

**AN ORDINANCE OF THE CITY OF CALABASAS
REGULATING SECOND-HAND SMOKE IN MULTI-FAMILY
HOUSING AND AMENDING THE CALABASAS MUNICIPAL
CODE**

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The City Council of the City of Calabasas does ordain as follows:

SECTION I. FINDINGS.

The City Council of the City of Calabasas hereby finds and declares as follows:

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

- more than 440,000 people die in the United States from tobacco-related diseases every year, making ~~it~~ [tobacco use](#) the nation's leading cause of preventable death;¹ and
- the World Health Organization estimates that by 2030, tobacco will account for 10 million deaths per year, making it the greatest cause of death worldwide;² and
- the United States Environmental Protection Agency has found secondhand smoke to be a risk to public health and has classified secondhand smoke as a group A carcinogen, the most dangerous class of carcinogen;³ and
- secondhand smoke is responsible for an estimated 38,000 deaths among non-smokers each year in the United States, which includes 3,000 lung cancer deaths and 35,000 deaths due to heart disease;⁴ and
- 87.9% of non-smokers showed detectable levels of cotinine (a metabolite

¹ U.S. Dep't of Health and Human Servs., Centers for Disease Control and Prevention, *Annual Smoking – Attributable Mortality, Years of Potential Life Lost, and Economic Costs – United States 1995-1999* MORBIDITY AND MORTALITY WEEKLY REPORT at 51(14):300-303 (2002), available at <http://www.cdc.gov/mmwr/PDF/wk/mm5114.pdf>. (last accessed March 23, 2005).

² U.S. Dep't of Health and Human Servs., Centers for Disease Control and Prevention, *Reducing Tobacco Use: A Report of the Surgeon General* at 437 (2001), available at http://www.cdc.gov/tobacco/sgr/sgr_2000/chapter8.pdf (last accessed March 23, 2005).

³ U.S. Dep't of Health and Human Servs., Centers for Disease Control and Prevention, *Exposure to Environmental Tobacco Smoke and Cotinine Levels – Fact Sheet* (2004), available at http://www.cdc.gov/tobacco/research_data/environmental/factsheet_ets.htm (last accessed March 23, 2005).

⁴ Nat'l Cancer Inst., *NCI Health Information Tip Sheet for Writers: Secondhand smoke*, available at <http://www.cancer.gov/newscenter/tip-sheet-secondhand-smoke> (last accessed February 28, 2005).

of nicotine) in their blood, the most likely source of which is secondhand smoke exposure;⁵ and

- secondhand smoke exposure adversely affects fetal growth with elevated risk of low birth weight and increased risk of Sudden Infant Death Syndrome in infants of mothers who smoke;⁶ and
- secondhand smoke exposure causes as many as 300,000 children in the United States under the age of 18 months to suffer lower respiratory tract infections, such as pneumonia and bronchitis;⁷ exacerbates childhood asthma; and increases the risk of acute, chronic, middle-ear infections in children;⁸ and
- the total cost of smoking in California was estimated as \$475 per resident or \$3,331 per smoker per year, for a total of nearly \$15.8 billion in smoking-related costs in 1999 alone;⁹ and
- cigarettes, cigars, pipes and other smoking materials are the leading cause of fire deaths in the United States,¹⁰ causing an estimated 31,200 structure fires and 830 deaths in 2001;¹¹ and

WHEREAS, most Californians do not smoke and a majority favor limitations on

⁵ J. L. Pirkle et al., *Exposure of the U.S. population to environmental tobacco smoke: The Third National Health and Nutrition Examination Survey, 1988 to 1991*, JOURNAL OF AMERICAN MEDICINE, 275(16):1233-40 (1996), available at <http://jama.ama-assn.org/cgi/content/abstract/275/16/1233> (abstract only) (last accessed March 23, 2005).

⁶ Office of Env'tl. Health Hazard Assessment, Cal. Env'tl. Prot. Agency, *Health Effects of Exposure to Environmental Tobacco Smoke, Final Report at 4-30* (1997), available at <http://www.oehha.org/pdf/chapter4.pdf> (last accessed February 28, 2005).

⁷ U.S. Dep't of Health and Human Servs., Centers for Disease Control and Prevention, *Targeting Tobacco Use: The Nation's Leading Cause of Death 2002 at 2* (2004), available at http://www.cdc.gov/nccdphp/aag/aag_osh.htm (last accessed April 6, 2005).

⁸ U.S. Dep't of Health and Human Servs., Centers for Disease Control and Prevention, *Exposure to Environmental Tobacco Smoke and Cotinine Levels — Fact Sheet* (2004), available at http://www.cdc.gov/tobacco/research_data/environmental/factsheet_ets.htm (last accessed April 6, 2005).

⁹ Wendy Max, Dorothy P. Rice, Xiulan Zhang, Hai-Yen Sung, Leonard Miller, Cal. Dept. of Health Servs., *The Cost of Smoking in California, 1999 at 76* (2002), available at <http://www.dhs.ca.gov/tobacco/documents/CostOfSmoking1999.pdf> (last accessed March 4, 2005).

¹⁰ Bruce N. Leistikow, M.D., M.S., Daniel C. Martin, Christina E. Milano, *Fire Injuries, Disasters, and Costs from Cigarettes and Cigarette Lights: A Global Overview 91* PREVENTIVE MEDICINE 31 at 91 (2000), available at <http://leistikow.ucdavis.edu/SmokingFires.pdf> (last accessed April 6, 2005).

¹¹ Nat'l Fire Prot. Ass'n, *The Smoking-Material Fire Problem*, available at <http://www.nfpa.org/itemDetail.asp?categoryID=294&itemID=19303&URL=Research%20&%20Reports/Fact%20sheets/Home%20safety/Smoking%20material-related%20fires> (last accessed March 4, 2005). See also John R. Hall, Jr., Nat'l Fire Prot. Ass'n, *The Smoking-Material Fire Problem*, (Nov. 2004), available at <http://www.nfpa.org/assets/files/PDF/OS.smokesum2.PDF> (executive summary only) (last accessed March 4, 2005).

smoking in multi-unit residences, as evidenced by the following:

- 84% of Californians are non-smokers;¹² and

WHEREAS, an objective, scientific survey of Calabasas voters conducted by Goodwin Simon Victoria Research for the American Lung Association of California's Center for Tobacco Policy and Organizing found that 92% of Calabasas voters believe that second hand smoke is harmful to people who inhale it and, of those, 83% believe it is very harmful,¹³ and

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WHEREAS, the same survey found that 80% of voters support (70% strongly support) the Comprehensive Second Hand Smoke Control Ordinance adopted by the City of Calabasas in 2006; and

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WHEREAS, the same survey found that voters approve banning smoking in a variety of outdoor locations including outdoor common areas of apartments (79%), outdoor areas of restaurants and bars (74%), sidewalks (73%), in most outdoor areas in the city (75%) and declaring second hand smoke a public nuisance (79%); and

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WHEREAS, secondhand smoke can seep under doorways and through wall cracks;¹⁴ and

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WHEREAS, there is no ~~c~~Constitutional right to smoke;¹⁶ and

WHEREAS, state law prohibits smoking in virtually all indoor places of employment reflecting the state policy to protect against the dangers of exposure to secondhand smoke;¹⁷ and

¹² Tobacco Control Section, Cal. Dep't of Health Servs., *California Tobacco Control Update 2004* at 10, available at <http://www.dhs.ca.gov/tobacco/documents/2004TCSupdate.pdf> (last accessed April 7, 2005).

¹³ Center for Tobacco Policy and Organizing, American Lung Association of California, *Survey of Calabasas Voters, March 2007*, available at: <http://www.californialung.org/thecenter/documents/CenterCalabasasSurveyResultsFinalMarch2007.pdf> (last accessed September 23, 2007);

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¹⁴ J. Wagner 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> (last accessed April 7, 2005).

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¹⁶ Technical Assistance Legal Ctr., Pub. Health Inst., *There Is No Constitutional Right to Smoke* (2004), available at http://talc.phlaw.org/pdf_files/0051.pdf (last accessed April 8, 2005).

¹⁷ Cal. Lab. Code § 6404.5.

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 state law;¹⁸ 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;¹⁹ and

WHEREAS, local governments have broad latitude to declare nuisances and are not constrained by ~~prior~~ common law definitions of nuisance;²⁰ and

NOW THEREFORE, 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; by protecting children from exposure to smoking where they live and play; and by protecting the public from nonconsensual exposure to secondhand smoke in and around their homes.

SECTION 2. CODE AMENDMENT. Section 8.12.020 of the ~~City~~ Calabasas Municipal Code is hereby amended to read as follows:

Sec. 8.12.020 PURPOSE

The purposes of this chapter are to:

- A. Protect the public health, safety and general welfare by prohibiting smoking in public places and in multi-family housing under circumstances where other persons will be exposed to second-hand smoke,
- B. ~~En~~Assure a cleaner and more hygienic environment for the City, its residents, and its natural resources, including its creeks and streams,
- C. Strike a reasonable balance between the needs of persons who smoke and the needs of nonsmokers, including children, to breathe smoke-free air, recognizing the threat to public health and the environment which smoking causes,
- D. Recognize the right of residents and visitors to the City to be free from unwelcome second-hand smoke.

SECTION 3. CODE AMENDMENT. Section 8.12.030 of the ~~City~~ Calabasas

¹⁸ Cal. Legislative Counsel Op., 21547, *Secondhand Smoke in Multi-Unit Housing (Apartments & Condos) Smoking Bans: Residential Rental Property*, (September 23, 1999).

¹⁹ Cal. Civil Code § 3479.

²⁰ *In Re Jones*, 56 Cal.App.2d 658, 663 (1943). *See also*, Cal. Const., art. XI, § 7; Cal. Gov. Code § 38771.

Municipal Code is hereby amended to read as follows:

8.12.030 DEFINITIONS.

The following definitions shall govern construction of this chapter unless the context clearly requires otherwise:

(a) "Business" means any sole proprietorship, partnership, joint venture, corporation, association, or other entity formed for profit-making purposes or that has an Employee.

(aa) "Condominium" shall have the meaning ascribed to it in section 17.90.020 of this code.

(b) "Common Area at a Shopping Mall" means any indoor or outdoor common area of a Shopping Mall accessible to and usable by the occupants or customers of more than one retail establishment, including but not limited to halls, lobbies, outdoor eating areas, Playgrounds and parking lots.

(c) "Employee" means any person who is employed or retained as an independent contractor by any Employer or any person who volunteers his or her services for an Employer, association, or Nonprofit Entity.

(d) "Employer" means any person, partnership, corporation, association, nonprofit or other entity who or which employs or retains the service of one or more Employees.

(e) "Enclosed Area" means:

(1) any covered or partially covered area having more than 50% of its perimeter walled 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% of its perimeter walled or otherwise closed to the outside such as, for example, a courtyard;

(3) except that an uncovered space of three thousand (3,000) square feet or more is not an Enclosed Area, such as, for example, a field in an open-air arena.

(f) "Landlord" means any Person other than a sublessor who owns real property leased as residential property, who lets residential property, or who

manages such property.

(g) "Multi-Unit Residence" means a Premises that contains two or more Units not occupied by a Landlord of the Premises. A Condominium is not a Multi-Unit Residence within the meaning of this section unless:

(i) the smoking restrictions set forth in this chapter have been duly adopted by the board of directors of the condominium association; or

(ii) it is a new Condominium. A Condominium shall be considered "new" for purposes of this chapter if a certificate of occupancy for any unit in the Condominium is first issued by the City after the effective date of the 2007 ordinance which amended this paragraph (g) to include this provision.

(h) "Multi-Unit Residence Common Area" means any indoor or outdoor area of a Multi-Unit Residence accessible to and usable by residents of more than one Unit, including but not limited to halls and paths, lobbies, laundry rooms, common cooking areas, outdoor eating areas, Playgrounds, swimming pools, and parking areas.

(i) "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.

(j) "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 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, while Employees, children or patients are present, private residences that are used as child-care or health-care facilities subject to licensing requirements.

(k) "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.

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(l) "Premises" means a parcel of land and any improvements upon it 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 natural Person or by legal Persons under common control.

(m) "Present" means within a Reasonable Distance.

(n) "Private Enforcer" is defined in section 8.12.080(b) of this code.

(o) "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, plazas, bars, restaurants, clubs, stores, stadiums, parks, Playgrounds, taxis, and buses.

(p) "Reasonable Distance" means a distance of twenty feet or, with respect to a designated smoking area, such larger area as the city manager reasonably determines in writing to be necessary in a given circumstance to ensure that occupants of an area in which smoking is prohibited are not exposed to secondhand smoke created by smokers outside the area.

(q) "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, gardens, sporting facilities, stadiums, and Playgrounds.

(r) "Shopping Mall" means any parcel of land zoned and used for retail sales by more than one retailer that is jointly operated or which includes shared parking facilities.

(s) "Smoking" or to "Smoke" means possessing or to possess a lighted tobacco product, lighted tobacco paraphernalia, or any other lighted weed or plant (including but not limited to, a lighted pipe, lighted hookah pipe, lighted cigar, or lighted cigarette of any kind), or the lighting of a tobacco product, tobacco paraphernalia, or any other weed or plant (including but not limited to, a pipe, a hookah pipe, cigar, or cigarette of any kind).

(t) "Tobacco Product" means any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, bidis, or any other preparation of tobacco.

(u) "Unenclosed area" means any area which is not an Enclosed Area.

(v) "Unit" means: (1) a dwelling space consisting of essentially complete

independent living facilities for one or more persons, including, for example, permanent provisions for living and sleeping, and ~~of any~~ associated private outdoor spaces such as balconies and patios; and (2) senior citizen housing and single room occupancy hotels, as defined in California Health and Safety Code section 50519(b)(1), even where lacking private cooking or plumbing facilities. "Unit" does not include lodging in a hotel or motel that meets the requirements set forth in California Civil Code section 1940(b)(2).

SECTION 4. CODE AMENDMENT. Section 8.12.035 of the Calabasas Municipal Code is hereby adopted to read as follows:

8.12.035 SECONDHAND SMOKE GENERALLY

For all purposes within the jurisdiction of the city, nonconsensual exposure to secondhand smoke is a nuisance, and the uninvited presence of secondhand smoke on property is a nuisance and a trespass.

SECTION 5. CODE AMENDMENT. Subparagraph (1) of paragraph (b) of Section 8.12.040 of the Calabasas Municipal Code is hereby amended to read as follows:

(1) Private residential property, other than (a) those used as a child-care or health-care facility subject to licensing requirements when Employees, children or patients are present or (b) as provided in section 8.12.051 to 8.12.055 of this chapter with respect to ~~Multi-Unit Residences~~ family housing. Nothing in this chapter shall require a person or entity who or which owns or controls a private residential property, including but not limited to a condominium association or an apartment owner, to permit smoking and such a person may prohibit smoking throughout the property he, she or it owns or controls.

SECTION 6. CODE AMENDMENT. Sections 8.12.051, 8.12.053, 8.12.055, 8.12.057 and 8.12.059 of the Calabasas Municipal Code are hereby adopted to read as follows:

8.12.051 NO SMOKING COMMON AREAS, DESIGNATED SMOKING AREA

(a) Notwithstanding the prohibition of smoking in all Multi-Unit Residence Common Areas established by section 8.12.040 of this chapter, a Landlord of a Multi-Unit Residence shall designate a portion of the outdoor area of the Premises as a Smoking area as provided in paragraph (b) below.

(b) A designated Smoking area must:

(1) be located a Reasonable Distance from any indoor area where

Smoking is prohibited;

(2) not include, and be a Reasonable Distance from, outdoor areas primarily used by children including, but not limited to, Playgrounds and other areas improved or designated for play or swimming;

(3) be no more than 25% of the total outdoor area of the Premises on which it is located;

(4) have a clearly marked perimeter;

(5) be identified by conspicuous signs; and

(6) not overlap any area in which Smoking is otherwise prohibited by this chapter, other provisions of this code, or other law.

(7) If the requirements set forth in subdivision (b)(1) or subdivision (b)(2) of this section cannot be satisfied due to unique circumstances affecting a Multi-Unit Residence, the ~~community development director~~ city manager may approve a Smoking area that meets the requirements of this section to the extent practicable or, ~~if not such area can be designed in his or her judgment, if in his or her judgment such an area cannot be designed, the city manager~~ may exempt the Landlord from the requirement to designate a Smoking area.

8.12.053 SMOKE-FREE BUFFER ZONES

Smoking is prohibited on the Premises of a Multi-Unit Residence and in any Public Place within a Reasonable Distance of any entrance, opening, or other vent into an enclosed area of a Multi-Unit Residence in which Smoking is prohibited by this chapter, other provisions of this code, or other law. For example, and without limitation, Smoking on balconies, porches, or patios of a Unit is prohibited.—

8.12.055 ~~NON-SMOKING UNITS REQUIRED IN~~ SMOKE-FREE MULTI-UNIT RESIDENCES

(a) NEW MULTI-UNIT RESIDENCES

Smoking shall be prohibited in all Units in a new Multi-Unit Residence. A Multi-Unit Residence shall be considered "new" for purposes of this chapter if a certificate of occupancy for any Unit is first issued by the cCity after the effective date of the 2007 ordinance which amended this paragraph (a) to include this provision. Smoking is also prohibited in all private outdoor spaces

associated with such Units, such as balconies, patios and decks.

(b) EXISTING MULTI-UNIT RESIDENCES

(1) Except as provided in subsection (b)(2) of this section, within ~~—six months—~~ months of the effective date of this section, Smoking shall be prohibited in all Units in a Multi-Unit Residence ~~existing on the effective date of this chapter section~~ that is not a “new” ~~unit-Multi-Unit Residence~~ as that term is defined in paragraph (a) of this section. Smoking is also prohibited in all private outdoor spaces associated with such Units, such as balconies, patios and decks, whether or not such a Unit falls within the exception provided in subsection (b)(2) of this section.

(2) Within 60 days of the effective date of this section, each Landlord of an existing Multi-Family Residence that is not a “new” Multi-Family Residence at that term is defined in paragraph (a) of this section shall give written notice to every lawful tenant then in occupancy of a Unit in the Multi-Family Residence, informing the tenant of his or her right to make a written request to the Landlord that his or her Unit be designated a smoking unit during his or her tenancy. Upon such a request made to the Landlord by a lawful tenant(s) in occupancy of a Unit on the effective date of this section, tThe inside of ~~such a~~ Unit shall not be subject to the Smoking restrictions of this section while ~~the lawful tenant(s) in occupancy on the effective date of this section~~ such tenant(s) continuously ~~lease(s) occupy(ies)~~ the Unit. If such tenant(s) relocates from ~~that~~ Unit ~~occupied on the effective date of this section~~ to another Unit within the same Multi-Unit Residence, both such Units shall thereafter be subject to the Smoking restrictions of this section.

8.12.057 REQUIRED LEASE TERMS

(a) Every new lease or other agreement entered into after the effective date of the section for the occupancy of a Unit in a Multi-Unit Residence, other than a renewal of an existing lease to a tenant subject to section 8.12.055(b)(2), shall include:

(1) a clause stating that Smoking is prohibited in the Unit;

(2) a clause stating that it is a material breach of the lease or agreement to (i) violate any law or rule regulating Smoking while on the Premises; (ii) Smoke in a Unit subject to Smoking restrictions under this chapter; or (iii) Smoke in any Multi-Unit Residence Common Area in which Smoking is prohibited by the Landlord or by law; and

(3) a clause stating that all lawful occupants of Units in the Multi-Unit Residence are third-party beneficiaries of the clauses required by subsections (a)(1) and (a)(2) of this section.

(b) The lease or agreement terms required by subsection (a) of this section are hereby incorporated by force of law into any lease or other agreement for the occupancy of a Unit in a Multi-Unit Residence made on or after the effective date of this section which lease does not fully comply with subsection (a).

(c) A tenant who breaches the Smoking regulations included in a lease pursuant to subsection (a) of this section, or incorporated into a lease by subsection (b) of this section, or who knowingly allows another person to do so shall be liable to: (i) the Landlord; and (ii) to any lawful occupant of a Unit in the Multi-Unit Residence who is exposed to secondhand smoke as a result of that breach. A Landlord shall not be liable to any person for a tenant's breach of Smoking regulations if the Landlord has fully complied with subsection (a).

(d) Failure to enforce any Smoking regulation of a lease or agreement on one or more occasions shall not constitute a waiver of the lease or agreement provisions required by this section and shall not prevent future enforcement of any such Smoking regulation.

8.12.059 DISCLOSURE OF UNITS SUBJECT TO SMOKING RESTRICTIONS BY LANDLORD

Every Landlord shall maintain a floor plan identifying the relative positions of Units that are subject to Smoking restrictions under this chapter and Units that are not subject to Smoking restrictions under this chapter. The floor plan also shall identify the location of any designated Smoking Areas. A copy of this list and floor plan shall accompany every new lease or other agreement for the occupancy of a Unit in a Multi-Unit Residence entered into after the effective date of this section.

SECTION 7. CODE AMENDMENT. Paragraph (d) of Section 8.12.060 of the Calabasas Municipal Code is hereby amended to read as follows:

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(d) "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 of the city~~ city manager shall be conspicuously posted at each entrance to a public place in which smoking is prohibited by this chapter or any other

place where the city manager reasonably determines that Smoking in violation of this chapter has occurred, or is likely to occur, by the person, employer, business, or nonprofit entity who or which has legal or de facto control of such place. The city manager shall post signs at each entrance to a public place in which smoking is prohibited by this chapter which is owned or controlled by the city. Signage required by this subsection shall not be subject to Chapter 17.30 ("Signs") of this code. Notwithstanding this provision, the presence or absence of signs shall not be a defense to the violation of any other provision of this chapter, except as to an area in which smoking is prohibited only by subsection (C) of this section.

SECTION 8. CODE AMENDMENT. Paragraph (a) of Section 8.12.070 of the City-Calabasas Municipal Code is hereby amended to read as follows:

(a) A violation of this chapter shall constitute a misdemeanor punishable pursuant to chapter 1.16 of this code unless the prosecutor determines to prosecute it as an infraction as authorized by section 1.16.010(a).

SECTION 98. SEVERABILITY. 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 Calabasas 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 109. CONSTRUCTION. The City Council intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent. To the extent the provisions of the Calabasas Municipal Code as amended by this Ordinance are substantially the same as the provisions of that Code prior to the effectiveness of this ordinance, then those amended provisions shall be construed as continuations of the earlier provisions and not as new enactments.

SECTION 110. EFFECTIVE DATE. This Ordinance shall take effect thirty days after its adoption pursuant to California Government Code section 36937.

SECTION 124. CERTIFICATION. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

PASSED, APPROVED AND ADOPTED, this ____ th day of _____ 2007.

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James R. Bozajian, Mayor

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ATTEST:

Robin Parker, City Clerk

APPROVED AS TO FORM:

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Michael G. Colantuono, City Attorney

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