



# City of Carson Report to Mayor and City Council

December 6, 2011  
New Business Discussion

**SUBJECT: INTRODUCTION OF ORDINANCE NO. 11-1481 AMENDING THE CARSON MUNICIPAL CODE § 41107 REGULATING SMOKING IN CERTAIN OUTDOOR PLACES**

Submitted by David C. Biggs  
City Manager

Approved by David C. Biggs  
City Manager

## **I. SUMMARY**

The City Council Policy Sub-Committee (Mayor Dear and Councilmember Santarina) met on November 17, 2011. Attached for the City Council's information is a copy of the agenda disposition (Exhibit No. 1). The sub-committee voted to bring the draft Ordinance No. 11-1481 regulating smoking to the City Council for introduction and adoption (Exhibit No. 2).

## **II. RECOMMENDATION**

TAKE the following actions:

1. RECEIVE and FILE the disposition report.
2. DIRECT staff to develop a designated smoking area permit application process (for outdoor dining areas) similar to the process used by the City of Calabasas and bring that process back to the City Council for final review.
3. WAIVE further reading and INTRODUCE Ordinance No. 11-1481, "AN ORDINANCE OF THE CITY OF CARSON, CALIFORNIA, AMENDING THE CARSON MUNICIPAL CODE § 41107 REGULATING SMOKING IN CERTAIN OUTDOOR PLACES."

## **III. ALTERNATIVES**

TAKE another action the City Council deems appropriate.

## **IV. BACKGROUND**

On June 15, 2011, the City Council referred this matter to the Policy Sub-committee for further review (Exhibit No. 3). On July 21, 2011 the sub-committee gave direction to staff to draft an ordinance regulating smoking in certain outdoor areas (Exhibit No. 4).

On November 17, 2011, the sub-committee reviewed the draft ordinance and directed staff to bring the draft ordinance to the City Council for review. This draft ordinance, if adopted, will regulate smoking in the following outdoor areas:

11

# City of Carson Report to Mayor and City Council

1. Service Areas 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 receive a service, wait to receive a service or to make a transaction, whether or not such service or transaction includes 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.
2. Dining Areas (with the option to obtain a city permit) 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.
3. Places 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 the operations, regardless of the hours of operation.
4. Common Residential Areas means every unenclosed 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, paths, courtyards, playgrounds, swimming pools, parking lots, and picnic areas.
5. Public Events means any place, publicly or privately owned, which is open to the general public regardless of any fee or age requirements.
6. Balconies/Patios of Housing Units means a dwelling space with an attached area that is out of doors.

The sub-committee also directed staff to implement a permit process for regulating smoking in dining areas. Exhibit No. 5 includes the application, application filing requirements and guidelines for designated smoking areas in the city of Calabasas. The sub-committee would like to see the city of Carson implement a similar process. The sub-committee recommended that there should be a fee for restaurant owners to obtain the permit and that the cost of the permit should cover the costs for administering the program.

In order to assist the City Council, staff has surveyed a number of cities to gauge the limitations on smoking in outdoor areas in other cities (Exhibit No. 6). Of all

# City of Carson Report to Mayor and City Council

the cities surveyed, the city of Beverly Hills is the least restrictive and the cities of Calabasas and Glendale are the most restrictive.

Local jurisdictions have the right to regulate smoking more strictly than the state. For the City Council's consideration, listed below is a summary of the state and federal smoking laws:

## State Law:

Currently CA state law bans smoking in all enclosed workplaces, including restaurants and bars (exempting workplaces with five or fewer employees). AB 846 bans smoking within 20 feet of the entrance or operable window of a public building. The law also prohibits smoking in state-owned vehicles.

Many California communities have established smoke-free registries for private residential apartment buildings, which range from complexes where smoking is entirely prohibited (whether inside private dwellings or outside) to those where certain sections of dwellings may be designated as smoking dwellings. Most California cities allow landlords to regulate smoking at will.

## Federal Law:

The United States Congress has not attempted to enact any nationwide federal smoking ban. Therefore, smoking bans in the U.S. are entirely a product of state and local criminal and occupational safety and health laws.

Smoking laws vary widely throughout the U.S. Some places in the U.S. do not generally regulate smoking at all, some ban smoking in certain areas and not others, and some ban smoking nearly everywhere, even in outdoor areas (no state bans smoking in all public outdoor areas, but some local jurisdictions do).

## V. FISCAL IMPACT

Costs associated with this ordinance include city attorney time to prepare the ordinance (2.6 hours at a rate of \$150.00 per hour) and staff time. Costs associated with implementing a designated smoking area permit application process will include staff time to process applications and collect permit fees. Should this ordinance be challenged by a member of the community, the cost to defend the ordinance needs to be considered.

# City of Carson Report to Mayor and City Council

## VI. EXHIBITS

1. November 17, 2011, Policy Sub-Committee agenda disposition. (pg. 5)
2. Ordinance No. 11-1481 Regulating Smoking in Certain Outdoor Areas. (pgs. 6-16)
3. June 15, 2011, City Council Meeting Minutes, Item No. 15. (pgs. 17-118)
4. July 21, 2011, Policy Sub-Committee agenda disposition. (pg. 19)
5. City of Calabasas Designated Smoking Area Permit Application. (pgs. 20-24)
6. Smoking Restrictions Comparison Survey. (pg. 25)

Document2

Prepared by: Lisa Berglund, Principal Administrative Analyst

TO:Rev102511

Reviewed by:

|                         |                      |
|-------------------------|----------------------|
| City Clerk              | City Treasurer       |
| Administrative Services | Development Services |
| Economic Development    | Public Services      |

|                                     |             |
|-------------------------------------|-------------|
| <b>Action taken by City Council</b> |             |
| Date_____                           | Action_____ |
|                                     |             |



**CITY OF CARSON**  
**CITY COUNCIL POLICY SUB-COMMITTEE DISPOSITION**

**CARSON CITY HALL**  
**EXECUTIVE CONFERENCE ROOM – SECOND FLOOR**  
**701 East Carson Street**  
**CARSON, CALIFORNIA 90745**

**NOVEMBER 17, 2011, 4:00 P.M.**

**AGENDA POSTED: NOVEMBER 14, 2011**

“In accordance with the Americans with Disabilities Act of 1990, if you require a disability related modification or accommodation to attend or participate in this meeting, including auxiliary aids or services, please call the City Clerk’s office at 310-952-1720 at least 48 hours prior to the meeting.” (Government Code Section 54954.2)

**CALL TO ORDER:** The meeting was called to order at 4:21 p.m. by Chairman Dear

**ROLL CALL:** Present: Chairman Dear and Committee member Santarina

Also Present: Lisa Berglund, Principal Analyst

Members of the public: Calvin Chang, Tongan Community Service Center

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**UNFINISHED BUSINESS**

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**ITEM NO. (1) CONSIDERATION OF A DRAFT ORDINANCE REGULATING SMOKING IN CERTAIN OUTDOOR PLACES**

The sub-committee discussed this matter in general and reviewed the smoking bans in other cities. The sub-committee reviewed a draft ordinance that would ban smoking in recreational areas, service areas, outdoor dining areas, outdoor places of employment, common residential areas and other public areas.

The sub-committee directed staff to bring the draft ordinance to the City Council for review. The sub-committee further directed staff to develop a permit process for regulating smoking in outdoor dining areas (similar to the program the City of Calabasas has in place). The sub-committee requested this matter be placed on the December 6, 2011 City Council agenda.

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**ORAL COMMUNICATIONS** None

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**ADJOURNMENT** 5:00 p.m.

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**EXHIBIT NO. 01**



ORDINANCE NO. 11-1481

**AN ORDINANCE OF THE CITY OF CARSON, CALIFORNIA,  
AMENDING MUNICIPAL CODE § 41107 REGULATING  
SMOKING IN CERTAIN OUTDOOR PLACES**

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, accounting for about 443,000 deaths each year; 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; and
- Some of the most common types of cancers including stomach, liver, uterine cervical, and kidney are related to tobacco use; 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; and
- 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; 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; 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; and
- Exposure to secondhand smoke increases the risk of coronary heart disease by approximately thirty percent; and
- Secondhand smoke exposure causes lower respiratory tract infections, such as pneumonia and bronchitis in as many as 300,000 children in the United States under the age of 18 months each year, and exacerbates childhood asthma; and

WHEREAS, smokeless tobacco is not a safe alternative to smoking and causes its own share of death and disease, as evidenced by the following:

- Smokeless tobacco use causes leukoplakia, a disease causing white patches to form in the user's mouth that can become cancerous; smokeless tobacco products are known

EXHIBIT NO. 02



to cause lung, larynx, esophageal, and oral cancer; and the regular use of snuff doubles the user's risk of cardiovascular disease and death; and

- Prolonged use of snuff, a form of smokeless tobacco, contributes to high blood pressure, a factor of cardiovascular disease, and to a higher likelihood of suffering a fatal stroke; and

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

- The total annual economic burden of smoking in the United States is \$193 billion; and
- From 2001-2004, the average annual health care expenditures attributable to smoking were approximately \$96 billion; 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; and
- The total annual cost of smoking in California was estimated at \$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; and
- California's Tobacco Control Program saved the state and its residents \$86 billion in health care expenditures between the year of its inception, 1989, and 2004, with savings growing yearly; 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; and
- 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; 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; and
- Studies on a cruise ship have found that even while cruising at 20 knots and with unlimited air volume, outdoor smoking areas contained carcinogens in nearly the same amounts as inside the ship's casino where smoking was allowed; and

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WHEREAS, cigarette butts pose a health threat to young children, as evidenced by the following:

- In 2004, American poison control centers received nearly 8,000 reports of children poisoned by the ingestion of cigarettes, cigarette butts, and other tobacco products; and
- Children who ingest cigarette butts can experience vomiting, nausea, lethargy, and gagging; 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; 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; and
- Cigarette filters, made of plastic cellulose acetate, take approximately 15 years to decompose; and

WHEREAS, laws restricting the use of tobacco products have recognizable benefits to public health and medical costs, as evidenced by the following:

- Cities with smokefree laws see an appreciable reduction in hospital admittances for heart attacks in the months and years after such laws are passed; and
- Smoking bans help people reduce the number of cigarettes they smoke or quit altogether; and
- Strong smoking regulations for restaurants decrease the number of children who transition from experimenting with smoking to becoming actual smokers; and

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

WHEREAS, society is becoming less tolerant and less accepting of cigarette smoking, 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; and
- People living in cities with strong smokefree air laws are more likely to believe smoking is not acceptable and that smokers should attempt to quit smoking; and
- As of 2008, there are 187 California cities and counties with local laws restricting smoking in at least one outdoor area; and



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

WHEREAS, there is no Constitutional right to smoke;

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 the public from exposure to secondhand smoke where they live, work, and play; by reducing the potential for children to wrongly associate smoking with a healthy lifestyle; and by affirming and promoting a healthy environment in and around the City's outdoor places.

**NOW THEREFORE**, the City Council of the city of Carson, California, does hereby ordain as follows:

**SECTION 1.** Article IV, Chapter 11, Section 41100, of the Carson Municipal Code is hereby amended, in its entirety, to read as follows:

“§ 41100 Definitions. The following words and phrases, whenever used in this article shall have the meanings defined in this section unless the context clearly requires otherwise:

(a) “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, marijuana smoke, and crack cocaine smoke, except when the combusting material contains no tobacco and the purpose of inhalation is solely olfactory, such as, for example, smoke from incense. “Smoking” means engaging in an act that generates Smoke, such as, for example: possessing a lighted pipe, a lighted hookah pipe, a lighted cigar, or a lighted cigarette of any kind; or lighting a pipe, a hookah pipe, a cigar, or a cigarette of any kind.

(b) “Business” means any sole proprietorship, partnership, joint venture, corporation, association, or other entity formed for profit-making purposes.

(c) “Common Area” means every Unenclosed 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, paths, courtyards, playgrounds, swimming pools, parking lots, and picnic areas.

(d) “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.

(e) “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.

(f) "Employer" means any Business or Nonprofit Entity that retains the service of one or more Employees.

(g) "Enclosed Area" means an area in which outside air cannot circulate freely to all parts of the area, and includes an area that has:

(1) any type of overhead cover whether or not that cover includes vents or other openings and at least three walls or other vertical boundaries of any height whether or not those boundaries include vents or other openings; or

(2) four walls or other vertical boundaries that exceed six feet in height whether or not those boundaries include vents or other openings.

(h) "Multi-Unit Residence" means property containing two (2) or more Units, except the following specifically excluded types of housing:

(1) a hotel or motel that meets the requirements set forth in California Civil Code section 1940(b)(2);

(2) a mobile home park;

(3) a campground;

(4) a marina or port;

(5) a single-family home;

(6) 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 an ordinance of the [ City / County ] adopted pursuant to those sections.

(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 or purposes of the entity and not to private gain. A government agency is not a Nonprofit Entity within the meaning of this article.

(j) "Person" means any natural person, Business, cooperative association, Nonprofit Entity, personal representative, receiver, trustee, assignee, or any other legal entity including government agencies.

(k) "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 the operations, regardless of the hours of operation.

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

(m) "Reasonable Distance" means a distance of 25 feet in any direction from an area in which Smoking is prohibited.

(n) "Recreational Area" means any area that is owned or operated by the City of Carson 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.

(o) "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 receive a service, wait to receive a service or to make a transaction, whether or not such service or transaction includes 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.

(p) "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.

(q) "Unenclosed Area" means any area that is not an Enclosed Area.

(r) "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."

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**SECTION 2.** Article IV, Chapter 11, Section 41107, of the Carson Municipal Code is hereby amended, in its entirety, to read as follows:

“§ 41107 Smoking Prohibited.

(a) Smoking is prohibited in the Unenclosed Areas of the following places within the City of Carson, except places where Smoking is already prohibited by state or federal law, in which case those laws apply:

- (1) Recreational Areas;
- (2) Service Areas;
- (3) Dining Areas;
- (4) Places of Employment;
- (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 [ article ] 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, school campuses, and sandboxes;

(c) the area must be no more than (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 article or other provisions of this Code, state law, or federal law; and

(6) Other Public Places, when being used for a public event, including a farmers' market, parade, craft fair, festival, or any other event which may be attended by the general public.

(7) Nothing in this article prohibits any Person, Employer, or Nonprofit Entity with legal control over any property from prohibiting Smoking on any part of such property, even if Smoking is not otherwise prohibited in that area."

**SECTION 3.** Section 41108 is hereby added to Article IV, Chapter 11, of the Carson Municipal Code to read, in its entirety, as follows:

"§ 41108 Smoking Prohibited Within Reasonable Distances.

(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 41107 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."

**SECTION 4.** Section 41109 is hereby added to Article IV, Chapter 11, of the Carson Municipal Code to read, in its entirety, as follows:

§ 41109 Other Requirements and Prohibitions.

(a) No Person, 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 law, unless otherwise required by state or federal law.

(b) No Person, Employer, or Nonprofit Entity shall knowingly or intentionally permit the presence or placement of ash receptacles, such as, for example, ash

13

trays or ash cans, within an area under the legal or de facto control of the Person, Employer or Nonprofit Entity and in which Smoking or the use of Tobacco Products is prohibited by law, including, without limitation, within a Reasonable Distance required by this article 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 article.

(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 article.

(d) A Person, Employer, or Nonprofit Entity that has legal or de facto control of an Unenclosed Area in which Smoking is prohibited by this article 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. 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 41108. For purposes of this section, the City Manager or his/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 article.

(e) No Person, 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 article.

(f) Each instance of Smoking in violation of this article shall constitute a separate violation. For violations other than for Smoking, each day of a continuing violation of this article shall constitute a separate violation.”

**SECTION 5.** Section 41110 is hereby added to Article IV, Chapter 11, of the Carson Municipal Code to read, in its entirety, as follows:

“§ 41110 Penalties and Enforcement.

(a) The remedies provided by this Chapter are cumulative and in addition to any other remedies available at law or in equity.

(b) Each incident of Smoking in violation of this article is an infraction subject to a one hundred dollar (\$100.00) fine. Other violations of this article may, in the discretion of the City Attorney, be prosecuted as infractions or misdemeanors

when the interests of justice so require. Enforcement of this chapter shall be by any code enforcement official.

(c) Violations of this article are subject to a civil action brought by the city of Carson punishable by a civil fine not less than one hundred dollars (\$100.00) per violation.

(d) Causing, permitting, aiding, abetting, or concealing a violation of any provision of this article shall also constitute a violation of this article.

(e) Any violation of this article is hereby declared to be a nuisance.

(f) In addition to other remedies provided by this article or by other law, any violation of this article may be remedied by a civil action brought by the City Attorney, including, but not limited to, administrative or judicial nuisance abatement proceedings, civil or criminal code enforcement proceedings, and suits for injunctive relief.

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

(h) Any Person acting for the interests of itself, its members, or the general public may bring a civil action to enjoin a violation of this article by a landlord, Employer, Business, or Nonprofit Entity or to enjoin repeat violations of this article by an individual.”

**SECTION 6.** If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity : of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that anyone or more sections, subsections, clauses, phrases or portions be declared invalid or unconstitutional.

**SECTION 7.** The City Clerk shall certify to the passage of this ordinance and cause it to be posted in three conspicuous places in the city of Carson, and it shall take effect after it is approved by the City Council, a second reading has taken place and 30 days has past after the second reading.

**PASSED, APPROVED, and ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2011.



Jim Dear, Mayor

ATTEST:

Helen Kawagoe, City Clerk, MMC

APPROVED AS TO FORM:

William W. Wynder, City Attorney



**ITEM NO. (15) CONSIDERATION OF THE CITY OF CARSON'S COMPREHENSIVE  
SMOKE FREE POLICIES (CITY MANAGER)**

Item No. 15 was heard at 8:49 P.M.

Interim City Manager/Economic Development General Manager Graves summarized the staff report and recommendation. He suggested that a sub-committee of the City Council could work with staff and come back with a recommendation.

**Public Comments**

**The following persons spoke in support of a comprehensive smoke-free outdoor area policy in Carson:**

**Calvin Chang, 13030 Inglewood Avenue, Hawthorne, California 90250, Member of the Smoke Free Carson Coalition.**

**Ivy Dalay, 3200 W. Temple Street, Los Angeles, California 90026, representing Search to Involve Pilipino Americans**

**Fe P. Koons, 1631 Balard Street, Carson, California 90745, Philippine Action Group for the Environment**

**Roy Rozelle, representing Public Health Tobacco Control, AYC, 100 W. Clary Avenue, San Gabriel, California 91776**

**Jared Stinson, 139 E. 232<sup>nd</sup> Street, Carson, California 90745**

**Carol Almeda, 2900 S. Crenshaw Boulevard, Los Angeles, California 90016, representing AADAP**

**Marion McReynolds, 421 W. 33<sup>rd</sup> Street, No. 204, Long Beach, California 90806**

**Wilma Wilson, 19306 Harian Avenue, Carson, California 90746**

**Miriam Vazquez, 21413 Martin Street, Carson, California 90745**

**Jennie Jung, 3325 Wilshire Boulevard, Ste. 900, Los Angeles, California 90010, representing the American Lung Association**

**Nathaniel Suarez, 739 W. 207<sup>th</sup> Street, Torrance, California 90502**

**Lauriejo Fernandez, 21803 Nicolle Avenue, Carson, California 90745**

**Samuel Ong, Sr., 312 238<sup>th</sup> Place, Carson, California 90745**



**Sydney Tavag, 1108 E. 215<sup>th</sup> Place, Carson, California 90745**

**Kateryn McReynolds, 421 W. 33<sup>rd</sup> Street, No. 204, Long Beach, California 90806**

**Elna Simpson, 1249 W. 65<sup>th</sup> Place, Los Angeles, California 90044**

**Marcelino Ines, Jr., 1112 E. Gladwick Street, Carson, California 90746**

**Paz V. Velasquez, 23802 Ronan Avenue, Carson, California 90745, representing YFSC-PIA**

**Eric Batch, 19429 Kemp Avenue, Carson, California 90746**

**Jacqueline Sampson**

RECOMMENDATION for the City Council:

1. CONSIDER and PROVIDE direction.

ACTION: Mayor Dear requested that Interim City Manager/Economic Development General Manager Graves place an item to consider sales tax on tobacco products on the next agenda.

It was moved to refer this issue to the Policy Sub-Committee on motion of Ruiz-Raber, seconded by Santarina and unanimously carried by the following vote:

Ayes: Mayor Dear, Mayor Pro Tem Ruiz-Raber, Council Member Davis-Holmes, Council Member Gipson, and Council Member Santarina  
Noes: None  
Abstain: None  
Absent: None





**CITY OF CARSON**  
**REGULAR MEETING OF THE CITY COUNCIL POLICY SUB-COMMITTEE**

**CARSON CITY HALL**  
**EXECUTIVE CONFERENCE ROOM – SECOND FLOOR**  
**701 East Carson Street**  
**CARSON, CALIFORNIA 90745**

**JULY 21, 2011, 4:00 P.M.**

**AGENDA POSTED: JULY 14, 2011**

“In accordance with the Americans with Disabilities Act of 1990, if you require a disability related modification or accommodation to attend or participate in this meeting, including auxiliary aids or services, please call the City Clerk’s office at 310-952-1720 at least 48 hours prior to the meeting.” (Government Code Section 54954.2)

**CALL TO ORDER:** The meeting was called to order at 4:09 p.m. by Chairman Dear

**ROLL CALL:** All present

Also Present: Interim City Manager Graves and Lisa Berglund  
Members of the public: Carol Almeda of AADAP, Calvin Chang and Elna Simpson of the Tongan Community Service Center

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**NEW BUSINESS DISCUSSION**

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**ITEM NO. (1) CONSIDERATION OF A COMPREHENSIVE SMOKE FREE POLICY**

The sub-committee discussed this item in general and reviewed the smoking bans in other cities (Exhibit No. 1). The sub-committee directed staff to draft an ordinance that would ban smoking in service areas, outdoor places of employment and common residential areas. They also directed staff to include a permit process for smoking in dining areas (similar to the program the City of Calabasas has developed). The sub-committee will further consider banning smoking in during outdoor public events. The sub-committee further directed staff to bring the draft ordinance back to the sub-committee and invite key members of the community to be identified by the sub-committees members and the Interim City Manager that would be affected by a smoking ban. Later the draft ordinance would be referred to the Environmental Commission for their review and comments.

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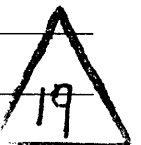
**ORAL COMMUNICATIONS** None.

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**ADJOURNMENT** 4:38 p.m.

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**EXHIBIT NO. 04**





CITY of CALABASAS

Community Development Department  
Planning Division  
26135 Mureau Road  
Calabasas, CA 91302-3172  
T: 818.878.4225  
F: 818.878.4208

www.cityofcalabasas.com

## Designated Smoking Area Permit Application

### GENERAL INFORMATION (print or type)

Applicant: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
 Cell / Other Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

Property Owner: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
 Cell / Other Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

**Note:** Attach additional lists for multiple property owners. If the property owner or applicant is a trust, partnership, corporation or LLC, on a separate sheet, provide a listing of all persons that make-up the trust, partnership, corporation or LLC

### APPLICANT/PROPERTY OWNER CERTIFICATION

If applicant is other than property owner, owner must also sign consenting to filing and the certification listed below. Original signatures only. Fax copies of owner's signature will not be accepted.

I/We, the owner(s) of the subject property, consent to the filing of this application. I have read and understand the "Guidelines for Designated Smoking Areas" (Section 8.12 of the Calabasas Municipal Code) as shown in the material attached to this application and agree to the criteria as written. I also understand that failure to maintain my designated smoking area in accordance with the required standards will be cause for enforcement action by the City and possible revocation of this permit.

I further certify that the plans and information provided present all of the data and information required by this Checklist, and that the facts, statements and information presented are true and correct to the best of my knowledge and belief. Furthermore, I understand that failure to provide the plans and information required by this checklist may result in this application not being accepted as complete for filing and/or processing.

I further agree that City, its employees, agents and officials shall, to the fullest extent permitted by law, be fully protected from any loss, injury, damage, claim, lawsuit, expense, attorneys' fees, litigation expenses, court costs or any other costs arising out of or in any way related to the issuance of this permit, or the activities conducted pursuant to this permit. Accordingly, to the fullest extent permitted by law, the applicant and/or property owner shall defend, indemnify and hold harmless City, its employees, agents and officials, from and against any liability, claims, suits, actions, arbitration proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including, but not limited to, actual attorneys' fees, litigation expenses and court costs of any kind without restriction or limitation, incurred in relation to, as a consequence of, arising out of or in any way attributable to, actually, allegedly or impliedly, in whole or in part, the issuance of this (permit), or the activities conducted pursuant to this (permit). Applicant shall pay such obligations as they are incurred by City, its employees, agents and officials.

\_\_\_\_\_  
Signature (Applicant)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature (Property Owner)

\_\_\_\_\_  
Date

### TO BE COMPLETED BY PLANNING DIVISION STAFF

|                              |                        |
|------------------------------|------------------------|
| Action                       | Application Processing |
| Approved: _____              | Denied: _____          |
| By: _____                    | Date: _____            |
| Staff Initials: _____        | File No(s): _____      |
| Comments / Conditions: _____ |                        |

EXHIBIT NO. 05





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## Guidelines and Standards for Designated Smoking Areas

These guidelines and standards have been developed to implement the Second Hand Smoke Control Ordinance which is contained in Chapter 8.12 of the Calabasas Municipal Code. Staff will review all applications for compliance with these guidelines. Designated Smoking Areas will not be approved for an area that does not meet these guidelines.

Designated Smoking Area Permits (a.k.a. Smoking Outposts) are subject to monitoring by City staff for compliance with these conditions. Failure to comply with these conditions or a determination that the Designated Smoking Area location does not adequately protect the public from second hand smoke may result in the revocation of this permit.

### LOCATION AND SIZE REQUIREMENTS FOR DESIGNATED SMOKING AREAS:

1. A maximum of 1 square foot for every 20,000 square feet of rentable area, provided a property may have at least one designated area that is 40 square feet or less;
2. Maximum of one per property, except for large commercial centers and multi-building office complexes when it is determined that more than one Designated Smoking Area is necessary to accommodate the number of smokers in the area and that the additional Designated Smoking Area(s) will not be detrimental to the public health, safety, or welfare;
3. Must be 20 feet from any public sidewalk, park, playground, etc.; and at least 5 feet from any building entrance;
4. Must be 10 feet from any protected plant or tree, including oak trees;
5. Must be 20 feet from any designated open space area, as shown on the City's General Plan Land Use Map;
6. Must be 20 feet from any property or facility that dispenses or stores gasoline, propane, other petroleum based products, other flammable or combustible products, or any site listed with the Los Angeles County Fire Department as containing hazardous materials.

The Community Development Director may impose restrictions in excess of the above listed minimum requirements if it is determined that the Designated Smoking Area location does not adequately protect the public from second hand smoke.

### OTHER REQUIREMENTS:

Designated Smoking Areas are also subject to these additional requirements:

1. Must be conspicuously identified using an approved City sign and with clearly defined limits;
2. Must be maintained in a clean and attractive manner, and shall be kept free of cigarette butts and litter;
3. Must contain at least one ash tray receptacle (meeting Fire Department standards and specifications) shall be provided and maintained by the property owner;
4. No Designated Smoking Area may be designed and located such that any land development condition (including, but not limited to, lot coverage, pervious surfaces, landscaping, required parking, setbacks, and retaining walls) will be made non-conforming relative to the minimum standards established by the zoning of the property.





# Minimum Application Filing Requirements Checklist & Plan Preparation Guidelines & Minimum Plan Contents for Designated Smoking Areas

## Designated Smoking Area:

The minimum requirements for filing a Site Plan Review application are listed below. An application that does not include the following plans and information will not be accepted for processing:

- Completed Designated Smoking Area Permit Application.
- Two (2) complete sets of plans prepared in accordance with the *Minimum Plan Preparation & Plan Contents Checklist*. Each set shall be stapled together as a single package.
- Any other plans or information that the Community Development Director deems necessary to facilitate processing of the application.

## PLAN PREPARATION GUIDELINES

All of the plans, except where noted, contained in these guidelines are required to be submitted to be considered a complete set.

Plans not conforming to the following guidelines will not be accepted for processing:

- All plans shall be drawn on uniform sheets, no smaller than 8 1/2"X11" and no larger than 24"X36".
- All plans/maps shall be clearly labeled with sheet title, project name and project location.
- A one-sheet master plan shall be provided where the detailed plan/map cannot contain the entire project on a single sheet.
- All plans shall be clear and legible.

## MINIMUM PLAN CONTENTS

### Site Plan:

The site plan shall be drawn to an engineering scale no smaller than 1"=40' for large projects, 1/8"=1' for smaller projects, with the scale clearly labeled, and shall include the following minimum information:

- Name and address of developer, owner of record, and person who prepared the plan.
- Date of preparation and/or revisions.
- North arrow oriented towards the top of the sheet and a legend identifying any symbols.

- Property lines and dimensions.
- A vicinity map showing the precise location of the subject property.
- Nearest cross streets on all sides of the project site, with approximate distances from the site.
- Location of proposed Designated Smoking Area(s) and existing buildings and structures.
- Improvements on adjacent properties within 20 feet, of proposed Designated Smoking Area.
- Parking layout (if DSA displaces parking, handicap parking or loading areas), including stall size and location, handicap parking spaces, loading areas, back-up areas and drives, driveway approaches, curb cuts, pedestrian access, utility vehicle access and secondary access points (if deemed necessary).
- Location of all existing Oak trees are located on site or within twenty (20) feet of the site.
- Any entrances to buildings within 20 feet of the Designated Smoking Area.
- Streets and rights of way, including existing and proposed cross sections, improvements, etc.
- A tabular summary, including the following information:
  1. Designated Smoking Area square footage;
  2. Total rentable area per building and total rentable area for all buildings (if applicable);

## ADDITIONAL SUBMITTAL REQUIREMENTS

**Additional Plans and Information:** Any of the following items may be requested in order to evaluate the Designated Smoking Area:

- A **Parking Analysis** will be required for those projects proposing to reduce the amount of parking and that do not meet current City of Calabasas parking requirements.
- Other Plans and Information.** Any Other Plans or Information that the Planning Director deems necessary to facilitate processing of the application.





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## Signs for Designated Smoking Areas

Signs are required for all approved Designated Smoking Areas. Signs can be ordered through the City of Calabasas. Contact the Traffic and Transportation Department for further information.



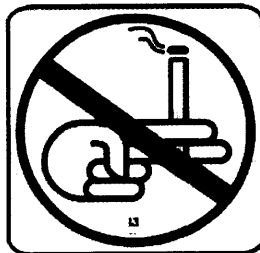
Designated Smoking Area signs are only available in conjunction with a Designated Smoking Area Permit approved by the City of Calabasas. The prices listed are the cost to the City from the manufacturer and subject to change without notice.

Size: 12"X18"  
Price: \$33.00 each

You can also purchase signs for no smoking areas.



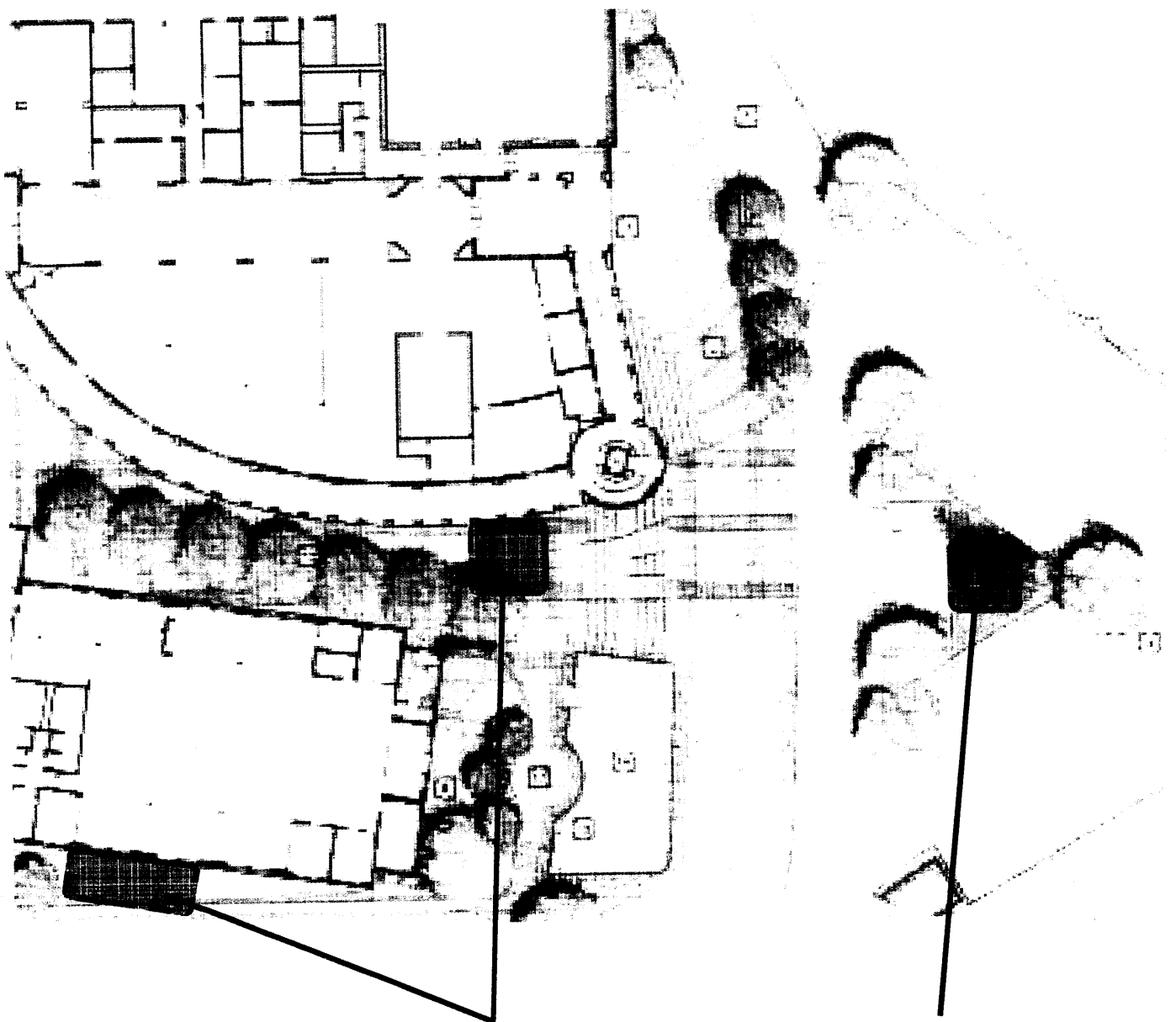
Size: 12"X18"  
Price: \$33.00 each



Size: 12"X12"  
Price: \$28.50 each



# Designated Smoking Area Example



## Unacceptable Locations of Proposed Designated Smoking Area

- Within 5 feet of building entrance and/or opening;
- In pedestrian high traffic area;
- Within 20 feet of common area;
- Located in area where a smoker could reasonably expect to be within 20 feet of non-smokers.

## Acceptable Location of Proposed Designated Smoking Area

- Not within 5 feet of building entrance and/or opening;
- Not in pedestrian high traffic area;
- Not within 20 feet of common area;
- Not located in area where a smoker could reasonably expect to be within 20 feet of non-smokers.

**Survey question: Is smoking prohibited in the following places?**

| RESTRICTIONS   | Carson | Baldwin Park | Beverly Hills | Burbank | Calabasas | Glendale | Pasadena | Santa Monica |
|--|--------|--------------|---------------|---------|-----------|----------|----------|--------------|
| City-Owned Premises  | YES    | YES          | NO            | YES     | YES       | YES      | YES      | NO           |
| Recreational Areas   | YES    | YES          | NO            | YES     | YES       | YES      | YES      | YES          |
| Service Areas  | NO     | YES          | NO            | YES     | YES       | YES      | YES      | YES          |
| Dining Areas   | NO     | YES          | YES           | YES     | YES       | YES      | YES      | YES          |
| Places of Employment   | NO     | NO           | NO            | NO      | YES       | YES      | YES      | YES          |
| Common Residential Areas                                       | NO     | NO           | NO            | YES     | YES       | YES      | NO       | NO           |
| Outdoor Public Events  | NO     | NO           | NO            | YES     | YES       | YES      | YES      | NO           |
| Within 20' of Building Entrances<br>(as required by the state) | YES    | YES          | YES           | YES     | YES       | YES      | YES      | YES          |
| Balconies/Patios of Housing Units                              | NO     | NO           | NO            | YES     | YES       | YES      | NO       | NO           |

**DEFINITIONS:**

**Recreational Area** means any area that is owned or operated by the City of Carson 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.

**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 receive a service, wait to receive a service or to make a transaction, whether or not such service or transaction includes 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.

**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.

**Common Area** means every Unenclosed 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, paths, courtyards, playgrounds, swimming pools, parking lots, and picnic areas.