

CITY COUNCIL OF THE CITY OF NOVATO

ORDINANCE NO. 1616

AN ORDINANCE OF THE CITY OF NOVATO REPEALING AND REPLACING IN FULL SECTION 7-3 OF THE NOVATO MUNICIPAL CODE TO REGULATE SMOKING AND TOBACCO PRODUCT USE

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

SECTION I. FINDINGS.

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

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 (EPA) 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, laws restricting the use of tobacco products have recognizable benefits to public health and medical costs with a review of over 80 peer-reviewed research studies showing that smokefree policies effectively do the following:

- Reduce tobacco use: tobacco use is reduced by median of 2.7 percent; and
- Reduce exposure to secondhand smoke: air pollution is reduced by a median of 88 percent and biomarkers for secondhand smoke are reduced by a median of 50 percent; and
- Increase the number of tobacco users who quit by a median of 3.8 percent; and
- Reduce initiation of tobacco use among young people; and
- Reduce tobacco-related illnesses and death: there is a 5.1 percent median decrease in hospitalizations from heart attacks and a 20.1 percent decrease in hospitalizations from asthma attacks after such laws are passed; and

WHEREAS, laws restricting electronic smoking devices use also have benefits to the public as evidenced by the following:

- Research has found at least ten chemicals known to the State of California to cause cancer, birth defects, or other reproductive harm, such as formaldehyde, acetaldehyde, lead, nickel, and toluene; and
- More than one study has concluded that exposure to vapor from electronic smoking devices may cause passive or secondhand vaping; and
- The use of electronic smoking devices in smokefree locations threatens to undermine compliance with smoking regulations and reverse the progress that has been made in establishing a social norm that smoking is not permitted in public places and places of employment; and
- The State of California’s Tobacco Education and Research Oversight Committee (TEROC) “opposes the use of e-cigarettes in all areas where other tobacco products are banned;” 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 is associated with oral, esophageal, and pancreatic cancers; and
- Smokeless tobacco is associated with increased risk for heart disease and stroke, stillbirth and preterm delivery, and Parkinson’s disease; and

WHEREAS, most Californians do not smoke and a majority favor limitation on smoking in multi-family residences, as evidenced by the following:

- 88% of Californians are non-smokers; and
- 70% of Californians surveyed approve of apartment complexes requiring at least half of rental units be non-smoking; and
- 67% of Californians surveyed favor limiting smoking in outdoor common areas of apartment buildings.

WHEREAS, state law prohibits smoking within 25 feet of playgrounds and tot lots and expressly authorizes local communities to enact additional restrictions; and

WHEREAS, as of January 2015, there are at least 348 California cities and counties with local laws restricting smoking in recreational areas, and 48 with local laws restricting smoking on sidewalks in commercial areas; and

WHEREAS, nationally, 86.9% of all adult cigarette smokers begin smoking by the age of 18.6

- In California, 67.7% of current and former smokers start by the age of 18, and 98.1% start by the age of 26 according to data from the 2014 Behavioral Risk Factor and Surveillance System; and,
- Reducing the initiation rate within young adults could be a highly effective and efficient method of reducing long-term smoking rates in the state.

WHEREAS, there is no Constitutional right to smoke;

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 and tobacco use around non-tobacco users, especially children; by protecting the public from exposure to secondhand smoke where they live and play; by reducing the potential for children to wrongly associate smoking and tobacco use with a healthy lifestyle; and by affirming and promoting a healthy environment in the City.

SECTION II. Section 7-3 of the Novato Municipal Code is hereby repealed and replaced in full to read as follows:

Sec. 7-3.1 TITLE

This section shall be known as the “Novato Smoke-Free Air and Health Protection Ordinance.”

Sec. 7-32. DEFINITIONS. The following words and phrases, whenever used in this section shall have the meanings defined in this section unless the context clearly requires otherwise:

- “Bar” means an area which is devoted to the serving of alcoholic beverages for consumption by patrons 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.
- “City” means the City of Novato, State of California.
- “Child Care Facilities” means any family day care regulated by Sections 1597.30 through 1597.621 of the California Health & Safety Code and any day care center for children regulated by Section 1596.90 et seq. of the California Health & Safety Code. It does not include foster homes or residential care facilities.

- (d) "Common Area" means every Enclosed Area and 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, halls, paths, lobbies, courtyards, elevators, stairs, community rooms, playgrounds, gym facilities, swimming pools, parking garages, parking lots, restrooms, laundry rooms, cooking areas, and eating areas.
- (d) "Common Interest Complex" means a Multi-Unit Residence that is a condominium project, a community apartment project, a stock cooperative, or a planned development as defined by California Civil Code section 4100.
- (e) "Dining Area" means any area, including streets and sidewalks, which is available to or customarily used by the general public, and which is designed, established, or regularly used for consuming food or drink.
- (f) "Electronic Smoking Device" means an electronic and/or battery-operated device that can be used to deliver an inhaled dose of nicotine, or other substances, including any component, part, or accessory of such a device, whether or not sold separately. "Electronic Smoking Device" includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor.
- (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 (3) walls or other vertical constraint to airflow including, but not limited to, vegetation of any height, whether or not those boundaries include vents or other openings; or
 - (2) four (4) walls or other vertical constraints to airflow including, but not limited to, vegetation that exceed six (6) feet in height, whether or not those constraints include vents or other openings.
- (h) "Multi-Unit Residence" means property containing two (2) or more Units, including but not limited to a Common Interest Complex, except the following specifically excluded types of housing:
- (1) a mobile home park Unit;
 - (2) a single-family residence; and
 - (3) detached or attached in-law or accessory dwelling Unit to single family residence.

- (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 section.
- (j) "Person" means any natural person, cooperative association, personal representative, receiver, trustee, assignee, or any other legal entity including a government agency.
- (k) "Public Place" means any place, publicly or privately owned, which is open to the general public regardless of any fee or age requirement, including but not limited to: Bars, restaurants, clubs, stores, stadiums, parks, playgrounds, taxis, buses, bus shelters, public transportation facilities, hotels and motels, bed and breakfast facilities, fairs, farmers' markets, theaters, sidewalks and streets. Public Place does not mean within private vehicles in or on public places.
- (l) "Reasonable Distance" means a distance of 20 feet in any direction from an area in which Smoking is prohibited.
- m) "Recreational Area" means any area that is publicly or privately owned, controlled or used by the City 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, walking paths, gardens, hiking trails, bike paths, riding trails, swimming pools, skateboard parks and amusement parks.
- (n) "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 areas including or adjacent to information kiosks, automatic teller machines (ATMs), ticket lines, bus stops or shelters, mobile vendor lines, or cab stands.
- (o) "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 or vaporizing material contains no tobacco, marijuana, cocaine or nicotine *and* the purpose of inhalation is solely olfactory, such as, for example, smoke from incense. The term "Smoke" includes, but is not limited to, tobacco smoke, Electronic Smoking Device vapors, marijuana smoke, and crack cocaine smoke.

- (p) "Smoking" means the inhaling and/or exhaling of Smoke and/or the inhaling, exhaling, burning, or carrying any lighted, heated, or ignited cigar, cigarette, cigarillo, pipe, hookah, Electronic Smoking Device, or any plant product intended for human inhalation.
- (q) "Tobacco Product" means:
- (1) any product containing, made, or derived from tobacco, marijuana or nicotine that is intended for human consumption, whether Smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff; and
 - (2) Any Electronic Smoking Device.
 - (3) Notwithstanding any provision of subsections (1) and (2) to the contrary, "Tobacco Product" includes any component, part, or accessory of a Tobacco Product, whether or not sold separately. "Tobacco Product" does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.
- (r) "Unenclosed Area" means any area that is not an Enclosed Area.
- (s) "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 accessory dwelling unit.

Sec. 7-3.3 PROHIBITION OF SMOKING AND TOBACCO PRODUCT USE IN ENCLOSED PLACES

- (a) Smoking and the use of Tobacco Products are prohibited in the Enclosed Areas of the following places within the City of Novato:
- (1) Public Places; and
 - (2) Multi-Unit Residences and Common Areas; and
 - (3) Dining Areas; and
 - (4) Service Areas.

(b) Smoking and the use of Tobacco Products are prohibited by this chapter in all other Enclosed Areas except as provided below.

- (1) Inside private vehicles.
- (2) Inside private, single family residences except private residences used as Child Care Facilities or health care facilities.
- (3) Inside in-law or accessory dwelling Units attached to or detached from single family residences.
- (4) As provided under Section 7-3.5.

Sec. 7-3.4 PROHIBITION OF SMOKING AND TOBACCO PRODUCT USE IN UNENCLOSED AREAS

(a) Smoking and the use of Tobacco Products are prohibited in the Unenclosed Areas of the following places within the City:

- (1) Recreational Areas;
- (2) Service Areas;
- (3) Public Places;
- (4) Dining Areas;
- (5) Bars;
- (6) Common Areas of Multi-Unit Residences, provided, however, 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:
 - (i) the area must be located a Reasonable Distance from any Unit or Enclosed Area where Smoking is prohibited by this section 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 Person with legal control over a designated Smoking area may be obliged to modify, relocate, or eliminate that

as laws change, as binding agreements are created, and as nonsmoking areas on neighboring property are established;

- (ii) 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;
- (iii) the area must be no more than ten percent (10%) of the total Unenclosed Area of the Multi-Unit Residence for which it is designated;
- (iv) the area must have a clearly marked perimeter;
- (v) the area must be identified by conspicuous signs;
- (vi) the area must be completely within an Unenclosed Area; and
- (vii) the area must not overlap with any Enclosed or Unenclosed Area in which Smoking is otherwise prohibited by this section or other provisions of this Code, state law, or federal law; and

(7) Other Public Places.

- (b) Nothing in this section prohibits any Person or Nonprofit Entity with legal control over any property from prohibiting Smoking and Tobacco Product use on any part of such property, even if Smoking or the use of Tobacco Products is not otherwise prohibited in that area.

Sec. 7-3.5 SMOKING RESTRICTIONS FOR NEW AND EXISTING UNITS OF MULTI-UNIT RESIDENCES

- (a) With respect to all existing Units of Multi-Family Residences in which Smoking was permitted under Novato City Ordinance No. 1533 immediately prior to the effective date of this, the Novato Smoke-Free Air and Health Protection Ordinance (“This Ordinance”), said Units shall become subject to This Ordinance (i) on the expiration of the Unit’s lease or rental agreement in effect on the effective date of This Ordinance, (ii) on the first day of the next rental period following the said effective date as to those Units rented on a month-to-month basis, (iii) when the lease or rental agreement existing on the said effective date is renewed, (iv) when a new lease or rental agreement is entered with a new or existing tenant, or (v) on January 1, 2018, whichever comes first.
- (b) Notwithstanding section 7-3.5(a) to the contrary, each and every Unit of a Multi-Family Residence the occupancy of which becomes available for the first time on or after the effective date of This Ordinance shall be subject to and controlled by section 7-3.

Sec. 7-3.6 REQUIRED AND IMPLIED LEASE TERMS FOR UNITS IN MULTI-FAMILY RESIDENCES

(a) Every lease or other rental agreement for the occupancy of a Unit in a Multi-Unit Residence entered into, renewed, or continued month-to-month after the effective date of This Ordinance shall include the provisions set forth in subsection (b) below on the earliest possible date when such an amendment is allowable by law after providing the minimum legal notice.

(b) Every lease or other rental agreement governed by subsection (a) above shall be amended or prepared to include the following provisions:

(1) A clause providing that as of the commencement date of the agreement, it is a material breach of the agreement to allow or engage in Smoking in the Unit. Such a clause might state, "It is a material breach of this agreement for tenant or any other person subject to the control of the tenant or present by invitation or permission of the tenant to engage in smoking in the unit.

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

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

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

(c) Whether or not a landlord complies with subsections (a) and (b) above, the clauses required by those subsections shall be implied and incorporated by law into every agreement to which subsections (a) or (b) apply and shall become effective as of the earliest possible date on which the landlord could have made the amendments or included the clauses in the agreements pursuant to subsections (a) or (b).

(d) A tenant who breaches a Smoking provision of a lease or other rental agreement for the occupancy of a Unit in a Multi-Unit Residence, or who knowingly permits any other person subject to the control of the tenant or present by invitation or permission of the tenant to breach said provisions, shall be liable for the breach to:

(1) The landlord; and

(2) Any occupant of the Multi-Unit Residence who is exposed to Smoke or who suffers damages as a result of the breach.

(e) This section shall not create additional liability in a landlord to any person for a tenant's breach of any Smoking provision in a lease or other rental agreement for the occupancy of a Unit in a Multi-Unit Residence if the landlord has fully complied with this section 7-3.6 and section 7-3.4(a)(6).

(f) Failure to enforce any smoking provision required by this section shall not affect the right to enforce such provision in the future, nor shall a waiver of any breach constitute a waiver of any subsequent breach or a waiver of the provision itself.

Sec. 7-3.7 REASONABLE SMOKING DISTANCE REQUIRED

(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.

(b) Smoking in Unenclosed Areas shall be prohibited within a Reasonable Distance from any Unenclosed Areas in which Smoking is prohibited under this section.

(c) The prohibitions in subdivisions (a) and (b) shall not apply to Unenclosed Areas of private residential properties that are not Multi-Unit Residences.

Sec. 7-3.8 OTHER REQUIREMENTS AND PROHIBITIONS

(a) No Person or Nonprofit Entity shall knowingly permit Smoking or the use of Tobacco Products in an area which is under the legal or de facto control of that Person or Nonprofit Entity and in which Smoking or the use of Tobacco Products is prohibited by law.

(b) No Person or Nonprofit Entity shall knowingly or intentionally permit the presence or placement of ash receptacles, such as, for example, ash trays or ash cans, within an area under the legal or de facto control of that Person 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 section from any area in which

Smoking or the use of Tobacco Products 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 or the use of Tobacco Products in violation of any provision of this section.

- (c) No Person shall dispose of used Smoking or Tobacco Product waste within the boundaries of an area in which Smoking or Tobacco Product use is prohibited, including within any Reasonable Distance required by this section.
- (d) A Person or Nonprofit Entity that has legal or de facto control of an area in which Smoking and the use of Tobacco Products are prohibited by this section shall post a clear, conspicuous and unambiguous “No Smoking” and “No Use of Tobacco Products” or “Smokefree” and “Tobacco-Free” 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 Sec. 7-3.7. At least one sign with the County phone number to which complaints can be directed must be placed conspicuously in each place in which Smoking is prohibited. 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 or the use of Tobacco Products in violation of any other provision of this section.
- (e) No Person 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 section.
- (f) Each instance of Smoking or Tobacco Product use in violation of this section shall constitute a separate violation. For violations other than for Smoking, each day of a continuing violation of this section shall constitute a separate violation.

Sec. 7-3.9 PENALTIES AND ENFORCEMENT.

- (a) The remedies provided by this section are cumulative and in addition to any other remedies available at law or in equity.
- (b) Each incident of Smoking or use of Tobacco Products or other conduct in violation of this section shall be punishable pursuant to Section 1-5 of this Code. In addition, any peace officer or code enforcement official also may enforce this section.

- (c) The city code enforcement offer shall require, while an establishment is undergoing otherwise mandatory inspections, certification from the owner, manager, operator or other Person having control of such establishment that all requirements of this section have been complied with.
- (d) Violations of this section are subject to a civil action brought by the City of Novato, punishable by a civil fine not less than two hundred fifty dollars (\$250) and not exceeding one thousand dollars (\$1,000) per violation.
- (e) Causing, permitting, aiding, abetting, or concealing a violation of any provision of this section shall also constitute a violation of this section.
- (f) Any violation of this section is hereby declared to be a nuisance.
- (g) In addition to other remedies provided by this section or by other law, any violation of this section 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.
- (h) Any Person acting for the interests of itself, its members, or the general public (hereinafter "Private Enforcer") may bring a civil action in any court of competent jurisdiction, including small claims court, to enforce this section against any Person who has violated this section two or more times. Upon proof of the violations, a court shall grant all appropriate relief, including: (1) awarding damages; and (2) issuing an injunction or a conditional judgment.

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

- (j) The purposes of this section are to restrict and/or prohibit Smoking. This section establishes no new rights for a Person who engages in Smoking. Notwithstanding (aa) any provision of this section or other provisions of this Code, (bb) any failure by any Person to restrict Smoking under this section, or (cc) any explicit or implicit provision of this Code that allows Smoking in any place, nothing in this Code shall be interpreted to limit any Person's legal rights to seek redress or recovery of damages under other laws as a result of Smoking, including, for example, rights in nuisance, trespass, property damage, and personal injury or other legal or equitable principles.
- (k) For all purposes within the jurisdictional boundaries of the City, nonconsensual exposure to Smoke occurring on or drifting into residential property is a nuisance, and the uninvited presence of Smoke on residential property is a nuisance and a trespass. Any

Person bringing a civil action to enforce the nuisance provision contained in this section need not prove an injury different in kind or in degree from injury to others to prove a violation of this section.

Sec. 7-3.10 PUBLIC EDUCATION.

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

Sec. 7-3.11 OTHER LAWS.

It is not the intention of this section to regulate any conduct where the regulation of such conduct has been preempted by the State of California.

SECTION III. STATUTORY CONSTRUCTION & SEVERABILITY

It is the intent of the City Council of the City of Novato 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 Novato 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 IV. EFFECTIVE DATE AND PUBLICATION.

This Ordinance shall become effective thirty (30) days from and after the date of its passage. Before expiration of fifteen (15) days after its passage, this ordinance or a summary thereof as provided in California Government Code Section 36933, shall be published at least once in a newspaper of general circulation published and circulated in the City of Novato, along with the names of the members of the City Council voting for and against its passage.

SECTION V. CEQA FINDINGS.

This Ordinance is exempt from the California Environmental Quality Act (“CEQA”) under 14 Cal. Code Regs. Section 15061(b)(3) because it can be seen with certainty that there is no possibility that its adoption will have a significant adverse effect on the environment. It is also categorically exempt under 14 Cal. Code Regs. Section 15308 because the Ordinance constitutes a regulatory activity whose purpose is to protect air quality and prevent the adverse health effects of air pollutants caused by smoking.

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IT IS HEREBY CERTIFIED that the foregoing Ordinance was duly introduced at a regular meeting of the Novato City Council held on the 10th day of January, 2017, and thereafter passed and adopted by the Novato City Council on the 24th day of January, 2017, by the following vote, to wit:

AYES:	Councilmembers	Drew, Fryday, Athas
NOES:	Councilmembers	None
ABSTAIN:	Councilmembers	Lucan, Eklund
ABSENT:	Councilmembers	None

Demise Athas
Mayor of the City of Novato

Attest:
[Signature]
Assistant City Clerk of the City of Novato

Approved as to form:
[Signature]
City Attorney of the City of Novato