

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL  
AMENDING CHAPTER 8.44 (Smoking Pollution Control) OF TITLE 8 (Health and  
Safety) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL REGARDING  
SMOKING POLLUTION CONTROL**

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, cervix, 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 3,000 deaths from lung cancer and 46,000 deaths from heart disease 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, 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
- 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
- Smoking cigarettes near building entryways can increase air pollution levels by more than two times as compared to background levels, with maximum levels reaching the "hazardous" range on the US EPA's Air Quality Index; 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

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, 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; and

WHEREAS, creating smokefree areas helps protect the health of the 86.9% 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 97% thought that secondhand smoke is harmful, 88% thought secondhand smoke was harmful even outdoors, 65% 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 2010, there are at least 273 California cities and counties with local laws restricting smoking in recreational areas, 85 with smokefree outdoor dining laws and 23 that restrict smoking on sidewalks in commercial areas; 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 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 the City.

**SECTION I.** Chapter 8.44 of the Morgan Hill Municipal Code is hereby amended to read (additions in *italics*, deletions in ~~strikeout~~).

**8.44.010 Purpose.**

A. Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution *and a potential health hazard in outdoor settings*. Studies have shown ~~involuntary~~

~~smoking exposure to secondhand smoke is to be a significant health hazard for several populations, including children, elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease. Health hazards induced by involuntary smoking exposure to secondhand smoke include lung cancer, heart disease, respiratory infection, increased episodes of decreased exercise tolerance, decreased respiratory functions, bronchoconstriction, and bronchospasm. Nonsmokers with allergies, respiratory diseases and those who suffer other ill effects of breathing secondhand smoke may experience a loss of job productivity or may be forced to take periodic sick leave because of reactions to secondhand smoke. Studies have show many nonsmokers do not dine in restaurants because of adverse reaction or annoyance from secondhand smoke. The majority of travelers prefer nonsmoking sections in airplanes, buses and trains. Smoking is a potential cause of fires, and cigarette butts are a pervasive source of litter. and cigar burns and ash stains on merchandise and fixtures cause losses to Morgan Hill businesses.~~

B. The city council of the city finds and declares that the purposes of this chapter are (1) to protect the public health and welfare by *reducing exposure to secondhand smoke by prohibiting smoking in public places and places of employment except in designated smoking areas places where people live, work, and play*, and (2) to strike a reasonable balance between the needs of persons who smoke and the need of nonsmokers to breathe smoke-free air, and to recognize that, where these needs conflict, the need to breathe smoke-free air should have priority.

#### **8.44.020 Definitions.**

The following words and phrases, whenever used in this chapter, shall be construed as defined as follows:

~~1. "Bar" means an area which is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of such beverages. Although a restaurant may contain a bar, the term "bar" shall not include the restaurant dining area.~~

~~2. 1. "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. Dining area includes outdoor patios and other areas used for the consumption of food or drink, including any public right of way in which dining is permitted through city approval. enclosed area containing a counter or tables upon which meals are served.~~

~~3. 2. "Employee" means any person who is employed or retained as an independent contractor by any employer in the consideration for direct or indirect monetary wages or profit, or any person who volunteers his or her services for an employer.~~

~~4. 3. "Employer" means any person, who business, nonprofit entity, or corporation, including public agencies, who retain the services of one or more employees. employs the services of~~

~~more than three persons each working thirty hours or more per week.~~

~~5.~~ 4. "Enclosed" means closed in by a roof and four walls with appropriate openings for ingress and egress.

5. *"Unenclosed" means any area that is not enclosed.*

~~6.~~ "Motion picture theater" means any theater engaged in the business of exhibiting motion pictures.

~~7.~~ 6. "Place of employment" means any enclosed area under the *legal or de facto* control of a public or private employer which employees normally frequent during the course of employment, including, but not limited to:

- a. Conference and class rooms;
- b. Employee cafeterias *and dining areas*;
- c. Employee lounges, *breakrooms, and restrooms*;
- d. Hallways, *elevators, and warehouses*;
- e. Work areas.

A private residence is not a "place of employment."

~~The dining area of a restaurant is not a "place of employment."~~

~~8.~~ 7. "Public place" means any enclosed area, *publicly or privately owned*, to which the public is invited or in which the public is permitted, *regardless of any fee or age requirement*, including, but not limited to:

- a. Banks;
- b. Educational facilities;
- c. Health *care* facilities;
- d. Public transportation facilities;
- e. Reception areas, *and hotel and motel lobbies*;
- f. Restaurants, *bars, and hotel and motel banquet rooms*;
- g. Retail stores;
- h. Retail service establishments;
- i. Retail food production and marketing establishments;
- j. Waiting rooms, *elevators, and restrooms*.
- k. *Government buildings*.

A private residence is not a "public place."

~~9.~~ 8. *"Reasonable Distance" means a distance of twenty-five (25) feet in any direction from an area in which smoking is prohibited.* "Restaurant" means ~~any coffee shop, cafeteria, luncheonette, tavern, cocktail lounge, sandwich stand, soda fountain, private and public school cafeteria or eating establishment, and any other eating establishment, organization, club,~~

~~including veterans' club, boardinghouse or guesthouse which gives or offers for sale food to public, guests, patrons or employees, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering functions, except that the term "restaurant" shall not include a cocktail lounge or tavern if said cocktail lounge or tavern is a "bar" as defined in paragraph 1 of this section. Notwithstanding the above definitions, restaurants containing fifty seats or less are exempt from the provisions of this chapter save and except from the notification provisions of Section 8.44.060 for those restaurants and eating establishments where no smoking areas have been made available on a voluntary basis.~~

~~40- 9. "Service Area line" means any publicly or privately owned area, including streets and sidewalks, that is 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, areas including or adjacent to information kiosks, automatic teller machines (ATMs), ticket lines, bus stops or shelters, mobile vendor lines, or cab stands.~~

~~indoor line at which one or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.~~

10. "Smoke" means the gases, particles, or vapors released into the air as a result of combustion, electrical ignition, or vaporization when the apparent or usual purpose of the combustion, electrical ignition, or vaporization is human inhalation of the byproducts, except when the combusting material contains no tobacco or nicotine and the purpose of inhalation is solely olfactory, such as smoke from incense. The term "smoke" includes, but is not limited to, tobacco smoke, electronic cigarette vapors, and marijuana smoke.

11. "Smoking" means engaging in an act that generates smoke, such as possessing a lighted pipe, a lighted hookah pipe, an operating electronic cigarette, a lighted cigar, or a lighted cigarette of any kind or lighting or igniting a pipe, a hookah pipe, a cigar, or a cigarette of any kind. ~~inhaling, exhaling, burning or carrying any lighted cigar, cigarette, weed, plant or other combustible substance in any manner or in any form.~~

12. "Recreational Area" means any area that is publicly 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, riding trails, swimming pools, roller- and ice-skating rinks, recreation centers, dog parks, and skateboard parks.

~~42- 13. "Retail or wholesale tobacco shop" means any business establishment the main purpose of which is the sale of tobacco products, including, but not limited to, cigars, pipe tobacco, and smoking accessories. "Private smokers' lounge" means any enclosed area in or attached to a retail or wholesale tobacco shop that is dedicated to the use of tobacco products, including, but not limited to, cigars and pipes. A retail or wholesale tobacco store does not include any enclosed area or business establishment that also serves or sells services or products other than tobacco use or tobacco products.~~

#### 8.44.030 Smoking—Where prohibited.

Smoking is prohibited and shall not be permitted in the following places ~~within the city; enclosed areas within the city, in addition to places where smoking is already prohibited by state or federal law, in which case those laws apply:~~

A. ~~Public places; Elevators-~~

B. ~~Buses, taxicabs and other means of public transit under the authority of the city, while within the boundaries of the city; , and in ticket, boarding, and waiting areas of public transit depots; provided, however, this prohibition does not prevent the establishment of separate equal sized waiting areas for smokers and nonsmokers or establishing a portion of the waiting area as a smoking area;-~~

C. ~~Places of employment; Public restrooms~~

D. ~~Indoor-Service lines areas;~~

E. ~~Dining areas; Retail stores doing business with the general public, except in said stores not open to the public, and all areas within retail tobacco stores;-~~

F. ~~Recreational areas; .All enclosed areas available to and customarily used by the general public in all businesses patronized by the public, including, but not limited to, attorneys' offices and other offices, banks, hotels and motels, pharmacies~~

H. ~~Private residences licensed as family day care homes during the hours of operation as family day care homes and in those areas where children are present. In bathrooms, halls, reading and viewing rooms of aquariums, libraries, and museums when open to the public; provided, however, this prohibition does not prevent the designation of a separate room for smoking;-~~

I. ~~Within any building not open to the sky which is primarily used for, or designed for the primary purpose of exhibiting any motion picture, stage drama, lecture, musical recital or other similar performance, except when smoking is a part of a stage production; provided, however, this prohibition does not prevent designating a contiguous area of any area commonly called a lobby as a smoking area;-~~

J. ~~Hearing rooms of the city council of the city;~~

K. ~~Within every room, chamber, place of meeting or public assembly, including school buildings under the control of any board, council, commission, committee, including joint committees, or agencies of the city during such time as a public meeting is in progress;-~~

L. ~~Waiting rooms, hallways, wards and semiprivate rooms of health facilities, including but not limited to hospitals, clinics, physical therapy facilities, doctors' and dentists' offices, except in separate designated smoking areas;-~~

M. ~~In bed space areas utilized for two or more patients, smoking shall be prohibited for hospital staff, visitors and the general public unless all patients within the room are smokers and request in writing upon the health facility's admission forms to be placed in a room where smoking is permitted.-~~

2. *Smoking is prohibited and shall not be permitted in the following unenclosed areas within the city, in addition to places where smoking is already prohibited by state or federal law, in which case those laws apply:*

*A. Service areas;*

*B. Dining areas and within a reasonable distance of any outdoor dining area;*

*C. Recreational areas, except events at the Community and Cultural Center may be permitted to have a designated smoking area that is approved and defined by the Community Services Director or his or her designee as part of rental permit process including clean up of the designated smoking area;*

*D. Within a reasonable distance from any doorway, window, opening, crack, or vent into an enclosed area which fronts the sidewalk and/or street, except while the person smoking is actively passing on the way to another destination;*

*E. Unenclosed areas being used for a public event on a public right of way, including a farmers' market, parade, craft fair, festival, or any other event which may be attended by the general public, except in a designated smoking area. The need for a designated smoking area is solely at the discretion of the event organizer and is not mandatory. If applicable, a designated smoking area:*

*(1) must be completely within an unenclosed area;*

*(2) must not overlap with any area in which smoking is otherwise prohibited by this chapter, state law or federal law;*

*(3) must be located a reasonable distance from any areas primarily used by children;*

*(4) must be no more than five percent (5%) of the total outdoor area of the property on which it is located*

*(5) must have a clearly marked perimeter; and*

*(6) must be identified by conspicuous signs.*

**~~8.44.040: Reserved – Smoking policy – Requirements.~~**

~~Within ninety days of the effective date of the ordinance codified in this chapter, each employer shall adopt, implement, make known and maintain a written smoking policy which shall maintain as a minimum the following requirements:-~~

~~A. Prohibition of smoking in employer:~~

~~1. Auditoriums;~~

~~2. Classrooms;~~

~~3. Conference and meeting rooms;~~

~~4. Elevators;~~

~~5. Hallways;~~

~~6. Medical facilities;~~

~~7. Restrooms.~~

~~B. Provision and maintenance of a separate and contiguous nonsmoking area in cafeterias, lunchrooms and employee lounges or provision and maintenance of separate and equal sized cafeterias, lunchrooms and employee lounges for smokers and nonsmokers.~~

~~C. Any employee in a place of employment shall be given the right to designate his or her immediate work area as a nonsmoking area and to post the same with an appropriate sign or signs. The policy adopted by the employer shall include a reasonable definition of the term "immediate work area."~~

~~D. In any dispute arising under the smoking policy, the rights of the nonsmoker shall be given precedence.~~

~~E. The smoking policy shall be communicated to all employees within three weeks of its adoption, and at least yearly thereafter.~~

~~F. All employers shall supply a written copy of the smoking policy to any prospective employee who so requests.~~

~~G. Notwithstanding the provisions of this section, every employer shall have the right to designate any place of employment, or any portion thereof, as a nonsmoking area.~~

~~H. An employer who in good faith develops and promulgates a policy regarding smoking and nonsmoking in the workplace shall be deemed to be in compliance with this section, provided that a policy which knowingly omits the minimal elements of a policy or which designates an entire workplace as a smoking area shall not be deemed a good faith policy.~~

#### **8.44.050 Retail Tobacco Stores. Smoking—Where Optional**

~~A. Notwithstanding any other provision of this chapter to the contrary, *retail tobacco stores* the following areas shall not be subject to the smoking restrictions of this chapter:~~

- ~~1. Bars;~~
- ~~2. Private residences;~~
- ~~3. Hotel and motel rooms rented to guests;~~
- ~~4. Retail tobacco stores;~~
- ~~5. Eating establishments, hotel and motel conference/meeting rooms, and public and private assembly rooms while these places are being used for private functions;~~
- ~~6. A private residence which may serve as a place of employment;~~
- ~~7. A private enclosed office workplace occupied exclusively by smokers, even though such an office workplace may be visited by nonsmokers;~~

~~8. Semiprivate rooms of health facilities occupied by one or more patients, all of whom are smokers who have requested in writing upon the health care facility's admissions forms to be placed in a room where smoking is permitted.~~

~~B. Notwithstanding any other provision of this section, any owner, operator, manager or other person who controls a business may declare that entire business a nonsmoking establishment.~~

#### **8.44.060 Posting of signs.**

A. ~~"Smoking" or At least one "No Smoking" signs sign, whichever are appropriate, with letters 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) shall be clearly, sufficiently and conspicuously posted in every room, on the building or other place places where smoking is regulated by this chapter by the owner, operator, manager or other person having control of such building or other place-places.~~

B. Every theater owner and/or manager shall post signs conspicuously in the lobby stating that smoking is prohibited within the theater or auditorium, and in the case of motion picture theaters, such information shall be shown upon the screen for at least five seconds prior to the showing of each feature motion picture.

C. ~~Notwithstanding this section, the presence or absence of "No Smoking" signs shall not be a defense to a charge of smoking in violation of any other provision of this chapter. Every restaurant as defined in this chapter will have posted at its entrance a sign clearly stating that a nonsmoking section is available, and every patron shall be asked as to their preference where a host or hostess is available. Restaurants and eating establishments of fifty seats or less shall have signs advising whether no-smoking areas are available.~~

#### **8.44.070 Enforcement.**

A. Any citizen who desires to register a complaint under this chapter may file the same with the city manager or his *or her* designees.

B. Enforcement shall be implemented by the city manager or his *or her* designees. The fire department or the health department shall have the authority of requiring from any occupancy, while undergoing any regular inspection, a "self-certification" from the owner, manager, operator or other person having control of such establishment, that all requirements of this chapter have been complied with.

C. Any owner, manager, operator or employee of any establishment controlled by this section shall have the right to inform persons violating this section of the appropriate provisions thereof.

D. *No person, employer, or landlord 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.*

#### **8.44.080 Governmental agency cooperation.**

The city manager shall request governmental and educational agencies having offices within the city to establish local operating procedures to cooperate and comply with this section. In federal, state and special school districts within the city, the city manager shall urge enforcement of their existing smoking prohibitions and request cooperation with this chapter.

#### **8.44.090 Other applicable laws.**

This chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable health, safety or fire codes.

#### **~~8.44.100 Exemptions.~~**

~~A. Any owner or manager of a business or other establishment subject to this chapter may apply to the city for an exemption or modification to any provision of this chapter due to unusual circumstances or conditions.~~

~~B. Such exemption shall be granted only if the city manager finds from the evidence presented by the applicant at a hearing open to the public that such exemption is warranted.~~

~~C. The applicant for an exemption shall pay the fee prescribed in the zoning code for a use permit with the application, to cover the cost of the hearing and noticing of the hearing.~~

#### **~~8.44.110 Penalties.~~**

~~A. It is unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to the restrictions of this chapter to fail to comply with its provisions.~~

~~B. It is unlawful for any person to smoke in any area restricted by the provisions of this chapter.~~

~~C. Any person who violates any provision of this section shall be guilty of an infraction punishable by:~~

~~1. A fine not exceeding one hundred dollars for a first violation;~~

~~2. A fine not exceeding two hundred dollars for a second violation within one year;~~

~~3. A fine not exceeding five hundred dollars for each additional violation of this chapter within one year.~~

#### **8.44.100 Penalties.**

*A. It is unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to the restrictions of this chapter to fail to comply with its provisions.*

*B. It is unlawful for any person to smoke in any area restricted by the provisions of this chapter.*

*C. Any person who violates any provision of this section shall be guilty of an infraction.*

**SECTION II. STATUTORY CONSTRUCTION & SEVERABILITY.**

It is the intent of the City Council of the City of Morgan Hill 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 Morgan Hill hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof independently, 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 III.**

Effective Date; Posting. This ordinance shall take effect thirty (30) days after its second reading. This ordinance shall be posted at City Hall.

This ordinance was introduced at a meeting of the City Council held on the \_\_\_\_ day of \_\_\_\_, 2012, and adopted at a meeting held on the \_\_\_\_ day of \_\_\_\_, 2012, and said ordinance was duly passed and adopted in accordance with law by the following vote:

**AYES: COUNCIL MEMBERS:**

**NOES: COUNCIL MEMBERS:**

**ABSTAIN: COUNCIL MEMBERS:**

**ABSENT: COUNCIL MEMBERS:**

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
IRMA TORREZ, City Clerk

\_\_\_\_\_  
STEVE TATE, Mayor

**CERTIFICATE OF THE CITY CLERK**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA,** do hereby certify that the foregoing is a true and correct copy of Ordinance No. ,adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2012.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

DATE: \_\_\_\_\_

\_\_\_\_\_  
IRMA TORREZ, City Clerk

DRAFT