



Ordinance Fact Sheet

TO: CITY COUNCIL

DATE: June 20, 2011

FROM: CITY ATTORNEY

SUBJECT: AN ORDINANCE OF THE CITY OF PASADENA AMENDING THE TOBACCO USE PREVENTION ORDINANCE, CHAPTER 8.78 OF THE PASADENA MUNICIPAL CODE, TO REDUCE DRIFTING TOBACCO SMOKE IN MULTI-UNIT HOUSING

TITLE OF THE PROPOSED ORDINANCE:

AN ORDINANCE OF THE CITY OF PASADENA AMENDING THE TOBACCO USE PREVENTION ORDINANCE, CHAPTER 8.78 OF THE PASADENA MUNICIPAL CODE, TO REDUCE DRIFTING TOBACCO SMOKE IN MULTI-UNIT HOUSING

PURPOSES OF THE ORDINANCE:

The City Council directed the preparation of this ordinance on April 4, 2011. The purpose of this ordinance is to curtail smoking in multi-unit housing. This ordinance prohibits smoking in all common areas and all new units of multi-unit housing; smoking in all multi-unit housing units is prohibited on and after January 1, 2014. The ordinance requires rental, lease and purchase agreements involving multi-unit housing units which are entered into after January 1, 2012 to incorporate ordinance disclosure provisions. The ordinance provides for enforcement by the health department, with violations punishable by administrative citation under Sections 1.25 and 1.26 of the Pasadena Municipal Code.

REASONS WHY LEGISLATION IS NEEDED:

In order for the intended smoking prohibitions to have the effect of law and be enforceable as such, an ordinance is needed to notify the public that certain conduct is unlawful and that sanctions will apply to those persons who engage in the prohibited conduct.

PROGRAMS, DEPARTMENTS OR GROUPS AFFECTED:

This ordinance will affect owners, operators, managers, landlords, home owners associations and other persons who control, own or reside in multi-unit housing within the City of Pasadena. As directed by City Council, this ordinance provides that owners, operators, managers, landlords, homeowners' associations and other persons having control over multi-unit housing are not sanctioned in event they do not assist in enforcing the provisions of this ordinance.

FISCAL IMPACT:

As stated in the agenda report dated February 28, 2011, the estimated enforcement cost of program implementation and monitoring is \$58,000, which includes \$8,000 for administrative costs for this fiscal year, materials and supplies, and costs related to signage and mailing notification.

POLICY CHANGES:

This ordinance furthers the City Council's strategic plan goal of ensuring public safety by reducing exposure to the harmful effects of secondhand smoke, thereby promoting a healthier community and quality of life for all Pasadena residents.

Respectfully submitted,


Michele Beal Bagneris
City Attorney

Prepared by:


Scott D. Rasmussen
Assistant City Attorney

Introduced by _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PASADENA AMENDING THE TOBACCO USE PREVENTION ORDINANCE, CHAPTER 8.78 OF THE PASADENA MUNICIPAL CODE, TO REDUCE DRIFTING TOBACCO SMOKE IN MULTI-UNIT HOUSING

The People of the City of Pasadena ordain as follows:

SECTION 1. A new section 8.78.085 is hereby added to Title 8, Chapter 8.78 (Tobacco Use Prevention Ordinance) of the Pasadena Municipal Code to read:

“8.78.085 Reduction of Drifting Tobacco Smoke in Multi-Unit Housing

A. The following words and phrases, whenever used in this section, shall have the following meanings:

1. “Common area” means every interior or exterior space of Multi-Unit Housing that residents of more than one unit are entitled to enter or use, including, without limitation, halls and paths, lobbies and courtyards, elevators and stairs, community rooms and playgrounds, gym facilities and swimming pools, parking garages and parking lots, shared restrooms, shared laundry rooms, shared cooking areas, and shared eating areas.

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2. "Multi-Unit Housing" means residential property containing two or more dwelling units but does not include a hotel or motel that meets the requirements set forth in California Civil Code section 1940(b)(2) or a mobile home park.

3. "New unit" means, for new construction, a unit that is issued a certificate of occupancy on and after July 1, 2011, or, for buildings already constructed, a unit that is leased or rented for residential use for the first time on and after July 1, 2011.

4. "Nonsmoking area" means any unit or common area of Multi-Unit Housing in which smoking is prohibited by this section.

5. "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, without limitation, a private balcony, porch, deck or patio. "Unit" includes without limitation: an apartment; a condominium; a townhouse; a room in a long-term health care facility, assisted living facility, or hospital; a room in a single room occupancy facility; and a room in a homeless shelter.

B. Nonsmoking Areas in Multi-Unit Housing

1. It is unlawful to smoke in all common areas of multi-unit housing.
2. It is unlawful to smoke in all new units of multi-unit housing.

3. It is unlawful to smoke in all multi-unit housing units on and after January 1, 2014.

C. Disclosure of the Requirements of this Section

1. Every lease or other rental agreement for the occupancy of a multi-unit housing unit entered into, renewed or continued month-to-month on and after January 1, 2012 shall contain a reference to this section and attach a copy of this section.

2. Every purchase agreement for the sale of a multi-unit housing unit entered into on or after January 1, 2012 shall contain a reference to this section and attach a copy of this section.

D. Violations and Enforcement

1. It is unlawful for any person to violate the provisions of this section.

2. Notwithstanding section 8.78.110 or any other provision of this code, a violation of this section shall be punishable under the administrative citation procedures set forth in Sections 1.25 and 1.26. The fine imposed for a particular violation shall be in the amount set forth in the administrative citation schedule established by resolution of the city council pursuant to Section 1.26.060.

3. The provisions of this section shall be enforced by the health officer of the city or an authorized designee in the environmental health division. An owner, operator, manager, landlord, home owners association, or other person having

control of a multi-unit housing unit shall post signs as required by Section 8.78.080, however, said persons may, but are not hereby required, to assist with enforcing the provisions of this section and shall not be deemed in violation of this section by failure to assist its enforcement.”

SECTION 2. This ordinance shall take effect thirty days after its publication.

Signed and approved this _____ day of

_____, 2011.

Bill Bogaard
Mayor

I HEREBY CERTIFY that the foregoing Ordinance was adopted by the City Council at its meeting held _____, 2011, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mark Jomsky, CMC
City Clerk

APPROVED AS TO FORM:


Scott D. Rasmussen
Assistant City Attorney

City of Pasadena Customer Service Center

Case Details

Case Ref 101000000864
Classification City Manager >> Public Affairs >> General Comment/Suggestions
Associated with -
Title General Comment/Suggestions
Description -
Status Open
Due Date Apr 7, 2011 8:30:00 AM (23 hours from now)
Allocated To City Manager - Feedback
Created Date Apr 5, 2011 6:52:22 PM (14 hours ago)
Created by Ef3external WebServices User
Raised by Berzsenyi, Susanna (Web)
Priority Medium
Severity Medium
Internal Only
eForms SS_TemplateNoLocation [edit]

Case Form

Please send us any comments or questions regarding the City of Pasadena.

I have been watching the city council meetings with great interest, regarding smoke free dwellings. Living a in a ten unit condominium complex I am exposed to second hand smoking by my immediate neighbors. They just came from another state and they are renters. There are times that two of them are smoking just a few feet away from my door. I have to pass by their exhaled smoke trying to enter my place, which I own. They also leave their accumulated cigarette butts outside for long times.

I suggested to our HOA to ammend our rules, but the other owners opposed it, saying it would be difficult to sell the units as smoke free.

I strongly urge the city council to pass the ordinance prohibiting any kind of smoking in the city, thereby making it a healthy environment.

Thank you.

Susanna Berzsenyi
222 S. Catalina Ave. #2
Pasadena CA 91106