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## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
(805) 641-0142



## RECORD PACKET COPY

**DATE:** April 18, 2003

**TO:** Commissioners and Interested Parties

**FROM:** Chuck Damm, Senior Deputy Director  
Gary Timm, District Manager  
Lillian Ford, Coastal Program Analyst

**SUBJECT:** City of Carpinteria Local Coastal Program Amendment No. MAJ-2-01 [Wireless Communications Ordinance] for Public Hearing and Commission Action at the California Coastal Commission hearing of May 9, 2003 in Long Beach.

### DESCRIPTION OF THE SUBMITTAL

On October 12, 2001, the City of Carpinteria submitted an amendment to its certified Local Coastal Program to amend the Implementation Program / Zoning Ordinance to include a new ordinance regulating wireless communications facilities in the City.

On March 12, 2003, the Executive Director determined that the City's Amendment was in proper order and legally adequate to comply with the submittal requirements of Coastal Act Section 30510 (b).

Pursuant to Coastal Act Section 30513 and California Code of Regulations Section 13542 (b), the Commission must take action on this amendment by May 11, 2003.

### SUMMARY OF STAFF RECOMMENDATION

Staff recommends approval of the Implementation Program / Zoning Ordinance Amendment as submitted. As discussed in the findings set forth in this report, the City's proposed LCP Amendment conforms with, and is adequate to carry out, the relevant provisions of the City's certified Land Use Plan. **The motion and resolution for Commission action is on page 3.**

For additional information please contact Lillian Ford at the South Central Coast District Office: 89 South California St., Ste. 200, Ventura, CA 93001 or 805-585-1800.

## I. PROCEDURAL ISSUES

### A. STANDARD OF REVIEW

The Coastal Act provides:

*The commission shall certify a land use plan, or any amendments thereto, if it finds that a land use plan meets the requirements of, and is in conformity with, the policies of Chapter 3 (commencing with Section 30200)... (Section 30513(c))*

The standard of review that the Commission uses in reviewing the adequacy of the land use plan is whether the land use plan is consistent with the policies of Chapter 3 of the Coastal Act.

Section 30513 of the Coastal Act further provides:

*The local government shall submit to the Commission the zoning ordinances, zoning district maps, and, where necessary, other implementing actions that are required pursuant to this chapter...*

*The Commission may only reject ordinances, zoning district maps, or other implementing action on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. If the Commission rejects the zoning ordinances, zoning district maps, or other implementing actions, it shall give written notice of the rejection, specifying the provisions of the land use plan with which the rejected zoning ordinances do not conform, or which it finds will not be adequately carried out, together with its reasons for the action taken. (Section 30514)*

*The Commission may suggest modifications in the rejected zoning ordinances, zoning district maps, or other implementing actions, which, if adopted by the local government and transmitted to the Commission shall be deemed approved upon confirmation by the executive director. The local government may elect to meet the Commission's rejection in a manner other than as suggested by the Commission and may then resubmit its revised zoning ordinances, zoning district maps, and other implementing actions to the Commission.*

The standard of review used by the Commission for the proposed amendment to the Implementation Plan in reviewing the adequacy of zoning and other implementing measures is whether or not the proposed amendment is in conformance with, and adequate to carry out the provisions of the Land Use Plan.

The City of Carpinteria's Coastal Zoning Ordinance implements the City's Coastal Land Use Plan and policies. It serves to integrate the City of Carpinteria Coastal Land Use Plan with the adopted City of Carpinteria General Plan and Zoning Ordinance as applied to the Coastal Zone. The Coastal Zoning Regulations and Maps set forth regulations, standards, and procedural requirements for development within the Coastal Zone and establish required consistency with the policies of the LCP Land Use Plan.

## B. PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires public input in preparation, approval, certification and amendment of any LCP. The City held public hearings on the proposed ordinance on August 5, 2002 and September 9, 2002. Both hearings were noticed to the public consistent with Sections 13551 and 13552 of the California Code of Regulations. Notice of the subject amendment has been distributed to all known interested parties.

## C. PROCEDURAL REQUIREMENTS

Pursuant to Section 13551 (b) of the California Code of Regulations, the City resolution for submittal may provide that a Local Coastal Program Amendment will either require formal adoption by the local government after the Commission action to approve, or is an amendment that will take effect automatically upon the Commission's approval. In this case, the City has submitted the amendment as one that requires formal adoption by the City following Commission approval. Pursuant to Section 13544 of the Code of Regulations, the Executive Director shall determine whether the City's action is adequate to satisfy all requirements of the Commission's certification and report such adequacy to the Commission.

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## II. STAFF RECOMMENDATION, MOTIONS, AND RESOLUTIONS ON THE LAND USE PLAN/COASTAL PLAN (LUP/CP)

Following public hearing, staff recommends that the Commission adopt the following resolution and findings. The appropriate motion to introduce the resolution and the staff recommendation is provided prior to each resolution.

### APPROVAL OF THE LAND USE PLAN AMENDMENT AS SUBMITTED

**MOTION:** I move that the Commission reject the Implementation Program Amendment (CPN-MAJ-2-01) for the City of Carpinteria as submitted.

### STAFF RECOMMENDATION OF CERTIFICATION AS SUBMITTED:

Staff recommends a **NO** vote. Failure of this motion will result in certification of the Implementation Program Amendment as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

### RESOLUTION TO CERTIFY THE IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:

The Commission hereby certifies the Implementation Program Amendment (CPN-MAJ-2-01) for the City of Carpinteria as submitted and adopts the findings set forth below on grounds that the Implementation Program Amendment will meet the requirements of and be in conformity with

the policies of Chapter 3 of the Coastal Act, and certification of the Implementation Program Amendment will meet the requirements of the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program Amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Program.

### **III. FINDINGS AND DECLARATIONS FOR THE LOCAL COASTAL PLAN (IP) AMENDMENT APPROVAL AS SUBMITTED**

The following findings support the Commission's approval of the LCP Amendment as submitted. The Commission hereby finds and declares as follows:

#### **A. AMENDMENT DESCRIPTION AND HISTORY**

The City proposes to amend its certified Local Coastal Program to amend the Implementation Program / Zoning Ordinance to include a new ordinance regulating wireless communications facilities in the City. The proposed amendment is described in greater detail below.

The City Council adopted the resolution and ordinances that constitute the proposed LCP amendment on September 9, 2002 (**Exhibit 1**).

#### **B. PROPOSED CHANGES TO THE CERTIFIED LOCAL COASTAL PLAN**

The amendment involves changes to the City of Carpinteria Zoning Ordinance. Specifically, the amendment adds a new ordinance providing regulations, standards, and design criteria for wireless communications facilities. Review of wireless communications facilities currently occurs through the Conditional Use Permit (CUP) process. The new ordinance maintains the CUP requirement for all wireless communications facilities, while providing more specific standards for permit review.

These standards include location criteria encouraging co-location of wireless communications facilities, and allowing construction of wireless communications facilities on undeveloped parcels and within residential, community facility and recreational zone districts only when no alternative siting is possible, and when findings can be made that the proposed project conforms with the intent of the ordinance, including the protection of visual resources, the preservation of community character, and the promotion of public welfare.

The ordinance also provides development criteria that require all wireless communication facilities to conform to the required setbacks, height limitations, open space and landscaping requirements of the zone district; to blend with the existing architecture of the structure on which it is located; to conceal associated mechanical equipment; to protect mature trees and other significant aesthetic or habitat resources, minimize the removal of landscaping, and enhance landscaping if necessary for aesthetic purposes; and, for monopole or lattice towers,

to provide a minimum setback of 200% of the height of the tower from parcels in residential or community facility zone districts.

Required findings for approval under the proposed ordinance include compatibility with surrounding land use and aesthetics; compliance with the intent of the ordinance, including the protection of visual resources, the preservation of community character, and the promotion of public welfare; minimization of the facility's visibility and compliance with the development criteria provided in the ordinance; and compliance with applicable health and safety standards.

The ordinance also includes provisions for the abandonment of wireless communication facilities, for the continued use of nonconforming wireless facilities, and for the permanent posting of notice on wireless communication facilities adjacent to properties used for residential, medical, community facility, or public gathering purposes. In addition, the ordinance includes definitions for types and components of wireless systems, such as "lattice tower" and "amateur radio station," as well as for planning terms, such as "co-location".

### C. ISSUE ANALYSIS

The proposed amendment is intended to carry out City of Carpinteria Land Use Plan (LUP) policies for the protection of visual resources, and specifically LUP Policy C-9p, which states:

***Establish a regulatory framework for siting antennas and telecommunication equipment that protects visual resources.***

As noted in Section B. above, the permit amendment involves the addition of an ordinance to the City's Zoning Ordinance that provides a regulatory framework for wireless communications facilities. The ordinance contains adequate provision for the protection of visual resources.

Section 14.56.010 of the ordinance (Purpose and Intent) states that the standards provided in the ordinance are adopted to promote several objectives, including the objective to

***Protect against visual impacts in order to preserve the area's unique coastal resources.***

Findings for approval include compliance with the intent of the ordinance (including the above statement); minimization of visibility of the proposed facility and obscuration of facilities in view corridors; and compliance with design criteria provided in Section 14.56.070. These criteria, outlined in Section B. above, include numerous provisions intended to minimize the potential visual impacts of wireless communications facilities, from architectural concealment to preservation and enhancement of mature trees and landscaping.

In addition, the location criteria provided in Section 14.56.050 encourage co-location of facilities, and location of facilities on existing structures in industrial and commercial zone districts, thus concentrating the facilities in areas in which the potential for visual impacts is low or has been adequately mitigated. Additional provisions, such as the abandonment requirements included in Section 14.56.100, serve to ensure that unmaintained facilities do not remain to become visual nuisances.

In summary, the proposed amendment is consistent with and adequate to carry out the visual resource protection policies of the certified LUP, as well as LUP Policy C-9p, which was approved as part of CPN-MAJ-1-01 (Land Use Plan Update) and will be deemed effective pending approval of the implementing ordinance. Therefore, the Commission finds that the proposed amendment, as submitted is consistent with and adequate to carry out the City of Carpinteria LUP.

#### **IV. THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Pursuant to Section 21080.9 of the California Environmental Quality Act ("CEQA"), the Coastal Commission is the lead agency responsible for reviewing Local Coastal Programs for compliance with CEQA. The Secretary of Resources Agency has determined that the Commission's program of reviewing and certifying LCPs qualifies for certification under Section 21080.5 of CEQA. In addition to making the finding that the LCP amendment is in full compliance with CEQA, the Commission must make a finding that no less environmentally damaging feasible alternative exists. Section 21080.5(d)(2)(A) of CEQA and Section 13540(f) of the California Code of Regulations require that the Commission not approve or adopt a LCP, "...if there are feasible alternative or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment."

The proposed amendment is to the City of Carpinteria's certified Local Coastal Program Implementation Ordinance. The Commission originally certified the City of Carpinteria's Local Coastal Program Land Use Plan and Implementation Ordinance in 1980. For the reasons discussed in this report, the LCP amendment as submitted is consistent with the intent of the applicable policies of the certified Land Use Plan and no feasible alternatives are available which would lessen any significant adverse effect which the approval would have on the environment. Therefore, the Commission finds that the LCP amendment is consistent with CEQA and the Land Use Plan.

ORDINANCE NO. 572

AN ORDINANCE OF THE CARPINTERIA CITY COUNCIL  
AMENDING THE CARPINTERIA LOCAL COASTAL  
PROGRAM, AND MUNICIPAL CODE,  
AS AMENDED, BY ADOPTING A NEW CHAPTER 14.56  
WIRELESS COMMUNICATIONS

The Carpinteria City Council does hereby ordain as follows:

SECTION 1. An amendment to the Carpinteria Municipal Code has been completed to read as follows:

Chapter 14.56

WIRELESS COMMUNICATIONS

Sections:

14.56.010	Purpose and Intent.
14.56.020	Applicability.
14.56.030	Processing.
14.56.040	Application Requirements.
14.56.050	Location criteria for all wireless communication facilities.
14.56.060	Co-Location.
14.56.070	Development Criteria.
14.56.080	Exceptions.
14.56.090	Findings.
14.56.100	Abandonment.
14.56.110	Nonconforming wireless communications facilities.
14.56.120	Validation of proper operation.
14.56.130	Noticing Requirements.
14.56.140	Violations.
14.56.150	Definitions.

**14.56.010 Purpose and intent**

The purposes of this chapter are: a) to provide regulations, standards, and design criteria for wireless communication facilities to facilitate a comprehensive system of wireless communications within the City; b) to promote the general welfare and public interests of the community; c) to promote public safety; d) to ensure consistency with the local coastal plan and general plan policies; and, e) to further the goals of land use and aesthetic compatibility between these uses and other uses in the City. Specifically, these standards are adopted to promote the following objectives:

EXHIBIT NO. 1
APPLICATION NO.
CPN-MAJ-2-01
WIRELESS ORDINANCE

1. Ensure that the City is appropriately developed with land use intensities and compatible urban and rural land use patterns that promote the general welfare and public interest of the community.
2. Preserve the "small town" character in all physical features of the City.
3. Protect against visual impacts in order to preserve the area's unique coastal resources.
4. Implement General Plan policies that encourage the preservation and enhancement of the unique character and assets of the City.
5. Allow for development of wireless communications facilities located and designed to provide adequate reception in the City considering its unique size and environmental constraints, and to avoid the creation or maintenance of areas of the City in which acceptable wireless communications services cannot be provided.
6. To treat wireless communications service providers equally and without regard to the technology upon which they rely.

**14.56.020 Applicability.**

The provisions of this chapter shall apply to all wireless communication facilities proposed to be located, expanded or modified within the City. This section shall also apply to utility rights-of-way but is not intended to apply to any activity as to which local regulation is preempted by Federal or State law. This section shall not apply to antennas erected for the use of amateur radio station operators.

**14.56.030 Processing.**

Prior to the issuance of any permit for development of wireless communications facilities on any property within the City, a conditional use permit application shall be submitted, processed, and approved as provided in Chapter 14.62 (Conditional Use Permits).

**14.56.040 Application requirements.**

Applications for the development of a wireless communication facility shall conform to the most current version of the application submittal requirements as supplied by the Community Development Department on a form acceptable to the Community Development Director. As deemed necessary by the Community Development Director, the City may hire, at the applicant's expense, a consultant radio frequency engineer or a person of similar expertise, to review the application.

**14.56.050 Location criteria for all wireless communication facilities.**

All new wireless communication facilities shall comply with the following location and separation requirements:

1. Wireless communication facilities may be located on otherwise vacant, undeveloped or unused parcels only upon the following showings: a) that there is no other location at which the project can provide the service for which the application is submitted; b) that the proposed development is sited and developed to facilitate other productive use of the site; and, c) that the wireless communications facilities are appropriately screened from view from off-site and aesthetically integrated with neighboring uses.
2. Wireless communications providers are encouraged to construct and site their wireless communication facilities in anticipation of co-location of similar facilities on the same site. Except where such co-location is approved, a new wireless communication facility shall be located a minimum distance of 1,320 feet (1/4 mile) from the closest parcel developed with a wireless communication facility. This separation standard applies to those facilities located within as well as outside the city's boundaries. This separation standard may be relaxed pursuant to Conditional Use Permit approval if necessary to accomplish the fifth purpose identified in Section 14.56.010 of this Chapter.
3. The location of wireless communication facilities within residential, community facility and recreation zone districts is not permitted unless certain findings are made, due to the City's small size, its level topography and the many opportunities to locate such facilities within the commercial, industrial and utility zone districts with lesser aesthetic and land use compatibility impacts. An applicant may only locate a wireless communication facility in a residential, community facility and recreation zone district upon a showing that the area to be served would otherwise not be served and that all of the findings for approval required by Section 14.56.090 of this Chapter can be made.

#### **14.56.060 Co-location**

Each applicant for a permit to install and maintain a wireless communications facility shall demonstrate that the facility is designed to promote co-location of other facilities on the site and that there are no contractual or other barriers to such co-location.

#### **14.56.070 Development Criteria.**

All wireless communication facilities shall be designed to relate harmoniously in terms of size, scale and form to existing developments on site and with existing and proposed surrounding developments. The following development criteria shall apply to all wireless communications facility projects:

1. All wireless communication facilities shall satisfy the required building setbacks, lot coverage, open space and landscaping requirements applicable to the zone district in which the facility is to be located. The project shall also be subject to the height limitation of the zone district unless the Planning Commission approves an exception. Such an exception shall require findings that the height of the facility is compatible with existing and anticipated development on-site, and in the surrounding area, and does not negatively affect views.

2. Wireless communication facilities shall be located on existing structures, unless otherwise permitted pursuant to Section 14.56.050 (1) of this Chapter. The addition of new architectural features to an existing building to conceal antennae shall not negatively affect the architectural design of the building or how the building blends with surrounding development.
3. Building mounted facilities shall architecturally blend with the structure to which they are attached to avoid the appearance of a wireless facility. Colors, textures and materials shall be consistent with those utilized on existing structures.
4. On monopole or lattice towers, new wireless facilities shall avoid any increase in the tower's size and height. Monopole or lattice towers may be increased to the maximum permitted height if the findings required by Section 14.56.090 of this Chapter can be made.
5. All mechanical equipment associated with the operation of wireless communication facilities shall be located within or concealed by the structure to which the facility is attached. No exposed conduit, wire, cables or similar appurtenances shall be permitted. Other than new monopole facilities in conformance with Section 14.56.050 (1), all mechanical equipment for the wireless facilities shall be located within or concealed by the structure on which the facility is located.
6. The development of wireless communications facilities shall minimize the removal of landscaping and shall not result in the removal of mature trees, shrubs or other landscaping determined to be a significant environmental or aesthetic resource, including, but not limited to natural habitat. A landscape plan shall also be required to further enhance landscaping on the parcel if necessary for screening or aesthetic purposes.
7. Except as otherwise provided in Section 14.56.030 (3), in order to protect the public's health, safety and welfare due to the potential failure of towers, a minimum setback of 200% of the height of a tower shall be applied to any wireless facility located in proximity to any property zoned or used for residential or community facilities.

**14.56.080 Exceptions.**

Wireless communication facilities may deviate from the standards herein when:

1. A development standard herein allows for an exception and the Planning Commission and City Council approves such an exception; or
2. A variance has been approved pursuant to Chapter 14.70 of the Carpinteria Municipal Code.

#### **14.56.090 Findings.**

In addition to the findings identified within Chapter 14.62 of the Carpinteria Municipal Code (Conditional Use Permits), in order to approve an application to develop a wireless communications facility, the Planning Commission shall also find that:

1. The proposed wireless communications facility will be compatible with existing and surrounding developments in terms of land use and aesthetics;
2. The proposed wireless communications facility complies with the intent of this Chapter and other applicable City policies;
3. The proposed wireless communications facility is designed to minimize its visibility from points off-site, to be obscured from view within protected view corridors, and complies with the development criteria identified within Section 14.56.070 of this Chapter; and,
4. The applicant has demonstrated that the wireless communications facility will be operated within the allowed frequency range permitted by the FCC and complies with all other applicable health and safety standards.

#### **14.56.100 Abandonment.**

A wireless communication facility permitted under this Chapter that has not operated for 12 consecutive months shall be considered abandoned, and the owner shall remove such facility at the owner's expense within 90 days of notice from the Community Development Director. If the wireless communication facility is not removed within the 90 days, the city may remove the facility at the owner's expense or may avail itself of any other remedy available at law.

#### **14.56.110 Nonconforming wireless communication facilities.**

Wireless communication facilities that exist on the date of adoption of this Chapter and that do not comply with its requirements are subject to the following standards: 1.

1. A nonconforming facility may continue in use, but shall not be expanded, altered or modified other than as necessary for routine maintenance and repair unless brought into compliance with the provisions of this Chapter.
2. A nonconforming facility that is damaged or destroyed may be repaired or rebuilt when the cost of such repair or rebuilding does not exceed 50% of the value of the existing facility. If the cost of repairing the damage exceeds 50% of the facility's value, said facility shall be brought into compliance with this Chapter. The valuation of the facility shall be determined through the independent review of a certified appraiser. A facility that was damaged by less than 50% of its value shall be rebuilt in the same location as the original facility and the physical dimensions of the rebuilt facility shall be no greater than those of the original facility. Building codes in effect at the time of repair or rebuilding shall apply

unless a variance is issued under Chapter 14.70 of the Carpinteria Municipal Code.

**14.56.120 Validation of proper operation.**

Within 60 days of commencement of operations of a wireless communications facility permitted under this Chapter and annually thereafter, the operator of such facility shall provide evidence satisfactory to the Community Development Director that the operation of the facility is in compliance with then-current standards established by the FCC with respect to safe human exposure to electromagnetic fields and radio frequency radiation.

**14.56.130 Noticing Requirements.**

Any wireless communications facility located on a parcel where transient or permanent residency is permitted, medical services are provided, public or private schools, churches or public gathering places with occupancy greater than 10 persons, shall post conspicuously a notice that states that a wireless communications facility is being operated on the premises and that the facility is being operated in compliance with the applicable FCC regulations.

**14.56.140 Violations.**

In addition to any other remedy available at law, violation of any provision of this chapter is subject to Chapter 1.06 (Administrative Remedies) and Chapter 1.08 (Penalties) of the Carpinteria Municipal Code.

**14.56.150 Definitions.**

As used in this chapter, the following terms and phrases have the meanings set forth below:

*Amateur Radio Station.* An antenna operated by a person holding a written authorization from the FCC to be the control operator of an amateur station.

*Antenna.* A transmitting or receiving device that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies, and wireless communication signals.

*Building Mounted.* Antennas that are located and/or mounted on an existing building or within its wall (s).

*Co-location.* The locating of wireless communication facilities by more than one provider on a single parcel.

*Equipment building, shelter or cabinet.* A cabinet, building, or vault used to house equipment that supports a wireless communications facility.

*FCC.* The Federal Communications Commission.

*Lattice Tower.* A multi-sided, open, metal frame tower.

*Monopole.* A wireless communication facility that consists of a single-pole structure erected on the ground to support antenna and appurtenances.

*Tower.* A structure taller than its diameter and tall relative to its surroundings, free-standing or attached to another structure, of skeleton framework (lattice) or enclosed, that supports one or more antennae for wireless communications.

*Vault.* An underground area or room used to house equipment for the operation of a wireless communications facility.

*Wireless communications.* Personal wireless services as defined in the Telecommunications Act of 1996 as it now exists or may hereafter be amended, including cellular, personal communication, specialized mobile radio, enhanced specialized mobile radio, paging, and similar services.

*Wireless communications facility.* A structure that supports antennae and related equipment that sends and/or receives radio frequency signals.

SECTION 2. This Ordinance shall be in full force and effect thirty (30) days following certification by the California Coastal Commission, acceptance of such certification by resolution, and second reading by the City Council; and before the expiration of fifteen (15) days of its passage shall be published once with the names of the City Council voting for and against the same in the Coastal View, a newspaper of general circulation, published in the City of Carpinteria.

Passed, approved and adopted this 9<sup>th</sup> day of September, 2002, by the following called vote:

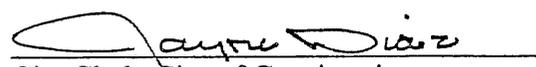
AYES: COUNCILMEMBER: Ledbetter. Stein. Jordan. Weinberg. Nielsen

NOES: COUNCILMEMBER: None

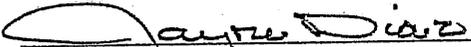
ABSENT: COUNCILMEMBER: None

  
\_\_\_\_\_  
Mayor, City of Carpinteria

ATTEST:

  
\_\_\_\_\_  
City Clerk, City of Carpinteria

I hereby certify that the foregoing ordinance was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of Carpinteria held the 9<sup>th</sup> day of September, 2002.

  
City Clerk, City of Carpinteria

APPROVED AS TO FORM:

  
Special Legal Counsel