at: www.center4tobaccopolicy.org/files/files/5242_Center%20Renter%20Survey%20Results%20May%202004.pdf (A survey of apartment residents throughout California).

³¹ Cal. Health & Safety Code § 104495 (West 2008).

³² Cal. Gov't Code § 7597 (West 2008).

³³ Cal. Lab. Code § 6404.5 (West 2009).

³⁴ Cal. Legislative Counsel Op., 21547, *Secondhand Smoke in Multi-Unit Housing (Apartments & Condos) Smoking Bans: Residential Rental Property*, (September 23, 1999). Highlights available at: www.respect-ala.org/drift_samsmokingbans.htm.

³⁵ Public Health Law & Policy, Technical Assistance Legal Center. *There Is No Constitutional Right to Smoke*, 2005. Available at: http://talc.phlaw.org/pdf_files/0051.pdf.

- 6.16.100 Smoking Prohibited by Law in Units and Common Areas.
- 6.16.110 Smoking and Smoke Generally.
- 6.16.120 Other Requirements and Prohibitions.
- 6.16.130 Regulating the Sale of Tobacco Products to Protect Minors.
- 6.16.140 Penalties and Enforcement.
- 6.16.150 Public Education.
- 6.16.160 Governmental Agency Cooperation.
- 6.16.170 Other Applicable Laws.
- 6.16.180 Constructions, Severability.

6.16.010 Definitions.

A. The following words and phrases, whenever used in this article, shall be construed as defined in this section:

1. "Business" means any sole proprietorship, partnership, joint venture, corporation or other business entity formed for profit-making purposes.
2. "City" shall mean the City of Larkspur.
3. "Common Area" means every area of a Multi-Unit Residence that residents of more than one Unit of that Multi-Unit Residence are entitled to enter or use, including, for example, halls and paths, lobbies and courtyards, elevators and stairs, community rooms and playgrounds, gym facilities and swimming pools, parking garages and parking lots, shared restrooms, shared laundry rooms, shared cooking areas, and shared eating areas.
4. "Common Interest Complex" means a Multi-Unit Residence that is a condominium project, a community apartment project, a stock cooperative, or a planned development as defined by California Civil Code section 1351.
5. "Dining Area" means any area, including streets and sidewalks, which is available to or customarily used by the general public or an Employee, and which is designed, established, or regularly used for consuming food or drink.
6. "Employee" means any Person who is employed or retained as an independent contractor by any Employer or Nonprofit Entity in consideration for direct or indirect monetary wages or profit, or any Person who volunteers his or her services for an Employer or Nonprofit Entity.
7. "Employer" means any Business, the City, or Nonprofit Entity that retains the services of one or more Employees.
8. "Enclosed Area" means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of door or passage ways) which extend from the floor to the ceiling, including all space therein screened by portions which do not extend to the ceiling or are not solid, such as "office landscaping" or similar structures.
9. "Landlord" means any Person who owns property let for residential use, any Person who lets residential property, and any Person who manages such property, except that "Landlord" does not include a master tenant who sublets a Unit as long as the master tenant sublets only a single Unit of a Multi-Unit Residence.
10. "Minor" means any individual who is less than eighteen years old.
11. "Multi-Unit Residence" means property containing two (2) or more Units with a shared wall, including for example, Rental Complexes, Common Interest Complexes, senior citizen residences, and nursing homes. "Multi-Unit Residence" does not include the following specifically excluded types of housing:
 - (a) a hotel or motel that meets the requirements set forth in California Civil Code section 1940(b)(2);
 - (b) a mobile home park;
 - (c) a campground;
 - (d) a marina or port;
 - (e) a single-family home; and
 - (f) a single-family home with a detached or attached in-law or second unit when permitted pursuant to California Government Code sections 65852.1, 65852.150, 65852.2 or Chapter 18.21 of this Code.
12. "New Unit" means a Unit that is issued a certificate of occupancy more than 180 days after May 20, 2011 and also means a Unit that is let for residential use for the first time more than 180 days after May 20, 2011.

13. "Nonprofit Entity" means any corporation, unincorporated association or other entity created for charitable, philanthropic, educational, character-building, political, social or other similar purposes, the net proceeds from the operations of which are committed to the promotion of the objectives or purposes of the entity and not to private gain. A public agency is not a "Nonprofit Entity" within the meaning of this section.

14. "Person" means any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

15. "Place of Employment" means any area under the legal or de facto control of an Employer that an Employee or the general public may have cause to enter in the normal course of operation, regardless of the hours of operation, including, but not limited to, indoor and outdoor work areas, construction sites, vehicles used in employment or for business purposes, taxis, employee lounges and restrooms, conference and banquet rooms, Employee cafeterias, warehouses, long-term health care facilities, and lobbies and hallways. A private residence is not a "Place of Employment" unless it is used as a child care or health care facility.

16. "Public Place" means any place, publicly or privately owned, which is open to the general public regardless of any fee or age requirement.

17. "Reasonable Distance" means a distance of twenty (20) feet in any direction from an area in which Smoking is prohibited.

18. "Recreational Area" means any area that is publicly or privately owned and open to the general public for recreational purposes, regardless of any fee or age requirement. The term "Recreational Area" includes but is not limited to parks, picnic areas, playgrounds, sports fields, golf courses, walking paths, gardens, hiking trails, bike paths, horseback riding trails, swimming pools, roller- and ice-skating rinks, skateboard parks, amusement parks, and beaches.

19. "Rental Complex" means a Multi-Unit Residence for which fifty percent (50%) or more of Units are let by or on behalf of the same Landlord.

20. "Retail Tobacco Store" means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

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

22. "Service Area" means any publicly or privately owned area, including streets and sidewalks, that is designed to be used or is regularly used by one or more Persons to wait for or receive a service or make a transaction, whether or not such service or transaction involves the exchange of money. The term "Service Area" includes but is not limited to information kiosks, automatic teller machines (ATMs), ticket lines, bus stops or shelters, mobile vendor lines or cab stands.

23. "Smoke" means the gases and particles released into the air by combustion when the apparent or usual purpose of the combustion is human inhalation of the resulting combustion products, such as, for example, tobacco smoke, and marijuana smoke, except when the combusting material contains no tobacco and the purpose of inhalation is solely olfactory, such as, for example, smoke from incense.

24. "Smoking" means engaging in an act that generates Smoke, such as, for example: possessing a lighted cigar, a lighted cigarette or any kind, a lighted pipe, or a lighted hookah pipe; or lighting a pipe, a hookah pipe, a cigar, or a cigarette of any kind.

25. "Tobacco Product" means any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco, snuff or any other form of tobacco which may be utilized for smoking, chewing, inhalation or other manner of ingestion.

26. "Tobacco Vending Machine" means any electronic or mechanical device or appliance the operation of which depends upon the insertion of money, whether in coin or paper currency, or other things representative of value, which dispenses or releases a tobacco product.

27. "Tobacco Retailer" means any Person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco or Tobacco Products. "Tobacco Retailing" shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco or Tobacco Products.

28. "Unenclosed Area" means any area that is not an Enclosed Area.

29. "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 ("SRO") facility; a room in a homeless shelter; a mobile home; a camper vehicle or tent; a single-family home; and an in-law or second unit.

6.16.020 Prohibition of Smoking in Public Places, Places of Employment, and Certain Other Areas.

A. Enclosed Areas. Smoking shall be prohibited in the following Enclosed Areas within the City of Larkspur except in places listed in subsection C below, and except in such places in which smoking is already prohibited by state or federal law in which case the state or federal law applies:

1. Places of Employment.
2. Public Places.
3. Recreational Areas.
4. Common Areas.

B. Unenclosed Areas. Smoking shall be prohibited in the following Unenclosed Areas within the City of Larkspur except in such places in which Smoking is already prohibited by county, state, or federal law in which case that law applies:

1. Places of Employment.
2. Recreational Areas.
3. Service Areas.
4. Dining Areas.

5. Common Areas, provided that a Person with legal control over a Common Area may designate a portion of the Unenclosed Area of the Common Area as a designated Smoking area if the area meets all of the following criteria:

a. the area must be located a Reasonable Distance from any Unit or Enclosed Area where Smoking is prohibited by this chapter or other law; by binding agreement relating to the ownership, occupancy, or use of real property; or by designation of a Person with legal control over the property. In the case of a nonsmoking area created by agreement or designation, this provision does not apply unless the Person designating the Smoking area has actual knowledge of, or has been given notice of, the agreement or designation. A designated Smoking area may require modification or elimination as laws change, as binding agreements are created, and as nonsmoking areas on neighboring property are established.

b. the area must not include, and must be a Reasonable Distance from, Unenclosed Areas primarily used by children and Unenclosed Areas with improvements that facilitate physical activity including, for example, playgrounds, tennis courts, swimming pools, and school campuses;

c. the area must be no more than ten percent (10%) of the total Unenclosed Area of the Multi-Unit Residence for which it is designated;

d. the area must have a clearly marked perimeter;

e. the area must be identified by conspicuous signs;

f. the area must be completely within an Unenclosed Area; and

g. the area must not overlap with any Enclosed or Unenclosed Area in which Smoking is otherwise prohibited by this chapter or other provisions of this Code, state law, or federal law.

6. Public events including but not limited to, sports events, entertainment, speaking performances, ceremonies, pageants, fairs and farmer's markets.

C. Unless otherwise prohibited by law, Smoking is not prohibited in the following Enclosed Areas:

1. Smoking is not prohibited in up to twenty percent (20%) of guestroom accommodations in a hotel, motel, or similar transient lodging establishment if the hotel or motel permanently designates particular guestrooms as nonsmoking rooms such that eighty percent (80%) or more of guestrooms are permanently nonsmoking

and ashtrays and matches are permanently removed from such nonsmoking rooms. Permanent No Smoking signage shall be posted in nonsmoking guestrooms.

2. Smoking at theatrical production sites is not prohibited by this subsection if Smoking is an integral part of the story and the use of a fake, prop, or special effect can not reasonably convey the idea of Smoking in an effective way to a reasonable member of the anticipated audience.

3. Smoking inside a Retail Tobacco Store is not prohibited if:

a. the Retail Tobacco Store does not sell edible products, including, for example, food, water, or drinks, or allow such products to be consumed on the business premises;

b. the Retail Tobacco Store prohibits minors from entering the store at all times; and

c. the premises of the Retail Tobacco Store is an independent freestanding building unattached to any other structure or use.

4. Smoking inside a detached, single-family home is not prohibited, except those used as a child care or health care facility subject to licensing requirements;

D. Notwithstanding any other provisions of this section, nothing in this chapter prohibits any Person, Landlord, Employer, or Nonprofit Entity with legal control over any property or facility from declaring the entire property or facility as nonsmoking and prohibiting Smoking on any part of such property or facility, even if Smoking is not otherwise prohibited in that area.

6.16.030 Nonsmoking Buffer Zones

A. Smoking in all Unenclosed Areas shall be prohibited within a Reasonable Distance from any doorway, window, opening, crack, or vent into an Enclosed Area in which Smoking is prohibited, except while actively passing on the way to another destination and provided Smoke does not enter any Enclosed Area in which Smoking is prohibited.

B. Smoking in Unenclosed Areas shall be prohibited within a Reasonable Distance from any Unenclosed Areas in which Smoking is prohibited under Section 6.16.020(B) of this chapter, except while actively passing on the way to another destination and provided Smoke does not enter any Unenclosed Area in which Smoking is prohibited.

C. The prohibitions in subdivisions A and B shall not apply to Unenclosed Areas of private residential properties that are not Multi-Unit Residences.

D. Smoking is prohibited in Unenclosed Areas of a Multi-Unit Residence, including balconies, porches, decks, and patios, within a Reasonable Distance from any doorway, window, opening, or other vent into an Enclosed Area where Smoking is prohibited by this chapter or other law; by binding agreement relating to the ownership, occupancy, or use of real property; or by designation of a Person with legal control over the property.

6.16.040 Smoking Restrictions in New Units of Multi-Unit Residences

A. All New Units of a Multi-Unit Residence are hereby designated nonsmoking Units, including any associated exclusive-use Enclosed Areas or Unenclosed Areas, such as, for example, a private balcony, porch, deck, or patio.

B. Smoking in a designated nonsmoking Unit is a violation of chapter as provided in Section 6.16.100.

6.16.050 Nonsmoking Designations for Existing Units of a Common Interest Complex.

A. All Units of a Common Interest Complex that are not New Units, including any associated exclusive-use Enclosed Areas or Unenclosed Areas, such as, for example, a private balcony, porch, deck, or patio, are hereby designated nonsmoking Units as of May 20, 2012; provided, however, that a lesser percentage of Units may be designated nonsmoking Units if a Common Interest Complex fully complies with subsection C below.

B. Smoking in a designated nonsmoking Unit is a violation of this chapter as provided in Section 6.16.100.

C. By a vote of the membership as provided in subsection 1 below, a Common Interest Complex may choose to designate fewer than one-hundred percent (100%) of existing Units as nonsmoking Units by fully complying with the requirements stated in subsections 1 - 4 below. Otherwise subsection A above shall apply.

1. A vote by the membership on the threshold question of allowing less than one hundred percent (100%) of Units to be designated nonsmoking Units must take place before February 20, 2012.

2. Up to one hundred percent (100%), but no less than eighty percent (80%), of Units that are not New Units, including, for example, any associated exclusive-use Enclosed Areas or Unenclosed Areas, such as, for example, a private balcony, porch, deck, or patio, shall be permanently designated as nonsmoking Units.

3. Where possible, best efforts shall be made to group nonsmoking Units together, both horizontally and vertically, and physically separate them from Units where Smoking may be allowed.

4. No later than May 20, 2012 the final designations must be made and the following must be maintained in accordance with Section 6.16.090:

- a. a description of each designated nonsmoking Unit sufficient to readily identify the Unit; and
- b. a diagram depicting the location of the designated nonsmoking Units in relation to all other Units.

6.16.060 Nonsmoking Designations for Existing Units of a Rental Complex.

A. All Units of a Rental Complex that are not New Units, including any associated exclusive-use Enclosed Areas or Unenclosed Areas, such as, for example, a private balcony, porch, deck, or patio, are hereby designated nonsmoking Units as of May 20, 2012 one (1) year provided, however, that a lesser percentage of Units may be designated nonsmoking Units if a Landlord fully complies with subsection D below.

B. Smoking in a designated nonsmoking Unit is a violation of this chapter as provided in Section 6.16.100.

C. Except if a Landlord fully complies with subsection D below, at least one hundred and twenty (120) days before May 20, 2011+ one (1) year, the Landlord shall provide each tenant with:

1. a written notice clearly stating that all Units, including the tenant's Unit, are designated nonsmoking Units and that Smoking in a Unit will be illegal as of May 20, 2011 and
2. a copy of this chapter .

D. A Landlord may choose to designate fewer than one-hundred percent (100%) of existing Units that are not New Units of a Rental Complex as nonsmoking Units by fully complying with the requirements stated in subsections 1 - 7 below. However, subsection A above shall apply whenever a Landlord takes no action or only partially complies with the requirements of this subsection.

1. The Landlord shall permanently designate up to one hundred percent (100%) of Units, but no less than eighty percent (80%) of Units, including, for example, any associated exclusive-use Enclosed Areas or Unenclosed Areas, such as, for example, a private balcony, porch, deck, or patio, as nonsmoking Units.

2. To the maximum extent practicable, nonsmoking Units must be grouped together both horizontally and vertically and physically separated from Units where Smoking may be allowed. Where possible all Units where Smoking may be allowed shall be in a single building of a multi-building Multi-Unit Residence.

3. No later than September 20, 2011 a Landlord who chooses to designate fewer than 100% of the Units of a Multi-Unit Residences as nonsmoking shall maintain the following in accordance with Section 6.16.090:

- a. a description of each designated nonsmoking Unit sufficient to identify the Unit; and
 - b. a diagram depicting the location of the designated nonsmoking Units in relation to all other Units.
4. At least sixty (60) days before maintaining the nonsmoking Unit designations required by subsection 3 above, the Landlord shall provide each tenant with:
- a. a written notice of the proposed designations, clearly stating that Smoking in a Unit which is designated as a nonsmoking Unit will be illegal as of May 20, 2011(c), and inviting comments on the proposed designations of nonsmoking Units within the requisite timeline;
 - b. a diagram depicting the location of the designated nonsmoking Units in relation to all other Units; and
 - c. a copy of this chapter.
5. A Landlord may modify the proposed designations based upon comments received from tenants.
6. At least thirty (30) days before maintaining the final designations of nonsmoking Units required by subsection 3 above, the Landlord shall provide all tenants written notice of the final designations clearly stating that Smoking in a designated nonsmoking Unit will be illegal as of May 20, 2011, and a copy of the final documents that will be maintained pursuant to Section 6.16.090 of this chapter. These final designations may differ from the proposed designations on which tenants were invited to comment.
7. A Unit in a Rental Complex for which a Landlord is required to maintain information pursuant to Section 6.16.090 of this chapter but for which such information, for any reason, is not fully and timely maintained is hereby designated as a nonsmoking Unit as of September 20, 2011.

6.16.070 Required and Implied Lease Terms for All New and Existing Units in Rental Complexes.

A. Every lease or other rental agreement for the occupancy of a Unit in a Rental Complex, including, for example, New Units and existing Units, entered into, renewed, or continued month-to-month after May 20, 2011, shall include the provisions set forth in subsection B below on the earliest possible date when such an amendment is allowable by law when providing the minimum legal notice.

B. Every lease or other rental agreement for the occupancy of a Unit in a Rental Complex, including, for example, New Units and existing Units, entered into, renewed, or continued month-to-month after May 20, 2011, shall be amended to include the following provisions:

1. A clause providing that as of insert May 20, 2012, it is a material breach of the agreement to allow or engage in Smoking in the Unit unless the Landlord has supplied written notice that the Unit has not been designated a nonsmoking Unit and no other prohibition against Smoking applies. Such a clause might state, "It is a material breach of this agreement for tenant or any other person subject to the control of the tenant or present by invitation or permission of the tenant to engage in smoking in the unit as of May 20, 2012 unless landlord has provided written notice that the unit has not been designated a nonsmoking unit and smoking in the unit is not otherwise prohibited by this agreement, other agreements, or by law."

2. A clause providing that it is a material breach of the agreement for tenant or any other Person subject to the control of the tenant or present by invitation or permission of the tenant to engage in Smoking in any Common Area of the property other than a designated Smoking area. Such a clause might state, "It is a material breach of this agreement for tenant or any other person subject to the control of the tenant or present by invitation or permission of the tenant to engage in smoking in any common area of the property, except in an outdoor designated smoking area, if one exists."

3. A clause providing that it is a material breach of the agreement for tenant or any other Person subject to the control of the tenant or present by invitation or permission of the tenant to violate any law regulating Smoking while anywhere on the property. Such a clause might state, "It is a material breach of this agreement for tenant or any other person subject to the control of the tenant or present by

invitation or permission of the tenant to violate any law regulating smoking while anywhere on the property.

4. A clause expressly conveying third-party beneficiary status to all occupants of the Rental Complex as to the Smoking provisions of the agreement. Such a clause might state, "Other occupants of the property are express third-party beneficiaries of those provisions in this agreement that concern smoking. As such, other occupants of the property may seek to enforce such provisions by any lawful means, including by bringing a civil action in a court of law."

C. Whether or not a Landlord complies with subsections A and B above, the clauses required by those subsections shall be implied and incorporated by law into every agreement to which subsections A or B apply and shall become effective as of the earliest possible date on which the Landlord could have made the insertions pursuant to subsections A or B.

D. A tenant who breaches a Smoking provision of a lease or other rental agreement for the occupancy of a Unit in a Rental Complex, or who knowingly permits any other Person subject to the control of the tenant or present by invitation or permission of the tenant, shall be liable for the breach to:

1. the Landlord; and
2. any occupant of the Rental Complex who is exposed to Smoke or who suffers damages as a result of the breach.

E. This chapter shall not create additional liability in a Landlord to any Person for a tenant's breach of any Smoking provision in a lease or other rental agreement for the occupancy of a Unit in a Rental Complex if the Landlord has fully complied with this Section and Section 6.16.060.

F. Failure to enforce any Smoking provision required by this chapter shall not affect the right to enforce such provision in the future, nor shall a waiver of any breach constitute a waiver of any subsequent breach or a waiver of the provision itself.

6.16.080 Additional Duties of a Landlord of a Rental Complex with Less Than One Hundred Percent (100%) Nonsmoking Units.

A Landlord of a Rental Complex with less than one hundred percent (100%) nonsmoking Units shall provide to every prospective tenant, prior to entering into a new lease or other rental agreement for the occupancy of a Unit in a Rental Complex, a copy of the designation documents required pursuant to Section 6.16.060 describing each designated nonsmoking Unit with an accompanying diagram depicting the location of nonsmoking Units in relation to all other Units and any designated Smoking areas.

6.16.090 Procedures and Requirements for Document Maintenance.

A. Documents maintained pursuant to this chapter must include all material and information required by this chapter as well another materials and information as the City Manager or his or her designee deems necessary for the administration and enforcement of this chapter.

B. All documents maintained pursuant to this chapter shall be available for the City Manager or his or her designee to access and review during regular business hours or upon twenty-four (24) hours written notice.

C. All material and information maintained pursuant to this chapter and requested by the City Manager or his or her designee shall constitute disclosable public records and are not private or confidential.

6.16.100 Smoking Prohibited by Law in Units and Common Areas.

A. Smoking in a Common Area, on or after May 20, 2011, other than in a designated Smoking area established pursuant to Section 6.16.020(B)(5), is a violation of this chapter.

B. Smoking in a New Unit, on or after May 20, 2011, is a violation of this chapter.

C. Smoking in a designated nonsmoking Unit, on or after May 20, 2012, is a violation of this chapter.

6.16.110 Smoking and Smoke Generally.

A. The provisions of this chapter are restrictive only and establish no new rights for a Person who engages in Smoking. Notwithstanding (1) any provision of this chapter or other provisions of this Code, (2) any failure by any Person to restrict Smoking under this chapter, or (3) any explicit or implicit provision of this Code that allows Smoking in any place, nothing in this Code shall be interpreted to limit any Person's legal rights under other laws with regard to Smoking, including, for example, rights in nuisance, trespass, property damage, and personal injury or other legal or equitable principles.

B. Notwithstanding any other provision of this chapter, Smoking marijuana for medical purposes as permitted by California Health and Safety Code sections 11362.7 *et seq.* is not prohibited by this chapter.

C. For all purposes within the jurisdiction of the City, nonconsensual exposure to Smoke occurring on or drifting into residential property is a nuisance, and the uninvited presence of Smoke on residential property is a nuisance and a trespass. Any Person bringing a civil action to enforce the nuisance provision contained in this section need not prove an injury different in kind or in degree from injury to others to prove a violation of this chapter.

6.16.120 Other Requirements and Prohibitions.

A. No Person, Landlord, Employer, or Nonprofit Entity shall knowingly permit Smoking in an area which is under the legal or de facto control of the Person, Employer or Nonprofit Entity and in which Smoking is prohibited by this chapter, unless otherwise required by state or federal law.

B. No Person, Landlord, Employer, or Nonprofit Entity shall knowingly or intentionally permit the presence or placement of ash receptacles, such as, for example, ash trays or ash cans, within an area under the legal or de facto control of the Person, Landlord, Employer or Nonprofit Entity and in which Smoking is prohibited by law, including, without limitation, within a Reasonable Distance required by this chapter from any area in which Smoking is prohibited. Notwithstanding the foregoing, the presence of ash receptacles in violation of this subsection shall not be a defense to a charge of Smoking in violation of any provision of this chapter.

C. No Person shall dispose of used Smoking or Tobacco Product waste within the boundaries of an area in which Smoking is prohibited, including inside the perimeter of any Reasonable Distance required by this chapter.

D. A Person, Landlord, Employer, or Nonprofit Entity that has legal or de facto control of an area in which Smoking is prohibited by this chapter shall post a clear, conspicuous and unambiguous "No Smoking" or "Smokefree" sign at each point of ingress to the area, and in at least one other conspicuous point within the area. No Smoking signs are not required inside or at doorways of designated nonsmoking Units. The signs shall have letters of no less than one inch in height and shall include 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). Signs posted on the exterior of buildings to comply with this section shall include the Reasonable Distance requirement set forth in Section 6.16.030.

At least one sign with the City or County phone number where complaints can be directed must be conspicuously posted in each place in which Smoking is prohibited. For purposes of this section, the City Manager or his or her designee shall be responsible for the posting of signs in regulated facilities owned or leased in whole or in part by the City.

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

E. No Person, Landlord, Employer, or Nonprofit Entity shall intimidate, threaten any reprisal, or effect any reprisal, for the purpose of retaliating against another Person who seeks to attain compliance with this chapter. Moreover, no Person shall intentionally or recklessly expose another Person to Smoke in response to that Person's effort to achieve compliance with this chapter.

F. Each instance of Smoking in violation of this chapter shall constitute a separate violation. For violations other than for Smoking, each day of a continuing violation of this chapter shall constitute a separate violation.

6.16.130 Regulating the Sale of Tobacco Products to Protect Minors.

A. Tobacco Retailers shall post plainly visible signs at the point of purchase of Tobacco Products which state:

"THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER EIGHTEEN YEARS OF AGE IS PROHIBITED BY LAW".

The letters of said signs should be at least one-quarter inch high.

B. No Tobacco Retailer shall sell, offer to sell or permit to be sold any Tobacco Product to an individual without requesting and examining identification establishing the purchaser's age as eighteen years or greater unless the seller has some conclusive basis for determining the buyer's age.

C. It shall be unlawful for any Tobacco Retailer to sell, permit to be sold, offer for sale or display for sale any Tobacco Product by means of self-service merchandising.

D. It shall be unlawful for any Tobacco Retailer to sell, permit to be sold, or offer for sale any Tobacco Product by means other than customer-assisted sales, which means only a store employee has access to the Tobacco Product and assists the customer by supplying the product.

E. No Tobacco Retailer shall locate, install, keep, maintain or use, or permit the location, installation, keeping, maintenance or use on his, her or its premises any vending machine for the purpose of selling or distributing any Tobacco Product. Any tobacco vending machine in use on the effective date of this chapter shall be removed within thirty days after the effective date of this chapter.

6.16.140 Penalties and Enforcement.

A. Criminal Prosecution. Every instance of Smoking in violation of this chapter is an infraction subject to a one hundred dollar (\$100) fine or otherwise punishable pursuant to section 1.01.100 of this code. Other violations of this chapter may, in the discretion of the City Manager, be prosecuted as infractions or misdemeanors when the interests of justice so require. The City Manager is authorized to enforce this chapter, but may also work with the County of Marin or the Twin Cities Police Authority to coordinate enforcement by those entities. In addition, any peace officer or code enforcement official may also enforce this chapter.

B. Civil Enforcement by the City.

(1) Fines. Violations of this chapter are subject to a civil action brought by the City, punishable by a civil fine not less than two hundred fifty dollars (\$250) and not exceeding one thousand dollars (\$1,000) per violation.

(2) Injunctions, Nuisance Abatement, and Code Enforcement. In addition to other remedies provided by this chapter or otherwise available at law or in equity, any violation of this chapter may be remedied by a civil action brought by the City Attorney, including, without limitation, administrative or judicial nuisance abatement proceedings, civil or criminal code enforcement proceedings, and suits for injunctive relief.

C. Civil Enforcement by Private Citizens. Any Person, including a legal entity or organization, acting for the interests of itself, its members, or the general public may

bring a civil action for injunctive relief to prevent future such violations or sue to recover such actual or statutory damages as he or she may prove.

D. General Provisions.

(1) Cumulative Remedies. The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.

(2) Violations. Causing, permitting, aiding, or abetting a violation of any provision of this chapter shall also constitute a violation of this chapter.

(3) Nuisances. Any violation of this chapter is hereby declared to be a public nuisance.

(4) City Discretion. Except as otherwise provided, enforcement of this chapter is at the sole discretion of the City. Nothing in this chapter shall create a right of action in any Person against the City or its agents to compel public enforcement of this chapter against private parties.

6.16.150 Public Education.

The City Manager or his or her designee shall coordinate with the County of Marin Health and Human Services Department to ensure that the citizens and community of Larkspur may participate in the County's existing tobacco education program. The program will explain and clarify the purposes and requirements of this chapter to citizens affected by it, and to guide Persons, Landlords, Employers, and Nonprofit Entities in their compliance with it. However, lack of such education shall not provide a defense to a violation of this chapter.

6.16.160 Other Applicable Laws.

This chapter shall not be interpreted or construed to permit Smoking where it is otherwise restricted by other applicable laws.

6.16.170 Construction, Severability.

It is the intent of the City Council of the City of Larkspur to supplement applicable state and federal law and not to duplicate or contradict such law and this Ordinance shall be construed consistently with that intention. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of Larkspur hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

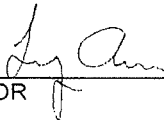
SECTION 2. Severability. If any section, subsection, sentences, clause phrase or word of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction or preempted by state legislation, such decision or legislation shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Larkspur hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause or phrase not declared invalid or unconstitutional without regard to any such decision or preemptive legislation.

SECTION 3. Effective Date and Publication. This ordinance of the City of Larkspur shall be effective thirty (30) days after the date of its passage. Before expiration of fifteen (15) days after its passage, this ordinance or a summary thereof as provided in California Government Code Section 36933, shall be published at least once in a newspaper of general circulation published and circulated in the City

of Larkspur, along with the names of the members of the City Council voting for and against its passage.

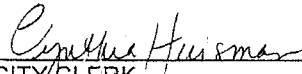
IT IS HEREBY CERTIFIED that the foregoing ordinance was duly introduced at a regular meeting of the Larkspur City Council held on April 6, 2011 and thereafter passed and adopted by the Larkspur City Council of the City the 20th day of April, 2011, by the following vote, to wit:

— AYES: COUNCILMEMBER: Chu, Hartzell, Hillmer, Lundstrom, Rikfind
NOES: COUNCILMEMBER: None
ABSENT: COUNCILMEMBER: None
ABSTAIN : COUNCILMEMBER: None



MAYOR

ATTEST:



CITY CLERK