



REQUEST FOR APPEAL

APPLICATION INFORMATION

Project Address: 1312 N. Lake Ave. Pasadena Ca. 91104  
Case Type (MCUP, TTM, etc.) and Number: Hours of Operations  
Hearing Date: \_\_\_\_\_ Appeal Deadline: Oct. 10 2022

APPELLANT INFORMATION

APPELLANT: Crown City Billiards & Lounge Telephone: [ ] 626-482-6213  
Address: 1312 N. Lake Ave. Fax: [ ] \_\_\_\_\_  
City: Pasadena State: CA Zip: 91104 Email: 11707frank@gmail.com  
APPLICANT (IF DIFFERENT): AKA Jerrys Familiar billiards

I hereby appeal the decision of the:

- Hearing Officer
- Zoning Administrator
- Design Commission
- Director of Planning and Development
- Historic Preservation
- Film Liaison

REASON FOR APPEAL

The decision maker failed to comply with the provisions of the Zoning Code, General Plan or other applicable plans in the following manner (use additional sheets if necessary):

See Attachment

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Francisco Yanez *F. Yanez*  
Signature of Appellant

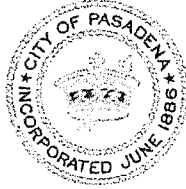
10/6/2022  
Date

\* OFFICE USE ONLY  
PLN # 212W22-00085 CASE # 2A #56 PRJ # \_\_\_\_\_  
DESCRIPTION Appeal of ZA determination  
DATE APPEAL RECEIVED: 10/10/22 APPEAL FEES: \$ 256.47 RECEIVED BY: AWJ

The Sept. 9, 2022 Zoning Administrator's determination twice mentions that there are no permits or any other approvals allowing operating hours beyond the by-right hours of 7am to 10pm daily. My own research suggests otherwise. On March 21, 2011, then Chief of Police Phillip L. Sanchez made a presentation to the Public Safety Committee. In response to an inquiry from then Councilmember McAustin regarding businesses specifically with non-conforming hours of operation, the Chief of Police confirmed that Jerry's Billiards was indeed a legal non-conforming business. Please refer to page 73 of the attached PDF, which I downloaded from the City's website.

Clearly, the Chief of Police was relying upon some City record in confirming that Jerry's Billiards' operating hours were non-conforming. Such a record would have been in the possession of the Police Department rather than the Planning and Community Development Department, as "poolroom" permits are issued by the Chief of Police under Municipal Code Sec. 5.32.110.

Under Municipal Code Section 17.71.030, as a legal non-conforming business, Crown City Billiards is not subject to the limitations contained in Municipal Code Sec. 17.40.070. We ask that the City reconsider its decision of Sept. 29 in light of this information, which may have been unknown to the Zoning Administrator when the decision was made.



PLEASE NOTE LOCATION CHANGE

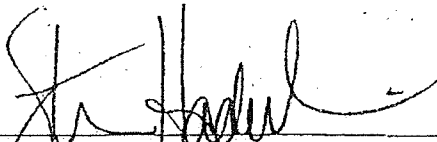
**CITY OF PASADENA  
NOTICE OF REGULAR MEETING  
OF THE PUBLIC SAFETY COMMITTEE  
MONDAY, MARCH 21, 2011  
PASADENA CITY HALL  
100 NORTH GARFIELD AVENUE  
CITY HALL COUNCIL CHAMBERS – S249**

NOTICE IS HEREBY GIVEN that the regular meeting of the Public Safety Committee will be held on Monday, March 21, 2011, at 4:15 p.m. in the Pasadena City Hall Council Chambers – S249. The agenda for the meeting is as follows:

1. **CALL TO ORDER/ROLL CALL**
2. **PUBLIC COMMENT ON MATTERS NOT ON THE AGENDA** (Please limit comments to 3 minutes each.)
3. **APPROVAL OF MINUTES**  

March 7, 2011 – Cancellation of Regular Meeting\*
4. **OLD BUSINESS**
  - A. Proposed Municipal Code Amendments to Reduce Drifting Tobacco Smoke in Multi-Unit Housing \*
5. **INFORMATION ITEMS**
  - A. Analysis of the L.A. County Sex Offender Ordinance\* (Powerpoint Presentation)
  - B. Public Safety Concerns in the Block 5 Area\* (Powerpoint Presentation)

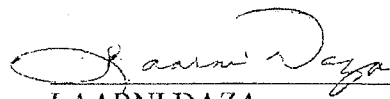
6. ADJOURNMENT



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STEVE HADERLEIN, Chair  
Public Safety Committee

I HEREBY CERTIFY that this agenda in its entirety, was posted on the City of Pasadena Chamber bulletin board, room S249, and the bulletin board in the rotunda area of City Hall, and a copy was distributed to the Central Library for posting this 17<sup>th</sup> day of March 2011, by 5:30 p.m.



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LAARNI DAZA  
City Manager's Office

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City Clerk	LA Times	Deputy Superintendent
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Assistant City Manager	Telecommunications	Business Services

*In compliance with the Americans with Disabilities Act,  
if you need special assistance to participate in this meeting,  
please contact (626) 744-4371 (TDB) or (626) 744-4124.  
Notification 48 hours prior to the meeting will enable the City to make  
reasonable arrangements to assure accessibility to this meeting.*

*Language translation services are available for this meeting  
by calling (626) 744-4124 at least 48 hours in advance.*

*Habra servicio de interpretación disponible por éstas juntas llamando  
at (626) 744-4124 por lo menos con 48 horas de anticipación.*

*Items on the agenda may not be called in the order listed.*



## **APPROVAL OF MINUTES**

March 7, 2011 – Cancellation of Meeting\*

**CITY OF PASADENA  
PUBLIC SAFETY COMMITTEE MINUTES  
CITY HALL  
100 NORTH GARFIELD AVENUE  
GRAND CONFERENCE ROOM – S038  
MARCH 7, 2011  
REGULAR MEETING**

The regular meeting of the Public Safety Committee, scheduled for Monday, March 7, 2011, at 4:15 p.m., was cancelled as ordered on March 3, 2011, and posted as required by law.

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STEVE HADERLEIN, Chair  
Public Safety Committee

ATTEST:

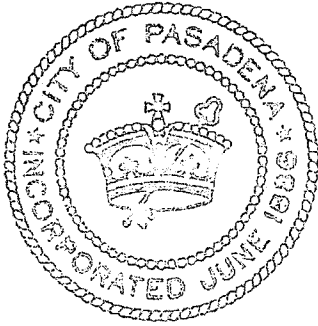
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Sandra S. Robles  
Recording Secretary

03/07/2011

## **OLD BUSINESS**

- A. Proposed Municipal Code Amendments to Reduce Drifting Tobacco Smoke in Multi-Unit Housing\*



# Agenda Report

February 28, 2011

**TO:** Honorable Mayor and City Council

**THROUGH:** Public Safety Committee (February 22, 2011)

**FROM:** Public Health Department

**SUBJECT: PROPOSED MUNICIPAL CODE AMENDMENTS TO REDUCE DRIFTING TOBACCO SMOKE IN MULTI-UNIT HOUSING**

## RECOMMENDATION:

It is recommended that City Council direct the City Attorney to prepare and return within 60 days with amendments to the Pasadena Municipal Code to restrict smoking in multi-unit housing by amending the City's municipal code as follows:

1. Specifically define secondhand smoke as a public nuisance and as an infraction under Pasadena Municipal Code Section (PMC) 8.04.020 "P" and PMC 1.24.040;
2. Prohibit tobacco smoking on patios and balconies, and in outdoor common areas, of multi-unit housing;
3. Require disclosure of the ordinance requirements to all prospective and existing tenants and buyers in rental, lease and purchase agreements by January 2012; and,
4. Establish phase-in period for 100% smokefree multi-unit housing by 2014.

## EXECUTIVE SUMMARY:

The Public Health Department is recommending amendments to the Tobacco Use Prevention Ordinance, as well as PMC sections 8.04.020 "P" and 1.24.040, that are intended to reduce involuntary secondhand smoke (i.e., drifting tobacco smoke) exposure to residents in multi-unit housing complexes. Multi-unit housing (MUH) is broadly defined as residential complexes containing two or more units. The City receives complaints and requests for assistance related to drifting tobacco smoke in multi-unit housing. Tobacco smoke drifts into homes from balconies, patios and common areas and from other units via vents. Complainants report health problems, such as breathing difficulties, lung irritation, sleeping disturbance and headaches.

In March 2010, staff presented an informational report regarding this issue to the Public Safety Committee, which also heard public comment on the matter. The Public Safety Committee directed staff to return with a program to address drifting tobacco smoke in multi-unit housing (MUH) that is both reasonable and enforceable.

**BACKGROUND:**

The City of Pasadena has been a leader in developing and enacting tobacco control policies to improve the health of the community. The health dangers of smoking and secondhand smoke have long been established through extensive research and medical documentation. Pasadena's Tobacco Use Prevention Ordinance initially addressed prevention of both illegal tobacco sales to minors and tobacco retail establishments locating within 1,000 feet of schools, parks, and other sensitive-use locations where minors congregate. The Ordinance was significantly amended in October 2008 to restrict smoking in certain outdoor areas, including parks, outdoor dining and service waiting lines. The amendment also restricts smoking at public events such as Tournament of Roses parade. Most recently, the Ordinance was amended on March 30, 2010, to eliminate the exemption of certain outdoor areas surrounding the Brookside Clubhouse, restaurant patio, and starter shop.

Although Californians have extensive protections from exposure to secondhand tobacco smoke where they work, eat and play, many are still exposed to secondhand smoke where they live. Studies have shown that smoke can travel through a building, via air conditioning units, vents, balconies and patios, affecting other residents. In the last 24 months, Public Health Department staff have received more than 70 complaints from unique individuals living in multi-unit housing stating that they are suffering from drifting tobacco smoke (i.e., secondhand smoke) exposure in their homes and have experienced health problems, poorer quality of life, and reduced overall habitability of their residences. One half of the complaints are related to smoke drifting into units; one-third are from outdoor common areas such as balconies, patios, and windows; and seventeen percent are from other sources such as hallways, smoke from other nearby worksites, etc.

Smoking restrictions in places where people live have other benefits, including decreasing the risk of accidental fires, reducing fire insurance premiums and reducing costs related to building maintenance and tenant turnover. According to the Pasadena Fire Department, approximately 14 fires were attributed to tobacco use between August 2007 and August 2010 (6-vegetation, 3-structure, 1-trash, 4-other). In addition to these safety concerns and reduced ownership costs, there is an industry trend in multi-unit housing toward smoke free properties to meet increased tenant demand.

### **City Housing Profile**

The Planning Department reports there are 58,590 housing units in the City of Pasadena. Of these, 24,873 are single family houses. There are approximately 33,717 multi-family units, including both apartments and condominiums. There are estimated 1,897 units designated senior housing dwellings. According to the City's Housing Department, there are 3,955 housing units that are government subsidized and meet low-income requirements.

### **Local Multi-Unit Housing Opinion Surveys with Pasadena Community**

Local opinion surveys conducted in 2008 and 2009 indicate support for restrictions on smoking in multi-unit housing in various MUH areas. Survey respondents indicated that 79% wanted to be protected from tobacco smoke entering into their homes, and 72% wanted to live in a completely non-smoking building. These opinions align with a 2004 statewide opinion survey about secondhand-smoke in multi-unit housing.

### **Local Multi-Unit Housing Outreach with Relevant Agencies**

Staff conducted outreach sessions with more than 14 relevant MUH groups during late spring and early summer of last year to obtain input on proposed MUH smoking restrictions. These meetings included four major apartment associations/groups, including the Pasadena Housing Practitioners Advisory Meeting, the Foothill Apartment Association (FAA), the Apartment Association of Greater LA (AAGLA), the California Apartment Association (CAA), as well as local housing developers, the Pasadena Chamber of Commerce and the Pasadena Neighborhood Coalition. Attachment A is a matrix of the various groups and the primary issues each identified.

Participants in these discussions have been monitoring the issue of drifting tobacco smoke in MUH in Pasadena and/or have been involved in other communities already addressing this issue. In general, there was support for addressing drifting tobacco smoke in MUH. The concern most often voiced was that landlords not be the designated enforcement agent or be made liable for any aspect of enforcement or lack thereof. In addition, property managers and owners expressed concern about the burden of any related process if it was overly complicated in its design. They indicated support for providing non-smoking common areas or buffer zones; and, they supported the concept of disclosure of known smoking units to prospective tenants within lease/purchase agreement language and/or posted signage. Participants advised that implementation and compliance would be enhanced by city-provided signage or recommended signage language, technical assistance, a reasonable phase-in period of at least 90 days, and multiple reminders/coordinated communication to tenants, landlords, and owners during the phase-in period.

### **Multi-Unit Housing Policies in Other Cities**

To date, over 30 California communities have adopted ordinances to restrict smoking in multi-unit housing. Last year, the Center for Tobacco Policy and Organizing, a project of

the American Lung Association, published a report of the 30 communities with smoke free housing policies (Attachment B to this report). Staff studied the most comprehensive ordinances to identify best practices for implementation options and enforcement. Staff also contacted the nearby cities of Burbank, Glendale, Santa Monica, and South Pasadena to understand the issues related to their respective MUH ordinances which were either adopted or amended in 2010.

The stated intent of all ordinances addressing drifting tobacco smoke in multi-unit housing is to ensure long-term public health protections for the majority of individuals impacted, while providing clarity and guidance related to implementation and enforcement for staff, landlords/property owners, tenants and city residents.

Smoking restrictions in multi-unit housing are relatively new, with the oldest ordinance adopted in 2007. Due to phase-in periods for implementation, long-term evidence on issues with implementation and enforcement in other communities is limited. In cities which have adopted expanded smoking prohibitions for multi-unit housing, the provisions were implemented after extensive outreach and education campaigns were completed, which ranged from 30 to 90 days.

A review of the Matrix of 30 Communities with MUH Smoking Ordinances (Attachment B) reveals that many communities rely on no-smoking signage and landlords/property owners of impacted residents for enforcement. Not surprisingly, differing approaches to enforcement have yielded varying results of compliance. In jurisdictions where resources such as Code Enforcement and/or Police have been responsible for, or participate in, enforcement implementation has been more effective. Pasadena is unique in that it has its own Public Health Department which includes an existing Tobacco Control Program. Staff within this Department are well positioned to handle education/enforcement of the proposed code revisions.

It is important to note that voluntary 100% smokefree MUH exists. In May 2010, the Saris Regis (now Equity Residential) development group announced its newly developed 100% smokefree property for occupancy in Pasadena. The 480-unit Westgate development is now 90% occupied, and the Westgate property management staff stated that tenants have been receptive to the smoke free policy and that compliance is working well. In addition to signage, tenants sign a lease to ensure notification and compliance with the Westgate's smoke free policy.

### **Proposed Policy Recommendations**

Many communities in California are addressing the issue of drifting tobacco smoke in MUH by adopting several strategies to mitigate the problem. Staff analyzed several options based on a set of criteria that includes reasonableness, feasibility, enforceability, cost effectiveness.

The following section details four staff recommendations to effectively reduce drifting tobacco smoke in MUH, with the goal of eliminating unwanted exposure for the majority of individuals impacted by drifting tobacco smoke. These proposed policy strategies can be successfully accomplished through a multi-year approach that phases in non-smoking units, over a period of three years, to allow for social norm change behaviors to occur and to follow market trends. Model public health practice for tobacco control in MUH indicates a policy of 100% non-smoking units with a phase-in provision and a initial robust enforcement program.

Staff proposes the following recommendations to address community health protections and reasonable enforcement processes.

**Recommendation 1:** Specifically define secondhand smoke as a public nuisance and an infraction under Pasadena Municipal Code Section (PMC) 8.04.020 "P" and PMC 1.24.040.

The California Civil Code defines a nuisance as anything harmful to health, or indecent or offensive to the senses, so as to interfere with the comfortable enjoyment of life or property. Courts require that anything considered a nuisance must be both "substantial" and "unreasonable", which aligns with Pasadena's Tobacco Use Ordinance (PMC 8.78.020) which cites that "smoking of tobacco, or any other weed or plant, is a positive danger to health and a material annoyance, inconvenience, discomfort and a health hazard to those who are present in confined spaces..."

Additionally, in the Pasadena Municipal Code, section 8.04.020 "P" under the general nuisance provisions defines nuisance as "any accumulation of rubbish, filth, garbage, liquid waste, dust, smoke, fumes...to be offensive to the senses of the public or detrimental to public health." PMC 8.04.030 already defines that violations of the nuisance provision are guilty of a misdemeanor fine of \$500 or city jail, not to exceed six months. Staff is recommending the existing codes be amended to specifically define, and add secondhand smoke as a public nuisance and an infraction under Pasadena Municipal Code (PMC) sections 8.04.020 "P" and 1.24.040. Amending the codes to include secondhand smoke as a public nuisance will allow staff to enforce existing law and provide a mechanism to address ongoing drifting tobacco smoke, regardless of dwelling type, location or origin. The Public Health Department Environmental Health Division will be the primary enforcement agent.

**Recommendation 2:** Establish non-smoking buffer zones that prohibit tobacco smoking on patios and balconies, and in outdoor common areas, of multi-unit housing.

Establishing non-smoking buffer zones would minimize and help control unwanted exposure to drifting tobacco smoke in all multi-unit housing. Key sections of the existing Tobacco Use Ordinance reduce public exposure to secondhand smoke by prohibiting



smoking in certain areas, such as: section 8.78.060 – “Prohibition of smoking indoor public places” section 8.78.071 – “Prohibition of smoking in certain outdoor public places” and section 8.78.072 – “Reasonable smoking distance required — 20 feet.” Establishment of non-smoking buffer zones is consistent with prior ordinances and can be easily implemented. The actions that the Public Health Department implemented after adoption of the outdoor tobacco smoke restrictions are transferable and represent a best practice that includes notification, outreach, technical assistance and follow-up with a reasonable timeline of six months from adoption.

**Recommendation 3:** Require disclosure of the ordinance requirements to all prospective and existing tenants and buyers in rental, lease and purchase agreements by January 2012.

Unwanted exposure to drifting tobacco smoke will be further minimized by requiring landlords, property managers and owners to disclose to prospective tenants and buyers the ordinance requirements, starting 90 days from the effective date of the ordinance, so that no-smoking provisions are clearly disclosed to existing and prospective tenants. In addition, by January 2012, all landlords, property managers and owners will have incorporated a notice of the new ordinance by creating lease addendums, rental agreements and purchase agreements that will incorporate this provisional language. Prospective tenants and buyers would acknowledge adherence to all existing and future no-smoking policies. Implementation of the recommendation will be incorporated into the notification, outreach and technical assistance program.

**Recommendation 4:** Establish phase-in period for 100% smoke free multi-unit housing, in dwellings of 2 or more units, by 2014.

Local survey data indicates the majority, 63% of survey respondents wanted policies that required no-smoking in units; 72% wanted to be protected from drifting tobacco smoke; and 79% wanted to live in a completely non-smoking building. This recommendation would also apply to condominium units and 1) allow for sufficient staff time to educate and provide technical assistance to landlords/owners; 2) allow owners and landlords ample time to implement recommendations as part of multi-year phase-in plan; and, 3) allow for industry trends to reflect current non-smoking status and patterns.

With this provision, landlords/property owners can still opt to go entirely smoke free, prior to 2014, similar to what was seen in the City of Calabasas. For early adopters, the City of Pasadena could implement a smokefree certification program, whereby staff could check and monitor smokefree MUH complexes and place this information via a link on the City's website. This information would be updated quarterly for the community and for interested potential tenants, serving as an incentive for properties that move to 100%, smokefree prior to 2014.

### **Enforcement**

Cities have adopted expanded smoking prohibitions in and around multi-unit housing. To-date the majority of these cities have not completed implementation of these provisions beyond the educational outreach phase, toward the enforcement and monitoring phase. Although many ordinances have recently become effective, insufficient time has passed to allow full assessment of the potential issues related to ordinance enforcement and monitoring. Therefore, design of effective enforcement for Pasadena must rely on local experiences to-date.

Until all multi-unit housing have 100% non-smoking units in 2014, staff will utilize the existing mechanism for all other local tobacco control laws to respond to complaints and conduct enforcement. Currently, complainants can call the Tobacco Violations Complaint Line, (626) 744-6014, or submit an online violations reporting form. Reporting individuals who provide contact information receive a response within one business day. Tobacco Control Program staff investigate complaints, and upon confirmation of a violation, will provide an initial warning letter to the violator with a copy to owners of MUH and HOAs/management companies about non-compliance. Second and additional site visits, as warranted, will be investigated by Environmental Health inspectors. If the parties are not compliant after two warnings and/or site visits, further enforcement procedures and escalating penalties will occur, including issuance of a minimum \$100 administrative citation to the violator in accordance with the proposed amendments to the Pasadena Municipal Code.

### **Summary**

The proposed recommendations reflect a comprehensive approach to address and to reduce drifting tobacco smoke in multi-unit housing and were based on input from impacted relevant MUH entities. Amending the Tobacco Use Prevention Ordinance to incorporate these proposed recommendations would bring Pasadena in line with over 30 other California communities that have already implemented smokefree housing policies. It would also bring about more consistent practices with the nearby communities of Burbank, Glendale and South Pasadena, which have already addressed this growing issue through city legislation.

### **COUNCIL POLICY CONSIDERATION:**

The proposed amendments to the PMC sections 8.04.020 "P" and 1.24.040 further the City Council's strategic plan goal of ensuring public safety by reducing exposure to the harmful effects of secondhand smoke. Reducing drifting tobacco smoke in multi-unit housing also builds a healthier community and supports the goal of supporting and promoting the quality of life for all Pasadena residents. As proposed, smoking would still be allowed in the public right-of-way provided it is not within 20 feet of a business entrance/exit or a service line, as well as in single family homes provided nuisance condition did not exist.

**FISCAL IMPACT:**

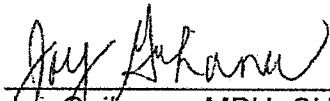
Amendments to the PMC will be enforced by the Public Health Department's Environmental Health Division. Staff estimates the enforcement cost of program implementation and monitoring is \$58,000, which includes \$8,000 for administrative costs for this fiscal year, materials and supplies, and costs related to signage and mailing notification. It is anticipated that these costs can be absorbed with the Department's current operating budget. However, based on actual implementation, adjustments may be necessary to ensure successful implementation.

Respectfully submitted,



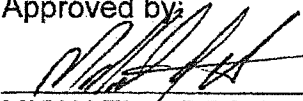
Dr. Eric Walsh  
Director of Public Health/Health Officer

Prepared by:



Joy Guihama, MPH, CHES  
Division Manager  
Health Promotion & Policy Development

Approved by:



MICHAEL J. BECK  
City Manager

Attachment A      Local Multi-Unit Housing Outreach with Relevant Agencies

Attachment B      Multi-Unit Housing Policies in Other Cities

**ATTACHMENT A--LOCAL MULTI-UNIT HOUSING OUTREACH WITH RELEVANT AGENCIES**

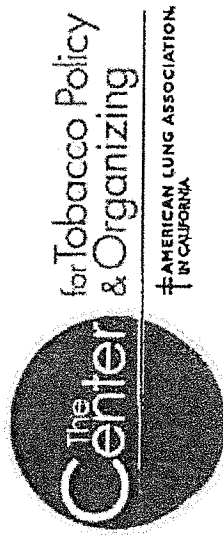
Agency/Business	Main Concerns/Comments
<p><b>Apartment Association of Greater LA</b> Largest rental housing association in the nation with ~12,000 members.</p>	<ul style="list-style-type: none"> <li>▪ Do have lease agreement template form related to smoking/no-smoking on premises</li> <li>▪ Don't want landlords to be enforcement agent; don't want liability whereby tenant can sue landlord for another tenant smoking</li> <li>▪ Feel it would be tough to define designated smoking areas (vs. setting up buffer restrictions zones), particularly since buildings vary in size. Staff would need to define building size, for example it would not make sense to have designated smoking areas in a duplex.</li> <li>▪ Don't have a problem with common areas being smoke-free</li> <li>▪ Don't want smoke-free apartments (prohibition inside all units), if common areas set up as smokefree</li> <li>▪ AAGLA worked with Calabasas and Glendale ordinances</li> </ul>
<p><b>Beven and Brock</b> Largest full-service property management company operating in San Gabriel Valley. They service rental property owners, condominium owners and homeowner associations, renters.</p>	<ul style="list-style-type: none"> <li>▪ In support of all recommendations.</li> <li>▪ Wants to prohibit smoking outright in all MUH. (Fire occurred in one of their sites, completely destroying one level in MUH due to someone falling asleep with lit cigarette).</li> </ul>
<p><b>BRE Properties</b> Real estate investment manager/developer. Property management company for apartments only.</p>	<ul style="list-style-type: none"> <li>▪ Unclear on nuisance designation and how it will function.</li> <li>▪ Buffer zones would work for big properties. Buffer zones can't work with smaller complexes with 2-4 units. Policy impacts for sites with lots of units on a small piece of land.</li> <li>▪ Okay with 80% of units being smoke-free with phase-in period. Okay with voluntary policy of 100% with recognition/incentive program.</li> <li>▪ Understands policy goals but has concerns that policies don't create undue situations between tenants and property management, especially given the current economy. Also, doesn't want property management to be the enforcement agents.</li> </ul>

<p><b>California Apartment Association</b></p> <p>Have 17,000 state-wide members (developers, property owners, contracted agencies such as painters, etc.), representing more than 65,000 units throughout LA County.</p>	<ul style="list-style-type: none"> <li>▪ Do recognize the benefits of smokefree units as it relates to cleaning costs and turnover.</li> <li>▪ Don't want landlords to be the enforcement agents.</li> <li>▪ Disclosures is ok, but consider only sharing with new/prospective tenants where smoking and non-smoking units are located. Don't want existing smokers to be moved around to comply with any unit requirements. Existing tenants who smoke should be grandfathered in. Set percentage for units is tougher with smaller buildings/complexes.</li> <li>▪ CAA has contacted a few of their members in Pasadena and that stated about 5 to 10% of their tenants smoke and most do not smoke in their units, smoking in the parking garage or outside area. Want a phase-in period for compliance if units to be smoke-free--such as 50% in year 2 and 75% in year four.</li> <li>▪ Worked closely with city of Belmont and recommend their ordinance as a model (which is a 100% smokefree policy), because of language that reduces liability among landlords and to ensure clear enforcement mechanisms.</li> </ul>
<p><b>Foothill Apartment Association</b></p> <p>Trade association membership of 1,000 representing about 4,500 rental units, in the San Gabriel Valley and Foothill Communities.</p>	<ul style="list-style-type: none"> <li>▪ In support of proposed policies but does not want landlords to be enforcement agent. Wants at least 90 days for landlords/owners to comply with any new policy. Want signage/sample language so they can post information clearly. Agree with disclosure embedded with lease agreements (amend their forms) but not necessarily separate non-smoking sections.</li> <li>▪ Recommend looking at Glendale ordinance. Recommends multiple reminders to owners to ensure they receive info about new policy.</li> <li>▪ Recommend caution with language related to separation of smoking and no-smoking sections, which would be difficult for landlords/owners to comply with. However a percentage of units, such as 80%, which was pretty common, seemed fine. Recommended a longer phase-in period, if we propose set unit percentage, such as 80%.</li> <li>▪ Recommends designated area for smokers (if percentage of units set).</li> </ul>
<p><b>Housing Department/ Housing Practitioner Advisors</b></p> <p>Pasadena Housing Practitioner Advisors is group of 18 housing advocate professionals in the field of affordable housing, financing, development and architectural backgrounds. Of these members, four are developers of rental housing. Only one of these developers -- Abode Communities -- own/operate rental housing in Pasadena (191 units completed with another 44 planned). The only agency that owns/operate rental housing in Pasadena is Affordable Housing Services (Navarro House and Parke Street Apartments).</p>	<ul style="list-style-type: none"> <li>▪ Reviewed and mentioned the HUD memo (dated July 2009) that encouraged Public Housing Authorities to implement no-smoking policies in some or all of their public housing units.</li> <li>▪ Non-smoking buffer zones in common areas and option for landlords to go 100% smokefree are good ideas. Some Section 8 homes are not passing inspection because of tobacco smoke coloring walls yellow and remaining odor in carpets, drapes, and upholstery.</li> <li>▪ Need to define MUH--ownership vs rental--in any policy. Consider policy impacts to low income clients, especially around eviction concerns for smokers. Recommend including cessation resources to go with any policy.</li> <li>▪ Other/Miscellaneous: Is exposure to secondhand smoke an occupational safety health hazard for housing inspectors? Would marijuana smoking be included in any proposed policy</li> </ul>

<p><b>Housing Department/ Homeless Housing Network</b></p> <p><i>Local housing providers and/or agencies that work with the homeless, substance abuse, and affordable housing populations.</i></p>	<ul style="list-style-type: none"> <li>▪ The Homeless Housing Network is the "principal planning entity for the homeless in Pasadena" There are ~4 agencies that represent non-permanent housing (e.g. transitional housing) in Pasadena. These four agencies represent about 5 projects with 12 units each – so about 60 units in total. There is one affordable housing owner that represents 28 units in Pasadena.</li> <li>▪ Many of their clients use tobacco. A survey of their clients revealed that 66% smoke. Concerned about housing disparity that might arise from any new no-smoking MUH requirement, especially related to smoking inside units.</li> <li>▪ One affordable housing provider has already been smokefree for a number of years.</li> </ul>
<p><b>Pasadena Chamber of Commerce</b></p> <p><i>Professional business organization representing approximately 1,400 members in the Pasadena area.</i></p>	<ul style="list-style-type: none"> <li>▪ Conducted online membership survey in June 2010, with the following results (69 respondents): <ul style="list-style-type: none"> <li>▪ Secondhand smoke should be defined as a nuisance allowing for non-smokers to take legal action against smokers: Yes 25% No 75%</li> <li>▪ Smoking in apartments and condos should be restricted to 20% of the units: Yes: 53.3% No: 46.7%</li> <li>▪ Non-smoking buffer zones should be created at apartment and condos: Yes: 75% No: 25%</li> <li>▪ All apartments and condos should designate blocks of units for smokers: Yes: 80.6% No: 19.4%</li> </ul> </li> </ul>
<p><b>Pasadena Neighborhood Coalition</b></p> <p><i>Coalition representing the leadership of 95 local neighborhood associations in Pasadena.</i></p>	<ul style="list-style-type: none"> <li>▪ Overall supportive of MUH policies. Appreciative of sharing the information.</li> <li>▪ Believes secondhand smoke can be a nuisance within the home dwelling. One leader felt proposed policies were too intrusive.</li> </ul>
<p><b>Westgate Apartments</b></p> <p><i>One of the largest real estate companies in the Western United States that develops, acquires, builds and manages a variety of commercial and residential properties for sale, lease and investment.</i></p>	<ul style="list-style-type: none"> <li>▪ Staff attended the ribbon cutting ceremony of the Westgate a 485-unit smokefree apartment development. Supports smokefree MUH housing.</li> </ul>

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<p><b>Southern CA Presbyterian Homes</b>  <i>Nonprofit Housing and Urban Development (HUD)-contracted agency to provide senior housing. Only one 65-unit HUD complex in Pasadena.</i></p>	<ul style="list-style-type: none"> <li>▪ Overall supports the policies, but has a few concerns as to impacts on current/existing smokers. Understand that this is a housing trend and that the demand for smokefree housing is increasing. Agrees with the notion of reducing fire hazards.</li> </ul>
<p><b>Archstone</b>  <i>They are one of the largest property management companies in the country. There a CAA member and have properties in Calabasas, Santa Monica, Glendale, and Long Beach. They have 347 units at the Del Mar station, 120 units on Oak Knoll, and 96 units in Old Pasadena, totaling 503 units in Pasadena.</i></p>	<ul style="list-style-type: none"> <li>▪ Supportive of outdoor common areas in MUH to be 100% smokefree.</li> <li>▪ Desires to limit any liability of property management companies, owners, or landlords on any public nuisance proposed policy.</li> <li>▪ 80% of units smokefree – it's fine if you do an adequate phase-in period ( 3 years) in order to allow lease language to be changed and option for smokers to move out or quit. They are very familiar with the South Pasadena ordinance and liked their 3-year phase-in period.</li> <li>▪ Their smoking complaints in the past have been few, but have been mitigated by their managers approaching the cigarette smoker and asking them to stop smoking in unit because of drifts into another unit. Their complexes really do not have balconies (only about 10%), so much of the exposure would probably be from another unit.</li> </ul>
<p><b>Agape Court</b>  <i>A privately owned affordable rental housing provider in Pasadena with rent and income restrictions; 46 total units.</i></p>	<ul style="list-style-type: none"> <li>▪ Overall supports the policies, but has a few concerns as to impacts on current/existing smokers. Concerned about the public nuisance provision oh how effective it will be. Suggested that staff carefully consider complexes that are small and how the unit percent requirement would work in small rental settings. Suggested outdoor common areas be smokefree with one designated smoking area - if possible - that would be far away from the units and/or complex.</li> </ul>
<p><b>Pasadena Foothill Association of Realtors (PFAR)</b>  <i>Established in 1997, The formation of PFAR provides REALTORS® and the public with an even stronger voice in the protection and promotion of private property rights while fostering the ultimate American dream of home ownership. The Association has built an industry-wide reputation of being one of the strongest real estate boards in the nation.</i></p>	<ul style="list-style-type: none"> <li>▪ Appreciative of the opportunity to provide input. Overall there were questions about the impact drifting tobacco smoke in units. Understood and supported common outdoor areas to be smokefree and the trend for smokefree housing. Okay with disclosure.</li> </ul>



## Smokefree Housing

# Comparison of Nonsmoking Housing Units Ordinances

October 2010

Cities and counties in California have led the way on many secondhand smoke issues throughout the years by passing groundbreaking local ordinances to restrict smoking in certain areas. On the issue of smokefree housing, California's communities are once again paving the way. Secondhand smoke exposure in multi-unit housing is a serious health threat because secondhand smoke drifts into housing units from other units, balconies, patios and common areas. The most effective way to address this problem is to pass a policy that restricts smoking in these areas, and most importantly within units in multi-unit housing.

There are now thirteen jurisdictions in California (Contra Costa County, Sebastopol, South Pasadena, Pinole, Pleasant Hill, Richmond, Rohnert Park, Dublin, Loma Linda, Novato, Calabasas, Belmont and Temecula) that have adopted an ordinance that prohibits smoking within a certain percentage of units in multi-unit housing. The policy and enforcement provisions in these ordinances vary greatly and some ordinances have several provisions that could be strengthened. Nonetheless, all thirteen of these groundbreaking ordinances go a long way towards protecting tenants from secondhand smoke exposure.

The table on the following pages lists questions about policy and enforcement provisions of smokefree housing ordinances and provides the answers for each of the thirteen jurisdictions. This table makes it easier to learn more about and understand in detail these thirteen ordinances, as well as providing some guidance on the types of issues that need to be addressed by other communities working on a smokefree housing ordinance.

If you have any questions about any of these ordinances or smokefree housing in general, please give the Center a call at (916) 554-5864. The Center's website, [www.Center4TobaccoPolicy.org/localpolicies-smokefreehousing](http://www.Center4TobaccoPolicy.org/localpolicies-smokefreehousing), has additional resources on smokefree housing, including a Matrix of Local Smokefree Housing Policies (that details all the types of smokefree housing policies beyond just polices that prohibit smoking in units) and a List of Communities that Restrict Smoking in Outdoor Common Areas of Multi-Unit Housing.

The Center for Tobacco Policy & Organizing • American Lung Association in California  
 1029 J Street, Suite 450 • Sacramento, CA 95814 • Phone: (916) 554.5864 • Fax: (916) 442.8585 • [www.Center4TobaccoPolicy.org](http://www.Center4TobaccoPolicy.org)

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# BREAKDOWN OF NONSMOKING HOUSING UNITS ORDINANCES

CITY	POLICY PROVISIONS						
	Date Passed/ Population	What percentage of units is required to be designated as nonsmoking?	Do the nonsmoking unit requirements apply to existing housing, new housing or both?	When do the nonsmoking units restrictions go into effect?	Are current tenants who smoke grandfathered in that is, allowed to smoke in their current unit past the implementation date?	Do the nonsmoking unit requirements apply to condominiums?	What size multi-unit housing complex is required to have nonsmoking units?
CONTRA COSTA COUNTY	October 2010 170,310	100% new	Only new	All new multi-unit housing that receives building permit after Jan. 1, 2011	N/A	Yes	4 or more units
SEBASTOPOL	August 2010 7,734	100%	Both	14 months	No	Yes	2 or more units
SOUTH PASADENA	August 2010 25,832	100%, but for existing units up to 20% may be designated as smoking units	Both	3 years	No	Yes	2 or more units
PIVOLE	April 2010 19,383	100% new	Only new	Immediately	N/A	Yes	2 or more units
PLEASANT HILL	April 2010 33,547	50% existing, 100% new	Both	5 years from January 2011 when nonsmoking unit designations begin	No	No	4 or more units
RICHMOND	July 2009 103,577	100%	Both	17 months for existing units; new units when completed	No	Yes	2 or more units
ROHWERT PARK	April 2009 43,062	50% existing, 75% new	Both	25 months for existing units; new units when completed	Yes	Yes	2 or more units
DUBLIN	December 2008 46,914	50%	Both	25 months	No	No	16 or more units
LOMA LINDA	June 2008 22,632	70%	Both	3 1/2 years	Yes	No	2 or more units
NOVATO	April 2008 52,737	50% existing, 75% new	Both	90 days	Yes	Yes	10 or more units
CALABASAS	January 2008 23,725	80%	Both	4 years	Yes	No	2 or more units
BELMONT	October 2007 26,078	100%	Both	14 months	No	Yes	2 or more units that share a common floor and/or ceiling
TEMECULA	May 2007 101,057	25%	Both	5 years, up to 8 years with extensions	Yes	No	10 or more units

# BREAKDOWN OF NONSMOKING HOUSING UNITS ORDINANCES (continued)

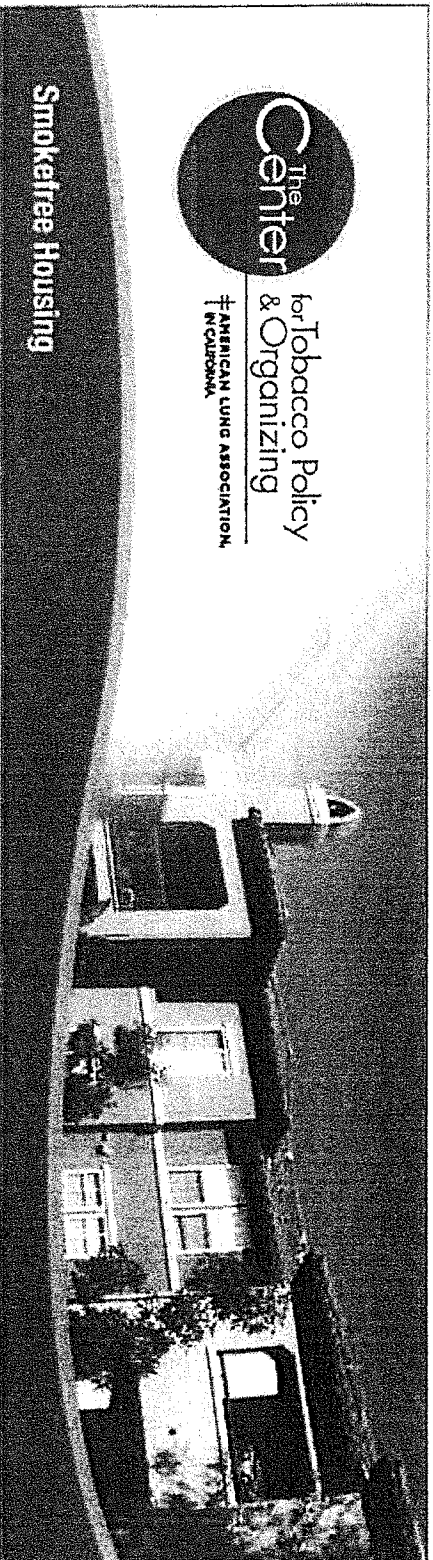
CITY	POLICY PROVISIONS					
	Is smoking prohibited on balconies, patios and porches of nonsmoking units?	Is smoking prohibited within a certain distance of an opening to a nonsmoking unit (including on balconies and patios of a smoking unit)?	Are nonsmoking units required to be grouped together and/or in a separate building?	Is smoking prohibited in outdoor common areas of apartments and condominiums?	What size multi-unit housing complex is required to have smoking prohibited in outdoor common areas?	Are designated smoking areas that meet certain criteria allowed in outdoor common areas?
CONTRA COSTA COUNTY	Yes	Yes	N/A	Yes	4 or more units	Yes
SEBASTOPOL	Yes	Yes	N/A	Yes	2 or more units	Yes
SOUTH PASADENA	Yes	Yes	Yes	Yes	2 or more units	Yes
PINOLE	Yes	Yes	N/A	Yes	2 or more units	Yes
PLEASANT HILL	Yes	Yes	Yes	Only apartments	4 or more units	Yes
RICHMOND	Yes	Yes	N/A	Yes	2 or more units	Yes
ROHNERT PARK	Yes	Yes	Yes	Yes	2 or more units	Yes
DUBLIN	Yes	Yes	Yes	Only apartments	16 or more units	Yes
LOMA LINDA	Yes	Yes	Yes	Only apartments	2 or more units	Yes
NOVATO	Yes	Yes	Yes	Yes	2 or more units	Yes
CALABASAS	Yes	Yes	Yes	Only apartments	2 or more units	Yes
BELMONT	Yes	Yes	Yes	Yes	2 or more units	Yes
TEMECULA	Yes	Yes	Yes	Only apartments	2 or more units	Yes

# BREAKDOWN OF NONSMOKING HOUSING UNITS ORDINANCES (continued)

CITY	POLICY PROVISIONS					ENFORCEMENT PROVISIONS	
	Are landlords required to post "No Smoking" signs?	Are landlords required to include language in leases that states whether the unit is smoking or nonsmoking?	Are landlords required to disclose to tenants the location of smoking and nonsmoking units and/or other information about the smoking policy?	Are landlords required to give a map or list of smoking and nonsmoking units to the city?	Is secondhand smoke declared a nuisance?	All landlords are able to evict for violations of a local law. Does this ordinance contain any additional eviction provisions related to violations of the smoking restrictions?	
CONTRA COSTA COUNTY	Yes	Yes	Yes	No	No	Yes, the landlord may evict upon receipt of two letters of complaints	No
SEBASTOPOL	Yes	Yes	Yes	N/A	Yes		No
SOUTH PASADENA	Yes	Yes	Yes	Yes	Yes		No
PINOLE	Yes	No	No	No	No		No
PLEASANT HILL	Yes	No	Yes	Yes	Yes		No
RICHMOND	Yes	Yes	Yes	N/A	No		No
ROHMERT PARK	Yes	No	Yes	No	No		No
DUBLIN	Yes	Yes	Yes	Yes	Yes		No
LOMA LINDA	Yes	Yes	Yes	Yes, until 70 percent of units are designated nonsmoking	Yes	Yes, the landlord may evict upon receipt of letters of complaints from two individuals	No
NOVATO	Yes	Yes	Yes	No	Yes, in a place of human habitation		No
CALABASAS	Yes	Yes	Yes	Yes, until 80 percent of units are designated nonsmoking	Yes	Yes, the landlord may evict upon receipt of letters of complaints from two individuals	No
BELMONT	Yes	Yes	No	N/A	Yes		No
TEMECULA	Yes	No	Yes	Yes	No		No

# BREAKDOWN OF NONSMOKING HOUSING UNITS ORDINANCES (continued)

CITY	ENFORCEMENT PROVISIONS				
	Are there ways for landlords to limit their liability for tenants violating the nonsmoking provisions, such as meeting the lease language requirements in the ordinance?	Can a tenant affected by smoke drifting from a tenant who is violating the nonsmoking provisions enforce the lease provisions against the violating tenant?	Is there a private enforcement provision that allows the public (including the affected tenant) to enforce the nonsmoking law against violating parties?	How are violations of the ordinance punishable by the city/county?	Which city staff can enforce the nonsmoking provisions?
CONTRACOSTA COUNTY	Yes	No	No	Any means allowed by the municipal code	Director of health services
SHERASTON	Yes	Yes	Yes, as long as proper notice is given to the city and the city is not pursuing a civil action	Infraction with a fine of \$100	Police department, city attorney, any peace officer or code enforcement official
SOUTH BRISBENA	Yes	Yes	Yes	Infraction with a fine of \$100	City manager, community improvement coordinator, code enforcement official and any peace officer
PALO ALTO	No	N/A	No	Infraction with fines starting at \$100	City manager
PLEASANT HILL	Yes	N/A	No	Any means allowed by the municipal code	No specific staff designated
RICHMOND	Yes	Yes	Yes	\$100 fine	City manager and any peace officer or code enforcement official
ROHNERT PARK	No	No	Yes	Infraction	No specific staff designated
DUBLIN	Yes	Yes	Yes	Infraction with fines starting at \$100	City manager
CONCORD	Yes	Yes	No	Infraction	City prosecutor, city attorney, any peace officer or code enforcement officer
NOVATO	Yes	Yes	Yes	Infraction with fines starting at \$100. The County Department of Public Health must provide a warning letter before any civil penalties are levied	City manager
CALABASAS	Yes	Yes	Yes, as long as proper notice is given to the city and the city is not pursuing a civil action	Misdemeanor or infraction and subject to civil action by the city	City prosecutor, city attorney, any peace officer and any code enforcement officer
BELMONT	Yes	Yes	No	Infraction subject to a \$100 penalty and civil action by the city	Any peace officer or code enforcement officer
TEMECULA	No	No	No	All penalties outlined in the municipal code and subject to civil action by the city	Police officers or code enforcement officers



**The Center**  
for Tobacco Policy  
& Organizing  
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IN CALIFORNIA

**Smokefree Housing**

## Matrix of Local Smokefree Housing Policies

October 2010

Smokefree housing is the next frontier in California's ongoing effort to protect its citizens from secondhand smoke. Although California has made great progress in getting secondhand smoke out of workplaces, for the many Californians who live in multi-unit housing breathing secondhand smoke which drifts from neighboring units, balconies and outdoor areas has become a real health problem.

This Matrix of Local Smokefree Housing Policies is intended to help you understand the current state of this complex policy issue. Smokefree housing policies have been adopted in thirty-four California communities – Alameda, Albany, Belmont, Burbank, Calabasas, Contra Costa County, Dublin, Emeryville, Eureka, Glendale, Loma Linda, Madera, Martinez, Novato, Oakland, Oxnard, Phoebe, Pleasant Hill, Plumas County, Port Huenueme, Rancho Cordova, Rancho Mirage, Richmond, Rohnert Park, Sacramento (City), Sacramento County, San Bernardino County, Santa Barbara (City), Santa Monica, Sebastopol, South Pasadena, Temecula, Thousand Oaks, and Woodland. This Matrix details each policy with information about major provisions and enforcement provisions. The policies are listed in reverse chronological order from the most recently passed and are divided into three sections:

- (1) **City/County Ordinances** that require a certain percentage of units to be declared nonsmoking, that require landlords to disclose information about smoking policies and the location of smoking and nonsmoking units and/or that declare secondhand smoke exposure a nuisance (Page 2)
- (2) **Housing Authority/Affordable Housing Policies** that require the creation of nonsmoking units in low-income, senior or other types of affordable housing (Page 17)
- (3) **City/County Resolutions** that encourage landlords to designate a certain percentage of units as nonsmoking (Page 21)

To be included on the Matrix, a smokefree housing policy must in some way address the issue of drifting secondhand smoke from neighboring units. Therefore, policies that only address common areas are not included on this Matrix. However, restricting smoking in multi-unit housing common areas can be an important component to smokefree housing policies. The Center has produced a comprehensive list of communities that have adopted a smokefree outdoor common areas policy and we can provide a list upon request of the communities that prohibit smoking in all indoor common areas.

The thirty-four cities and counties listed on this Matrix have led the way on this emerging issue and are building momentum for other legislative action around the state. Please call the Center at (916) 554-5864 for more information about any of these policies or for campaign assistance in passing a smokefree housing policy. The Center's website, [www.Center4TobaccoPolicy.org/localpolicies-smokefreehousing](http://www.Center4TobaccoPolicy.org/localpolicies-smokefreehousing), contains all of our housing documents, including the outdoor common areas document, a detailed comparison of the ordinances that prohibit smoking in units and a document with tough questions and answers on smokefree housing policies. For sample ordinance language on smokefree housing, please visit the Technical Assistance Legal Center's (TALC) website at <http://www.phlpanet.org>.

## City/County Ordinances

Community/Date Passed	Major Provisions	Enforcement Provisions
<p>Contra Costa County                      October 2010/                      October 2009/                      October 2006</p>	<p>In October 2010, the Board of Supervisors updated the county secondhand smoke ordinance (which was adopted in 2006 and updated in 2009) with additional smokefree housing provisions. The updated ordinance prohibits smoking in 100% of all new multi-unit housing complexes, including apartments and condominiums, with four or more units that receive a building permit after January 1, 2011. There is no requirement to establish nonsmoking units in existing multi-unit housing complexes. For all new and existing multi-unit housing complexes with four or more units, including apartments and condominiums, the ordinance prohibits smoking within 20 feet of any door or window and on all patios, balconies, decks and carports. The new law also requires the lease of all units to contain language that states whether the unit is smoking or nonsmoking.</p> <p>The update in 2009 requires the owner or manager of multi-unit housing complexes with four or more units, including apartments and condominiums, to disclose information to tenants about smoking on the property. Owners and managers must maintain and provide to tenants a list of all designated nonsmoking units, a floor plan showing the location of nonsmoking and smoking units and any designated outdoor smoking area and the policy for handling smoking complaints.</p> <p>The original ordinance from 2006 prohibits smoking in all indoor and outdoor common areas of apartment building and condominium complexes that have four or more units, except that a landlord may create an outdoor designated smoking area that meets certain criteria.</p>	<p>The county can enforce the smoking provisions through administrative fines, infraction citations or any other remedy allowed by law.</p>
<p>Burbank                      October 2010</p>	<p>The City Council updated the city's secondhand smoke ordinance to include several smokefree housing provisions. The new smokefree housing restrictions will go into effect on May 1, 2011.</p> <p>The ordinance prohibits smoking in multi-unit residences that share a common heating or cooling system that utilize the same ducting system, which results in air from one unit being distributed to another unit.</p> <p>In addition, for all multi-unit housing complexes with two or more units, including apartments and condominiums, smoking is</p>	<p>The Chief of Police is responsible for enforcement. Violations are punishable through remedies available in the municipal code.</p>

Community/Dates Passed	Major Provisions	Enforcement Provisions
Sebastopol August 2010	<p>prohibited on all private patios and balconies. Smoking is also prohibited in all indoor common areas and in certain outdoor common areas. The outdoor common areas where smoking is restricted are swimming pool areas when being used by children and all children play areas.</p> <p>The City Council adopted an ordinance to prohibit smoking in 100% of multi-unit housing complexes in the city. For all apartment and condominium complexes with two or more units, there will be no smoking allowed in any units after November 2, 2011 (14 months after the ordinance goes into effect). The ordinance also prohibits smoking on the patios and balconies. Current tenants who smoke are not grandfathered in, meaning that they will not be able to smoke in their units after November 2, 2011.</p> <p>The new law requires lease agreements for all units to contain language that states the unit is nonsmoking and that other tenants in the building may enforce the no-smoking lease term.</p> <p>The ordinance prohibits smoking in indoor and outdoor common areas of multi-unit housing complexes (effective September 2, 2010), except that a landlord or a homeowners' association may create an outdoor designated smoking area that meets certain criteria.</p> <p>Finally, the ordinance declares secondhand smoke exposure a public nuisance.</p>	<p>Violations of the ordinance are punishable by the city as an infraction with a \$100 fine. The Police Department is responsible for enforcement and the City Attorney, any peace officer or code enforcement official can also enforce the ordinance.</p> <p>The ordinance also allows any member of the public to bring legal action against another person to enforce these provisions as long as proper notice is given to the city and the city is not pursuing a civil action.</p>
South Pasadena August 2010	<p>The City Council adopted an ordinance to prohibit smoking in multi-unit housing complexes with two or more units, including apartments and condominiums constructed after September 4, 2010, smoking is prohibited in 100% of the units. For existing units in apartment buildings, 100% of units will be nonsmoking as of September 4, 2013. However, landlords that follow certain requirements and deadlines may allow smoking in up to 20% of the units. For condominiums, 100% of units will be nonsmoking as of September 4, 2013. However, by meeting certain timelines and by a vote of the membership, a homeowners' association may decide to allow smoking in up to 20% of the units. For multi-unit housing with smoking-allowed units, all nonsmoking units must be grouped together to the maximum extent possible. If a complex has smoking-allowed units, then smoking</p>	<p>Violations of the ordinance are punishable by the city as an infraction with a \$100 fine. The City Manager, Community Improvement Coordinator, code enforcement official or any peace officer can enforce the ordinance.</p> <p>The ordinance also allows any member of the public to bring legal action against another person to enforce these provisions.</p>

Community/Date Passed	Major Provisions	Enforcement Provisions
Santa Monica August 2010/ January 2009	<p>is prohibited within 25 feet of any designated nonsmoking unit, including on private patios and balconies of a smoking unit.</p> <p>Landlords who designate some units as smoking-allowed must disclose to tenants and prospective tenants the location of smoking and nonsmoking units and provide a map depicting the location of these units. This information must also be made available to the city.</p> <p>The new law also requires the lease of all units to contain language that states the unit is nonsmoking (unless the landlord has allowed smoking in the unit) and that other tenants in the building may enforce the no-smoking lease term.</p> <p>The ordinance also prohibits smoking in indoor and outdoor common areas starting September 4, 2010 except that a landlord may create an outdoor designated smoking area that meets certain criteria.</p>	<p>The common areas smoking prohibition can be enforced through a civil action. Before doing so, the affected tenant must first attempt to resolve the matter informally with the tenant who is violating the smoking restrictions by providing a written notice with 30 days to cease smoking before filing a suit. Awards for civil actions are no less than \$100 for the first violation, \$200 for the second violation within one year and \$500 for the third and subsequent violations within one year.</p>
Eureka July 2010	<p>The city passed a broad secondhand smoke ordinance in July 2010 that includes several smokefree housing provisions. First, the ordinance requires landlords to disclose to prospective tenants information about where smoking is allowed or not allowed on the property. Landlords are required to provide a diagram showing the location of any nonsmoking units and the location of any outdoor designated smoking areas.</p>	<p>Violations are punishable as an infraction with a fine of \$100. The Chief of Police is responsible for enforcement, but any peace officer or code enforcement official may enforce.</p>



Community/Date Passed	Major Provisions	Enforcement Provisions
	<p>Second, the ordinance prohibits smoking on all balconies and patios of all multi-unit housing complexes with two or more units, including apartments and condominiums. This smoking prohibition applies to all units, even units where smoking is allowed inside the unit.</p> <p>Finally, the ordinance prohibits smoking in all indoor and outdoor common areas of apartments and condominiums, except that a landlord may create an outdoor designated smoking area that meets certain criteria.</p>	<p>Both the city attorney and private individuals can bring legal action to enforce these provisions.</p>
<p>Pinole April 2010</p>	<p>The City Council adopted an ordinance that prohibits smoking in 100% of all new multi-unit housing complexes constructed after the effective date of the ordinance (May 20, 2010). There is no requirement to establish no-smoking units in existing multi-unit housing complexes. For all new and existing multi-unit housing complexes with two or more units, including apartments and condominiums, the ordinance prohibits smoking within 20 feet of any door or window.</p> <p>The ordinance also prohibits smoking in indoor and outdoor common areas of all multi-unit housing complexes, except that a landlord or homeowners' association may create an outdoor designated smoking area that meets certain criteria</p>	<p>The city manager is responsible for enforcement and violations are punishable as an infraction with fines starting at \$100.</p>
<p>Pleasant Hill April 2010/ August 2006</p>	<p>The City Council adopted an ordinance that prohibits smoking inside both new and existing apartment complexes with four or more units. The nonsmoking unit requirements do not apply to condominiums. For existing apartment complexes with four or more units, 50% of the units must be designated as nonsmoking. Landlords must begin designating nonsmoking units in January 2011 and complete it within five years. All nonsmoking units must be grouped together to the maximum extent possible. For all new apartment buildings with four or more units completed after the effective date of the ordinance (May 5, 2010), 100% of the units must be designated nonsmoking. Smoking is prohibited within 20 feet of any designated nonsmoking unit, including on private patios and balconies of a smoking unit.</p> <p>The ordinance also contains a provisions that requires landlords to disclose to prospective tenants the location of smoking units, whether there is smoking allowed in any adjacent units and if the previous tenant smoked in the unit.</p>	<p>The ordinance does not designate a specific enforcement agency within the city, but allows for violations to be enforced by any means authorized in the municipal code.</p>

Community/Date Passed	Major Provisions	Enforcement Provisions
<p>City of Glendale March 2010/ October 2008</p>	<p>The ordinance also prohibits smoking in indoor and outdoor common areas, except that a landlord may create an outdoor designated smoking area that meets certain criteria.</p> <p>Finally, the city adopted an ordinance in 2006 that declared secondhand smoke exposure a public nuisance.</p> <p>In March 2010, the City Council updated its secondhand smoke ordinance including expanding the smokefree housing provisions it adopted in October 2008.</p> <p>The first provision requires apartment landlords to disclose to prospective tenants whether smoking is allowed in the prospective unit and if the unit was designated as smoking or nonsmoking for the previous tenant. In addition, landlords need to provide to tenants with and display a map with the locations of smoking and nonsmoking units, the location of all common areas where smoking is prohibited and the location of any areas where smoking is allowed.</p> <p>The ordinance prohibits smoking on all balconies and patios of multi unit housing of two or more units, including apartments and condominiums. This smoking prohibition applies to all units, including on private patios and balconies of a smoking unit.</p> <p>Finally, the ordinance prohibits smoking in all indoor and outdoor common areas of apartments and condominiums, except that a landlord may create an outdoor designated smoking area that meets certain criteria.</p>	<p>The city manager, director of parks, recreation and community services, any police officer, any park ranger, neighborhood services administrator, or city clerk license investigator can enforce this ordinance.</p> <p>A violation of this ordinance occurs when a person is warned to stop smoking or to move away from a smoking prohibited area, but continues to smoke in that area.</p> <p>Violations are punishable pursuant to the municipal code.</p> <p>Violations of a smoking policy in multi-unit housing, through either smoking in a common area where smoking is prohibited or smoking in a unit that the landlord has declared nonsmoking, are added to the list of reasons whereby a landlord can evict a tenant.</p> <p>Both the city attorney and private individuals can bring legal action to enforce these provisions.</p>
<p>Richmond July 2009</p>	<p>The City Council adopted an ordinance that prohibits smoking in 100% of the multi-unit housing in the city. For all existing apartments and condominiums with 2 or more units, there will</p>	<p>Violations of the ordinance are punishable by the city with a \$100 fine. The City Manager is</p>

Community/Date Passed	Major Provisions	Enforcement Provisions
	<p>be no smoking allowed in any units after January 1, 2011. Landlords can make all units nonsmoking prior to January 1, 2011. All new units that become occupied after the ordinance goes into effect (August 20, 2009) are nonsmoking. A unit includes patios and balconies. Tenants of existing housing units who smoke are not grandfathered in, meaning that they will not be able to continue to smoke in their unit after January 1, 2011.</p> <p>The new law also requires the lease of all units to contain language that states the unit is nonsmoking and that other tenants in the building may enforce the no-smoking lease term.</p> <p>The ordinance also prohibits smoking in indoor and outdoor common areas, except that a landlord may create an outdoor designated smoking area that meets certain restrictions.</p> <p>Landlords must maintain and provide to tenants a diagram showing the location of any designated smoking areas with any new lease agreement after January 1, 2011. Landlords and condo sellers will be required to disclose the ordinance requirements to all prospective and existing tenants and buyers beginning 90 days after ordinance takes effect.</p>	<p>responsible for enforcement and any peace officer or code enforcement official can enforce the ordinance.</p> <p>The ordinance also allows any member of the public to bring legal action against another person to enforce these provisions.</p>
Martinez April 2009	<p>The City Council adopted an ordinance with several smokefree housing provisions. First, all apartment landlords will be required to disclose information about the smoking regulations for the property to prospective tenants. All landlords, including landlords that do not have any designated nonsmoking units, would be required to maintain a list of designated nonsmoking units and a floor plan identifying those units and give tenants these documents for all new leases or other agreements entered into on or after June 1, 2010.</p> <p>The ordinance prohibits smoking in all private outdoor spaces of multi-unit housing, including apartments and condominiums, with 4 or more units. Private outdoor spaces includes the balconies, patios, decks, entry porches and carports of individual units. Smoking would still be allowed inside the individual units.</p> <p>The ordinance also prohibits smoking in indoor and outdoor common areas, except that a landlord may create an outdoor designated smoking area that meets certain restrictions. These provisions all go into effect June 1, 2010.</p>	<p>Landlords that have knowledge of violations of the smoking provisions are responsible for taking reasonable steps to enforce the regulations including, informing the tenant of the violation and the course of action if the violation is not corrected. Other tenants are able to bring legal action to enforce the provisions.</p>

Community/Date Passed	Major Provisions	Enforcement Provisions
	<p>The new law requires the leases of all units to contain language that states that smoking is prohibited in common areas and private outdoor spaces and that other tenants in the building may enforce the no-smoking lease term.</p> <p>Finally, the ordinance declares secondhand smoke exposure a public nuisance.</p>	
<p><b>Rohnert Park</b> April 2009</p>	<p>The City Council adopted an ordinance that prohibits smoking inside the units of both new and existing multi-unit housing, which includes apartments and condominiums. For new apartment buildings (those that are built after June 1, 2009) with 2 or more units, 75% of the units must be designated as nonsmoking. For all existing apartments with 2 or more units, 50% of the units must be designated as nonsmoking. New units are required to be designated as nonsmoking immediately. Existing units must be declared nonsmoking by June 1, 2011. For both new and existing housing, the definition of a unit includes patios and balconies, and all nonsmoking units must be grouped together to the maximum extent possible. Current tenants of existing housing who smoke will be grandfathered in, meaning that they may continue to smoke inside their unit for as long as they continuously reside in that unit, even if that unit is designated as nonsmoking. For both new and existing apartments, landlords may designate 100% of the units as nonsmoking.</p> <p>The ordinance also prohibits smoking in indoor and outdoor common areas, except that a landlord may create an outdoor designated smoking area that meets certain restrictions.</p> <p>Landlords must maintain and provide to tenants a floor plan identifying the smoking and nonsmoking units as well as the location of any designated smoking areas.</p>	<p>Violations of the ordinance are punishable as an infraction. No specific city staff is designated to enforce the ordinance. Any private person can bring legal action for damages or relief against a tenant who violates the ordinance.</p>
<p><b>City of Dublin</b> December 2008/ September 2006</p>	<p>The City Council adopted an ordinance that prohibits smoking inside 50% of the apartment units for apartment complexes that have 16 or more units. Landlords are required to designate nonsmoking units by January 1, 2011. A unit includes patios and balconies, and all nonsmoking units must be grouped together to the maximum extent possible. Current tenants who smoke are not grandfathered in, meaning that they will not be able to continue to smoke in their unit after January 1, 2011 if</p>	<p>The city manager is responsible for enforcement and violations are punishable as an infraction. A private person may also bring legal action to enforce these provisions.</p>

Community/Date Passed	Major Provisions	Enforcement Provisions
<p>City of Loma Linda June 2008</p>	<p>their unit is designated as nonsmoking. Landlords are required to notify tenants within 90 days of the implementation plan for their unit. Landlords may designate 100% of the units as nonsmoking.</p> <p>The ordinance also prohibits smoking in indoor and outdoor common areas, except that a landlord may create an outdoor designated smoking area that meets certain restrictions.</p> <p>Landlords must maintain and provide to tenants a floor plan identifying the smoking and nonsmoking units as well as the location of any designated smoking areas.</p> <p>The new law also requires the lease of nonsmoking units to contain language that states the unit is nonsmoking and that other tenants in the building may enforce the no-smoking lease term.</p> <p>Two years earlier in September 2006, the City passed an ordinance that declared secondhand smoke a nuisance.</p> <p>The City Council passed an ordinance that requires landlords to prohibit smoking in at least 70% of the units of new and existing apartments, including patios and balconies. Nonsmoking units must be grouped together vertically, horizontally and in separate buildings to the maximum extent possible.</p> <p>Landlords have until January 1, 2012 to permanently designate at least 70% of units as nonsmoking. Until they do so, landlords must submit an annual report to the city that shows the number and location of nonsmoking and smoking units, identifies any units where residents have been grandfathered, and shows the location of any designated smoking areas.</p> <p>The ordinance also prohibits smoking in all indoor and outdoor common areas in multi-unit housing, except for designated areas.</p> <p>Landlords must also present every potential tenant with a floor plan of the smoking and nonsmoking units and the location of a designated smoking area. Finally, landlords are required to create an outdoor designated smoking area, but can get an exemption from the city if there is no suitable place for an outdoor designated smoking area on the property.</p>	<p>Tenants who smoke in a nonsmoking unit may be subject to eviction if a landlord receives two letters of complaints from different individuals. However, eviction is up to the discretion of the landlord.</p> <p>Violations of the law are punishable as an infraction.</p> <p>The city prosecutor, city attorney, any peace officer or any city code enforcement officer may enforce the provisions in this ordinance.</p>

Community/Date Passed	Major Provisions	Enforcement Provisions
	<p>The ordinance allows current tenants to have their unit grandfathered in as a smoking unit past the January 1, 2012 date as long as they continuously live in that unit and provide proper notification to their landlord.</p> <p>The new law also requires the lease of nonsmoking units to contain language that states the unit is nonsmoking and that other tenants in the building may enforce the no-smoking lease term.</p> <p>Finally, the ordinance declares secondhand smoke exposure a public nuisance.</p>	
<p><b>City of Albany</b> June 2008</p>	<p>The City Council passed a broad secondhand smoke ordinance that contains two smokefree housing provisions. First, landlords and sellers of condominiums will be required to disclose the smoking policy of the units they manage or sell. For apartments, landlords must maintain and provide to tenants a list of designated nonsmoking units, a list of designated smoking units and a floor plan that identifies the location of smoking and nonsmoking units, as well as any designated smoking areas. Sellers of condominiums must disclose to potential buyers whether smoking is permitted in the unit and what the smoking policy is for the complex.</p> <p>Secondly, the ordinance prohibits smoking in indoor and outdoor common areas, except that a landlord may create an outdoor designated smoking area that meets certain restrictions.</p>	<p>Violations are punishable as an infraction and subject to a fine of between \$50 - \$100 for a first violation, \$100 - \$250 for a second violation, and \$250 - \$500 for any additional violation.</p> <p>The police department is responsible for enforcement, but any peace officer or code enforcement officer may enforce this ordinance.</p>
<p><b>City of Novato</b> April 2008</p>	<p>The City Council adopted an ordinance that prohibits smoking inside the units of both new and existing apartments. For new apartments with 10 or more units, 75% of the units must be designated as nonsmoking. For all existing apartments with 10 or more units, 50% of the units must be designated as nonsmoking. For both new and existing housing, a unit includes patios and balconies, and all nonsmoking units must be grouped together to the maximum extent possible. Current tenants who smoke will be grandfathered in, meaning that they may continue to smoke inside their unit for as long as they continuously reside in that unit. For both new and existing apartments, landlords may designate 100% of the units as nonsmoking.</p> <p>The new law also requires all new leases to contain language</p>	<p>The city manager is responsible for enforcement. The Marin County Department of Health and Human Services is responsible for writing the initial warning letter. Any resident can initiate enforcement by notifying the city manager. A resident may also bring private action to enforce these provisions.</p> <p>The penalty for a first violation is a fine not exceeding \$100</p>

Community/Date Passed	Major Provisions	Enforcement Provisions
	<p>that states whether the unit is nonsmoking or smoking and that other tenants in the building may enforce the no-smoking lease term.</p> <p>The ordinance also prohibits smoking in indoor and outdoor common areas, except that a landlord may create an outdoor designated smoking area that meets certain restrictions.</p> <p>Landlords must maintain and provide to tenants a floor plan identifying the smoking and nonsmoking units as well as the location of any designated smoking areas.</p> <p>Finally, the ordinance declares secondhand smoke exposure in a place of human habitation a nuisance.</p>	<p>and/or five days of community service. A second violation within one year is punishable by a fine of up to \$200 and/or ten days of community service. A third violation within one year is punishable by a fine of up to \$500 and/or fifteen days of community service.</p>
<p>City of Calabasas January 2008/ February 2006</p>	<p>In January 2008, the city passed an ordinance that requires landlords to prohibit smoking in at least 80% of the units of new and existing apartments, including patios and balconies. Nonsmoking units must be grouped together vertically, horizontally and in separate buildings to the maximum extent possible.</p> <p>Landlords have until January 1, 2012 to permanently designate at least 80% of units as nonsmoking. Until they do so, landlords must submit an annual report to the city that shows the number and location of nonsmoking and smoking units.</p> <p>Landlords must also present to every potential tenant a floor plan of the smoking and nonsmoking units and the location of a designated smoking area. Finally, landlords are required to create an outdoor designated smoking area, but can get an exemption from the city if there is no suitable place for an outdoor designated smoking area on the property.</p> <p>The ordinance allows current tenants to have their unit grandfathered in as a smoking unit past the January 1, 2012 date as long as they continuously live in that unit and provide proper notification to their landlord.</p> <p>The new law also requires the lease of nonsmoking units to contain language that states the unit is nonsmoking and that other tenants in the building may enforce the no-smoking lease term.</p>	<p>Tenants who smoke in a nonsmoking unit may be subject to eviction if a landlord receives two letters of complaints from different individuals. However, eviction is up to the discretion of the landlord.</p> <p>Violations of the law are subject to punishment as a misdemeanor.</p> <p>The city prosecutor, city attorney, peace officer, or city code enforcement officer may enforce the provisions in this ordinance. The ordinance requires business owners to enforce these provisions in their establishments. Residents of Calabasas can also report any violations of the law to the code enforcement unit.</p> <p>The ordinance also allows any member of the public to sue another person to enforce these provisions.</p>

Community/Date Passed	Major Provisions	Enforcement Provisions
	<p>Two years earlier, in February 2006, the city prohibited smoking in all indoor and outdoor common areas in multi-unit housing (lobbies, hallways, swimming pools, outdoor eating areas, play areas, etc).</p> <p>That ordinance also declared that exposing others to secondhand smoke is a public nuisance.</p>	
<p><b>City of Oakland</b> December 2007</p>	<p>Two smokefree housing provisions were included in a broader secondhand smoke ordinance passed by the city. First, landlords and sellers of condominiums will be required to disclose the smoking policy of the units they manage or sell. For apartments, landlords must disclose to prospective tenants if the unit is smoking or nonsmoking, which units in the complex are smoking units, and what the smoking policy is for the complex. Sellers of condominiums must disclose to potential buyers whether smoking is permitted in the unit and what the smoking policy is for the complex.</p> <p>Secondly, the ordinance prohibits smoking in all indoor and outdoor common areas of multi-unit housing.</p>	<p>To implement the disclosure requirements, the city placed language about the smoking policies within a notice to tenants that all landlords were already required to give to tenants each year. This results in an automatic annual reporting of these disclosures.</p> <p>The City Administrator is responsible for enforcement. Any citizen can register a complaint with the City Administrator to initiate enforcement.</p> <p>Private citizens can bring legal action to enforce these provisions.</p> <p>Violators that smoke in a prohibited area are guilty of an infraction and can be punished by a fine of up to \$100 for a first violation, up to \$200 for a second violation within one year, and up to \$500 for each additional violation within one year.</p>
<p><b>City of Belmont</b> October 2007</p>	<p>The city passed an ordinance that prohibits smoking in all new and existing apartments and condominiums that share a common floor and/or ceiling. For current tenants who smoke, there is a 14 month grace period during which time they are still allowed to smoke in their unit.</p>	<p>Each violation is an infraction subject to a \$100 fine. Violations are also subject to civil action brought by the city, with a fine of between \$250 and</p>



Community/Date Passed	Major Provisions	Enforcement Provisions
	<p>The new law also requires every lease of a unit where smoking is prohibited to contain language that states the unit is nonsmoking and that other tenants in the building may enforce the no-smoking lease term. The same grace period of 14 months applies to the new lease terms for current tenants who smoke. Landlords are not required to enforce the new no-smoking lease terms nor are they required to evict a tenant who smokes in a nonsmoking unit.</p> <p>The ordinance also declares secondhand smoke a nuisance.</p> <p>Finally, the ordinance bans smoking in indoor and outdoor common areas, with landlords allowed to create designated smoking areas that meet certain restrictions (i.e. 20 feet away from entrances and windows).</p>	<p>\$1000.</p> <p>This ordinance can be enforced by any peace officer or code enforcement official.</p> <p>The city attorney can also bring a civil action to remedy violations, including nuisance abatement proceedings, code enforcement proceedings or suits for injunctive relief.</p>
<p><b>City of Temecula</b> May 2007</p>	<p>This city passed an ordinance that requires landlords to designate 25% of their units as nonsmoking in all new and existing multi-unit residences with 10 or more units (it does not apply to condominiums). These nonsmoking units must be grouped together horizontally and vertically and in a separate building to the maximum extent possible.</p> <p>For new multi-unit housing, landlords must submit a floor plan to the city that identifies the smoking and nonsmoking units within six months of enactment of this ordinance.</p> <p>Landlords of existing multi-unit residences must submit a floor plan to the city that identifies the smoking and nonsmoking units within one year. Landlords have up to five years to actually designate these units as nonsmoking and may apply for up to three, one-year extensions to comply, with the exception of senior housing.</p> <p>This ordinance also prohibits smoking in all indoor and outdoor common areas for all multi-unit residences (any residence with two or more units).</p>	<p>Violations of this ordinance are enforceable by the city and subject to penalties outlined in the Temecula municipal code.</p>
<p><b>City of Emeryville</b> December 2006</p>	<p>The ordinance bans smoking in indoor and outdoor common areas of multi-unit housing.</p> <p>The ordinance also declares secondhand smoke a nuisance, which allows a citizen to take private legal action. However, the</p>	<p>Enforcement will be handled by the City Manager. Citizens can register a complaint with the City Manager to initiate enforcement.</p>

Community/Date Passed	Major Provisions	Enforcement Provisions
	<p>ordinance states that the city cannot be a party in that legal action or have legal action brought against it for non-enforcement of the smoking ordinance. Further, it states that no owners, managers, or employers who operates premises controlled by the smoking restrictions can be found guilty or held liable for the nuisance provisions.</p>	

## Housing Authority/Affordable Housing Policies

Community/Date Passed	Major Provisions	Enforcement Provisions
San Bernardino County July 2010	<p>The Housing Authority Board of Commissioners voted to adopt a 100% nonsmoking policy for four housing complexes in the county (Redlands Brockton Site, Waterman Gardens Community, Yucaipa Crest and Colton Senior Housing Complex). The policy prohibits smoking on the entire properties, including in 100% of the units, common areas, every building and adjoining grounds.</p> <p>Current tenants who smoke can request a one-year grace period to be able to continue to smoke in their unit for one year.</p>	<p>Residents are responsible for informing guests of the nonsmoking policy and will be responsible for any damages caused by a violation of the policy. The Housing Authority can terminate the rental agreement for violations of the smoking provisions, which are considered a material breach of the rental agreement.</p>
Plumas County July 2008	<p>The Board of Supervisors adopted a policy to make all public housing units in the county nonsmoking. All housing units will become smokefree on July 1, 2009 with no grandfathering for current tenants. Any units that become vacant before that date will be declared nonsmoking when a new lease is signed. This will impact over 200 housing units and both senior and family housing.</p> <p>Residents will still be allowed to smoke outdoors on the properties but will be encouraged not to smoke near windows and doorways. Designated smoking areas with weather covers will be created at each location. Low literacy cessation services will be offered to all residents.</p>	
City of Alameda April 2008	<p>The City of Alameda Housing Commission adopted a policy to prohibit smoking within residential units, balconies and on the grounds of the property for all of the apartment complexes that the Alameda Housing Authority manages.</p> <p>The smokefree policy will first be implemented at Independence Plaza, a 186-unit senior complex. The policy went into effect on August 1, 2008. There will be no grandfathering for current residents who smoke and no designated smoking areas on the property. The smoking restrictions will also apply to employees and vendors.</p> <p>The other senior housing complex, Anne B. Diament Plaza with 65 units, will be the next complex to be converted to the nonsmoking policy.</p>	<p>The Housing Authority has the right to inspect apartments for evidence of smoking if they are notified of a violation of the no-smoking policy. Residents will be given 24 hours notice prior to an inspection.</p> <p>The Housing Authority can terminate the rental agreement for violations of this policy.</p> <p>Residents can notify the Housing Authority of potential violations and the Housing Authority must then take</p>

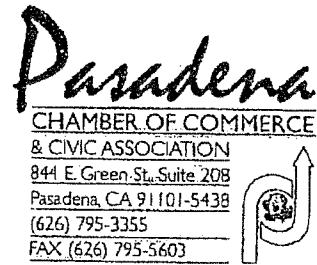
Community/Date Passed	Major Provisions	Enforcement Provisions
	Overall, the Housing Authority manages over 500 units in Alameda and all of the units will be converted to the same nonsmoking policy over the coming year.	reasonable steps to enforce these provisions. Residents may also sue another resident to enforce the no-smoking policy but do not have the right to evict another resident.
<b>City of Port Hueneeme</b> April 2008	The City Council adopted a resolution that approves the Port Hueneeme's Housing Authority policy to restrict smoking in two public housing properties. At the Mar Vista property (senior housing), smoking will be prohibited in all units on the bottom three floors, with smoking allowed in units on the top two floors of the building. Current residents who smoke and live in the bottom three floors will be encouraged, but not required, to move to a unit on the fourth or fifth floor. At the Hueneeme Village property (family housing), smoking will be prohibited inside all newly leased units after July 1, 2008.	A violation of the smoking policy will be handled like any other lease violation. A verbal warning will be given for a first violation and a written warning for a second violation. Any subsequent violations could result in a termination from the Housing Authority program.
<b>City of Oxnard</b> March 2008	The City Council passed a policy that prohibits smoking within the Oxnard Housing Authority's two senior housing properties. Smoking will be prohibited within 100% of the units, balconies, common areas, and within 30 feet of all entrances in both the Plaza Vista and Palm Vista properties, making a total of 150 nonsmoking units. There will be no grandfathering for current residents who smoke.	Housing Authority staff will notify residents if they violate the policy and then residents will have a chance to respond to the notice. After three violations, a resident's lease is subject to termination.  Residents are responsible for ensuring that guests comply with the policy.
<b>City of Thousand Oaks</b> March 2007/ September 2004	The City of Thousand Oaks adopted a policy requiring developers of new publicly-assisted rental housing to set aside one-third of the new units as nonsmoking units.  In March 2007, the city updated this policy to require that two-thirds of newly constructed publicly assisted rental housing and one-half of new supportive housing be smokefree.	
<b>City of Rancho Mirage</b> December 2006	The City Council adopted a smoking policy for the Rancho Mirage Housing Authority. This policy prohibits smoking in outdoor common areas in the Housing Authority's three senior affordable housing residential complexes.  The policy would also prohibit smoking within apartment units	Residents can make complaints to the Housing Authority.

Community/Date Passed	Major Provisions	Enforcement Provisions
	<p>for the Santa Rosa Villas and any future senior residential complexes. All new residents of the other two existing senior residential complexes will be prohibited from smoking in their units, but people that already live in those two complexes will be allowed to smoke in their units until they move.</p>	
<p><b>City of Santa Barbara</b> November 2005</p>	<p>The Housing Authority of the City of Santa Barbara adopted a policy that prohibits smoking in all 36 units of the Vista La Cumbre senior housing complex. This prohibition applies to smoking inside the units as well as on balconies. Residents are allowed to smoke in a designated area outside the building and residents who formerly smoked in their units were not grandfathered in, meaning they had to stop smoking in their units as soon as the policy became effective.</p>	<p>Residents can make complaints to the Housing Authority.</p>
<p><b>City of Madera</b> August 2002</p>	<p>The City Council approved a smoke-free policy of the Madera Housing Authority. The Madera Housing Authority adopted a policy to transition two of three senior housing buildings to be smokefree. New residents moving into buildings A and C at Yosemite Manor will not be allowed to smoke in their units or on their patios. Smokers that already reside in buildings A and C would be allowed to continue to smoke in their units but must keep their door to the hallway closed when smoking. Current and future residents of building B would still be allowed to smoke in their unit.</p>	<p>Residents may make complaints to the site manager.</p>

## City/County Resolutions

Community/Date Passed	Major Provisions	Enforcement Provisions
<p>City of Sacramento April 2009/ December 2006</p>	<p>In December 2006, the City Council passed a resolution that encourages property owners of multi-unit rental housing to designate at least 25% of their units as nonsmoking or to make entire buildings within a multi-unit housing complex smokefree. The percentage was increased to 50% of units in April 2009. Property owners that do so will be publicly recognized by the City Council.</p>	
<p>City of Rancho Cordova September 2008</p>	<p>The city passed a resolution that encourages landlords and property managers of multi-unit rental housing to designate at least 50% of their units, including patios and balconies, as nonsmoking or to make entire buildings within a multi-unit housing complex smokefree. Property managers that do so will be publicly recognized by the City Council.</p>	
<p>City of Woodland April 2008</p>	<p>The city passed a resolution that encourages landlords and property managers of multi-unit rental housing to designate at least 50% of their units, including patios and balconies, as nonsmoking or to make entire buildings within a multi-unit housing complex smokefree. Property managers that do so will be publicly recognized by the City Council.</p>	
<p>County of Sacramento April 2007</p>	<p>The Board of Supervisors passed a resolution that encourages property owners of multi-unit rental housing to designate at least 50% of their units as nonsmoking or to make whole buildings within a multi-unit housing complex smokefree. Property owners that do so will be publicly recognized by the Board of Supervisors.</p>	

**CORRESPONDENCE FROM**  
**FEBRUARY 22, 2011 SPECIAL MEETING**



February 22, 2011

Steve Mermell  
Assistant City Manager, City of Pasadena  
100 N. Garfield Avenue  
Pasadena, CA 91101  
VIA EMAIL

Re: Revised smoking ordinance before Public Safety Committee

Dear Mr. Mermell,

The Pasadena Chamber of Commerce has been aware of efforts to revise the City of Pasadena smoking ordinance to incorporate protections for apartment and condominium dwellers against the impacts of secondhand smoke.

Despite requests that we receive pertinent materials ahead of time, we just received a copy of the agenda report at 10:00 a.m. this morning so have not had time to carefully review the proposals.

Also, I would have liked to appear in person before the committee, but the revised meeting schedule conflicts with the regularly scheduled Chamber Board of Directors meeting, which I am obligated to attend.

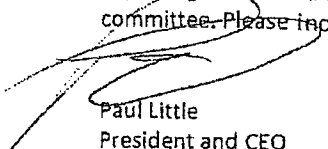
Last fall, the Chamber, at the request of your Public Health Department, surveyed our members regarding some of the proposals suggested at the time. The results of that survey were provided to your public health officials.

In general, our members who responded favored having areas of newly constructed apartment buildings be strictly non-smoking and that the city work to establish non-smoking multi-family housing units going forward, with the cooperation of developers and landlords. The members polled also supported notification of proximity to smokers by landlords to prospective tenants. There were some concerns raised that landlords may not be aware of which tenants currently smoke and which do not, so notification may be problematic at times.

Our members were very strongly opposed to defining a legal activity, smoking, as a local nuisance and thus creating an atmosphere where neighbors freely take neighbors to court over smoking. There is a very strong feeling among our members that facilitating lawsuits related to a legal activity being undertaken within the private confines of one's home should not be included in any city ordinance.

Our members who responded also expressed concerns about retroactively imposing regulations on persons who already live in apartments and condominiums in Pasadena. There were some concerns that such a regulation could lead to lawsuits and infringe on a basic right one has to enjoy the privacy of one's home.

Thank you for the opportunity to comment on the agenda item. We would like to be informed of future meetings regarding this ordinance so we can comment further, should it advance beyond consideration by the public safety committee. Please include this in material provided to the committee.

  
Paul Little  
President and CEO

cc: City Council, M. Beck, S. Whitmore, F. Girardo, K. Urich

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Item 4  
Submitted by Paul Little 41





Los Angeles

Quality Housing • Ethics • Professionalism

**The CAA Network**

- California Apartment Association
- Apartment Association of Greater Inland Empire
- CAA Central Valley
- CAA Contra Costa
- CAA Greater Fresno
- CAA Los Angeles
- CAA Napa/Solano
- CAA Tri-County
- Income Property Association of Kern
- Marin Income Property Association
- North Coast Rental Housing Association
- Rental Housing Association of Northern Alameda County
- Rental Housing Association of Sacramento Valley
- Rental Housing Owners Association of Southern Alameda County
- San Diego County Apartment Association
- San Francisco Apartment Association
- San Joaquin County Rental Property Association
- South Coast Apartment Association



March 12, 2010

The Honorable Bill Bogaard  
Mayor, City of Pasadena  
City Hall  
100 N. Garfield Avenue, Room S228  
P.O. Box 7115  
Pasadena, CA 91109

RE: Proposed Anti-Smoking Ordinance

Dear Mayor Bogaard,

On behalf of the membership of the California Apartment Association of Los Angeles (CAA-LA), we would like to meet with you to discuss the anti-smoking ordinance that is currently being discussed by the City Council's Public Safety Committee.

For your reference, CAA-LA serves rental property owners and managers in greater Los Angeles County. CAA-LA's members own and operate approximately 65,000 rental units within the Greater Los Angeles vicinity.

CAA-LA commends your desire to protect your constituents from second hand smoke and promote public health. However, CAA-LA believes that owners and managers of residential rental property should be free to set smoking and non-smoking policies for their rental homes and communities. Our association believes that market forces are the best way to designate units and the common areas of the property for both smokers and non-smokers in residential rental housing so that all residents are able to use and enjoy their homes.

Many of our members in Pasadena and throughout Los Angeles County have voluntarily designated some or all of their rental housing units as non-smoking. Recognizing that there has been a dramatic change in Californian's expectations regarding exposure to environmental tobacco smoke, CAA-LA has made available an Addendum for Tobacco Smoke Free Areas to enable our property owner and manager members to address this resident demand voluntarily. This form allows certain common areas, certain units, or the entire property to be designated as smoke free. We are providing a copy of this form for your reference.

02/22/2011  
Item 4  
Submitted by Ryan Minniea

We encourage the City of Pasadena to be thoughtful and explore all of the real impacts this legislation would have on renters and rental property owners. CAA-LA has some areas of concern about the potential smoking regulation on multi-family housing units that we urge you to take into consideration:

**Impact of a smoking ban on residents who smoke.** An ordinance banning smoking inside one's rental home may displace an otherwise excellent tenant simply on the basis that he/she is a smoker. Furthermore, it will preclude a group of people who choose to engage in a legal activity from the ability to rent an apartment.

**Legal ramifications.** Banning people who smoke from renting an apartment in any community anywhere in Pasadena could potentially put rental housing owners and managers in violation of state and federal fair housing laws and also subject them to lawsuits by smokers who are denied leases.

**Effectively enforcing a smoking ban.** It is unclear how a rental property owner would determine whether a resident is smoking in their unit as there are state laws that prohibit a landlord from entering a unit except in the case of a clear emergency or when proper and sufficient notice has been served.

CAA-LA believes that prohibiting smoking in any area of residential rental properties, and especially within a unit, should be part of the rental agreement rather than codified in a state or local law. This will allow property owners to develop individualized policies that are appropriate to their property and the needs of all residents.

We want to work in collaboration with the City of Pasadena to bring solutions to this issue and be partners in enhancing public health while providing responsible housing practices. Our office will be contacting you shortly in anticipation of arranging a meeting. Thank you for your consideration.

Sincerely,



Ryan Minniear  
Executive Director  
California Apartment Association of Los Angeles

cc: Michael Beck, City Manager



**CITY ATTORNEY'S OFFICE**

**Council Meeting Date: March 2, 2010  
Staff Report # 10-029**

**Agenda Item: # E-1**

**REGULAR BUSINESS:** Consideration of an ordinance amending the City's smoking regulations and prohibitions and an ordinance adding tobacco retailer permitting requirements to the City of Menlo Park Municipal Code.

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**RECOMMENDATION**

The City Attorney's office recommends that the City Council consider introduction of an ordinance amending Chapter 7.30 [Smoking Regulated or Prohibited] of Title 7 [Health and Sanitation] of the Menlo Park Municipal Code and an ordinance adding Chapter 5.26 [Tobacco Retailer Permit] to Title 5 [Business Licenses and Regulations] of the Menlo Park Municipal Code.

**BACKGROUND**

In October 2009, the City Council held a study session to consider updating the City's smoking ordinance. The City's current ordinance bans smoking in indoor public places, indoor places of employment, child care centers and eating establishments. The City's ordinance allows smoking outdoors, in bars, in tobacco stores, in hotels and in private homes. State law also applies within the City to prohibit smoking in such places as bars and within 25 feet of any playground or tot lot sandbox area. The City's current ordinance is not consistent with some of the state law provisions prohibiting smoking.

The initial impetus for reviewing the City's smoking ordinance came from a resident concerned about the harmful effects of secondhand smoke outdoors and in multi-unit housing (i.e. housing in which units share a floor and/or ceiling with another unit). The resident requested that the Council consider revising the smoking ordinance in accordance with the City of Belmont's recent smoking ordinance revisions. The City of Belmont prohibited smoking in outdoor common areas, exclusive use common areas and inside individual units of multi-unit housing.

At the study session, the Council heard information regarding the current ordinance, state law, and the different approaches that other jurisdictions have taken with regard to smoking and testimony regarding the harmful effects of secondhand smoke outdoors and in multi-unit housing. The Council then provided direction to City staff to prepare an ordinance that is consistent with state law, prohibits smoking in outdoor public places such as parks and athletic fields, in service/waiting lines, in common areas of multi-unit housing, and within a reasonable distance of those places where smoking is prohibited. The Council also directed City staff to consider the City of Dublin's ordinance that makes secondhand smoke that affects another individual a private nuisance. This would allow a private citizen to bring a legal action against the smoker

to abate secondhand smoke that affects the individual, including when the secondhand smoke affects the individual in their home.

The Council also considered the San Mateo County Tobacco Retailer Permit Ordinance, which the County has requested all municipalities in the County adopt to discourage tobacco sales to minors.

## **ANALYSIS**

### **Smoking Ordinance**

The attached proposed ordinance would amend the City's smoking regulations and prohibitions to provide that smoking is prohibited in specific enclosed and unenclosed places.

Smoking would be prohibited in multi-unit residence enclosed common areas, including, but not limited to, halls and stairwells, lobbies, laundry rooms, etc. Smoking would not be prohibited in individual units of multi-unit residences, nor would it be prohibited in exclusive use common areas. Smoking would be prohibited in enclosed public places, businesses, restaurants, or places of employment. Smoking would not be prohibited in the enclosed places identified in California Labor Code Section 6404.5(d), which includes, but is not limited to, specific locations in hotels or motels, tobacco shops and private smokers' lounges, warehouse facilities, and private residences, except for private residences licensed as day care homes during the hours of operation. Notwithstanding these exceptions, the ordinance prohibits smoking in private residences licensed as family daycare homes regardless of their hours of operation.

The ordinance prohibits smoking in multi-unit residence unenclosed common areas, including paths, common cooking areas, outdoor eating areas, play areas, swimming pools, and parking areas. Smoking would not be prohibited in unenclosed exclusive use common areas, such as patios or balconies. Smoking would also not be prohibited in that portion of the multi-unit residence unenclosed common area that may be designated as a smoking area. The designated smoking area shall be located a reasonable distance from any area where smoking is prohibited; be no more than 25% of the total outdoor area; have a clearly marked perimeter and be identified by conspicuous signs. If a suitable area cannot be determined, an exemption from the requirements of the ordinance may be granted.

Smoking would be prohibited in unenclosed dining areas, places of employment, public places and parks and other recreation areas, including playgrounds, swimming areas, sports fields, sports courts, skate parks, and picnic areas. The ordinance would also prohibit smoking in service areas or those areas designed to be or regularly used to receive or wait to receive a service, enter a public place, or make a transaction whether or not such service includes the exchange of money, including, but not limited to, ATMs, bank teller windows, telephones, ticket lines, bus stops, and cab stands. Smoking would also be prohibited at City-sponsored events, except in any area designated by the City as a smoking area.

Although the ordinance does not prohibit smoking in all outdoor areas, exclusive use areas or inside individual units of a multi-unit residence, nothing in the ordinance prevents a multi-unit residence from designating all or a portion of the units or all outdoor areas as non-smoking. In addition, nothing prevents an employer from declaring any area in which smoking would otherwise be permitted a non-smoking area. This allows a landlord or Homeowners Association or employer to establish stricter smoking prohibitions.

Smoking is prohibited within a reasonable distance from any entrance, exit, operable window, vent or other opening into an enclosed area in which smoking is prohibited and from any unenclosed area in which smoking is prohibited, except while actively passing on the way to another destination and without entering or crossing any area in which smoking is prohibited. A reasonable distance is a distance that ensures that occupants of an area in which smoking is prohibited are not exposed to secondhand smoke created by smokers outside the area. A reasonable distance is a minimum of 25 feet, unless this would place the smoker in a potentially unsafe location; in which case a reasonable distance is a location closer than 25 feet which does not place the smoker in a potentially unsafe location. This definition of a reasonable distance is designed to address the situation where 25 feet from an area where smoking is prohibited would put the smoker in a location such as the middle of the street.

The ordinance will be enforced administratively by the City Manager or his designee. Those violating the ordinance will be guilty of an infraction. The first violation is punishable by a \$50 fine. The second violation in one year is punishable by a fine of \$200 and a third violation is punishable by a fine of \$500. Lastly, the ordinance declares secondhand smoke that impacts a non-consenting person a nuisance; thereby providing private citizens the ability to bring a legal action against the smoker to abate secondhand smoke, including when the secondhand smoke enters a unit of a multi-unit residence and disturbs its occupant.

#### **Tobacco Retailer Permit Ordinance**

On April 8, 2008, the County of San Mateo adopted a Tobacco Retailer Permit Ordinance. The County prepared its ordinance in response to a number of State stings targeting tobacco sales to minors and is an effort at discouraging tobacco sales to minors. The County has requested that each city make the ordinance effective in their jurisdiction to ensure a uniform countywide approach to regulating the sale of tobacco products. The following cities have already adopted the County's ordinance: San Mateo, Millbrae, San Carlos, Colma, Redwood City, Daly City, East Palo Alto, Portola Valley, Brisbane San Bruno and South San Francisco.

The tobacco retailer permit ordinance makes it unlawful for any retailer, individual or entity to sell or offer for sale any tobacco products without first obtaining a valid permit from the County Environmental Health Division of the Department of Health. Permits are valid for one year and subject to annual renewal. The permit must be prominently displayed where retail tobacco sales are conducted. The ordinance also establishes enforcement mechanisms for failure to comply with the permitting requirements,

including suspension of the permit and/or fines. The ordinance directs the County to enforce the tobacco retailer permit ordinance in the City.

#### Next Steps

If the Council introduces the ordinances, the ordinances will be scheduled for a future meeting for adoption. Upon adoption, the ordinances would become effective 30 days thereafter unless the City Council elects to make the ordinances effective at a later date, e.g. after 60 or 90 days.

#### **IMPACT ON CITY RESOURCES**


The fiscal impact of updating the smoking ordinance and adopting a tobacco retailer permit ordinance would depend primarily on the level of staff involvement in outreach and educational efforts.


#### **POLICY ISSUES**

Regulating the effects of secondhand smoke is consistent with the General Plan provisions to protect the public health, safety and welfare of citizens.

#### **ENVIRONMENTAL REVIEW**

This ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b)(3) of the CEQA Guidelines.

  
Leigh F. Prince  
City Attorney's Office

  
William L. McClure  
City Attorney

#### **ATTACHMENTS:**

- A. Ordinance of the City Council of the City Of Menlo Park Amending Chapter 7.30 [Smoking Regulated or Prohibited] of Title 7 [Health and Sanitation] of the Menlo Park Municipal Code
- B. Ordinance of the City Council of the City Of Menlo Park Adding Chapter 5.26 [Tobacco Retailer Permit] to Title 5 [Business Licenses And Regulations] of the Menlo Park Municipal Code

ORDINANCE NUMBER \_\_\_\_\_

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MENLO PARK AMENDING CHAPTER 7.30 [SMOKING REGULATED OR PROHIBITED] OF TITLE 7 [HEALTH AND SANITATION] OF THE MENLO PARK MUNICIPAL CODE

The City Council of the City Menlo Park does hereby ordain as follows:

SECTION 1. The City Council of the City of Menlo Park hereby finds and declares as follows:<sup>1</sup>

- A. Tobacco use and exposure to secondhand smoke causes death and disease and imposes great social and economic costs;
- B. Secondhand smoke has been identified as an extremely dangerous substance by the U.S. and California Environmental Protection Agencies, the U.S. Surgeon General, and the California Air Resources Board;
- C. State law prohibits smoking in virtually all indoor places of employment reflecting the state policy to protect against the dangers of exposure to secondhand smoke;
- D. State law prohibits smoking in playgrounds and tot lots and within 20 feet of the main entrances and exits of public buildings while expressly authorizing local communities to enact additional restrictions;
- E. Cigarette butts pose a health threat to young children and are a major and persistent source of litter;
- F. Creating smoke-free areas helps protect the 86% of Californians who are non-smokers;
- G. A majority of Californians favor limitations on smoking in multi-unit residences;
- H. A local ordinance that authorizes residential rental agreements to include a prohibition on smoking of tobacco products within rental units is not prohibited by state law;
- I. California law declares that anything which is injurious to health or obstructs the free use of property, so as to interfere with the comfortable enjoyment of life or property, is a nuisance;
- J. Local governments have broad latitude to declare nuisances and are not constrained by prior definitions of nuisance;

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<sup>1</sup> Authorities supporting the findings identified in this ordinance are available on-line or may be obtained from the Technical Assistance Legal Center.

K. There is no Constitutional right to smoke; and

L. 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-smoking individuals, especially children; by protecting the public from nonconsensual exposure to secondhand smoke where they live, work, and play; by lessening tobacco-related litter; by reducing the potential for children to wrongly associate smoking and tobacco with a healthy lifestyle; and by affirming and promoting the family atmosphere of the City's public places.

SECTION 2. Chapter 7.30 [Smoking Regulated or Prohibited] of Title 7 [Health and Sanitation] of the City of Menlo Park's Municipal Code is hereby amended to read as follows:

<b>Section 7.30.010</b>	<b>Definitions</b>
<b>Section 7.30.020</b>	<b>Smoking Prohibitions</b>
<b>Section 7.30.030</b>	<b>Reasonable Distance Required</b>
<b>Section 7.30.040</b>	<b>Posting of Signs</b>
<b>Section 7.30.050</b>	<b>Retaliation Prohibited</b>
<b>Section 7.30.060</b>	<b>Interpretation</b>
<b>Section 7.30.070</b>	<b>Enforcement</b>
<b>Section 7.30.080</b>	<b>Penalties</b>
<b>Section 7.30.090</b>	<b>Secondhand Smoke Declared Nuisance</b>

**Section 7.30.010 Definitions**

The following words and phrases, whenever used in this chapter, shall have the meanings defined in this section unless the context clearly requires otherwise:

A. "Business" means any sole proprietorship, partnership, joint venture, corporation, association, or other entity formed for profit-making purposes or that has an employee.

B. "City-Sponsored Event" means an event which the City of Menlo Park plans, administers, coordinates, and finances, and which is held upon property owned by the City of Menlo Park.

C. "Common Interest Development" means a development as defined in California Civil Code Section 1351(c), which includes condominium projects (including projects commonly known as townhomes or townhouses), community apartment projects, a planned development, or a stock cooperative.

D. "Dining Area" means any area containing a counter or table upon which meals are served or any area designated, established, or regularly used for consuming meals.



E. "Employee" means any person who is employed; retained as an independent contractor by any employer; or any person who volunteers his or her services for an employer, association, nonprofit, or volunteer entity.

F. "Employer" means any person, partnership, corporation, association, nonprofit or other entity who employs or retains the service of one or more persons, or supervises volunteers.

G. "Enclosed" means closed by a roof and four walls with appropriate openings for ingress and egress.

H. "Multi-Unit Residence" means a building or portion thereof that contains more than one dwelling unit that shares a floor and/or ceiling, including, but not limited to, apartments, common interest development, senior citizen housing, nursing homes, and single room occupancy hotels.

I. "Multi-Unit Residence Common Area" means any indoor or outdoor area of a multi-unit residence accessible to and usable by residents of different units, including but not limited to halls and stairwells, paths, lobbies, laundry rooms, common cooking areas, outdoor eating areas, play areas, swimming pools, and parking areas. Multi-Unit Residence Common Area does not include areas available exclusively for use by the occupant(s) of the unit, including, but not limited to balconies and patios.

J. "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 public agency is not a nonprofit entity within the meaning of this section.

K. "Park and Other Recreation Area" means any and all children's play areas, playgrounds, swimming areas, sports fields, sports courts, skate parks, and picnic areas.

L. "Person" means any natural person, business, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, employer, nonprofit entity or any other legal entity except the City of Menlo Park.

M. "Place of Employment" means any area under the legal or de facto control of an employer, business or nonprofit entity that an employee or the general public may have cause to enter in the normal course of operations, regardless of the hours of operation.

N. "Premises" means a piece of land and any improvements on upon it such as is usually described in a deed, deed of trust, or mortgage, and includes legally separate but contiguous pieces of land that are owned by the same person or by multiple persons owning and operating the land under common control.

O. "Public Place" means any place, public or private, open to members of the general public regardless of any fee or age requirement, including, for example, plazas, parking lots, malls, stadiums, parks, playgrounds, farmers markets and fairs.

P. "Reasonable Distance" means a distance that ensures that occupants of an area in which smoking is prohibited are not exposed to secondhand smoke created by smokers outside the area. Except as otherwise provided in this chapter, this distance shall be a minimum of 25 feet, unless the application of the 25 foot minimum would place the smoker in a potentially unsafe location; in which case a reasonable distance shall be a location closer than 25 feet which does not place the smoker in a potentially unsafe location.

Q. "Restaurant" means any coffee shop, cafeteria, tavern, sandwich stand, soda fountain, private or public school cafeteria, and any other eating establishment, organization, club, boarding house or guest house, which gives or offers food for sale to the public, guests, patrons, members or employees.

R. "Secondhand Smoke" means the tobacco smoke created by burning or carrying of any lighted pipe, cigar, or cigarette of any kind, and the smoke exhaled by an individual who engages in smoking.

S. "Service Area" means any area designed to be or regularly used by one or more persons to receive or wait to receive a service, enter a public place, or make a transaction whether or not such service includes the exchange of money, including but not limited to ATMs, bank teller windows, telephones, ticket lines, bus stops, and cab stands.

T. "Smoking" or "Smoke" means possessing a lighted tobacco product, or any other lighted weed or plant (including but not limited to, a lighted pipe, lighted hookah pipe, lighted cigar, or lighted cigarette of any kind), or the lighting of a tobacco product, or any other weed or plant (including but not limited to, a pipe, a hookah pipe, cigar, or cigarette of any kind).

U. "Tobacco Product" means any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, snuff, or any other preparation of tobacco; and any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, but does not include any cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence.

V. "Unit" means: (1) a dwelling space consisting of essentially complete independent living facilities for one or more persons, including permanent provisions for living and sleeping, and any private outdoor spaces such as balconies, decks, and patios; and (2)

senior citizen housing and single room occupancy hotels, as defined in California Health and Safety Code Section 50519(b)(1), even where lacking private cooking facilities or private plumbing facilities. Unit does not include lodging in a hotel or motel that meets the requirements set forth in California Civil Code section 1940(b)(2).

### **Section 7.30.020 Smoking Prohibitions**

A. Enclosed Places. Smoking shall be prohibited in the following enclosed places:

1. Any enclosed public place, business, restaurant, or place of employment within the City, except in the enclosed places identified in California Labor Code Section 6404.5(d), or its successor. Notwithstanding the exception for enclosed places identified in California Labor Code Section 6404.5(d) or its successor, "place of employment" shall include private residences licensed as family daycare homes regardless of their hours of operation; and
2. Multi-unit residence common areas.

B. Unenclosed Places. Smoking shall be prohibited in the following unenclosed places:

1. Dining areas that are part of a restaurant, business, nonprofit entity, place of employment or located in any public place;
2. Places of employment;
3. Public places and parks and other recreation areas;
4. Service areas;
5. Any City-sponsored event, except in any area designated by the City as a smoking area. City-sponsored events may have one or more designated smoking areas of an appropriate size, provided the area is prominently marked with signs and is located a reasonable distance from all areas of high pedestrian traffic, any parking areas, and any area in which smoking is prohibited;
6. Multi-unit residence common areas, except that a portion of the outdoor area of the premises that may be designated as a smoking area. The designated smoking area shall be located a reasonable distance from any area where smoking is prohibited; be no more than 25% of the total outdoor area of the premises for which it is designated; have a clearly marked perimeter and be identified by one conspicuous sign at the designated smoking area and one conspicuous sign elsewhere on the premises; and not overlap with any area in which smoking is otherwise prohibited by this chapter or other provision of this code, state law, or federal law. If a suitable area cannot be determined, an exemption from the requirements of this section may be granted at the discretion of the City Manager, or his designee; provided, that the smoking area does not overlap with any area in which smoking is otherwise prohibited by this chapter or other provision of this code, state law, or federal law.

C. Nothing in this chapter shall prevent a multi-unit residence from designating all or a portion of the units or all outdoor areas of the premises as non-smoking, or prevent an employer from declaring any area in which smoking would otherwise be permitted a non-smoking area.

D. No person shall provide or place ash receptacles such as, without limitation, ashtrays or ash cans, within an area in which smoking is prohibited including, without

limitation, inside the perimeter of any reasonable smoking distance required by this chapter.

**Section 7.30.030 Reasonable Distance Required**

Smoking shall be prohibited within a reasonable distance, as that term is defined in Section 7.30.010, from any entrance, exit, operable window, vent or other opening into an enclosed area in which smoking is prohibited and from any unenclosed area in which smoking is prohibited, except while actively passing on the way to another destination and without entering or crossing any area in which smoking is prohibited.

**Section 7.30.040 Posting of Signs**

"Smoking" or "No Smoking" signs, whichever are appropriate, with letters of no 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 crossed by a red bar) shall be clearly, sufficiently, and conspicuously posted in or outside every building or other place where smoking is controlled by this chapter, by the owner, operator, manager or other person having control of such building or other place. When a sign is posted on the exterior of a building to indicate no smoking, it shall include the distance limitations contained in this chapter.

**Section 7.30.050 Retaliation Prohibited**

No person or employer shall discharge, refuse to hire, or in any manner retaliate against any employee or applicant for employment because such employee or applicant exercises any right afforded by this chapter.

**Section 7.30.060 Interpretation**

This chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

**Section 7.30.070 Enforcement**

- A. Enforcement shall be implemented by the City Manager, or his/her designee.
- B. Any citizen who desires to register a complaint hereunder may initiate enforcement with the City Manager or his/her designee.
- C. Notwithstanding any other provisions of this chapter, a private citizen may bring legal action to enforce this chapter.

**Section 7.30.080 Penalties**

Any person who violates any provision of this chapter shall be guilty of an infraction punishable as provided in Section 1.12.010(b) of the Menlo Park Municipal Code.

**Section 7.30.090 Secondhand Smoke Declared Nuisance**

Secondhand smoke that impacts another non-consenting person constitutes a nuisance. Notwithstanding any other provisions of this chapter, a private citizen may bring a legal action against the person who is smoking to abate secondhand smoke as

a nuisance, specifically including when secondhand smoke enters a unit of a multi-unit residence.

SECTION 3. If any section of this ordinance, or part hereof, is held by a court of competent jurisdiction in a final judicial action to be void, voidable or enforceable, such section, or part hereof, shall be deemed severable from the remaining sections of this ordinance and shall in no way affect the validity of the remaining sections hereof.

SECTION 4. The City Council hereby finds that this ordinance is exempt from the provisions of the California Environmental Quality Act pursuant to Section 15308 – *Actions of Regulatory Agencies for the Protection of the Environment*.

SECTION 5. This ordinance shall take effect thirty (30) days after its passage and adoption. Within fifteen (15) days of its adoption this ordinance shall be posted in three (3) public places within the City of Menlo Park, and the ordinance, or a summary of the ordinance prepared by the City Attorney, shall be published in a local newspaper used to publish official notices for the City of Menlo Park prior to the effective date.

INTRODUCED on the \_\_ day of \_\_\_\_\_, 2010.

PASSED AND ADOPTED as an ordinance of the City of Menlo Park at a regular meeting of said Council on the \_\_ day of \_\_\_\_\_, 2010, by the following vote:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

ABSTAIN: Councilmembers:

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

## INFORMATION ITEMS

A. Analysis of the L.A. County Sex Offender Ordinance\*  
(Powerpoint Presentation)



Police Department

## Analysis of the L.A. County Sex Offender Ordinance

1. Highlights of Megan's & Jessica's laws
2. The Los Angeles County sex offender ordinance
3. The Pasadena Police Department's proactive stance on sex offenders
4. Analysis and Recommendations





# PASADENA

Police Department

## Megan's Law-2004

- Megan's Law-provides the public with certain information on the whereabouts of sex offenders that previously was not available until 1995
- This law expanded the State's 50 year requirement that sex offenders be required to register with their local law enforcement agency for their lifetime (over 100 identified sex offenses listed under PC 290)
- Registrants are required to update their information on an annual basis within five working days of their birthday
- Transient registrants update every 30 days and violent predators history every 90 days
- Megan's Law website is updated daily by the California Office of the Attorney General and can be accessed at "<http://meganslaw.ca.gov/search.asp>"

PASADENA





PASADENA

Police Department

### Jessica's Law-2006

- Jessica's law restricts residency of released parolees convicted of sex crimes
- PC 290 registrants are banned from living within 2000 feet of any public or private school or park (PC 3003.5)
- Since 2009 Pasadena Police Department has documented 19 incidents of registrants not residing at place of record
- No Jessica law violations

PASADENA



PASADENA

Police Department

## Los Angeles County Ordinance

- This ordinance imposes greater restrictions on registered sex offenders
- Part of the ordinance establishes a “child safety zones” within 300 feet of a child care center, public/private school, park, public library, commercial area providing a child’s playground, classes, youth activities or bus stops
- Restricts sex registrants from living at multi-family dwellings, verses single family (Jessica’s Law)
- Ordinance limits landlords and property owners from renting to more than one sex offender

PASADENA



# PASADENA

Police Department

## Actions Impacting Enforcement:

- As of August 31, 2010, the L.A. Superior Court issued an “order” staying the provision within L.A. County
- Legal theories include the claims by parolees that they were unable to find housing due to residency restrictions
- Additional hearing in the California Supreme Court are pending regarding constitutional challenges
- Research has identified that many local cities are having severe challenges with their own version of the ordinance

PASADENA



# PASADENA

## Police Department

- This ordinance will limit the ability for any sex offender to reside in the city and it may also be a constitutional issue
- City staff mapped a 2000 foot radius around each child care center, parks, and private/public school
- Based on the mapping, there are 1240 possible residency options for offenders
- If additional housing options are not available, then the constitutionality of this regulation will be challenged
- This matter is yet to be resolved and could impact the enforcement of the 2000 feet rule



PASADENA

Police Department

## Pasadena Sex Registrants as of March 2011:

- 161 sex offender registrants
- 15 on parole (16 in 2010)
- 20 on probation (16 in 2010)
- 37 transients required to register monthly (27 in 2010)
- One of few cities with a high awareness of transient registrants



PASADENA

Police Department

### Proactive Compliance Results:

- Approximately 140 compliance checks annually
- No sex crime violations found
- Searches occur based on probation/parole or by consent
- GPS tracking with parole officers of transient registrants
- Daily management of registrant database
- PC 290 Interview process at the police department-rigorous interview for transient offenders
- Department wide access to internal sex registration database for investigations



# PASADENA

Police Department

## Recommendations:

- There appears to be no legal issues with the creation of “child safety zones” but consideration should be given to the enforcement difficulties existing with the county ordinance
- The current stay order by the L.A. County Superior Court and the concerns from the State Supreme Court should provide guidance to postpone this decision
- With imposed residence restrictions the 290 transient population will continue to increase
- It's imperative that law enforcement officers know the whereabouts of 290 registrants to better protect the community

PASADENA

## INFORMATION ITEMS

B. Public Safety Concerns in the Block 5 Area\*  
(Powerpoint Presentation)





**PASADENA**

Police Department

# **Public Safety Concerns In The Block 5 Area**

**Report and Overview**

March 21, 2011

Phillip L. Sanchez  
Chief of Police





# Report to Public Safety Committee

Police Department

• **City staff and residents met on August 5, 2010 to discuss quality of life and crime issues in the Block 5 area.**

- 30 Residents
- Police Department
- City Prosecutor
- Transportation
- Public Works
- Code Compliance

PAJ/08/08/10



# Report to Public Safety Committee

Police Department

Identified issues were brought forward that included:

- > Illegal dumping
- > Loitering
- > Noise/Music
- > Drug sales
- > Traffic
- > Bad equipment or access gates

PASADENA



# Report to Public Safety Committee

Police Department

City staff moved quickly to address the issues that were presented at the meeting.

Many of the issues have been resolved and are being monitored by respective city staff and departments.



# Report to Public Safety Committee

Police Department

- City staff met with business owners and discussed their issues/complaints related to the Block 5 area.
  - > Identified illegal dumping.
  - > Transient Issues.

PASADENA



# Report to Public Safety Committee

Police Department

- \* During the citizen group meeting, one business was identified as the potential source of the residents' complaints.
  - > **King King's Barber Shop**
    - **Late hours**
    - **Congregating outside the business**
- \* It was determined that the business is a legal non-conforming business that began operating at a time during which the zoning code did not impose operation restrictions.

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# Report to Public Safety Committee

Police Department

- Councilmember McAustin asked city staff to examine:
  - > The number of businesses with non-conforming hours of operation.
  - > The correlation of crime and quality of life issues as a result of those businesses.
- King King's Barber Shop
- Jerry's Billiards
  - > These are the only businesses in the Block 5 area that are legal non-conforming businesses.

PASADENA





# Report to Public Safety Committee

Police Department

- Crime analysis of the Block 5 area revealed.
  - > 38 incidents of police service in the general area from January 1, 2010 – September 15, 2010.
  - > Of those, 17 reflect King King's Barber Shop as the location of occurrence.
  - > Only 7 could be directly linked to the business.







# Report to Public Safety Committee

Police Department

## Code Enforcement and Zoning

- Zoning code limits hours of operation from 7 am to 10 pm for commercial uses within 150' of an R district; adopted in 1985.
- Code has exemptions for some areas and uses.
- City could amend zoning code to abate the non-conforming hours.

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# Report to Public Safety Committee

Police Department

- ◆ Need to perform a citywide survey of uses to determine which have non-conforming hours.
- ◆ Notify all business owners.
- ◆ Amendment would establish a time frame for abatement.



# Report to Public Safety Committee

Police Department

## • **Conclusion**

- > Low number of service calls does not support a determination of nuisance activities.
- > Zoning Code Amendment.

## **Strengths**

- > Brings uniformity to all commercial uses subject to the hours of operation.



# Report to Public Safety Committee

Police Department

## Weaknesses

- Need time and staff resources to survey businesses, establish time period for a sunset schedule and amend zoning code.
- Additional time and cost associated with future enforcement.
- Abatement must be citywide; can't be limited to Block 5.



# Report to Public Safety Committee

Police Department

- CUP fees are waived in the Northwest allowing businesses that are subject to sunset provisions to get a CUP at no cost.
- Abating hour of operation will not solve problems that occur from 7 am to 10 pm.



# Report to Public Safety Committee

Police Department

## **Recommendation:**

- Continue enhanced police presence in Block 5.
- Do not amend zoning code.
- Continue staff meetings with Block 5 merchants and area residents in order to address issues and implement solutions.





# Report to Public Safety Committee

Police Department

## Questions??