

MEETING DATE: 10/13/14

AGENDA ITEM: Introduction of an Ordinance Amending Chapter 9.11 of the Culver City Municipal Code Relating to Smoking Regulations to Add a New Subchapter 9.11.200, et seq., Regulating Smoking in Multi-Unit Housing.

ATTACHMENTS

	<u>Pages</u>
1. Proposed Ordinance	1-15
2. August 11, 2014 City Council Agenda Item Report	16-30
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ATTACHMENT 1

ORDINANCE NO. 2014-_____

AN ORDINANCE OF THE CITY OF CULVER CITY,
CALIFORNIA, AMENDING CHAPTER 9.11 OF THE CULVER
CITY MUNICIPAL CODE RELATING TO SMOKING
REGULATIONS TO ADD A NEW SUBCHAPTER 9.11.200, *et
seq.*, REGULATING SMOKING IN MULTI-UNIT HOUSING.

WHEREAS, the California Air Resources Board has identified environmental tobacco smoke, or secondhand smoke, as a Toxic Air Contaminant, which may cause and contribute to death or serious illness, including increased risks of cancer, and is especially hazardous to children and people with asthma and other respiratory problems; and

WHEREAS, according to the United States Environmental Protection Agency, any level of exposure to secondhand smoke is harmful; and

WHEREAS, according to the National Fire Protection Association, smoking is the primary cause of fire-related injuries and deaths in the home; and

WHEREAS, according to the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, nonsmokers who live in multi-unit dwellings can be exposed to neighbors' secondhand smoke through doorways, cracks in walls, electrical lines, plumbing and ventilations systems; and

WHEREAS, the Surgeon General has concluded that eliminating smoking in indoor spaces is the only way to fully protect nonsmokers from secondhand smoke exposure and that separating smokers from nonsmokers, cleaning the air, and ventilating buildings cannot completely prevent secondhand smoke exposure; and

WHEREAS, it is the intent of the City Council of the City of Culver City to provide for the public's health, safety, and welfare by discouraging the inherently dangerous activity of tobacco use around non-consenting individuals, protecting children from exposure to smoking where they live and play and protecting the public from nonconsensual exposure to secondhand smoke in and around their homes.

1 **NOW THEREFORE**, the City Council of the City of Culver City, California,
2 **DOES HEREBY ORDAIN** as follows:

3 **SECTION 1.** Chapter 9.11 of the Culver City Municipal Code is hereby
4 amended to add a new Subchapter 9.11.200, *et seq.*, Non-Smoking Multi-Unit Housing as
5 follows:

6 **REGULATION OF SMOKING IN MULTI-UNIT HOUSING**

7
8 **§ 9.11.200 PURPOSE.**

9 It is the intent of the City Council of the City of Culver City, in enacting
10 this Subchapter, to provide for the public's health, safety, and welfare by
11 discouraging the inherently dangerous activity of tobacco use around non-
12 consenting individuals, protecting children from exposure to smoking where they live
13 and play and protecting the public from nonconsensual exposure to secondhand
14 smoke in and around their homes.

15
16 **§ 9.11.205 DEFINITIONS.**

17 Notwithstanding the definitions set forth in Subchapter 9.11.100, *et*
18 *seq.*, for the purposes of this Subchapter, the following definitions shall apply
19 unless the context clearly indicates or requires a different meaning.

20 **Adjacent Property** shall mean any Unenclosed Area of property,
21 publicly or privately owned, that abuts a Multi-Unit Residence.

22 **Common Area** shall mean every Enclosed Area or Unenclosed Area
23 of a Multi-Unit Residence that residents of more than one Unit of that Multi-
24 Unit Residence are entitled to enter or use, including, for example, halls and
25 paths, lobbies and courtyards, elevators and stairs, community rooms and
26 playgrounds, gym facilities and swimming pools, parking garages and parking
27 lots, shared restrooms, shared laundry rooms, shared cooking areas, and
28 shared eating areas.

Common Interest Complex shall mean a Multi-Unit Residence that is
a condominium project, a community apartment project, a stock cooperative,
or a planned development as defined by California Civil Code Section 4100.

Designated Smoking Area shall mean an area where smoking is
permissible and has been established in accordance with the provisions of
Section 9.11.215 of this Subchapter.

1 **Enclosed Area** shall mean an area in which outside air cannot
2 circulate freely to all parts of that area, and includes an area that has:

- 3 1. Any type of overhead cover whether or not that cover includes
4 vents or other openings and at least three walls or other vertical
5 boundaries of any height whether or not those boundaries
6 include vents or other openings; or
- 7 2. Four walls or other vertical boundaries that exceed six feet in
8 height, whether or not those boundaries include vents or other
9 openings.

10 **Existing Unit** shall mean a Unit in existence on or before [effective
11 date of Ordinance].

12 **HOA** shall mean an organization or entity established for the purpose
13 of managing and/or maintaining a Common Interest Complex.

14 **Landlord** shall mean any Person who owns property let for residential
15 use, any Person who lets residential property, and any Person who manages
16 such property, except that "Landlord" does not include a master tenant who
17 sublets a Unit as long as the master tenant sublets only a single Unit of a
18 Multi-Unit Residence.

19 **Multi-Unit Residence** shall mean residential property containing two
20 or more Units and shall include a Rental Complex and a Common Interest
21 Complex. The following types of housing are specifically excluded from this
22 definition:

- 23 1. A hotel or motel;
- 24 2. A mobile home park;
- 25 3. A single-family home; and
- 26 4. A single-family home with a detached or attached accessory
27 dwelling unit when permitted pursuant to Section 17.400.095 of this
28 Code.

New Unit shall mean a Unit that is issued a certificate of occupancy on
or after [effective date of Ordinance].

Nonsmoking Area shall mean any Enclosed Area or Unenclosed
Area of a Multi-Unit Residence in which Smoking is prohibited by: (1) this
Subchapter or other law; (2) by binding agreement relating to the ownership,
occupancy, or use of real property; or (3) by designation of a Person with
legal control over the area. In the case of a Smoking prohibition established
only by private agreement or designation and not by this Subchapter or other
law, it shall not be a violation of this Subchapter for a Person to engage in
Smoking or to allow Smoking in that area unless: (1) the Person knows that
Smoking is not permitted; or (2) a reasonable Person would know that
Smoking is not permitted.

1 **Rental Complex** shall mean a Multi-Unit Residence for which 50% or
2 more of Units are let by or on behalf of the same Landlord.

3 **Smoke** shall mean the gases and particles, released into the air as a
4 result of combustion when the apparent or usual purpose of the combustion
5 is human inhalation of the byproducts, except when the combusting material
6 contains no tobacco, other weed or plant, or nicotine and the purpose of
inhalation is solely olfactory, such as, for example, smoke from incense. The
term "Smoke" includes, but is not limited to, tobacco smoke and marijuana
smoke, but specifically excludes vapors from electronic smoking devices.

7 **Smoking** shall mean engaging in an act that generates Smoke, such
8 as, for example, the possession of a lighted Tobacco Product, lighted
9 Tobacco Paraphernalia, or any other lighted weed or plant, including a lighted
pipe, lighted hookah pipe, a lighted cigar, or a lighted cigarette of any kind; or
the lighting of a pipe, a hookah pipe, a cigar, or a cigarette of any kind.

10 **Tobacco Paraphernalia** shall mean cigarette papers or wrappers,
11 pipes, holders of smoking materials of all types, cigarette rolling machines,
12 and any other item designed for the smoking, preparation, storing, or
consumption of tobacco products.

13 **Tobacco Product** shall mean any substance containing tobacco leaf,
14 including but not limited to, cigarettes, cigars, pipe tobacco, hookah tobacco,
15 snuff, chewing tobacco, dipping tobacco, bidis, or any other preparation of
tobacco.

16 **Unenclosed Area** shall mean any area that is not an Enclosed Area.

17 **Unit** shall mean a personal dwelling space, even where lacking
18 cooking facilities or private plumbing facilities, and includes any associated
19 exclusive-use Enclosed Area or Unenclosed Area, such as, for example, a
20 private balcony, porch, deck, or patio. "Unit" includes, without limitation, an
21 apartment; a condominium; a townhouse; a room in a long-term health care
facility, assisted living facility, hospital and a room in a homeless shelter. Unit
includes an Existing Unit and a New Unit.

22 **§ 9.11.210 SMOKING PROHIBITED BY LAW IN CERTAIN AREAS.**

- 23 A. Smoking in a Common Area, other than in a Designated Smoking Area
24 established pursuant to Section 9.11.215, is prohibited and a violation
25 of this Subchapter.
- 26 B. Smoking in a New Unit or Existing Unit, as set forth in Sections
27 9.11.225, 9.11.230 and 9.11.240, is prohibited and a violation of this
28 Subchapter.

- 1 C. Smoking in a designated nonsmoking Unit is prohibited and a violation
2 of this Subchapter.
- 3 D. Smoking in an exclusive-use Unenclosed Area, such as, for example,
4 a private balcony, porch, deck or patio, as set forth in Sections
5 9.11.220, 9.11.225, 9.11.230 and 9.11.240, is prohibited and a
6 violation of this Subchapter.
- 7 E. Smoking in an Unenclosed Area of a Multi-Unit Residence within 25
8 feet in any direction of any doorway, window, opening, or other vent
9 into an Enclosed Area that is a Nonsmoking Area, as set forth in
10 Section 9.11.220.A, is prohibited and a violation of this Subchapter.
- 11 F. Smoking in an Unenclosed Area of Adjacent Property within 25 feet in
12 any direction of any doorway, window, opening, or other vent into an
13 Enclosed Area that is a Nonsmoking Area, as set forth in Section
14 9.11.220.B, is prohibited and a violation of this Subchapter.
- 15 G. Smoking in any Nonsmoking Area is prohibited and a violation of this
16 Subchapter.

17 **§ 9.11.215 SMOKING PROHIBITED IN COMMON AREAS EXCEPT IN**
18 **DESIGNATED SMOKING AREAS.**

19 A. Smoking is prohibited in all Common Areas, pursuant to Section
20 9.11.210.A, except that a Person with legal control over a Common Area,
21 such as, for example, a Landlord or HOA Board, may designate a portion of
22 the Common Area as a Designated Smoking Area provided that at all times
23 the Designated Smoking Area complies with Section 9.11.215.B below.

24 B. A Designated Smoking Area:

- 25 1. Must be an Unenclosed Area.
- 26 2. Must be located at least twenty-five (25) feet from any
27 Enclosed Area that is a Nonsmoking Area. A Person with legal control
28 over a Common Area in which a Designated Smoking Area has been
established shall modify, relocate or eliminate that Designated
Smoking Area so as to maintain compliance with the requirements of
this Section 9.11.215.B as laws change, as binding agreements are
created, and as Nonsmoking Areas on Adjacent Property are
established.
3. Must be at least 25 feet from Unenclosed Areas primarily
used by children and Unenclosed Areas with improvements that
facilitate physical activity including, for example, playgrounds, tennis
courts, swimming pools, and school campuses.

1 4. Must be no more than 10% of the total Unenclosed Area
2 of the Multi-Unit Residence for which it is established.

3 5. Must have a clearly marked perimeter.

4 6. Must be identified by conspicuous signs.

5 C. No Person with legal control over a Common Area in which
6 Smoking is prohibited by this Subchapter or other law shall knowingly permit
7 the presence of ash trays, ash cans, or other receptacles designed for or
8 primarily used for disposal of Smoking waste within the area.

9 D. Clear and unambiguous "No Smoking" signs shall be posted in
10 sufficient numbers and locations to make Common Areas where Smoking is
11 prohibited by this Subchapter or other law obvious to a reasonable person.
12 The signs shall have letters of no less than one inch in height or contain the
13 international "No Smoking" symbol (consisting of a pictorial representation of
14 a burning cigarette enclosed in a red circle crossed by a red bar). Such signs
15 shall be maintained by the Person or Persons with legal control over the
16 Common Areas. The absence of signs shall not be a defense to a violation of
17 any provision of this Subchapter.

18 **§ 9.11.220 NONSMOKING BUFFER ZONES.**

19 A. Smoking is prohibited in Unenclosed Areas of a Multi-Unit
20 Residence, including balconies, porches, decks, and patios, within 25 feet in
21 any direction of any doorway, window, opening, or other vent into an
22 Enclosed Area that is a Nonsmoking Area, pursuant to Section 9.11.210.E.

23 B. Smoking is prohibited in Unenclosed Areas of Adjacent
24 Property within 25 feet in any direction of any doorway, window, opening, or
25 other vent into an Enclosed Area that is a Nonsmoking Area, pursuant to
26 Section 9.11.210.F.

27 C. Smoking is prohibited in all exclusive-use Unenclosed Areas
28 associated with a Unit, such as, for example, a private balcony, porch, deck,
or patio, pursuant to Section 9.11.210.D.

29 **§ 9.11.225 SMOKING RESTRICTIONS IN NEW UNITS OF MULTI-UNIT 30 RESIDENCES.**

31 A. All New Units of a Multi-Unit Residence, including any
32 associated exclusive-use Enclosed Areas or Unenclosed Areas, such as, for
33 example, a private balcony, porch, deck, or patio, are hereby designated
34 nonsmoking Units.

1 B. Smoking in a designated nonsmoking Unit is a violation of this
2 Subchapter, as provided in Section 9.11.210.

3 **§ 9.11.230 SMOKING RESTRICTIONS IN EXISTING UNITS OF A**
4 **RENTAL COMPLEX.**

5 A. All Existing Units of a Rental Complex, including any associated
6 exclusive-use Enclosed Areas or Unenclosed Areas, such as, for example, a
7 private balcony, porch, deck, or patio, are hereby designated nonsmoking
8 Units as of [18 months after effective date of Ordinance].

9 B. Prior to the effective date of a new or amended lease, or at
10 least 60 days prior to [18 months after effective date of Ordinance],
11 whichever occurs earlier, a Landlord shall provide each tenant with:

12 1. A written notice clearly stating that all Units, including the
13 tenant's, Unit, are designated nonsmoking Units and that Smoking in a
14 Unit shall be prohibited as of the [18 months after effective date of
15 Ordinance]; and

16 2. A copy of this Subchapter.

17 **§ 9.11.235 REQUIRED AND IMPLIED LEASE TERMS FOR ALL NEW**
18 **AND EXISTING UNITS IN RENTAL COMPLEXES.**

19 A. Every lease or other rental agreement for the occupancy of a
20 Unit in a Rental Complex, including New Units and Existing Units, entered
21 into, renewed, or continued month-to-month after [effective date of
22 Ordinance], shall include the provisions set forth in Section 9.11.235.B below
23 on the earliest possible date such lease or other rental agreement may be
24 amended in accordance with applicable law, including providing the minimum
25 legal notice.

26 B. Every lease or other rental agreement for the occupancy of a
27 Unit in a Rental Complex, including New Units and Existing Units, entered
28 into, renewed, or continued month-to-month after [effective date of
Ordinance], shall be amended to include the following provisions:

1. A clause providing that as of [18 months after effective
date of Ordinance], or an earlier date if the Landlord so determines, it
is a material breach of the lease or other rental agreement to allow or
engage in Smoking in the Unit. Such clause shall be substantially
consistent with the following: "It is a material breach of this agreement
for tenant or any other person subject to the control of the tenant or
present by invitation or permission of the tenant to engage in smoking
in the unit as of [18 months after effective date of Ordinance or an
earlier date of the Landlord so determines]."

1 2. A clause providing that it is a material breach of the lease
2 or other rental agreement for tenant or any other Person subject to the
3 control of the tenant or present by invitation or permission of the tenant
4 to engage in Smoking in any Common Area of the property other than
5 a Designated Smoking Area. Such clause shall be substantially
6 consistent with the following: "It is a material breach of this agreement
7 for tenant or any other person subject to the control of the tenant or
8 present by invitation or permission of the tenant to engage in smoking
9 in any common area of the property, except in an outdoor designated
10 smoking area, if one exists."

11 3. A clause providing that it is a material breach of the lease
12 or other rental agreement for tenant or any other Person subject to the
13 control of the tenant or present by invitation or permission of the tenant
14 to violate any law regulating Smoking while anywhere on the property.
15 Such clause shall be substantially consistent with the following: "It is a
16 material breach of this agreement for tenant or any other person
17 subject to the control of the tenant or present by invitation or
18 permission of the tenant to violate any law regulating smoking while
19 anywhere on the property."

20 4. A clause expressly conveying third-party beneficiary
21 status to all occupants of the Rental Complex as to the Smoking
22 provisions of the lease or other rental agreement. Such clause shall be
23 substantially consistent with the following: "Other occupants of the
24 property are express third-party beneficiaries of those provisions in this
25 agreement that concern smoking. As such, other occupants of the
26 property may seek to enforce such provisions by any lawful means,
27 including by bringing a civil action in a court of law."

28 C. Whether or not a Landlord complies with Sections 9.11.235.A
and 9.11.235.B above, the clauses required by those subsections shall be
implied and incorporated by law into every lease or other rental agreement to
which Sections 9.11.235.A and 9.11.235.B apply and shall become effective
as of the earliest possible date on which the Landlord could have made the
insertions pursuant to Sections 9.11.235.A and 9.11.235.B.

D. A tenant who breaches a Smoking provision of a lease or other
rental agreement for the occupancy of a Unit in a Rental Complex, or who
knowingly permits any other Person subject to the control of the tenant or
present by invitation or permission of the tenant, shall be liable for the breach
to:

1. The Landlord; and

2. Any occupant of the Rental Complex who is exposed to
Smoke or who suffers damages as a result of the breach.

1 E. This Subchapter shall not create additional liability in a Landlord
2 to any Person for a tenant's breach of any Smoking provision in a lease or
3 other rental agreement for the occupancy of a Unit in a Rental Complex if the
Landlord has fully complied with this Section and Section 9.11.230.

4 F. Failure to enforce any Smoking provision required by this
5 Subchapter shall not affect the right to enforce such provision in the future,
6 nor shall a waiver of any breach constitute a waiver of any subsequent
breach or a waiver of the provision itself.

7 **§ 9.11.240 SMOKING RESTRICTIONS IN EXISTING UNITS OF A**
8 **COMMON INTEREST COMPLEX.**

9 A. All Existing Units of a Common Interest Complex, including any
10 associated exclusive-use Enclosed Areas or Unenclosed Areas, such as, for
11 example, a private balcony, porch, deck, or patio, are hereby designated
nonsmoking Units as of [18 months after effective date of Ordinance].

12 B. At least 60 days before [18 months after effective date of
13 Ordinance], an HOA board shall provide each tenant with:

14 1. A written notice clearly stating that all Units, including the
15 homeowner's Unit, are designated nonsmoking Units and that
Smoking in a Unit shall be prohibited as of [18 months after effective
16 date of Ordinance]; and

17 2. A copy of this Subchapter.

18 **§ 9.11.245 REQUIRED TERMS TO BE INCLUDED IN RULES AND**
19 **REGULATIONS FOR ALL NEW AND EXISTING UNITS IN**
20 **COMMON INTEREST COMPLEXES.**

21 A. All existing rules and regulations for a Common Interest
22 Complex shall include the provisions set forth in Section 9.11.245.B below on
the earliest possible date such rules and regulations may be amended in
23 accordance with applicable law, including providing the minimum legal notice.

24 B. All existing rules and regulations for a Common Interest
Complex shall be amended to include the following provisions:

25 1. A clause providing that as of [18 months after effective
26 date of Ordinance], it is a violation of the rules and regulations to allow
or engage in Smoking in a Unit. Such clause shall be substantially
27 consistent with the following: "It is a violation of these rules and
28 regulations for a homeowner or any other person subject to the control

1 of the homeowner or present by invitation or permission of the
2 homeowner to engage in smoking in the unit as of [18 months after
effective date of Ordinance].”

3 2. A clause providing that it is a violation of the rules and
4 regulations for the homeowner or any other Person subject to the
5 control of the homeowner or present by invitation or permission of the
6 homeowner to engage in Smoking in any Common Area of the
7 property other than a Designated Smoking Area. Such clause shall be
8 substantially consistent with the following: “It is a violation of these
rules and regulations for a homeowner or any other person subject to
the control of the homeowner or present by invitation or permission of
the homeowner to engage in smoking in any common area of the
property, except in an outdoor designated smoking area, if one exists.”

9 3. A clause providing that it is a violation of the rules and
10 regulations for homeowner or any other Person subject to the control
11 of the homeowner or present by invitation or permission of the
12 homeowner to violate any law regulating Smoking while anywhere on
13 the property. Such clause shall be substantially consistent with the
14 following: “It is a violation of these rules and regulations for a
homeowner or any other Person subject to the control of the
homeowner or present by invitation or permission of the homeowner to
violate any law regulating smoking while anywhere on the property.”

15 C. Whether or not an HOA board complies with Sections
16 9.11.245.A and 9.11.245.B above, the clauses required by those subsections
17 shall be implied and incorporated by law into all rules and regulations of a
18 Common Interest Complex to which Sections 9.11.245.A and 9.11.245.B
19 apply and shall become effective as of the earliest possible date on which the
HOA board could have amended such rules and regulations pursuant to
Sections 9.11.245.A and 9.11.245.B.

20 D. A homeowner who violates a Smoking provision of the rules and
21 regulations for a Common Interest Complex, or who knowingly permits any
22 other Person subject to the control of the homeowner or present by invitation
or permission of the homeowner, shall be liable for the violation to:

23 1. The HOA board; and

24 2. Any occupant of the Common Interest Complex who is
25 exposed to Smoke or who suffers damages as a result of the violation.

26 E. This Subchapter shall not create additional liability in an HOA
27 board to any Person for a homeowner’s violation of any Smoking provision in
the rules and regulations for a Common Interest Complex if the HOA board
28 has fully complied with this Section and Section 9.11.240.

1 F. Failure to enforce any Smoking provision required by this
2 Subchapter shall not affect the right to enforce such provision in the future.

3 **§ 9.11.250 REMEDIES NOT EXCLUSIVE.**

4 The provisions of this Subchapter are restrictive only and establish no
5 new rights for a Person who engages in Smoking. Notwithstanding (1) any
6 provision of this Subchapter or other provisions of this Code, (2) any failure
7 by any Person to restrict Smoking under this Subchapter, or (3) any explicit or
8 implicit provision of this Code that allows Smoking in any place, nothing in
9 this Code shall be interpreted to limit any Person's legal rights under other
10 laws with regard to Smoking, including, for example, rights in nuisance,
11 trespass, property damage, and personal injury or other legal or equitable
12 principles.

13 **§ 9.11.255 PENALTIES AND ENFORCEMENT.**

14 Notwithstanding the penalties and enforcement provisions set forth in
15 Section 9.11.130 of this Chapter, for a violation of this Subchapter 9.11.200,
16 et seq., the following provisions shall apply:

17 A. A violation of this Subchapter is not a misdemeanor or an
18 infraction. The enforcement of this Subchapter shall be by the private parties
19 involved. Under no circumstances shall the City have any responsibility or
20 obligation to enforce or seek any legal redress, civil or criminal, for any
21 violation of this Subchapter. Nothing in this Subchapter shall create a right of
22 action in any Person against the City of Culver City or its agents to compel
23 public enforcement of this Subchapter against private parties. **[NOTE TO
24 CITY COUNCIL: If the City Council determines to provide limited
25 enforcement for certain types of violations as discussed in the staff
26 report (i.e. required signage, requirements for designated smoking
27 areas, requirements to provide notice to tenants and homeowners
28 regarding the smoking regulations, requirements to amend lease
agreement and rules and regulations, etc.), then this language will be
modified accordingly and another provision will be added to this
Section, which will provide that certain violations of this Subchapter
(which will be specifically listed) may be prosecuted by the City
Attorney and subject to the civil and criminal penalties consistent with
the general provisions of the CCMC.**

B. The remedies provided by this Section 9.11.255 are cumulative
and in addition to any other remedies available at law or in equity.

1 C. Causing, permitting, aiding, abetting, or concealing a violation of
2 any provision of this Subchapter shall also constitute a violation of this
3 Subchapter.

4 D. Any violation of this Subchapter is hereby declared to be a
5 public nuisance.

6 E. No Person shall intimidate, harass, or otherwise retaliate
7 against any Person who seeks compliance with this Subchapter. Moreover,
8 no Person shall intentionally or recklessly expose another Person to Smoke
9 in response to that Person's effort to achieve compliance with this
10 Subchapter.

11 F. Any Person acting for the interests of itself, its members, or the
12 general public may bring a civil action to enforce this Subchapter in
13 accordance with the provisions in Section 9.11.250 below.

14 § 9.11.260 PRIVATE ENFORCEMENT.

15 A. Any Person, including a legal entity or organization or a
16 government agency, acting for the interests of itself, its members, or the
17 general public may bring a civil action to enforce this Subchapter. Upon proof
18 of a violation, a court shall award the following:

19 1. Damages in the amount of either:

20 a. Upon proof, actual damages; or

21 b. With insufficient or no proof of damages, \$500
22 for each violation of this Subchapter (hereinafter "Statutory
23 Damages"). Each day of a continuing violation shall constitute a
24 separate violation. Notwithstanding any other provision of this
25 Subchapter, no Person suing on behalf of the general public
26 shall recover Statutory Damages based upon a violation of this
27 Subchapter if a previous claim brought on behalf of the general
28 public by another Person for Statutory Damages and based
upon the same violation has been adjudicated, whether or not
the Person bringing the subsequent claim was a party to the
prior adjudication.

2. Exemplary damages, where it is proven by clear and
convincing evidence that the defendant is guilty of oppression, fraud,
malice, retaliation, or a conscious disregard for the public health.

B. The Person may also bring a civil action to enforce this
Subchapter by way of a conditional judgment or an injunction. Upon proof of
a violation, a court shall issue a conditional judgment or an injunction.

1 C. Notwithstanding any legal or equitable bar against a Person
2 seeking relief on its own behalf, a Person may bring an action to enforce this
3 Subchapter solely on behalf of the general public. When a Person brings an
4 action solely on behalf of the general public, nothing about such an action
5 shall act to preclude or bar the Person from bringing a subsequent action
6 based upon the same facts but seeking relief on his, her or its own behalf.

7 D. Nothing in this Subchapter prohibits a Person from bringing a
8 civil action in small claims court to enforce this Subchapter, so long as the
9 amount in demand and the type of relief sought are within the jurisdictional
10 requirements of that court.

11 **§ 9.11.265 CONFLICT OF PROVISIONS.**

12 In the event of any conflict between this Subchapter and any other provision
13 of this Code, including Subchapter 9.11.100, et seq., this Subchapter shall control.

14 **SECTION 2.** Based on the addition of new Subchapter 9.11.200, et seq.,
15 the Table of Contents for Chapter 9.11 is hereby replaced with the following Table of
16 Contents:

17 ***Regulation of Smoking in Outdoor Areas***

18 § 9.11.100 Purpose

19 § 9.11.105 Definitions

20 § 9.11.110 Smoking prohibited in outdoor dining areas

21 § 9.11.115 Smoking prohibited in city parks and recreational areas

22 § 9.11.120 Other prohibitions and requirements

23 § 9.11.125 Exemptions

24 § 9.11.130 Penalties and enforcement

25 § 9.11.135 Conflict of provisions

26 ***Regulation of Smoking in Multi-Unit Housing***

27 § 9.11.200 Purpose

28 § 9.11.205 Definitions

- 1 § 9.11.210 Smoking Prohibited By Law in Certain Areas
- 2 § 9.11.215 No Smoking Permitted in Common Areas Except in Designated
- 3 Smoking Areas
- 4 § 9.11.220 Nonsmoking Buffer Zones
- 5 § 9.11.225 Smoking Restrictions in New Units of Multi-Unit Residences
- 6 § 9.11.230 Smoking Restrictions in Existing Units of a Rental Complex
- 7 § 9.11.235 Required and Implied Lease Terms for All New and Existing
- 8 Units in Rental Complexes
- 9 § 9.11.240 Smoking Restrictions in Existing Units of a Common Interest
- 10 Complex
- 11 § 9.11.245 Required Terms to be Included in Rules and Regulations for All
- 12 New And Existing Units In Common Interest Complexes
- 13 § 9.11.250 Remedies Not Exclusive
- 14 § 9.11.255 Penalties and Enforcement
- 15 § 9.11.260 Private Enforcement
- 16 § 9.11.265 Conflict of Provisions

17 **SECTION 3.** Pursuant to Section 619 of the City Charter, this Ordinance

18 shall take effect thirty (30) days after the date of its adoption. Pursuant to Sections 616

19 and 621 of the City Charter, prior to the expiration of fifteen (15) days after the adoption,

20 the City Clerk shall cause this Ordinance, or a summary thereof, to be published in the

21 Culver City News and shall post this Ordinance or a summary thereof in at least three

22 places within the City.

23

24 **SECTION 4.** The City Council hereby declares that, if any provision, section,

25 subsection, paragraph, sentence, phrase or word of this ordinance is rendered or declared

26 invalid or unconstitutional by any final action in a court of competent jurisdiction or by

27 reason of any preemptive legislation, then the City Council would have independently

28

1 adopted the remaining provisions, sections, subsections, paragraphs, sentences, phrases
2 or words of this ordinance and as such they shall remain in full force and effect.

3
4 **APPROVED AND ADOPTED** this ____ day of _____, 2014.

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7 _____
MEGHAN SAHLI-WELLS, Mayor
City of Culver City, California

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9 ATTEST:

APPROVED AS TO FORM:

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11 _____
MARTIN R. COLE, City Clerk

12 A14-00233

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CAROL A. SCHWAB, City Attorney

ATTACHMENT 2

City of Culver City, California Agenda Item Report

Meeting Date: 08/11/14		Item Number: A-1	
CITY COUNCIL AGENDA ITEM: Continued Discussion of Draft Ordinance Regulating Smoking in Multi-Unit Housing and Direction to Staff.			
Contact Person/Dept.: Heather Baker/City Attorney		Phone Number: (310) 253-5660	
Fiscal Impact: Yes ☐ No ☒		General Fund: Yes ☐ No ☒	
Public Hearing: ☐		Action Item: ☒ Attachments: ☒	
Commission Action Required: Yes ☐ No ☒		Date: _____	
Public Notification: PUBLICATION: Culver City News (07/10/14 and 07/24/14); EMAIL: Meetings and Agendas – City Council (07/10/14, 07/29/14 and 08/06/14); Meetings and Agendas – Smoking – Multi-Unit Housing (07/10/14, 07/29/14 and 08/04/14); Approximately 153 Property Owners and 8 Homeowners' Associations of Multi-Unit Housing (07/10/14, 07/29/14 and 08/04/14); County of Los Angeles Department of Health Services (07/10/14, 07/29/14 and 08/04/14), Culver City Chamber of Commerce (07/10/14, 07/29/14 and 08/06/14); Coalition for Smoke-Free Living in Culver City (07/10/14, 07/29/14 and 08/04/14); California Apartment Association – Los Angeles (07/10/14, 07/29/14 and 08/04/14); and Coalition for a Tobacco Free LA County (comprised of over 70 organizations – this notification was emailed courtesy of the County of Los Angeles Department of Health Services) (07/29/14 and 08/05/14); USPS: 348 Property Owners of Multi-Unit Housing; 17 Homeowners Associations (08/01/14).			
Department Approval: Carol Schwab (08/05/14)		City Attorney Approval: Carol Schwab (08/05/14)	
Chief Financial Officer Approval: Jeff Muir (by M. Noller) (08/06/14)		City Manager Approval: John Nachbar (08/06/14)	
<u>RECOMMENDATION:</u> Staff recommends the City Council continue its discussion regarding a draft ordinance regulating smoking in multi-unit housing (Discussion Draft Ordinance - Attachment 1) and provide direction to staff as deemed appropriate. <u>BACKGROUND:</u> During prior City Council meetings, as well as through correspondence to City Council Members, the organization Coalition for Smoke-Free Living in Culver City requested the City Council consider the issue of regulating smoking in multi-unit housing and possibly adopting an ordinance in this regard. At the City Council meeting of May 13, 2013, there was a consensus to agendize this matter for discussion. On August 26, 2013, the City Council had a general policy discussion regarding this issue and directed staff to return with a draft ordinance including a “menu of options” for consideration and discussion. In addition, the City Council wanted more information regarding other cities’ experiences since adoption of their ordinances.			

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On March 24, 2014, staff returned with the Discussion Draft Ordinance, including a "menu of options" for City Council's discussion. During that meeting, the City Council received public comment, discussed various policy issues, and requested that a survey be conducted about how property owners and Homeowners Associations (HOAs) are handling the issue of smoking in their buildings and on their properties. In addition, City Council directed staff to notify all apartment complex owners and HOAs regarding the continued dialogue on this matter.

Public Comment

- March 24, 2014 City Council Meeting: Public comment was received both in favor of and opposed to regulating smoking in multi-unit housing. Some members of the public that submitted cards left prior to the item being heard due to the lateness of the evening. Of those still in attendance, the following is a summary of comments received.
 - ***Opposition:*** Four speakers (including the California Apartment Association and the Culver City Chamber of Commerce) felt that municipal regulation in this area is unnecessary and that the issue should be resolved between landlords and tenants. These speakers further believed that the trend in multi-unit housing is that more non-smoking units and/or non-smoking buildings are available to renters. Although these speakers were opposed to City regulation, they requested that, if the City were to regulate smoking in multi-unit housing, then they would like to see particular issues addressed: 1) ensure that landlords are not liable to tenants for enforcing (or not enforcing) the regulations and that the City partner with landlords to make the regulations effective; 2) provide property owners with sufficient time (i.e. 15 months) to implement the requirements of the ordinance; and 3) address the application of smoking prohibition to the smoking of medical marijuana.
 - ***Support:*** The remaining six speakers (including a representative from the Coalition for Smoke-Free Living in Culver City) were in support of the City Council adopting regulations prohibiting smoking in multi-unit housing, citing that the migrating smoke through doors, windows, walls, electrical outlets, and ventilation systems creates significant health impacts and a nuisance, particularly for children and the elderly living in apartments and condominium/townhome communities.
- Written Public Comment Received on or After March 24, 2014: Attached to this report are copies of all written public comment received on or after the March 24th meeting up through and including the date this report was posted to the City's website (Attachment 2).

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- Additional Public Comment: In addition, staff compiled comments received during the course of conducting a survey of property owners and HOAs as directed by the City Council (the survey is discussed further below). These comments were either included with the survey responses or received by telephone (Attachment 3).

City Council Discussion

The City Council had a lengthy discussion, but did not come to a consensus on what elements to include in an ordinance. It was agreed that further discussion needed to take place after an expanded public notification process and a survey of property owners and HOAs with regard to how they are addressing smoking in their buildings and on their properties. A brief summary of the City Council's discussion (based on staff's review of the meeting webcast) is included in the Discussion section of this report under the applicable policy issues.

Smoke-Free Policy Survey

In order to further inform the discussion of this issue, the City Council requested that a survey be conducted to determine how many apartment complexes and/or condominium/townhome communities have smoke-free policies, or any policy at all with regard to smoking.

Staff sent out a Smoke-Free Policy Survey for Multi-Unit Housing (Survey) (Attachment 4) to 507 property owners of rental housing and 25 HOAs of condominium/townhome communities. Of the 532 Surveys sent out, the City received 41 responses (approximately 7.5% returned). A breakdown of the survey results is as follows:

- Rental properties: Of the 507 surveys that were sent to rental housing property owners, staff received 39 responses (approximately 7.5% returned).
 - ***3 or fewer units:*** Of the five responses received for three or fewer units, only one property has an existing smoking policy (smoking is prohibited in indoor common areas and in 100% of the units and such policy is set forth in the lease document). The four other properties that responded do not have an existing smoking policy.
 - ***More than 3 units:*** Of the 35 responses received for properties with more than three units, 10 properties have smoking policies in one form or another and 20 properties have no policy. Of those that have existing policies, the following table identifies the specific restrictions in each policy and whether such policy is in writing:

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# of Units	Smoking Prohibited in Common Areas?	% Non-Smoking Units	Written Policy?
4	No	100% for new tenants	In lease
4	Yes (indoor)	100%	In lease
4	Yes (indoor & outdoor)	100%	In lease
5	Yes (indoor)	100%	No
6	Yes (indoor & outdoor)	100%	In lease
6	Yes (indoor & outdoor)	100%	No
6	Yes (indoor)	100%	In lease
30	Yes (indoor & outdoor)	5%	No
53	Yes (indoor & outdoor)	None	No
690	Yes (indoor)	None	Lease stipulates smoking in apartments may not cause nuisance to other tenants.

- Condominium/Townhome Communities: Of the 25 surveys that were sent to condominium/townhome communities, five responses were received (2% ~~2%~~ 20% returned). Of the five HOAs that responded, four have existing policies (two prohibit smoking in both indoor and outdoor common areas; two prohibit smoking in indoor common areas and allow smoking in outdoor areas, with a few restrictions in place; all policies are included in the HOAs' rules and regulations). The fourth HOA that responded does not have an existing smoking policy.
- Other Responses: Three of the survey responses are not applicable, as two are rental properties and one property only has one unit, which does not meet the definition of multi-unit housing. In addition, one response affirmatively declined to participate in the survey (her comments are included as part of Attachment 3).

Next Steps

If the City Council determines to consider the adoption of an ordinance regulating smoking in multi-unit housing, there are various elements that may be included in such an ordinance, some or all of which may be of interest to the City Council. These policy considerations are set forth in the Discussion Draft Ordinance and discussed later in this report. Staff requests the City Council discuss these policy issues and provide direction as deemed appropriate.

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DISCUSSION:

Existing Law¹

Existing federal and state laws have certain limited provisions relating to smoking in multi-unit housing.

- Labor Code §6404.5: Indoor common areas (including hallways, stairwells, laundry rooms, and recreation rooms) may be subject to the workplace smoking prohibitions contained in Labor Code §6404.5, if these areas are places of employment. For example, an indoor common area may be considered a place of employment if the complex has an employee, such as an on-site property manager, security guard, or maintenance staff who works on the property at any time.
- Civil Code §1947.6: Landlords and condominium associations may prohibit smoking on any portion of the property or in any portion of the buildings, including inside individual dwelling units, in accordance with the requirements of Civil Code §1947.6.²
- FHA and FEHA: Tenants of multi-unit residences who have certain disabilities relating to smoke sensitivity may have other legal remedies available under federal and state law to address problems with smoke entering their unit from other units.³

Currently, the Culver City Municipal Code (CCMC) does not include any prohibitions or restrictions relating to smoking in multi-unit housing.

City's Authority to Regulate

Although currently there are no prohibitions contained in state law against smoking in multi-unit housing (other than common areas that are considered to be "places of employment"), the City is not preempted from establishing its own regulations. Pursuant to Civil Code §1947.5, local governments may adopt regulations and policies that prohibit smoking or tobacco product use in residential dwellings. In addition, it is well established in case law that there is no fundamental right to smoke, nor are laws that prohibit smoking considered discriminatory against smokers as a particular group. Therefore, in adopting such laws, the City need only have a rational basis that is related to a legitimate governmental purpose.

In this case, providing for the public health, safety, and welfare is a sufficient, rational basis for establishing a prohibition against smoking in multi-family dwellings.

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Other Cities' Regulations

Eleven other cities in Los Angeles County, including Baldwin Park, Burbank, Calabasas, Carson, Compton, Glendale, Huntington Park, Pasadena, Santa Monica, South Pasadena and Temple City (collectively, "Comparison Cities"), have adopted some type of regulations relating to smoking in multi-unit housing. Many of the Comparison Cities' ordinances also apply to owner-occupied condominiums. Please see the attached matrix for more information regarding the various elements of each city's ordinance (Attachment 5).

Policy Considerations

If the City Council determines to establish smoking regulations in multi-unit housing, there are many options to consider for inclusion in an ordinance. These options are identified in the Discussion Draft Ordinance and further discussed below. In addition, a "checklist" is included as Attachment 6 to help facilitate the City Council's discussion.

1. Applicability of Regulations:

- a. Definition of multi-unit residence.*** An important initial step in establishing regulations is to define the type of dwellings that will be subject to the regulations (i.e. apartments, condominiums, long-term health care facilities, single room occupancy hotels (SRO), and motels). The general definition of "multi-unit residence" is a property containing two or more units. However, the City Council has the option of excluding certain types of property from this definition, such as hotels/motels that meet certain requirements, a mobile home park, a single-family home, a single-family home with a detached or attached second unit, a long-term health care facility, an SRO, etc. Seven of the Comparison Cities apply their non-smoking regulations to all condominiums and one additional Comparison City applies its regulations to condominium rental units only. (See Section 9.11.205 of the Discussion Draft Ordinance)

City Council Members' comments at 03/24/14 Meeting: At least two Council Members voiced support for regulations of rental housing, while one of those two Council Members wanted the City Council to further discuss the applicability of the regulations to condominium/townhome communities, since there is property ownership in the unit in most cases. A third Council Member stated that condominium/townhome residents need to lobby their neighbors and put pressure on HOAs to establish policies. A fourth Council Member agreed that they would like to see this issue first addressed with the landlords and HOAs and proposed that the City Council consider establishing guidelines requiring large apartment complexes and HOAs to take some type of action to establish a policy (whether that policy was to prohibit or allow

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smoking), and that such policy should be revisited every two years. A fifth Council Member indicated that they were in favor of controlling smoking in multi-unit housing and that they were more inclined to support an ordinance versus guidelines. That Council Member also expressed a concern about applying such regulations to condominium/townhome communities.

There was no discussion or direction from the City Council to include long-term health care facilities, SROs and motels. Based on the input thus far, staff recommends these facilities be excluded from the definition, if the City Council determines to move forward with a proposed ordinance.

- b. Existing and/or new units.** The City may prohibit smoking in individual units that are in existence at the time of the effective date of an ordinance or new units that receive a certificate of occupancy after the ordinance is in effect, or both. According to the Community Development Department, depending on the scope of the regulations, any adopted ordinance could potentially affect 8,793 multi-family units.
- i. Designation of existing units. The ordinance may apply to *all* existing units, as is the case in the Comparison Cities of Compton and Pasadena. In the alternative, the ordinance may require a landlord to designate a certain percentage of existing units as non-smoking units. The Comparison Cities of Baldwin Park, Calabasas and South Pasadena require 80% of existing units be designated as non-smoking units. It appears that the remaining Comparison Cities do not require a minimum number of designated non-smoking units, but do require that they designate units as either "smoking" or "non-smoking" through a designation process as described in the "phase-in plan" section below. (See Sections 9.11.230 and 9.11.245 of the Discussion Draft Ordinance)
 - ii. New units. With the exception of Carson, all of the Comparison Cities prohibit smoking in newly constructed units. With this provision, the City Council has the option of setting the percentage of new units that are designated non-smoking and the timing of when new units are subject to the regulations. The City can provide for 100% of all new units to be non-smoking or it can designate a lesser percentage, i.e. up to 100%, but no less than 80% (or some other number). In addition, in defining "new unit," the City Council may choose to "grandfather" new units that are already under construction at the time of adoption of an ordinance and require compliance of new units built or leased for the first time over 180 days after the effective date of an ordinance. (See Section 9.11.225 of the Discussion Draft Ordinance)

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City Council Members' Comments at 03/24/14 Meeting: One Council Member was in favor of, and another Council Member was open to discuss, applying regulations to both new and existing units. Other Council Members did not address this issue.

- iii. Phase-in Plan. A "phase-in plan" in general is one approach used by some of the Comparison Cities to balance the public health needs against the potential inconvenience an ordinance may place on smoking tenants and landlords who must implement a new policy. Specifically, a 12-month phase-in plan is generally considered to strike a good balance between the potential legal rights of tenants under existing rental agreements and the legal authority of landlords to modify such rental agreements in compliance with a newly adopted ordinance. Such a phase-in plan could include a period of time for the landlord to notify tenants of proposed designated non-smoking units (i.e. 60 days); a period of time to notify tenants of the final designation of non-smoking units (i.e. 90 days); a deadline for landlords to submit designation documents to the City (i.e. 120 days); and an "effective date" on which the non-smoking regulations will be enforced (i.e. 365 days). Staff received information from the City of Glendale that pre-education of the laws and implementing the new regulations gradually have been key factors in gaining cooperation from landlords and tenants.

City Council Members' Comments at 03/24/14 Meeting: Council Members in support of establishing regulations were also in support of a phase-in plan. Other Council Members agreed that if the City were to adopt regulations, then a phase-in plan would be important.

c. Definition of Smoking.

- i. Electronic cigarettes (E-cigarettes). The City's current smoking regulations (smoke-free parks and outdoor dining areas) do not include E-cigarette use in the definition of smoking. The City Council should consider whether to include E-cigarettes in the definition of smoking for purposes of regulating smoking in multi-unit housing. Four of the Comparison Cities (Baldwin Park, Huntington Park, Glendale and South Pasadena) include E-cigarettes in their prohibitions of smoking in multi-unit housing. Recently, several cities have considered or are considering expanding their smoking regulations in general to prohibit the use of E-cigarettes in all places where smoking is prohibited. (See Section 9.11.205 of the Discussion Draft Ordinance) **[NOTE: The general discussion of regulating E-cigarettes has also been agendized by the City Council for discussion this evening.]**

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City Council Members' Comments at 03/24/14 Meeting: Two Council Members indicated that E-cigarettes should not be included in the definition of smoking. Other Council Members did not address this issue.

- ii. Medical Marijuana. State Health and Safety Code Section 11362.79(a) provides that nothing in the Compassionate Care Act of 1996 (the Act which allows the use of medical marijuana) authorizes the use of medical marijuana in any place where smoking is prohibited by law. Therefore, without a specific exemption called out in an ordinance, the smoking of medical marijuana would be prohibited in non-smoking units. Of the 11 Comparison Cities, it appears that South Pasadena is the only city that specifically exempts smoking of medical marijuana from its multi-unit housing regulations. The remaining Comparison Cities do not have such an exemption. (See Section 9.11.255 of the Discussion Draft Ordinance)

City Council Members' Comments at 03/24/14 Meeting: Two Council Members were in concurrence that medical marijuana should not be exempt from any regulations that may be adopted. Other Council Members did not address this issue.

- 2. Locations Where Smoking is Prohibited: There are various options for prohibiting smoking in certain locations.

- a. ***Common areas.*** The City may prohibit smoking in indoor and/or outdoor common areas and may provide a landlord or homeowners' association with the authority to designate a portion of a common area as a designated smoking area, subject to certain requirements (i.e. must be an unenclosed area, located a certain distance from a designated non-smoking area or area primarily used by children or used for physical activity, such as a tennis court). (See Sections 9.11.205 and 9.11.215 of the Discussion Draft Ordinance)

- i. Indoor common areas. All of the Comparison Cities have adopted non-smoking provisions for indoor common areas. An indoor common area is generally defined as an enclosed area that residents of more than one unit are entitled to enter or use (i.e. lobbies, hallways, laundry rooms, elevators, stairs, community rooms, gym facilities, parking garages, etc.).

- ii. Outdoor common areas. All of the Comparison Cities, except for Burbank, Carson and Temple City, have prohibited smoking in outdoor common areas. An outdoor common area is generally defined as an unenclosed area that residents of more than one unit are entitled to enter or use (i.e. pathways, courtyards, swimming pools, parking lots, etc.).

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City Council Members' Comments at 03/24/14 Meeting: One Council Member stated that it was very important to have a designated smoking area within the common areas if smoking were prohibited. Another Council Member indicated they were open to suggestions as to locations where smoking would be prohibited. Other Council Members did not address this issue.

- b. **Individual balconies and patios.** Seven of the Comparison Cities prohibit smoking on individual balconies and patios, including Baldwin Park, Burbank, Compton, Glendale, Huntington Park, Santa Monica and Pasadena. Such a restriction is best accomplished by including exclusive-use areas in the definition of "unit." (See Section 9.11.205 of the Discussion Draft Ordinance)

City Council Members' Comments at 03/24/14 Meeting: One Council Member was in strong support of prohibiting smoking on patios and balconies, indicating that there seems to be a lot of complaints from residents regarding these areas and that it seems to be a place that is least regulated but causes the most problems. Other Council Members did not address this issue.

- c. **Smoke-free buffer zones.** Such a provision would prohibit smoking in unenclosed areas of a multi-unit residence (i.e. balconies, porches, decks and patios) that are located within a certain distance (i.e. 25 feet) of the doorway, window, opening or other vent into an enclosed non-smoking area. Only four of the Comparison Cities have adopted these smoke-free zones: Baldwin Park, Calabasas, Huntington Park and South Pasadena. This restriction could apply to exclusive-use balconies, porches, decks, and patios of units where smoking would otherwise be allowed, if these areas are within 25 feet of a non-smoking unit or other designated non-smoking area. (See Section 9.11.220 of the Discussion Draft Ordinance)

City Council Members' Comments at 03/24/14 Meeting: Two Council Members supported smoke-free buffer zones. Other Council Members did not address this issue.

- d. **Individual units.** As discussed in further detail in Section 1 above, many of the Comparison Cities prohibit smoking in existing and/or new individual units. If less than 100% of the units are required to be designated non-smoking units, then there are certain requirements that may be imposed to restrict the location of the "smoking" units (i.e. no sharing of ventilation system with non-smoking units; to the maximum extent possible, grouping of non-smoking units together or in a single building). In addition, a designation process would need to be implemented, which may require additional staff resources to be allocated to this effort. (See Sections 9.11.225, 9.11.230 and 9.11.245 of the Discussion Draft Ordinance)

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City Council Members' Comments at 03/24/14 Meeting: Two Council Members supported designation of non-smoking units. One Council Member was open to discuss a designation of less than 100% of the units if it was possible to locate such units in a detached building. Other Council Members did not address this issue.

3. **Enforcement:** If the City Council adopts regulations, enforcement methods may include City enforcement, private enforcement, or both. The enforcement provisions of any ordinance would be written to provide options for enforcement and encourage and promote self-regulation and compliance (i.e. clear, conspicuously posted "no smoking" signs; providing residents with a right of private civil action).

a. **City enforcement.** Regulations, if adopted, would be included with the City's other smoking regulations and could be subject to the same methods of enforcement, including, but not limited to, administrative citations, infraction and/or misdemeanor citations, civil action, if the City Council so determines. In the event the City would need to take an enforcement action, it would be handled as resources permit, taking into consideration the existing work plans of the Community Development Department – Enforcement Services Division, the Police Department, and the City Attorney's Office. Should the City Council elect to provide City enforcement and determine it wishes to make it a higher priority, additional resources would need to be dedicated to this effort. (See Section 9.11.260 of the Discussion Draft Ordinance) [Note from the Community Development Director: The Community Development Department will likely handle the implementation and enforcement of any ordinance that is adopted. Depending on the scope of the regulations, this could require a significant amount of staff time. Due to limited staff resources, the Director recommends that the City Council consider private enforcement of any adopted regulations. Alternatively, the City Council may need to consider adding enforcement staff to accommodate the potential workload associated with enforcing the ordinance which may impact 8,793 multifamily units.]

- b. **Private enforcement.** Consistent with the City's enforcement provisions for other smoking regulations, any adopted multi-unit housing non-smoking regulations may be enforced by a private person. If the City Council wanted to limit enforcement of the non-smoking regulations in multi-unit housing to private enforcement only, it could do so. There are other sections in the CCMC that are limited solely to enforcement by the private parties involved. For example, the enforcement provision in CCMC Section 9.12.060.A, relating to View

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Preservation (Obstruction from Trees), states: "A violation of this Chapter is not a misdemeanor or infraction. The enforcement of this Chapter shall be by the private parties involved. The complainant shall have the right to bring injunctive action to enforce...this Chapter." Enforcement of smoking complaints in multi-unit housing could be similarly limited in this manner. (See Section 9.11.265 of the Discussion Draft Ordinance)

c. *Comparison Cities.*

- i. Local government enforcement. The cities of Compton, Glendale and Pasadena provide for local government enforcement of their non-smoking multi-unit housing ordinances. The City of Glendale has one person specifically assigned to implementation of its ordinance, and its code enforcement staff are the primary enforcers. The City of Pasadena's Department of Public Health enforces its regulations, with one dedicated enforcement officer. They conduct field investigations in response to complaints. They give a warning first and then issue administrative citations to repeat violators. Most issues are resolved after the warning with some being resolved after the first citation. It has been rare that they have had to issue a second citation.
- ii. Private enforcement. The cities of Huntington Park and Santa Monica provide for private enforcement only. The City of Santa Monica does limited City enforcement for violations pertaining to required signage, but for smoking violations it provides for private enforcement by tenants through small claims court.
- iii. Hybrid of both city and private enforcement. The cities of Baldwin Park, Calabasas, South Pasadena and Temple City provide for both local government enforcement and private enforcement. The City of Calabasas, where a majority of its community are non-smokers, has been successful mostly with private self-regulation of its ordinance. The City of South Pasadena has also been successful with its regulations being self-enforced. Its code enforcement department has issued warning letters, which have been very effective, and it has not had a need to issue citations.

As of the writing of this report, staff is still awaiting information from some of the other Comparison Cities. Supplemental information may be provided during City Council's discussion of this item, if received prior to the City Council Meeting.

- d. *Culver City's current enforcement of other smoking laws in the City.*** The City prohibits smoking in parks and outdoor dining areas. In

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addition, state law prohibits smoking in the workplace, which includes bars and restaurants.

- i. Outdoor dining areas. The City's Enforcement Services Division ensures that the outdoor dining areas have the required "no smoking" signs. If no signage is posted, then a "warning" is given to the business owner and a "sample" sign is provided for their use. Approximately three years ago, shortly after the adoption of the Ordinance prohibiting smoking in outdoor dining areas, the Enforcement Services Division conducted a directed enforcement in the downtown area and issued approximately four administrative citations for noncompliance, after warnings were given and ignored. Eventually, all downtown restaurants with outdoor dining complied, and the Enforcement Services Division has not had any issues with missing signage since that time. If a complaint regarding smoking in the outdoor dining areas is made, the Police Department will respond, issue a "warning," and "educate" the individual regarding the law. The Police Department rarely gets complaints of smoking in outdoor dining areas and cannot recall that a citation has ever been issued, as the warnings have been very effective.
- ii. Parks. If patrons are observed smoking in the parks, they are advised by Park Patrol of the no smoking regulations and required to put out cigarettes. There is also signage in the parks. To date, no citations have been issued for smoking in the park; however, Park Patrol has issued approximately 10 warnings per month over the last two months.
- iii. Workplace. The Police Department is responsible for enforcing the smoking in the workplace laws set forth in Labor Code §6404.5. They rarely get complaints of workplace smoking, such as in restaurants and bars (except for the occasional complaint received by members of fraternal organizations, i.e. American Legion, Elks, etc.). When complaints are received, it is handled in the same manner as for outdoor dining areas — issue a warning and educate. They do not recall that a citation has ever been issued.

City Council Members' Comments at 03/24/14 Meeting: One Council Member indicated that private enforcement was ideal, as they did not want it to be a significant burden on City resources; however, they also did not want to turn people away when the City's assistance is needed. They requested additional information regarding private enforcement, as well as what other cities are doing that are enforcing the regulations through both City and private enforcement (discussed above). Another Council Member liked the way enforcement is handled in Santa Monica (city enforcement for signage

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issues and private enforcement for smoking complaints). A third Council Member indicated that their primary concern in adopting regulations is enforcement, and they are not inclined to put the City in a position where it is the enforcer of these regulations. This Council Member also wanted additional information on how current enforcement is handled for the other smoking laws in Culver City, which was addressed at the meeting (and discussed further above). Other Council Members did not address this issue.

4. Penalties:

a. **City enforcement.** If the City Council determines to provide for City enforcement of non-smoking multi-unit housing regulations, staff recommends that the penalties imposed be consistent with the City's other smoking regulations and the general penalty provisions of the CCMC. For example, if an administrative citation were issued for a violation, the fines are as follows: \$100.00 for a first violation; \$200.00 for a second violation within one year; and \$500.00 for each additional violation within one year. As mentioned above, City enforcement may require additional staff resources to be allocated (see Section 9.11.260 of the Discussion Draft Ordinance).

b. **Private enforcement.** If the City Council determines to provide for a comprehensive scheme for private enforcement of an ordinance, a "plaintiff" could pursue actual, statutory, and punitive damages (see Section 9.11.265 of the Discussion Draft Ordinance).

5. Outreach and Education: If the City Council directs staff to return with a proposed ordinance for consideration and introduction, staff will also return with a proposed program for providing outreach to and educating landlords, tenants and condominium associations. Outreach would likely include, but not be limited to, multiple notifications and meetings with effected property owners and HOAs. Many of the Comparison Cities have resources and materials from their outreach and education programs that may be helpful to Culver City if the City Council determines to move forward with the adoption of an ordinance.

Staff recommends the City Council consider the above policy issues and provide direction to staff as deemed appropriate.

FISCAL ANALYSIS:

There is no fiscal impact to discussing this item. If an ordinance were to be adopted by the City Council, the additional regulations prohibiting smoking in multi-unit housing may require increased enforcement activity by the Enforcement Services Division, the Police Department and the City Attorney's Office. In addition, staff time

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would be required to: 1) prepare and disseminate information about the newly adopted regulations; and 2) implement the provisions of the ordinance, which could be significant depending on the scope of the regulations. These costs cannot be easily quantified at this time. If the City Council directs staff to return with a proposed ordinance and provides policy direction as to the scope of the regulations, staff may be able to return with an estimate of these costs. The more comprehensive the regulations, particularly if the City Council determines to incorporate a "designation process" for less than 100% of the units in a multi-family housing complex, the more staff time that will be involved with educating, implementing, and enforcing those regulations.

ATTACHMENT:

1. Discussion Draft Ordinance
2. Written Public Comments received on or after the March 24, 2013 City Council meeting
3. Additional Public Comments received during Survey process and from telephone calls
4. Smoke-Free Policy Survey for Multi-Unit Housing
5. County of Los Angeles Public Health Tobacco Control and Prevention Program Matrix of Non-Smoking Multi-Unit Housing Ordinances in Los Angeles County
6. Non-Smoking Multi-Unit Housing Ordinance Checklist

MOTION:

That the City Council:

Discuss the draft Ordinance regulating smoking in multi-unit housing and provide direction to staff as deemed appropriate.

¹ *Tobacco Laws Affecting California 2012*, ChangeLab Solutions, www.changelabsolutions.org (formerly Public Health Law & Policy Technical Assistance Legal Center). ChangeLab Solutions (CLS) is a non-partisan, neutral organization (not a lobbying organization) funded by Prop 99 (one of the cigarette taxes) and comprised of legal experts in the area of smoking laws. Part of the Prop 99 money is specifically earmarked toward legal assistance for local communities in addressing smoking and tobacco control issues, which is how/why CLS was created.

² Civil Code §1947.5 requires that landlords who exercise their authority to prohibit smoking must comply with all federal, state and local laws regarding changes to the terms of a lease or rental agreement.

³ Federal Fair Housing Act; California Fair Employment and Housing Act

From: NANCY VASTELICA <[REDACTED]>
Sent: Monday, August 11, 2014 4:31 PM
To: Clerk, City
Subject: Banning Cigarette Smoking In Multiunit Housing in Culver City

8/11/14

I support banning smoking in multi-unit housing in Culver City.
I am a resident of a multi-unit housing in Culver City and every day
my neighbor next to me smokes cigarettes...It is coming through our
Common Shared wall...my neighbors wall through cracks etc.
and into our home

and into my bedroom window..... and .I do not WANT CANCER CAUSING toxic
(arsenic etc), CIGARETTE SMOKE DRIFTING INTO MY HOME. My family is
BEing FORCED
to breathe my neighbors cigarette smoke..... We cough and
often can hardly breathe in our home due to this Second hand Smoke.
coming into our home...!!!

Need to ban cigarette smoking in multi-unit housing in Culver City !!

J Vasica

Culver City Council
9770 Culver Boulevard
P.O. Box 507
Culver City, CA 90232

August 11, 2014

RE: Regulating Smoking in Multi-Unit Housing

Dear Council,

My name is Mark Minichiello and I live in Playa Pacific Homeowners Association, a 173 multi-unit dwelling complex located at 7001 Hannum Avenue, Culver City.

As you consider a no smoking ordinance in Multi-unit Housing, I urge you to consider two specific exemptions from the proposed ordinance:

- 1) Home Owner Associations have annual elections, a Governing Board in which they set rules and policy within their community boundaries. We are governed by a Board of Director's who follow our CCR's which have been voted on by our membership. Now I am not sure how many council members actually live in a Home Owner Association or understand how we operate, but I strongly state that the membership and the Board are in a better position to determine what rules should be in place within our own property boundaries. Specifically, our membership has voted and the majority have approved our CCR's which state: **Section 6.17 Smoking.** "Smoking is prohibited in all enclosed common areas including the fitness center and clubhouse."
- 2) Townhomes or units that have separate ventilation systems and do not comingle air from adjoining units. Each unit within our community has a separate ventilation system which is not shared by any adjacent unit, therefore, no air is comingled between units.

In closing, last August when the smoking issue first appeared on your agenda a member of the council questioned why HOA's have done nothing to limit smoking. As a member of a home owners association, I was somewhat disturbed by this comment so I would like to address it today. Simply put, the fact is most Home Owner Associations have considered the smoking issue and have dealt with the issue in a responsive manner most suitable for their community's. According to your City Attorney's own survey, 4 out of 5 HOA's in Culver City have smoking policies in place, so my response today is just because it may not be the answer you want to hear, does not mean we have not carefully addressed the smoking issue in our communities.

I ask you to please consider my comments when drafting your final ordinance.

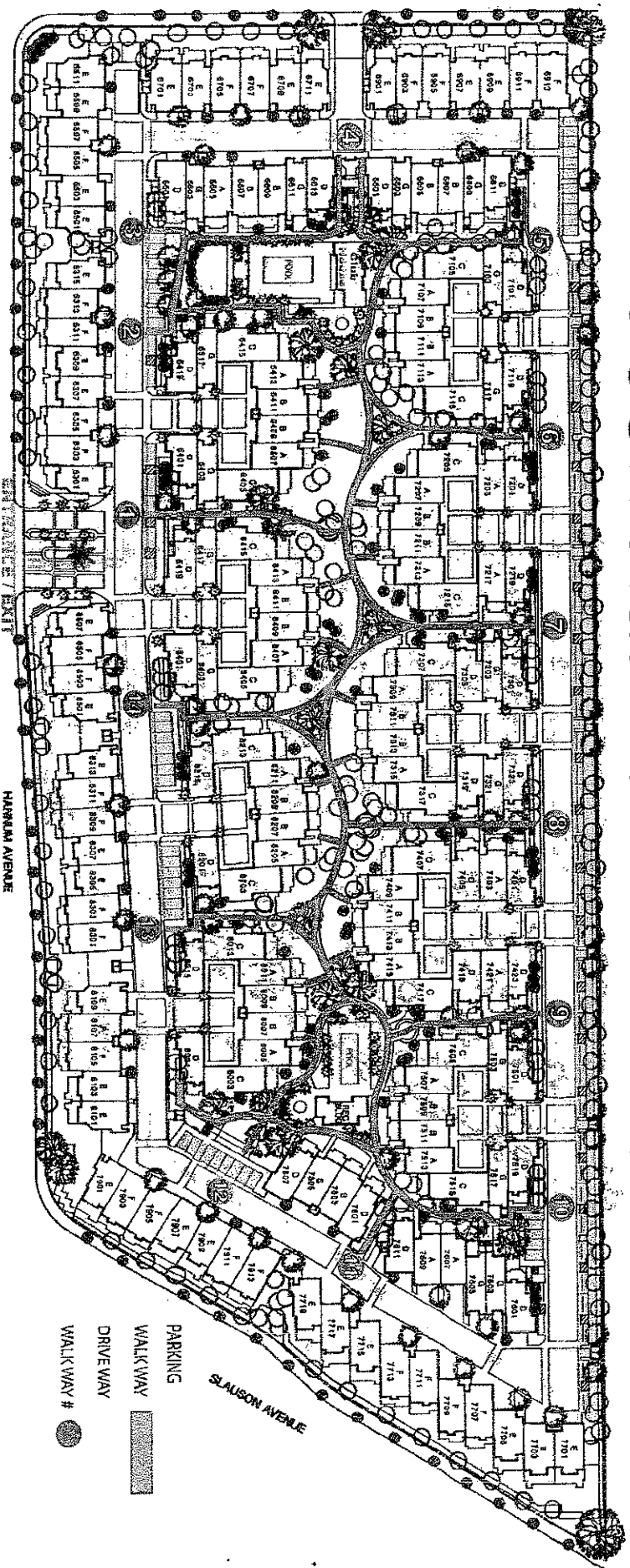
Respectfully,

Mark C. Minichiello
[REDACTED] Hannum Avenue
Culver City, CA 90230

PLAYA PACIFIC TOWNHOMES

(173 multi-unit Residence)

7001 Hannum Avenue



Esther Schiller to City Council of Culver City, Aug. 11, 2014

Good evening Mayor Cooper and members of the city council. My name is Esther Schiller and I am director of the Smokefree Apartment House Registry. We have been funded since the year 2000 by the CA Dept. of Public Health to provide information about the problem of drifting tobacco smoke in apartments and condominiums to multi-unit housing industry providers and to residents of apartments and condominiums.

We have a web site on the internet where we list the vacancies of apartment owners who have adopted no smoking policies for their buildings. The website is

www.smokefreeapartments.org

Our activities also include conducting surveys of apartment and condominium residents about their experiences with drifting tobacco smoke in their own homes. We have conducted thousands of surveys in various cities and the results are remarkably the same. Approximately 1/3 of residents of apartments and condos say they are breathing their neighbor's tobacco smoke in their own units. Most don't complain, either to the people who are smoking or to management. So this remains for the most part a hidden problem.

Most residents of apartments and condos say they would prefer to live in a no-smoking building, or at least in a no-smoking section of that building, and most residents also agree that being exposed to tobacco smoke is harmful. So it is safe to say that most residents of apartments and condos would be grateful for the opportunity to live in a smokefree environment.

The other side of this coin is that policies that require no smoking in apartments and condos would benefit the owners of those properties. For example, a unit that has been

smoked in will be more costly to prepare for the next tenant or purchaser. Realtors tell us that It's very difficult to sell a condominium that has been smoked in. A non-smoking unit also protects against fire. In addition, CIG, the insurance company called Capital Insurance Group, will provide a 10% discount to apt. owners and condo boards who have made their buildings smoke-free. Also, a new state law provides legal protection to owners and condo boards who choose to adopt no smoking policies.

And yet, in spite of all of this information, most apartment owners and property management companies are still doing business in the same old way, renting and leasing apartments with no thoughts about tobacco smoke.

In the meantime, more and more is being discovered about how dangerous tobacco smoke can be in multi-unit residential buildings. For example, there is the new issue of third-hand smoke. This is the secondhand smoke that enters a unit and sticks to walls, floors, windows and window coverings. The latest scientific news is that it can damage DNA.

Thank you for taking the time to look at this problem of drifting tobacco smoke in apartments and condos.

Esther Schiller, Director, Smokefree Apartment House Registry,
www.smokefreeapartments.org, 818-363-4220 or 818-427-8921 cell

Cole, Martin

From: Clerk, City
Sent: Thursday, September 25, 2014 3:55 PM
To: Cole, Martin; Green, Jeremy
Subject: FW: SMOKE FREE

FYI

From: Danielle Daidone [mailto:DANIELLE.DAIDONE@[REDACTED]]
Sent: Thursday, September 25, 2014 3:51 PM
To: Clerk, City
Subject: SMOKE FREE

To: Whom It May Concern:
From: Culver City Condo Resident

I am writing in regards to a smoke free living environment. I am a resident at [REDACTED] Raintree Circle. I have several neighbors who smoke on their patios. Their smoke comes directly into my bedroom windows and my patio door. The second hand smoke is horrible and it causes my allergies to act up. When I am at our communal pool, there are often smokers smoking and sometimes the smokers actually sit in the Jacuzzi and smoke. It is very offensive and there are often young children present who are exposed to the second hand smoke. I would be grateful if our condo living environment could become smoke free.

Thank You
Danielle Daidone

Cole, Martin

From: Clerk, City
Sent: Friday, September 26, 2014 7:32 AM
To: Cole, Martin; Green, Jeremy
Subject: FW: Full Support!

FYI

-----Original Message-----

From: Ozan Karakoc [mailto:ozan.karakoc@cityofculver.org]
Sent: Thursday, September 25, 2014 5:21 PM
To: Clerk, City
Subject: Full Support!

As a Culver City resident, I support the ordinance regulating smoking in multi-unit housing.

Thank you.
Ozan Karakoc

Cole, Martin

From: Clerk, City
Sent: Friday, September 26, 2014 7:31 AM
To: Cole, Martin; Green, Jeremy
Subject: FW: Smoking Ordinance in Multi-Unit Housing

FYI

From: ryan@thebashamcompany.com [mailto:ryan@thebashamcompany.com]
Sent: Thursday, September 25, 2014 9:42 PM
To: Clerk, City
Subject: Smoking Ordinance in Multi-Unit Housing

Hello!

I'd like to comment on the proposed ordinance regulating smoking in multi-unit housing.

As a resident of The Meadows at [REDACTED] Green Valley Circle, I have the "good fortune" of being keenly aware of my neighbor's nightly use of his/her medical marijuana card. I'm also quite present to other adjacent neighbors smoking in or near their units, which wafts into my apartment on a daily basis.

I can understand why a smoker of tobacco or marijuana would want air to travel freely out of their apartments - second hand smoke is even more toxic than first hand smoke. However, that second hand smoke finds its way to my lungs all too often. As someone with asthma, that smoke poses a serious risk to my health. Actually, as a human being, it poses a serious risk to my health.

Unfortunately, my choices are either to have an unventilated apartment, or to open the windows and let the smoke in.

One person's rights end where another person's rights begin. I fully support an individual's right to smoke in a place where no one else will be affected. Unfortunately, an apartment building is not one of those places.

I strongly urge the city council to enact sweeping restrictions on smoking in multi-unit housing in Culver City as soon as possible.

With thanks,

Ryan Basham

[REDACTED]
o (3)
c (3)

Cole, Martin

From: Clerk, City
Sent: Friday, September 26, 2014 4:12 PM
To: Cole, Martin; Green, Jeremy
Subject: FW: Smoke-Free Raintree

FYI

From: Ginny Kollwe [mailto:g[REDACTED]]
Sent: Friday, September 26, 2014 4:11 PM
To: Clerk, City
Subject: Smoke-Free Raintree

Dear City Council Members:

Please add my endorsement for a smoke-free Raintree. I have a neighbor who smokes and, although they are inside their own unit, the smell seeps through the bathroom air vent and is very strong. I tried using a special air deodorizer but to no avail.

Thank for your consideration with this matter.

Virginia Kollwe

[REDACTED]
Culver City, CA

Cole, Martin

From: Clerk, City
Sent: Monday, September 29, 2014 7:42 AM
To: Cole, Martin; Green, Jeremy
Subject: FW: Courtesy Notification - Smoking Regulation in Multi-Unit Housing

FYI

From: Karyn Laitis [mailto:kslaitis@ca.rr.com]
Sent: Saturday, September 27, 2014 12:33 PM
To: Clerk, City
Cc: kslaitis@ca.rr.com
Subject: Courtesy Notification - Smoking Regulation in Multi-Unit Housing

To whom this may concern:

I wish to comment on the proposed "Smoking Regulation in Multi-Unit Housing". I own and have lived in a multi-unit dwelling in Culver City since 1985. I have lived in the complex the longest of any other owner/resident. When my downstairs neighbor decided to start smoking, my health began to be affected. I cannot open my front windows to enjoy fresh air because she chooses to smoke on her patio (directly under my windows) with the smoke wafting up into my unit. I immediately have to close everything up so that the smoke doesn't come into my unit. Since she started smoking, I awaken at least 3 times a week with sinus headaches (I am highly allergic to smoke). Most smokers are not courteous. She doesn't always smoke in her unit so she doesn't smoke it up—but her smoke enters my unit, permeates the walls or goes into the park (Tellefson) where there are a lot of children playing soccer and breathing the air.

I understand everyone has rights, but what about the right of clean air to those who chose not to smoke. There should be "smoke houses" where smoker can go and just fill up their lungs with nicotine and toxic materials with wonderful exhaust systems that don't contaminate the air.

I am in favor of smoking restrictions in multi-unit homes or apartments.

Karyn Laitis
[REDACTED]
Culver City, CA 90232

Cole, Martin

From: Clerk, City
Sent: Monday, September 29, 2014 10:54 AM
To: Cole, Martin; Green, Jeremy
Subject: FW: Multi-Unit Housing smoking policy

FYI

From: Brenna Harwell [mailto:brenna.harwell@culvercity.org]
Sent: Monday, September 29, 2014 10:39 AM
To: Clerk, City
Subject: Multi-Unit Housing smoking policy

Hello,

I'm very excited about the possibility of having a healthier residence for myself, my neighbors, and their families. Thank you for bringing this to a vote, and I urge you to ban smoking in multi-unit housing here in Culver City. I love this city, and I'm proud of how progressive, health-conscious, and forward-thinking our policies are becoming. Please make Culver City a healthier place for its residents.

Thanks,

Bre

Cole, Martin

From: Clerk, City
Sent: Monday, September 29, 2014 10:58 AM
To: Cole, Martin; Green, Jeremy
Subject: FW: On the Ordinance Regulating Smoking in Multi-Unit Housing

FYI

From: yourtechlackie@gmail.com [mailto:yourtechlackie@gmail.com] **On Behalf Of** Brenna Harwell
Sent: Monday, September 29, 2014 10:56 AM
To: Clerk, City
Subject: On the Ordinance Regulating Smoking in Multi-Unit Housing

Hello

Although I'm unable to come and share my opinion in person, I wanted to reach out and say that I am entirely in support of regulating smoking in multi-unit housing. While I understand that smoking is a personal choice for the individuals that partake, it is also the choice of nonsmokers to abstain. The living conditions in multi-unit housing do not allow for enough separation and space for nonsmoking residents to avoid the smoke of a neighbor, and, as we all know, second-hand smoke causes problems for those individuals, both short and long-term.

I know that there are complications on both sides of the vote, and questions about the tenant's rights and privileges, but I urge you to continue the push towards a more smoke-free Culver City. Please vote to make Culver City a healthier place for its residents.

Best,

Brenna Harwell

Cole, Martin

From: Clerk, City
Sent: Monday, September 29, 2014 12:00 PM
To: Cole, Martin; Green, Jeremy
Subject: FW: Ordinance Regulating Smoking in Multi-Unit Housing

FYI

From: Zach Spitulski [mailto:zspitulski@culvercity.org]
Sent: Monday, September 29, 2014 11:38 AM
To: Clerk, City
Subject: Ordinance Regulating Smoking in Multi-Unit Housing

Hello,

I'm writing to express my support for the proposed ordinance regulating smoking in multi-unit housing. I live in an apartment in Culver City and our neighbors smoke cigarettes often, creating smoke that wafts into our apartment and gives me migraine headaches. I've asked our management to help with the issue, but not much can be done without an ordinance like this. With the damage that cigarette smoke does to people and the interiors of buildings, I hope Culver City chooses to protect its people.

Sincerely,

Zach Spitulski
Culver City Resident

Baker, Heather

From: drmanju <[REDACTED]>
Sent: Monday, September 29, 2014 3:06 PM
To: Baker, Heather
Subject: Re: ordinance regarding regulating smoking in multi unit housing

Dear Culver City City Council Members,
I am writing to you so that my voice may be heard on the introduction of an Ordinance Regulating Smoking in Multi Unit Housing.
I wholeheartedly support such an Ordinance to protect the public from smoke, second hand smoke and from a potential fire hazard.
I am a physician and have been practicing in Culver City for almost thirty years. We have a beautiful community here and I would like to make the environment healthier with passing of this ordinance to regulate smoking in multi unit housing. Please include marijuana in the smoking ordinance.

Sincerely,

Manju Devgan, MD

Manju Devgan, MD
[REDACTED]
[REDACTED]
[REDACTED]

Manju Denham, MD

Sent on the new Sprint Network from my Samsung Galaxy S64.

Cole, Martin

From: Clerk, City
Sent: Tuesday, September 30, 2014 1:57 PM
To: Cole, Martin; Green, Jeremy
Subject: FW: Smoking Ordinance for Multi-Unit Housing

FYI

-----Original Message-----

From: Janet Davis [mailto:janet.davis@culvercity.org]
Sent: Tuesday, September 30, 2014 11:54 AM
To: Clerk, City
Subject: Smoking Ordinance for Multi-Unit Housing

City Clerk and City Council- I am a lifelong non-smoker and 38 year owner of a small rental property in Culver City. I am opposed to this proposed ordinance because I believe that tenants and landlords are discerning and intelligent enough to regulate smoking problems on their own. THE CITY DOES NOT NEED TO GET INVOLVED.

I do believe that the City of Culver City could more profitably spend its time and money in other ways that would much more greatly benefit all its residents. I have watched Culver City greatly increase its revenues over the past few years. In the past ten years, the business tax that I pay to the City has tripled. Beautification projects in Eastern and Downtown Culver City have greatly increased the desirability and popularity of those areas. In the Western part of the City, where my property is located, parking and traffic have exponentially worsened and there are no physical improvements to the area at all. My property abuts an unmaintained dirt alley. The dust and particulate matter that drift constantly into adjacent properties are probably more hazardous to residents than the handful of smokers that you are trying to control.

Please do not waste any more time and money on this absolutely worthless ordinance.

Very Truly Yours,
Janet S. Davis

HELEN F. LIU
[REDACTED]
CULVER CITY, CA. 90230
[REDACTED]

City Clerk
City of Culver City
9770 Culver Blvd., Culver City, Ca. 90232

Re: Ordinance regulating Smoking

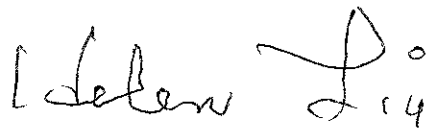
Sept. 30, 2014

Dear City Clerk:

I received your letter regarding an ordinance regulating smoking. I am sorry I can't attend the meeting dated 10/13/14-7:00 pm because I have trouble driving at night.

I agree to set up an ordinance regulating smoking. Smoking is bad to people and environment. My apartment building has been a non-smoking building right in the beginning in 7/2001 since I am allergic to smoke. I always put the ad, emphasizing "non-smokers only".

Sincerely,



Helen F. Liu

RECEIVED
2014 OCT -1 PM 3:50
CITY MANAGER'S OFFICE
CITY OF CULVER CITY

Cole, Martin

From: Clerk, City
Sent: Monday, October 06, 2014 7:37 AM
To: Cole, Martin; Green, Jeremy
Subject: FW: Smoking Ban

FYI

From: Peter Stern [mailto: [REDACTED]]
Sent: Saturday, October 04, 2014 7:10 PM
To: Clerk, City
Subject: Re: Smoking Ban

I would like the Council to consider a ban on smoking in multi-unit dwellings as smoke is very bothersome to tenants who do not smoke.

Peter Stern
[REDACTED]

Cole, Martin

From: Clerk, City
Sent: Monday, October 06, 2014 7:37 AM
To: Cole, Martin; Green, Jeremy
Subject: FW: 14-10-13__Public Notification__Smoking Regulation

FYI

-----Original Message-----

From: bscherer@ca.rr.com [mailto:bscherer@ca.rr.com]
Sent: Saturday, October 04, 2014 12:08 PM
To: Clerk, City
Subject: 14-10-13__Public Notification__Smoking Regulation

I am a condo owner at the Fox Hills Pines. My neighbor, also an owner, smokes medical marijuana on his balcony with his roommate and the smoke comes into my unit. I asked him if he could smoke inside his unit but he said it was legal to smoke it on the balcony since it was medical marijuana. I'm not a prude. I did my share of smoking marijuana when I was young, but I really don't want it in my home.

Please add smoking medical marijuana outside of your apartment/unit to the regulation. Thank you.

Cole, Martin

From: Clerk, City
Sent: Monday, October 06, 2014 7:36 AM
To: Cole, Martin; Green, Jeremy
Subject: FW: Multi-Unit No Smoking Ordinance proposal
Attachments: Culver City Clerk Re No Smoke Ordinance.docx

FYI

From: Carmella Greacen [mailto: [REDACTED]]
Sent: Sunday, October 05, 2014 10:11 AM
To: Clerk, City
Subject: Multi-Unit No Smoking Ordinance proposal

Please see attached.

Carmella Greacen
[REDACTED]
Culver City, California 90230
[REDACTED]

October 5, 2014

Via Email to city.clerk@culvercity.org
City Clerk
City of Culver City
9770 Culver Blvd.
Culver City, California 90232

Re: Introduction of Ordinance Regulating Smoking in Multi-Unit Housing
Hearing Monday, October 13, 2014 – 7 pm

Dear Sir/Madam:

I am writing to object to legislation banning smoking in multi-unit housing. I was fortunate enough (after many years of effort) to succeed in breaking the nicotine habit over 4 years ago, but I am not in favor of this proposed ordinance.

I am vigorously opposed to legislating what people can and cannot do in their own homes – whether rented or owned. The country can pass laws banning smoking everywhere, but all that will do, like Prohibition, is turn otherwise law-abiding citizens into miscreants.

I am equally opposed to an ordinance which would create an additional burden on commercial landowners – denying them the right to determine how best to manage their properties. It is one thing for an apartment owner to decide, on personal principle, to refuse to rent to smokers, and quite another to impose the will of “smoking teetotalers” on the owner and arbitrarily limit use of property that way. Not to mention using government “police power” to create a situation which further limits rental opportunities for renters in a market already so tight that rents are being artificially inflated because fewer people can afford to buy.

What are we to propose next – banning certain spices people use in their cooking because some cooking odors are irritating allergies? Those people pushing for this sort of legislation should worry more about the overall environment and less about controlling the behavior of their neighbors. I recall a survey from many years ago which reported that autopsies conducted on teenagers who died from various causes revealed that their lungs were already compromised just from breathing LA air. I never had allergies in the first 68 years of my life – but after 27 years in LA, I have them now; but the fact that my neighbor has an occasional cigarette on her balcony bothers me not a whit.

Why doesn't the City consider offering some sort of incentive to multi-unit owners to make a portion of their property “smoke-free”, like hotels do and have done? There is no reason a complex like Green Valley could not make a building or two, or floors in a building or two, smoke-free. Otherwise, the Council is imposing regulations on owners which create numerous burdensome issues on them and their staffs. More “policing” of complaints, more eviction notices, more contentiousness. This proposed legislation is misguided, unnecessarily punitive and further erodes personal freedom.

Very truly yours

ss/Carmella Greacen

cc: The Meadows Apartments (via email)

Cole, Martin

From: Clerk, City
Sent: Monday, October 06, 2014 9:24 AM
To: Cole, Martin; Green, Jeremy
Subject: FW: City Council Meeting – Introduction of an Ordinance Regulating Smoking in Multi Unit housing

FYI

From: Kovacich Stewart, Kara (AS) [mailto:████████████████████]
Sent: Monday, October 06, 2014 9:03 AM
To: Clerk, City
Subject: City Council Meeting – Introduction of an Ordinance Regulating Smoking in Multi Unit housing

Dear Council Members,

My husband and I would like to express our support of the proposal to regulate smoking in multi unit housing.

Thank you,
Kara and Mike Stewart