

MEETING DATE: 08/11/14

AGENDA ITEM: Continued Discussion of Draft Ordinance Regulating Smoking in Multi-Unit Housing and Direction to Staff.

ATTACHMENTS

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ATTACHMENT 1

DISCUSSION DRAFT ORDINANCE

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; by protecting children from exposure to smoking where they live and play; and by 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 § 9.11.200 Purpose

8 § 9.11.205 Definitions

9 § 9.11.210 Smoking Prohibited By Law in Certain Areas

10 § 9.11.215 No Smoking Permitted in Common Areas Except in Designated
11 Smoking Areas

12 § 9.11.220 Nonsmoking Buffer Zones

13 § 9.11.225 Smoking Restrictions in New Units of Multi-Unit Residences.

14 § 9.11.230 Nonsmoking Designations for Existing Units of a Rental
15 Complex

16 § 9.11.235 Required and Implied Lease Terms for All New and Existing
17 Units in Rental Complexes

18 § 9.11.240 Additional Duties of a Landlord of a Rental Complex with Less
19 than 100% Nonsmoking Units

20 § 9.11.245 Nonsmoking Designations for Existing Units of a Common
21 Interest Complex

22 § 9.11.245 Smoking Prohibited by Law in Certain Areas

23 § 9.11.250 Procedures and Requirements for Mandated Submissions

24 § 9.11.255 Smoking and Smoke Generally

25 § 9.11.260 Penalties and Enforcement

26 § 9.11.265 Private Enforcement

27 § 9.11.270 Conflict of Provisions

1 **§ 9.11.200 PURPOSE.**

2 It is the intent of the City Council of the City of Culver City, in enacting
3 this Subchapter, to provide for the public's health, safety, and welfare by
4 discouraging the inherently dangerous activity of tobacco use around non-
5 consenting individuals; by protecting children from exposure to smoking where they
6 live and play; and by protecting the public from nonconsensual exposure to
7 secondhand smoke in and around their homes.

8 **§ 9.11.205 DEFINITIONS.**

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

12 **Adjacent Property** shall mean any Unenclosed Area of property,
13 publicly or privately owned, that abuts a Multi-Unit Residence. **[OPTION:**
14 **This definition is only necessary if the Council intends to include a**
15 **"buffer zone" regulation (see Section 9.11.220 below).]**

16 **Common Area** shall mean every Enclosed Area or Unenclosed Area
17 of a Multi-Unit Residence that residents of more than one Unit of that Multi-
18 Unit Residence are entitled to enter or use, including, for example, halls and
19 paths, lobbies and courtyards, elevators and stairs, community rooms and
20 playgrounds, gym facilities and swimming pools, parking garages and parking
21 lots, shared restrooms, shared laundry rooms, shared cooking areas, and
22 shared eating areas. **[OPTION: This definition can be limited to Indoor**
23 **Common Areas only. The determination on how to define common area**
24 **will also impact the regulations in Section 9.11.215 below.]**

25 **Common Interest Complex** shall mean a Multi-Unit Residence that is
26 a condominium project, a community apartment project, a stock cooperative,
27 or a planned development as defined by California Civil Code Section 1351.
28 **[OPTION: This definition is only necessary if the City Council intends to**
regulate smoking in less than 100% of existing Multi-Unit Residences.
Otherwise, it is necessary to distinguish between owned multi-unit
housing (e.g. condominiums and townhomes) and other types of multi-
unit housing such as apartments that are leased.]

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

1. Any type of overhead cover whether or not that cover includes
vents or other openings and at least three walls or other vertical
boundaries of any height whether or not those boundaries
include vents or other openings; or

2. Four walls or other vertical boundaries that exceed six feet in height, whether or not those boundaries include vents or other openings. **[OPTION: The number of walls and height threshold can be modified. Reducing the number of walls would broaden the definition of Enclosed Area and narrowing the definition of Unenclosed Area. This is primarily relevant to establishing designated Smoking areas (see Section 9.11.215) and nonsmoking buffer zones (see Section 9.11.220).]**

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

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

Multi-Unit Residence shall mean property containing two or more Units, except the following specifically excluded types of housing: **[OPTION: This definition without the below exclusions would be very broad and include any type of property with more than two units. The City Council may want to consider excluding certain types of properties from this definition, such as the examples listed below. The below list can be expanded (for example, by adding condominiums so they are excluded from the regulations) or narrowed (for example, by deleting mobile home parks so they are subject to the regulations) as the City Council deems appropriate.]**

1. A hotel or motel that meets the requirements set forth in California Civil Code section 1940(b)(2);
2. A mobile home park;
3. A single-family home;
4. A single-family home with a detached or attached accessory dwelling unit when permitted pursuant to Section 17.400.095 of this Code.

New Unit shall mean a Unit that is issued a certificate of occupancy on or after [effective date of Ordinance]. **[OPTION: Additional language may be added if the City Council's intent is to grandfather in new units that are already under construction at the time of adoption of an ordinance. For example, that definition could read, for example: "...a Unit that is issued a certificate of occupancy more than 180 days after [effective date of Ordinance] and also includes a Unit that is let for residential use for the first time more than 180 days after effective date of Ordinance.**

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

11 **Rental Complex** shall mean a Multi-Unit Residence for which 50% or
12 more of Units are let by or on behalf of the same Landlord. **[OPTION: This**
13 **definition is only necessary if the City Council intends to regulate**
14 **smoking in less than 100% of existing Multi-Unit Residences.**
15 **Otherwise, it is necessary to distinguish between owned multi-unit**
16 **housing (e.g. condominiums and townhomes) and other types of multi-**
17 **unit housing such as apartments that are leased.]**

18 **Smoke** shall mean the gases, particles, or vapors released into the air
19 as a result of combustion, electrical ignition or vaporization, when the
20 apparent or usual purpose of the combustion, electrical ignition or
21 vaporization is human inhalation of the byproducts, except when the
22 combusting or vaporizing material contains no tobacco or nicotine and the
23 purpose of inhalation is solely olfactory, such as, for example, smoke from
24 incense. The term "Smoke" includes, but is not limited to, tobacco smoke,
25 electronic cigarette vapors and marijuana smoke. **[OPTION: This definition**
26 **may be modified to specifically exclude e-cigarettes. In addition, if the**
27 **Council intends to exempt the smoking of medical marijuana from these**
28 **regulations, there is an optional provision provided in Section 9.11.255**
below.]

Smoking shall mean engaging in an act that generates Smoke, such
as, for example: possessing a lighted pipe, a lighted hookah pipe, a lighted
cigar, an operating electronic cigarette or a lighted cigarette of any kind; or
lighting or igniting a pipe, a hookah pipe, a cigar, or a cigarette of any kind.
[OPTION: If the City Council intends to exclude e-cigarettes, this
definition will be modified.]

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

Unit shall mean a personal dwelling space, even where lacking
cooking facilities or private plumbing facilities, and includes any associated
exclusive-use Enclosed Area or Unenclosed Area, such as, for example, a
private balcony, porch, deck, or patio. **[OPTION: The Council has the**
option of deleting the foregoing language regarding exclusive-use areas
if the intent is to allow a resident to smoke on their individual balconies,

1 **patios, etc. This issue of exclusive-use areas is also relevant to**
2 **Sections 9.11.220, 9.11.225, 9.11.230, 9.11.245 below.]** "Unit" includes,
3 without limitation, an apartment; a condominium; a townhouse; a room in a
4 long-term health care facility, assisted living facility, or hospital; a hotel or
5 motel room; a room in a single room occupancy ("SRO") facility; a room in a
6 homeless shelter; a mobile home; a camper vehicle or tent; a single family
7 home; and an accessory dwelling unit when permitted pursuant to Section
8 17.400.095 of this Code. Unit includes an Existing Unit and a New Unit.
9 **[NOTE: This definition is intentionally broad. Any exclusion for a type**
10 **of unit should be made in the definition of Multi-Unit Residence.]**

11
12 **§ 9.11.210 SMOKING PROHIBITED BY LAW IN CERTAIN AREAS.**

- 13 A. Smoking in a Common Area, other than in a designated Smoking area
14 established pursuant to Section 9.11.215, is prohibited and a violation
15 of this Subchapter. **[OPTION: The exception language contained in**
16 **this provision, as well as the entirety of Section 9.11.215 below, are**
17 **only necessary if the City Council intends to allow for the creation of**
18 **designated Smoking areas.]**
- 19 B. Smoking in a New Unit as set forth in Section 9.11.230 is prohibited
20 and a violation of this Subchapter.
- 21 C. Smoking in a designated nonsmoking Unit, is prohibited and a violation
22 of this Subchapter.
- 23 D. Smoking in any Nonsmoking Area is prohibited and a violation of this
24 Subchapter.
- 25 E. No Person with legal control over any Nonsmoking Area shall permit
26 Smoking in the Nonsmoking Area, except as provided in Section
27 9.11.235.E.

28 **§ 9.11.215 NO SMOKING PERMITTED IN COMMON AREAS EXCEPT IN
DESIGNATED SMOKING AREAS.**

A. Smoking is prohibited in all Common Areas pursuant to Section
9.11.210.A, except that a Person with legal control over a Common Area,
such as, for example, a Landlord or homeowners' association, may designate
a portion of the Common Area as a designated Smoking area provided that
at all times the designated Smoking area complies with Section 9.11.215.B
below. **[OPTION: Section 9.11.215 is only necessary if the City Council**
intends to allow smoking in certain designated smoking areas.
Otherwise, it should be deleted in its entirety.]

B. A designated Smoking area:

1. Must be an Unenclosed Area.

1 2. Must be located at least twenty-five (25) feet from any
2 Enclosed Area that is a Nonsmoking Area. A Person with legal control
3 over a Common Area in which a designated Smoking area has been
4 designated shall modify, relocate or eliminate that designated Smoking
5 area so as to maintain compliance with the requirements of this
6 Section 9.11.215.B as laws change, as binding agreements are
7 created, and as Nonsmoking Areas on neighboring property are
8 established.

9 3. Must be at least 25 feet from Unenclosed Areas primarily
10 used by children and Unenclosed Areas with improvements that
11 facilitate physical activity including, for example, playgrounds, tennis
12 courts, swimming pools, and school campuses.

13 4. Must be no more than [10%] of the total Unenclosed
14 Area of the Multi-Unit Residence for which it is designated. ***[OPTION:
15 The City Council can choose to require a smaller or larger
16 maximum area for a designated smoking area. In smaller
17 developments, there may be physical constraints to providing a
18 designated smoking area.]***

19 5. Must have a clearly marked perimeter.

20 6. Must be identified by conspicuous signs.

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

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

34 § 9.11.220 NONSMOKING BUFFER ZONES.

35 A. Smoking is prohibited in Unenclosed Areas of a Multi-Unit
36 Residence, including balconies, porches, decks, and patios, within 25 feet in
37 any direction of any doorway, window, opening, or other vent into an
38 Enclosed Area that is a Nonsmoking Area.

1 B. Smoking is prohibited in Unenclosed Areas of Adjacent
2 Property within 25 feet in any direction of any doorway, window, opening, or
3 other vent into an Enclosed Area that is a Nonsmoking Area.

4 C. Subsections 9.11.220.A and 9.11.220.B above do not apply to a
5 Person who is Smoking in the restricted buffer zone while actively passing on
6 the way to another destination.

7 D. Notwithstanding any other provision of this Subchapter,
8 Smoking is prohibited in all exclusive-use Unenclosed Areas associated with
9 a Unit, such as, for example, a private balcony, porch, deck, or patio.

10 ***[OPTION: The above provisions regarding smoke-free buffer zones may
11 be included if the City Council intends to address the issue of smoke
12 drifting from a smoking area to a nonsmoking area.]***

13 § 9.11.225 SMOKING RESTRICTIONS IN NEW UNITS OF MULTI-UNIT 14 RESIDENCES.

15 A. All New Units of a Multi-Unit Residence are hereby designated
16 nonsmoking Units, including any associated exclusive-use Enclosed Areas or
17 Unenclosed Areas, such as, for example, a private balcony, porch, deck, or
18 patio; and including without limitation New Units in a Rental Complex and
19 New Units in a Common Interest Complex. ***[OPTION: This section as
20 written applies to 100% of New Units, however, the City Council may
21 designate a lesser minimum number (for example, "Up to 100%, but no
22 less than 80%..."). If a lesser percentage is designated, other
23 provisions will need to be included in this Section regarding location,
24 no sharing of ventilation systems, permanent designation, specific unit
25 description.]***

26 B. Smoking in a designated nonsmoking Unit is a violation of this
27 Subchapter, as provided in Section 9.11.210.C.

28 § 9.11.230 NONSMOKING DESIGNATIONS FOR EXISTING UNITS OF A RENTAL COMPLEX.

1 A. All Existing Units of a Rental Complex, including any associated
2 exclusive-use Enclosed Areas or Unenclosed Areas, such as, for example, a
3 private balcony, porch, deck, or patio, are hereby designated nonsmoking
4 Units as of [effective date of Ordinance + 120 days] ***[OPTION: This
5 effective date provides for a phase-in plan on the ordinance. The 120
6 days may be modified if the City Council wants to provide a shorter or
7 longer period.];*** provided, however, that a lesser percentage of Existing
8 Units may be designated nonsmoking Units if a Landlord fully complies with
9 Section 9.11.230.B below. ***[OPTION: This section applies to 100% of
10 existing Units and provides the Landlord an opportunity to allow
11 smoking in some of the existing Units. If a Landlord chooses to***

1 **exercise this option, they would be required to comply with certain**
2 **additional procedures, as set forth in Section 9.11.230.B below. If the**
3 **Council does not wish to provide this option, subsection C will be**
4 **deleted in its entirety.]**

5 B. Except as provided in Subsection 9.11.230.C below, at least 60
6 days before [effective date of Ordinance + 120 days], a Landlord shall
7 provide each tenant with:

8 1. A written notice clearly stating that all Units, including the
9 tenant's Unit, are designated nonsmoking Units and that Smoking in a
10 Unit shall be prohibited as of [effective date of Ordinance + 365 days];
11 and **[OPTION: The 365 days provides for a full year to implement**
12 **the ordinance as discussed in the recommended phase-in plan in**
13 **the staff report.]**

14 2. A copy of this Subchapter.

15 C. A Landlord may choose to designate fewer than 100% of
16 Existing Units of a Rental Complex as nonsmoking Units by fully complying
17 with the requirements stated in Sections 9.11.230.C.1 through 9.11.230.C.7
18 below. If a Landlord takes no action or does not fully comply with all of the
19 requirements set forth in 9.11.230.C.1 through 9.11.230.C.7 below, then
20 100% of all Existing Units shall be nonsmoking Units, as set forth in Section
21 9.11.230.A above.

22 1. The Landlord shall permanently designate up to 100% of
23 Existing Units, but no less than 80% **[OPTION: City Council may allow**
24 **the designation of the minimum number of nonsmoking units to be a**
25 **lesser or greater number than 80%]** of Existing Units, including, for
26 example, any associated exclusive-use Enclosed Areas or Unenclosed
27 Areas, such as, for example, a private balcony, porch, deck, or patio,
28 as nonsmoking Units.

2. To the maximum extent possible, nonsmoking Units must
be grouped together both horizontally and vertically and physically
separated from Units where Smoking may be allowed. Where
possible all Units where Smoking may be allowed shall be in a single
building of a multi-building Rental Complex.

3. No later than [effective date of Ordinance + 120 days], a
Landlord who chooses to designate fewer than 100% of the Units of a
Rental Complex as nonsmoking Units shall submit the following in
accordance with Section 9.11.250:

a. A description of each designated nonsmoking Unit
sufficient to identify the Unit; and

1 b. A diagram depicting the location of the designated
2 nonsmoking Units in relation to all other Units.

3 4. At least 60 days before submitting the nonsmoking Unit
4 designations required by Section 9.11.230.C.3 above, the Landlord
5 shall provide each tenant with:

6 a. A written notice of the proposed designations,
7 clearly stating that Smoking in a Unit which is designated as a
8 nonsmoking Unit shall be prohibited as of [effective date of
9 Ordinance + 365 days], and inviting comments on the proposed
10 designations of nonsmoking Units within the timeline for
11 submission of the designations as required by Section 9.11.250;

12 b. A diagram depicting the location of the designated
13 nonsmoking Units in relation to all other Units; and

14 c. A copy of this Subchapter.

15 5. A Landlord may modify the proposed designations based
16 upon comments received from tenants.

17 6. At least 30 days before submitting the final designations
18 of nonsmoking Units required by Section 9.11.230.C.3 above, the
19 Landlord shall provide all tenants:

20 a. Written notice of the final designations clearly
21 stating that Smoking in a designated nonsmoking Unit shall be
22 prohibited as of [effective date of Ordinance + 365 days].
23 These final designations may differ from the proposed
24 designations on which tenants were invited to comment; and

25 b. A copy of the final documents that will be
26 submitted pursuant to Section 9.11.250 of this Subchapter.

27 7. No later than [effective date of Ordinance + 120 days]
28 the final designations of nonsmoking Units must be made and the
following must be submitted in accordance with Section 9.11.250:

 a. A description of each designated nonsmoking Unit
sufficient to readily identify the Unit; and

 b. A diagram depicting the location of the designated
nonsmoking Units in relation to all other Units.

 D. Smoking in a designated nonsmoking Unit is a violation of this
Subchapter, as provided in Section 9.11.2XX.C.

1 **§ 9.11.235 REQUIRED AND IMPLIED LEASE TERMS FOR ALL NEW**
2 **AND EXISTING UNITS IN RENTAL COMPLEXES.**

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

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

14 1. A clause providing that as of [effective date of Ordinance
15 + 365 days], it is a material breach of the lease or other rental
16 agreement to allow or engage in Smoking in the Unit unless the
17 Landlord has supplied written notice that the Unit has not been
18 designated a nonsmoking Unit and no other prohibition against
19 Smoking applies. Such clause shall be substantially consistent with the
20 following: "It is a material breach of this agreement for tenant or any
21 other person subject to the control of the tenant or present by invitation
22 or permission of the tenant to engage in smoking in the unit as of
23 [effective date of Ordinance + 365 days] unless landlord has provided
24 written notice that the unit has not been designated a nonsmoking unit
25 and smoking in the unit is not otherwise prohibited by this agreement,
26 other agreements, or by law."

27 2. A clause providing that it is a material breach of the lease
28 or other rental agreement for tenant or any other Person subject to the
29 control of the tenant or present by invitation or permission of the tenant
30 to engage in Smoking in any Common Area of the property other than
31 a designated Smoking area. Such clause shall be substantially
32 consistent with the following: "It is a material breach of this agreement
33 for tenant or any other person subject to the control of the tenant or
34 present by invitation or permission of the tenant to engage in smoking
35 in any common area of the property, except in an outdoor designated
36 smoking area, if one exists."

37 3. A clause providing that it is a material breach of the lease
38 or other rental agreement for tenant or any other Person subject to the
39 control of the tenant or present by invitation or permission of the tenant
40 to violate any law regulating Smoking while anywhere on the property.
41 Such clause shall be substantially consistent with the following: "It is a

1 material breach of this agreement for tenant or any other person
2 subject to the control of the tenant or present by invitation or
3 permission of the tenant to violate any law regulating smoking while
4 anywhere on the property."

5 4. A clause expressly conveying third-party beneficiary
6 status to all occupants of the Rental Complex as to the Smoking
7 provisions of the agreement. Such clause shall be substantially
8 consistent with the following: "Other occupants of the property are
9 express third-party beneficiaries of those provisions in this agreement
10 that concern smoking. As such, other occupants of the property may
11 seek to enforce such provisions by any lawful means, including by
12 bringing a civil action in a court of law."

13 C. Whether or not a Landlord complies with Sections 9.11.235.A
14 and 9.11.235.B above, the clauses required by those subsections shall be
15 implied and incorporated by law into every agreement to which Sections
16 9.11.235.A and 9.11.235.B apply and shall become effective as of the earliest
17 possible date on which the Landlord could have made the insertions pursuant
18 to Sections 9.11.235.A and 9.11.235.B.

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

- 24 1. The Landlord; and
- 25 2. Any occupant of the Rental Complex who is exposed to
26 Smoke or who suffers damages as a result of the breach.

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

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

29 § 9.11.240 ADDITIONAL DUTIES OF A LANDLORD OF A RENTAL 30 COMPLEX WITH LESS THAN 100% NONSMOKING UNITS.

31 A Landlord of a Rental Complex with less than 100% nonsmoking
32 Units shall provide to every prospective tenant, prior to entering into a new
33 lease or other rental agreement for the occupancy of a Unit in a Rental

1 Complex, a copy of the designation documents submitted pursuant to Section
2 9.11.230 describing each designated nonsmoking Unit with an accompanying
3 diagram depicting the location of nonsmoking Units in relation to all other
4 Units and any designated Smoking areas. ***[OPTION: This Section is only
5 necessary if the City Council intends to allow a Landlord to designate
6 less than 100% of existing units as nonsmoking units.]***

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**§ 9.11.245 NONSMOKING DESIGNATIONS FOR EXISTING UNITS OF A
COMMON INTEREST COMPLEX.**

A. All Units of a Common Interest Complex that are not New Units,
including any associated exclusive-use Enclosed Areas or Unenclosed Areas,
such as, for example, a private balcony, porch, deck, or patio, are hereby
designated nonsmoking Units as of [effective date of Ordinance + 365 days];
provided, however, that a lesser percentage of Units may be designated
nonsmoking Units if a Common Interest Complex fully complies with Section
9.11.245.B below. ***[OPTION: This Section is only necessary if the City
Council intends to regulate Common Interest Complexes, i.e.
condominiums, etc. If so, as provided in this Section, the City Council
also has the option of providing the homeowners' associations of such
Complexes to elect to allow smoking in some of the existing Units,
which would require that certain additional procedures be followed by
the HOA, as set forth in Section 9.11.245.B below. If this City Council
intends that 100% of the units in Common Interest Complexes be
designated nonsmoking, then Section 9.11.245.B may be deleted in its
entirety.]***

B. By a vote of the membership as provided in Section
9.11.245.B.1 below, a Common Interest Complex may choose to designate
less than 100% of existing Units as nonsmoking Units by fully complying with
the requirements stated in Sections 9.11.245.B.1 through 9.11.245.B.4
below. If a Common Interest Complex does not elect to follow this Section
9.11.245.B, then 100% of all Units shall be nonsmoking Units, as set forth in
Section 9.11.245.A above.

1. A vote by the membership on the threshold question of
allowing less than 100% of Units to be designated nonsmoking Units
must take place on or before [effective date of Ordinance + 270].

2. Up to 100%, but no less than 80% ***[OPTION: City
Council may allow the designation of the minimum number of
nonsmoking units to be a lesser or greater number than 80%]***, of Units
that are not New Units, including, for example, any associated
exclusive-use Enclosed Areas or Unenclosed Areas, such as, for
example, a private balcony, porch, deck, or patio, shall be permanently
designated as nonsmoking Units.

1 3. Where possible, best efforts shall be made to group
2 nonsmoking Units together, both horizontally and vertically, and
physically separate them from Units where Smoking may be allowed.

3 4. No later than [effective date of this Ordinance + 365
4 days] the final designations of nonsmoking Units must be made and
the following must be submitted in accordance with Section 9.11.250:

5 a. A description of each designated nonsmoking Unit
6 sufficient to readily identify the Unit; and

7 b. A diagram depicting the location of the designated
8 nonsmoking Units in relation to all other Units.

9 C. Smoking in a designated nonsmoking Unit is a violation of this
10 Subchapter, as provided in Section 9.11.210.C.

11 **§ 9.11.250 PROCEDURES AND REQUIREMENTS FOR MANDATED**
12 **SUBMISSIONS.**

13 A. Submissions required by this Subchapter must be received by
14 the Community Development Department on or before any applicable due
15 date. The submissions shall include all material and information required by
16 this Subchapter and such other materials and information as the Community
Development Department deems necessary for the administration and
enforcement of this Subchapter.

17 B. All material and information submitted pursuant to this
18 Subchapter constitute discloseable public records and are not private or
confidential.

19 **§ 9.11.255 SMOKING AND SMOKE GENERALLY.**

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

26 B. Notwithstanding any other provision of this Code, Smoking
27 marijuana for medical purposes as permitted by California Health and Safety
28 Code Sections 11362.7 *et seq.* is not prohibited by this Subchapter.
[OPTION: This Section is only necessary if the City Council intends to

1 allow the smoking of medical marijuana in nonsmoking Units. As
2 discussed in the staff report, State law (Health and Safety Code Section
3 11362.79(a)) states that nothing in the Compassionate Care Act of 1996
4 (which allows the use of medical marijuana) authorizes such use in any
5 place where smoking is prohibited by law. Therefore, without this
6 specific Section in the Ordinance, the smoking of medical marijuana
7 would be prohibited in nonsmoking Units.]

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§ 9.11.260 PENALTIES AND ENFORCEMENT.

[OPTION: If the City Council intends to provide for private enforcement only or a hybrid of City and private enforcement, this Section will be modified accordingly.]

A. The remedies provided by this Chapter are cumulative and in addition to any other remedies available at law or in equity.

B. A violation of this Chapter is subject to a civil action brought by the City Attorney, punishable by a civil fine not less than \$100 and not exceeding \$1,000 per violation.

C. A violation of any provision of this Chapter may, in the discretion of the City Attorney, be prosecuted as an infraction or misdemeanor. The penalties for a violation of this Chapter shall be consistent with the penalties set forth in Sections 1.01.040 and 1.01.045 of this Code, but in no event shall such penalties exceed the maximum penalties permitted under State law.

D. Causing, permitting, aiding, abetting, or concealing a violation of any provision of this Chapter shall also constitute a violation of this Chapter.

E. Any violation of this Chapter is hereby declared to be a public nuisance.

F. No Person shall intimidate, harass, or otherwise retaliate against any Person who seeks compliance with this Subchapter. Moreover, no Person shall intentionally or recklessly expose another Person to Smoke in response to that Person's effort to achieve compliance with this Subchapter. Violation of this Section 9.11.260.F shall constitute a misdemeanor.

G. Any person acting for the interests of itself, its members, or the general public may bring a civil action to enforce this Subchapter in accordance with the provisions in Section 9.11.265 below. **[OPTION: This Section is necessary if the City Council intends to provide a comprehensive method of private enforcement. If private enforcement is not intended, Section 9.11.265 may be deleted in its entirety. Another**

1 *option is retain this Section, but delete the reference to Section 9.11.265*
2 *herein, and delete Section 9.11.265 in its entirety. This approach will*
3 *provide a much more limited type of private enforcement.]*

4 H. Except as otherwise provided, enforcement of this Subchapter
5 is at the sole discretion of the City of Culver City. Nothing in this Subchapter
6 shall create a right of action in any Person against the City of Culver City or
7 its agents to compel public enforcement of this Subchapter against private
8 parties.

9 **§ 9.11.265 PRIVATE ENFORCEMENT.**

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

14 1. Damages in the amount of either:

15 a. Upon proof, actual damages; or

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

27 2. Exemplary damages, where it is proven by clear and
28 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.

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

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

5 **§ 9.11.270 CONFLICT OF PROVISIONS.**

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

8 **SECTION 2.** Pursuant to Section 619 of the City Charter, this Ordinance
9 shall take effect thirty (30) days after the date of its adoption. Pursuant to Sections 616
10 and 621 of the City Charter, prior to the expiration of fifteen (15) days after the adoption,
11 the City Clerk shall cause this Ordinance, or a summary thereof, to be published in the
12 Culver City News and shall post this Ordinance or a summary thereof in at least three
13 places within the City.

14 **SECTION 3.** The City Council hereby declares that, if any provision, section,
15 subsection, paragraph, sentence, phrase or word of this ordinance is rendered or declared
16 invalid or unconstitutional by any final action in a court of competent jurisdiction or by
17 reason of any preemptive legislation, then the City Council would have independently
18 adopted the remaining provisions, sections, subsections, paragraphs, sentences, phrases
19 or words of this ordinance and as such they shall remain in full force and effect.

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

21
22 _____
23 MEGHAN SAHLI-WELLS, Mayor
24 City of Culver City, California

25 ATTEST:

26 APPROVED AS TO FORM:

27 _____
28 MARTIN R. COLE, City Clerk

CAROL A. SCHWAB, City Attorney

A14-00233

ATTACHMENT 2

Cole, Martin

From: Clerk, City
Sent: Monday, March 24, 2014 8:56 AM
To: Cole, Martin; Green, Jeremy
Subject: Public Commnets : regulating smoking in multi unit housing

FYI

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

From: PPapet [mailto: [REDACTED]]
Sent: Sunday, March 23, 2014 7:49 PM
To: Clerk, City
Subject: regulating smoking in multi unit housing

Hello,

I wish to support banning smoking in multi-unit housing in Culver City. I am a resident of multi-unit housing in Culver City and often am subject to second hand tobacco and pot smoke. I wish to remain in good health and not be subjected to other individuals' bad health habits.

Sincerely,

P.Papet

Cole, Martin

From: Clerk, City
Sent: Monday, March 24, 2014 8:57 AM
To: Cole, Martin
Subject: Public Comments : Smoking in Multi Unit Housing

From: Arjen DeVries [mailto:████████████████████]
Sent: Sunday, March 23, 2014 11:55 AM
To: Clerk, City
Subject: Smoking in Multi Unit Housing

Hello,

My wife and I can't make the meeting tomorrow night, but we heavily support banning smoking in multiunit housing.

Thank you!

Arjen DeVries and Brenda Janairo

Cole, Martin

From: Clerk, City
Sent: Monday, March 24, 2014 1:07 PM
To: Cole, Martin; Green, Jeremy
Subject: Public Comments : Comment on 03-24-14 City Council Agenda Item A-2.

From: [REDACTED] Homeowners [mailto:[REDACTED]]
Sent: Monday, March 24, 2014 12:43 PM
To: Clerk, City
Subject: Comment on 03-24-14 City Council Agenda Item A-2.

To: The City Council of the City of Culver City

Re: 03-24-14 Agenda Item A-2: Discussion of Draft Ordinance Regulating Smoking in Multi-Unit Housing

My name is Sheila Coleman and I am a long-time resident of [REDACTED], a condominium complex located at [REDACTED] in Culver City. I am also the President of the Board of Directors of the [REDACTED] Owners Association, but I am representing myself and not the Board in these comments. First of all, I want to let you know that I am opposed to a ban on smoking in multi-unit housing in Culver City. Here are some of the issues that I would like you to consider:

1. We are an Association with 26 units and in the many years that I have been on the Board of Directors, we have had no complaints regarding smoking in and around the building even though we do have smokers residing here that smoke in their private units and on their balconies, even some who occasionally smoke cigars.
2. If a No Smoking Ordinance is left to the Board to enforce, we do not have the time and/or resources to police people in the privacy of their own units. I do not feel that the Ordinance will be enforceable as we have enough difficulty just enforcing the rules that we already have in place.
3. If you are banning smoking, are you also banning the smoke from barbeques, hibachis and that of people who have a prescription for medical marijuana?
4. I love residing in Culver City but I do not feel that government has the right to regulate legal activities that people carry out in their own homes. You should leave the governing of the Association to the Board of Directors. We want the freedom and latitude to continue to make our own rules. Doesn't government have more important things to do?
5. How many members of the City Council actually live in multi-unit housing? I suspect that many of you reside in single-family homes and have no idea of how difficult it will be for us to try and enforce a smoking ban. For example, our Attorney has advised us that the Board does not have the right to enter an individual owner's unit unless there is an emergency such as a fire or flood. How will we be able to "catch someone in the act" of smoking in their unit? And, if we don't actually see someone smoking, how can we penalize them based on our perceptions of what they might have done? This will be a legal nightmare for us!

In closing, please do not ban smoking in multi-unit housing in Culver City. Thank you for taking the time to consider my comments.

Sincerely,

Sheila Coleman, [REDACTED]

[REDACTED]
[REDACTED] Drive
Culver City, CA 90230

Cole, Martin

From: Clerk, City
Sent: Monday, March 24, 2014 1:07 PM
To: Cole, Martin; Green, Jeremy
Subject: Public Comments : Regulating Smoking in Multi-Unit Housing

From: Marcia jacobs [mailto: [REDACTED]]
Sent: Monday, March 24, 2014 12:37 PM
To: Clerk, City
Subject: Regulating Smoking in Multi-Unit Housing

I strongly oppose any regulation invading privacy in one's home..

Although I have smoked in the past, I do not now and haven't in 25 years. Yet someone else smoking is not a problem, unless the smoke is going directly in my face!!! But even when I smoked that bothered me.

The evidence that another's smoke from within one's home will cause disease to someone else outside that home has yet to be proved. But those "annoyances" will cause others to shout loudly to curtail other's freedom to enjoy their home. No matter how far away, those who are against smoking will always find something offensive, and find all sorts of conditons caused by this.

There is also no evidence that e-cigarette smoking is hurtful either. Yet,, we are hearing of health-crisis conditions due to this and already talk about laws regarding the vapor.

But let's legalize marijuana! Which is known to damage young brains and whose use is to get high and escape from reality!!

The old adage, MY MIND IS MADE UP, DON'T CONFUSE ME WITH FACTS,, has never been truer.

Marcia Jacobs
[REDACTED]

Culver City, Ca. 90230
[REDACTED]

cell 3 [REDACTED]

Cole, Martin

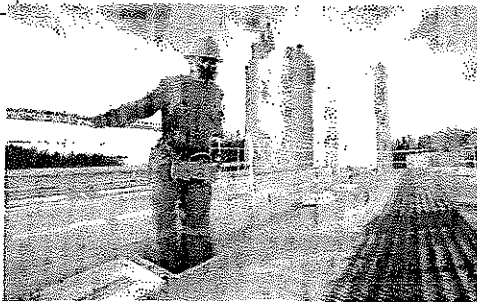
From: Clerk, City
Sent: Monday, March 24, 2014 1:08 PM
To: Cole, Martin; Green, Jeremy
Subject: Public Comments : Smoking Ban in Multi Family Units - Culver City

From: Adriana Mejia [mailto:a[REDACTED]]
Sent: Monday, March 24, 2014 12:36 PM
To: Clerk, City
Subject: Smoking Ban in Multi Family Units - Culver City

Dear Culver City,

I understand that a meeting will be held regarding a ban on smoking in multi family units in Culver City. As a resident of Culver City for the last 7 years I think this is a great idea and strongly urge the City of Culver City to pass this law/ordinance. I bought my condo in Culver City in 2007 at the [REDACTED] condo facility on [REDACTED]. It has been a non stop battle with a neighbor across the hall who smokes non-stop in their unit. Their cigarette smoke constantly drifts in to the common area hallway and into my unit causing an egregious smoke smell every time I try to walk down the hall to get to my unit. I have tried numerous times to try to come to some sort of an agreement and understanding with this neighbor, and have requested that they smoke outside on their balcony - they have refused and my requests have gone nowhere. The biggest issue (as I see it) is the serious second hand smoke that residents are inconsequentially exposed to; which is completely unfair. I shouldn't have to inhale such toxins and carcinogens because someone refuses to find an alternative area to smoke their cigarettes. Smoke drifts into hallways and neighboring units no matter what someone tries to do, and the only way to stop the second hand smoke issue is to put in place a city ordinance to ban smoking all together regardless of when home ownership took place. The value of our home that we put some much time, money and take pride in maintaining will continue to deteriorate if we don't stop this toxic nuisance and issues within multi-family homes. I am a strong proponent of this measure to ban smoking within multi family units and hope that the city will help and provide some relief to this serious health issue. Thank you for your consideration.

Regards,
Adriana Mejia
[REDACTED]

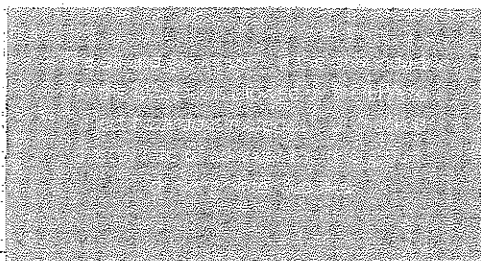


Hydraulic Fracturing

Hydraulic fracturing (fracking) is a process used to release natural gas and involves drilling underground into rocks, then pumping massive amounts of chemical-laced water into cracks to break them and force them open. The chemicals used in fracking, drilling, transport, and waste disposal can pollute the surrounding air and water.

Fracking is dangerous to human health. Polluted water and air are just a few of the problems caused by fracking.

Parents are especially concerned, since fracking chemicals can be harmful to children and pregnant women. These chemicals are linked to infertility (difficulty getting pregnant), miscarriage (loss of baby), birth defects, breathing problems, cancer, and other illnesses.



Chemical Contaminants from Fracking

Benzene & toluene	Benzene and toluene are the "B" and "T" in the quartet of chemicals known as BTEX. These chemicals are found in millions of gallons of fracking fluids every year.	- Pregnant women exposed to benzene have a higher likelihood of babies with low birth weight and birth defects such as spinal birth. - Benzene and toluene exposure puts pregnant women at greater risk for miscarriage. - Exposure to benzene has been linked with leukemia (a type of cancer), which is more common among children living in areas with greater amounts of benzene in the air or water.
Arsenic	The heavy metal arsenic can end up in wastewater that comes out of the well after drilling.	- Arsenic causes problems with skin, kidney, blood, liver and prostate. - Health problems associated with arsenic exposure include gastrointestinal and nervous system problems, difficulty with problem solving, memory issues, and low birth weight babies.
Formaldehyde	Has been found in the air around fracking sites.	- Partners of men exposed to formaldehyde take longer to become pregnant and are more likely to have miscarriages. - Formaldehyde causes cancer.
Ground-level ozone	Volatile organic compounds from fracking operations are released into the air, then combine with nitrogen dioxide and other gases ground-level ozone.	- Mothers exposed to ground-level ozone are more likely to have babies with low birth weight. - Ground-level ozone can damage the lungs and cause difficulty breathing and asthma in babies, children and adults.
Hydrogen sulfide	Has been found in the air at fracking sites.	Hydrogen sulfide can cause difficulty breathing and make the nose and throat sore. It causes serious problems for people with asthma, especially children. Breathing high levels of hydrogen sulfide, even briefly, can be life threatening.
Methane	Can leak out of wells and pollute the air and water during fracking.	When trapped in small spaces like a home or garage, methane can cause difficulty breathing, suffocation and can be explosive.
Silica	Used in fracking to prop open cracks in the shale rock and allow the gas to flow.	Breathing in silica sand can cause silicosis, a disease that reduces the lungs' ability to take in air and can lead to health problems and early death.
Methylene chloride	Found in high levels in air samples near fracking wells.	Methylene chloride causes lung disease and increases cancer.
Radium	Fracking can bring radioactive radium above ground.	Exposure to radium increases the chance of getting several kinds of cancer.
Radon	Levels of radon near fractured wells can be high.	Exposure to radon is the leading cause of lung cancer among non-smokers and is the second leading cause of lung cancer overall.

*Low birth weight puts babies at risk for developing infections, serious health problems and early death. It also increases risk for learning disabilities and problems with social development.

Baker, Heather

From: Adriana Mejia McGowan <[REDACTED]>
Sent: Monday, April 14, 2014 1:19 PM
To: Baker, Heather
Subject: Re: Non Smoking Ordinance for Multi family units.

Thank you Ms. Baker.

I look forward to the 6/23 meeting. I hope the City Council sees the importance of such a ordinance and moves toward banning smoking in all multifamily homes.

Kind regards,

Adriana McGowan

Sent from my iPhone - please excuse my typos and brevity

On Apr 14, 2014, at 1:12 PM, "Baker, Heather" <heather.baker@culvercity.org> wrote:

Dear Ms. McGowan:

At is March 24th meeting, the City Council discussed many of the policy issues involved with considering a proposed ordinance, but did not provide any definitive direction. We are tentatively scheduled to return to City Council for further discussion/direction on June 23rd.

Best,

Heather S. Baker

Assistant City Attorney
City of Culver City
9770 Culver Boulevard
Culver City, CA 90230-0507
Tel. (310) 253-5660
Fax (310) 253-5664



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

From: Adriana Mejia McGowan [mailto:[REDACTED]]
Sent: Monday, April 14, 2014 12:33 PM
To: Baker, Heather
Subject: Non Smoking Ordinance for Multi family units.

Dear Ms. Baker

I reviewed the meeting minutes that were posted from the 3/24 meeting. It stated that the smoking ban would be revisited later this year. Do you know what the outcome was during the meeting on 3/24? When will the subject be back on the agenda?

Thank you for your assistance.

Sincerely,
Adriana Mejia-McGowan

Sent from my iPhone - please excuse my typos and brevity

> On Mar 21, 2014, at 4:06 PM, [REDACTED] wrote:

>

> Monday March 24 at 7

> Call Heather Baker@ (310) 253-5830 for info

>

> =====

> This mobile text message is brought to you by AT&T

Baker, Heather

From: Rodney Wilson <[REDACTED]>
Sent: Thursday, May 08, 2014 10:33 AM
To: Baker, Heather
Cc: Sahli-Wells, Meghan; Cole, Martin
Subject: Re: follow up on the Smoking issue

Thank you Meghan and Heather.
I look forward to listening, learning and participating and sharing appropriately.

Rodney Wilson
[REDACTED]

On Tue, May 6, 2014 at 4:36 PM, Baker, Heather <heather.baker@culvercity.org> wrote:
Thank you, Mayor. I will add Mr. Wilson to our notification list.

Heather S. Baker
Assistant City Attorney
City of Culver City
9770 Culver Boulevard
Culver City, CA 90230-0507
Tel. (310) 253-5660
Fax (310) 253-5664

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

From: Sahli-Wells, Meghan
Sent: Tuesday, May 06, 2014 4:24 PM
To: Rodney Wilson
Cc: Baker, Heather
Subject: Re: follow up on the Smoking issue

Dear Mr. Wilson,

Thank you for writing and sharing your concerns. It's frustrating and harmful to live with second-hand smoke. I sympathize with your plight.

The last time the Council discussed this issue, we didn't take a vote, and asked staff to keep working on a multi-family smoking ordinance.

I am cc'ing the lead attorney working on this so she may put you on the email notification list. This way, when the Council votes on it, you can come share your experiences with us either in person or via email, and it will be part of the official record. It's important for us to hear from the people who are affected by this issue.

Again, thank you for reaching out.

Best regards,

Meghan Sahli-Wells
Culver City Mayor

> On May 4, 2014, at 1:45 PM, "Rodney Wilson" <[REDACTED]> wrote:

>

> Hello,

> I am Rodney Wilson I live in the [REDACTED] here in Culver City.

> And I was talking to the business office and they let me know you have

> had a meeting to talk about a smoking ban for APT.

>

> I would like to know how goes the talks?

>

> I have had a lot of problems with smokers smoking out side of my apt

> at night when its hot, and none of the APT. have AC. We all have to open up the windows.

> and in it comes. the hot air going out of or APT. and the smoke filed air that is a bit cooler comes right in. and says in.

>

> I have been working to get persons not to be there and have had to call courtesy patrol night after night. It kicks up my asthma and also a my nose will not stop running so at 2 am I must get up and take a shower and clear it out of my body and flush my nose with water.... only to then need to get up at 4:45 am to start my day.

>

> This impacts all in my family, and when our young girl wants to open up the windows at night because it hot, I often say let me check the air first. And often even if its ok right then, she will say dad... it bad now come close the window...

>

> Hope the City does move to make living with others so close a less hazardous place to be.

>

> Rodney Wilson

> [REDACTED]

> [REDACTED]

> Culver City.

>

Baker, Heather

From: Culver City Connect <culvercity@user.govoutreach.com>
Sent: Wednesday, July 02, 2014 8:12 AM
To: Baker, Heather
Subject: Culver City: Message About Request #: 1783348 [34381034359]

* CULVER CITY CONNECT * ---Enter your reply above this line---

Message from employee: Martin Cole sent you this message about Request # 1783348
Reply to this email to send any comments or message back to the sender. DO NOT FORWARD THIS EMAIL.

Message: Heather - Just FYI.

Request Information

Request type: Question

Request area: Miscellaneous/Other

Requestor name: Amber Laprelle

Assigned To: Martin Cole

Description: Neighbor smokes outside of my house and the second hand smoke is constantly coming into my living room. Are there any regulations giving a certain distance from my front door in which he cannot smoke?

Expected Close Date: 07/23/2014

Baker, Heather

From: Clerk, City
Sent: Monday, July 14, 2014 3:28 PM
To: Baker, Heather
Subject: FW: Ordinance Regulating Smoking in Multi-Unit Housing

Please see the below email regarding smoking.

Best Regards,

Jeremy
Jeremy Green
Management Analyst, City Clerk's Office
City of Culver City
9770 Culver Boulevard
Culver City, CA 90232
(310) 253-5859
(310) 253-6010 (fax)
jeremy.green@culvercity.org

From: [REDACTED]
Sent: Tuesday, July 08, 2014 1:04 PM
To: Clerk, City
Subject: Ordinance Regulating Smoking in Multi-Unit Housing

Dear Council Members:

I feel compelled to share my thoughts regarding the proposed ordinance. Initially I feel that we are over-regulated. There are current non-smoking or smoking restricted regulations in California, Los Angeles and specific cities, i.e. Santa Monica. Most buildings, restaurants and sports stadiums do not allow smoking.

As a native of Los Angeles and resident of Culver City for over 43 years I have watched as numerous regulations have been passed restricting some sort of activity. There are some residential buildings that have non-smoking rules. And yes, I am a smoker. I have seen television commercials reflecting that 2nd and 3rd hand smoke is evident in multi-unit buildings due to the ventilation system. I live in an apartment building that does NOT have shared ventilation, so if this ordinance passed I would be guilty of violating the ordinance without having affected other tenants. Which leads me to ask, who would report me and how would the ordinance be enforced? Would I be fined or forced to move? This is a VERY serious issue. And I am certain a waste of law enforcement time.

If the backers of this proposal are somewhat open-minded, why not make it voluntary for the Property Owners to determine if they want a smoke-free building? When there is a vacant unit they can advertise "smoke free" or "smoking allowed" in the building. This way prospective renters can make an informed choice. If no owners volunteer to have smoke-free buildings, then I think that speaks volumes to the backers of this ordinance.

In previous debates for restrictive ordinances, it was always the backers of the ordinance who would get their way, and the opposition would then have to adjust their lives, at times with a cost. If this ordinance were to pass how about stating the non-smokers must move to a smoke-free building at their own expense?

Thank you for considering my statements.

Sincerely,

Larry Laster

Baker, Heather

From: Green, Jeremy
Sent: Tuesday, August 05, 2014 8:57 AM
To: Baker, Heather
Subject: FW: Discussion of Proposed Ordinance Regulating Smoking in Multi-Unit Housing

Hi Heather,

This came into the City Clerk inbox. Do you want us to send them to you as they come in or get them all when we send them to the Councilmembers?

Best Regards,

Jeremy
Jeremy Green
Management Analyst, City Clerk's Office
City of Culver City
9770 Culver Boulevard
Culver City, CA 90232
(310) 253-5859
(310) 253-6010 (fax)
jeremy.green@culvercity.org

From: Clerk, City
Sent: Tuesday, August 05, 2014 8:16 AM
To: Cole, Martin; Green, Jeremy
Subject: FW: Discussion of Proposed Ordinance Regulating Smoking in Multi-Unit Housing

FYI

From: Marcia jacobs [mailto:[\[REDACTED\]](#)]
Sent: Monday, August 04, 2014 11:03 PM
To: Clerk, City
Subject: Discussion of Proposed Ordinance Regulating Smoking in Multi-Unit Housing

I think people should be able to smoke legal cigarettes in their homes without government telling them what they can and cannot do. I do not smoke, nor have I for 25-plus years, although I did in the past.,

A person smoking in their home will not affect your health, unless you make up your mind that it will, in which case someone smoking a cigarette a mile away will cause you to be sick!

Mind-altering drugs that are smoked should not be allowed, i.e. marijuana, if they are smoked outside where someone else may be affected.

Persons smoking a cigarette enjoy the flavor and relaxation, whereas drugs are deliberately taken/smoked to alter one's mind and change behavior, which is not the reason people smoke cigarettes, e-cigs or regular.

Marcia Jacobs
[\[REDACTED\]](#)

Culver Cit y, Ca. 90230

310-

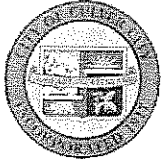
ATTACHMENT 3

Comments Received Through Responses to Smoke-Free Policy Survey

- “We have not needed to institute a policy as all of our tenants are respectful of our property and of other tenants. It has been this way for 10 years with no issues.” (4 unit rental housing)
- “Be sure to consider the impact of marijuana smoking, particularly when the smoker has a medical marijuana prescription. I have known two people affected by the secondhand smoke from a marijuana smoker. It can cause false drug test results with huge consequences, such as loss of employment, denial of transplant. (3 unit rental housing)
- “Stay out of our homes.” (3 unit rental housing)
- “I want to make it very clear to you that I do not appreciate having the "Business Tax" dollars I pay to Culver City each year wasted on a project like this. I believe that most landlords are smart enough to understand the damage done to rental property and other tenants by smokers and thus are able to take measures on their own to discourage or prohibit smoking on the premises. I also believe that most tenants can figure this out as well. The City of Culver City would be better off putting its limited financial resources into improving traffic flow and quieting residential streets, among other things. Needless to say, I am not going to waste my time and postage mailing your voluntary form back to you.” (Unknown property type, as no survey response was submitted.)

Telephone Calls Received

- July 10, 2014 – Received a call from the property owner of rental housing, who received a Survey by mail and requested to be removed from the City’s notification list. She indicated that she is not interested in “wasting” her time in preparing written comments to submit to the Council but thinks it is a “stupid rule” that is being considered and that it is “socialism.” She requested that her name not be given, but wanted to pass along the following comments to the City Council: “I am opposed to Council regulating landlords in this matter. I have only one tenant in my building that smokes and is very responsible. I do not see a need for this regulation.”
- July 29, 2014 – Received a call from a resident and business owner in Culver City. She indicated that if people smoke or don’t smoke in their own private dwelling, it their business. She felt that most people are considerate in outdoor common areas and do not smoke in other people’s faces and do not smoke at all in indoor common areas out of courtesy for others. She and her husband have a small business and started a no-smoking policy in their business.



ATTACHMENT 4

Culver City

SMOKE-FREE POLICY SURVEY FOR MULTI-UNIT HOUSING

Your cooperation in this survey is requested in order to inform the City Council in its upcoming discussion of regulating smoking in multi-unit housing. The completion of this survey is voluntary.

1. Name and title of person completing survey: _____
2. Property address: _____
3. Number of units: _____
4. Is this Property rental housing or a condominium/townhome complex? _____
5. Does this Property have a policy regarding smoking? ____ Yes ____ No
6. If the answer to Question No. 3 is "Yes," please provide the following additional information:
 - a. Please check all that are applicable:
☐ Smoking is prohibited in indoor common areas
☐ Smoking is prohibited in outdoor common areas
☐ Smoking is prohibited in designated non-smoking units
☐ Percentage of non-smoking units on Property ____% (i.e. 100%, 70%, etc.)
 - b. Other information regarding the policy: _____
 - c. Is the policy in writing? ____ Yes ____ No (If "Yes," please include a copy of the policy with your completed survey.)
 - d. Is the policy included in leases, bylaws, CC&R's, as applicable? ____ Yes ____ No

Please return your completed survey on or before July 31, 2014 by one of the following means:

Mail: City of Culver City, City Attorney's Office, ATTN: Heather Baker, Assistant City Attorney,
9770 Culver Boulevard, Culver City, CA 90232

Email: heather.baker@culvercity.org

Fax: (310) 253-5664

Thank you for your participation. If you have any questions regarding this matter, please contact Heather Baker, Assistant City Attorney at (310) 253-5660.

*If you received this survey by U.S. Mail, but would like to receive future notifications of this City Council agenda item by Email, you may sign up for the City's E-Mail Notification System by logging onto www.culvercity.org and requesting a subscription for the Topic "Smoking – Multi-Unit Housing."

NON-SMOKING MULTI-UNIT HOUSING ORDINANCES
LOS ANGELES COUNTY



	Calabasas	Glendale	Santa Monica	South Pasadena	Burbank*	Pasadena
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Year Passed: 2008 2008 2009 2010 2010 2011

POLICY PROVISIONS						
Create separate smoking and non-smoking sections	X			X		
Prohibit smoking in at least 75% of the individual units	X (80%)			X (80%)		X (100%)
Prohibit smoking in indoor common areas	X	X	X	X	X	X
Prohibit smoking in outdoor common areas	X	X	X	X		X
Designate smoking area away from doors and windows	X	X (2010)	X (2012)	X		
Prohibit smoking on balconies and patios		X (2010)	X (2010)		X	X
Disclosure of the location of smoking units to prospective tenants	X	X	X (2012)	X		X**
Prohibit smoking in buffer zones (balconies and patios of smoking-permitted units directly adjacent to non-smoking units)	X			X		
Declare second-hand smoke a nuisance in housing	X	X		X		
Include a phase-in plan	X		X (2012)			X
Apply to condominiums		X	X	X	X	X
Apply to existing housing	X	X	X	X	X	X
Apply to new housing	X	X	X	X	X	X
Enforcement plan						
• public education	X		X	X		X
• smoke-free lease terms	X			X	X	X
• private citizen enforcement	X		X	X		
• local government enforcement	X	X		X		X

*Smoking is prohibited in units that share a common ducting system and in children's play areas and the swimming pool area when children are present.
** Landlords are required to disclose to prospective tenants about the no-smoking policy.

NON-SMOKING MULTI-UNIT HOUSING ORDINANCES
LOS ANGELES COUNTY



	Compton	Baldwin Park	Carson	Huntington Park	Temple City
Year Passed:	2011	2011	2011	2012	2012
POLICY PROVISIONS					
Create separate smoking and non-smoking sections		X		X	
Prohibit smoking in at least 75% of the individual units	X (100%)	X (80%)			
Prohibit smoking in indoor common areas	X	X	X	X	X
Prohibit smoking in outdoor common areas	X	X		X	
Designate smoking area away from doors and windows		X		X	X
Prohibit smoking on balconies and patios	X	X		X	
Disclosure of the location of smoking units to prospective tenants		X***			
Prohibit smoking in buffer zones (balconies and patios of smoking-permitted units directly adjacent to non-smoking units)		X		X	
Declare second-hand smoke a nuisance in housing	X	X		X	X
Include a phase-in plan	X	X		X	X
Apply to condominiums	X	X			X (rental units only)
Apply to existing housing	X	X		X	X
Apply to new housing	X	X		X	X
Enforcement plan					
• public education • smoke-free lease terms • private citizen enforcement • local government enforcement	X	X		X	X

*** Landlords are required to disclose to prospective tenants about the no-smoking policy and location of smoking and non-smoking units. In single-family dwellings licensed as Family Day Care Home, persons with legal control must disclose to parents/guardians if smoking is permitted and does occur at facility.

This material was made possible by funds through the Proposition 99 Tobacco Tax Initiative from the Los Angeles County Department of Public Health.
For more information please contact the Tobacco Control and Prevention Program at 213-351-7340.

Last updated 12/27/2012

ATTACHMENT 6

SMOKE-FREE MULTI-UNIT HOUSING ORDINANCE CHECKLIST

Type of Multi-Unit Housing Regulated: **(Staff Report, p. 6; Ordinance, p. 4)**

- ☐ All types of property containing 2 or more units
 - ☐ Except hotels and motels
 - ☐ Except mobile home parks
 - ☐ Except single-family homes with an in-law or second unit
 - ☐ Except condominiums and townhomes
 - ☐ Except _____

Locations Where Smoking is Prohibited:

- ☐ Common Areas **(Staff Report, p. 9; Ordinance, p. 3)**
 - ☐ Indoor common areas
 - ☐ Outdoor common areas
 - ☐ Except for designated “smoking areas” that meet certain criteria
- ☐ Individual Balconies and Patios **(Staff Report, p. 10; Ordinance, pp. 5-6)**
- ☐ Outdoor Smoke-free Buffer Zones **(Staff Report, p. 10; Ordinance, pp. 7-8)**
 - ☐ Anywhere on the property of the multi-unit housing complex, including balconies or patios within 25 feet of an enclosed area where smoking is prohibited (i.e. a non-smoking unit)
 - ☐ On neighboring property within 25 feet of an enclosed area where smoking is prohibited
 - ☐ On the balcony, patio, or deck of any unit, including smoking-allowed units
- ☐ New Units **(Staff Report, p. 7; Ordinance; pp. 4 & 8)**
 - ☐ 100% of all new units in all types of regulated multi-unit housing are nonsmoking units
 - OR
 - ☐ Allow a builder to designate up to _____% of units as smoking allowed
- ☐ Existing Units **(Staff Report, p. 7-8; Ordinance, pp. 4 & 8-10)**
 - ☐ 100% of existing units
 - OR
 - ☐ Allow a landlord or homeowners’ association board to designate up to _____% of existing units as smoking-allowed
 - ☐ Require non-smoking units be grouped together and physically separated from units where smoking may be allowed
 - ☐ Phase-in Plan over _____ months (i.e. 12, 15, etc.)

Definition of Smoke: **(Staff Report, pp. 8-9; Ordinance, pp. 5 & 14-15)**

- ☐ Exclude E-cigarettes from definition of smoke
- ☐ Exempt medical marijuana from regulations

Enforcement: **(Staff Report, pp. 11-14; Ordinance, pp. 15-17)**

- ☐ City enforcement
- ☐ Private enforcement
- ☐ Declare secondhand smoke a nuisance