TO: Health and Safety Commission  
FROM: Logan Phillippo, Senior Management Analyst  
DATE: June 26, 2017  
SUBJECT: Proposed Smoke-Free Multi-Unit Housing Ordinance  
ATTACHMENTS: 1. Proposed Ordinance  
2. Emails from Residents Regarding Multi-Unit Smoking  
4. June 5, 2017 Beverly Hills Renters’ Alliance Newsletter  

INTRODUCTION
At the May 22, 2017, Health and Safety Commission Regular Meeting, the Commission voted to recommend several provisions of a proposed ordinance that would amend Chapter 4 of Title 5 of the Beverly Hills Municipal Code and regulate smoking in multi-unit residences (“Smoke-Free Multi-Unit Housing Ordinance” or “Proposed Ordinance”). The Proposed Ordinance is included in this report as Attachment 1.

The Commission has recommended prohibiting smoking in all common areas, private enclosed spaces, and private outdoor spaces of both apartments and condominiums with two or more units, regardless of whether they were owner-occupied or renter-occupied. Additionally, the Commission recommended a timeline for implementation of the regulations which include a four-to-five-month public outreach period, an immediate implementation following the public outreach period for common areas of apartments and condominiums as well as newly leased apartment and condominium units, a one-year phase-in period for apartment units with existing leases, and a two-year phase-in period for owner-occupied condominium units. The Discussion section of this memorandum summarizes the key provisions of the Proposed Ordinance.

Staff recommends the Commission move to recommend City Council adoption of the Proposed Ordinance.

DISCUSSION
In August 2016, the City Council directed staff to pursue a policy that would expand smoking regulations in multi-unit housing and tasked the Health and Safety Commission to further review the issue and to report back to Council with findings or recommendations. Since then, the Commission has deliberated on the policy at several public Commission meetings and has solicited public input on the policy at two special community outreach meetings that were advertised in local newspapers and in postcard mailers. Additionally, staff conducted a survey, which consisted of Beverly Hills multi-unit housing renters and landlords, that demonstrated community support for increased smoking regulations in multi-unit housing.
After input and evaluation, at the May 22, 2017, Regular Meeting, the Commission voted to include several regulations, which have been incorporated into the Proposed Ordinance. A summary of these provisions are discussed below.

Prohibited Areas
Smoking would be prohibited the following areas.

- Residences containing two or more units on the same lot
  - This includes condominium and apartment complexes.
  - This includes hotel/condominium projects, but only areas designated exclusively for condominium users. Regulations would exclude areas designated for hotel uses.
  - Single-family homes with accessory dwelling units and hotels are excluded from this definition.
- All common indoor and outdoor areas, which includes, but is not limited to, hallways, pathways, lobbies, courtyards, elevators, stairs, community rooms, laundry facilities, etc.
- All private enclosed spaces such as personal dwelling spaces
- All private outdoor spaces such as balconies, porches, decks, or patios
- Both renter-occupied units and owner-occupied units

Landlord and Home Owners Association Responsibilities
The following requirements would also apply to landlords and home owners associations.

- Removal of the presence of ash trays, ash cans or similar receptacles used primarily for smoking waste
- Posting of “no smoking” signage
- Distribution of written notice to tenants regarding smoking restrictions
- Inclusion of language prohibiting smoking in all new leases after January 1, 2018.
  - Effective one year after, all leases, regardless of the start date, would fall under these regulations.

Hotel/Condominium Projects
Certain developments in the City contain a mixture of both condominium units and hotels. Representatives of local hotels have expressed concerns regarding expanded regulations in hotels, noting that the inability to smoke at hotel may influence international visitors to stay elsewhere. The Proposed Ordinance would not modify the municipal code as it relates to hotel areas. While smoking would be prohibited in condominium units and in common areas reserved for the exclusive use of condominium owners, the regulations would not apply to the buildings, portions of the buildings, or any other areas that are designated as part of the hotel including, but not limited to, hotel rooms and common areas that are used by hotel patrons and guests.
Tentative Implementation Timeframe

Three dates would guide the implementation of the smoking restrictions.

January 1, 2018: Smoking would be prohibited in all common areas of multi-family residences and condominium complexes. All new leases or leases that were extended/renewed for units in multi-family residences and condominiums would be designated as non-smoking.

January 1, 2019:* All multi-family residential units would be designated as non-smoking regardless of the start date of a lease.

January 1, 2020: All condominium units, would be designated as non-smoking.

*Revised date discussed below in item 3, implementation date for leased condominium units.

Highlighted Details

Four details of the Proposed Ordinance are discussed below.

1. Implementation date for existing leases

   At the May 22, 2017, Commission Regular Meeting, staff proposed a tentative ordinance adoption timeline that included a one-year implementation period for existing leases as determined by the second reading of the ordinance (the tentative date was August 8, 2018). Staff is recommending a revised implementation date of January 1, 2019 as it would apply to existing leases. A benefit of this date would be an improved public outreach process. From a public outreach perspective, it is simpler to remember the implementation timeline as three consecutive years with the same date, rather than to focus on the nuances of another date that may not immediately appear cohesive.

2. Condominium definition

   Staff is recommending that the regulations refer to a “common interest development” as defined in California Civil Code section 4100, which includes a community apartment project as defined in California Civil Code section 4105, a condominium project, a planned development, and a stock cooperative as defined in California Civil Code section 4080. The definition of a common interest development is broader than the definition of a condominium. A common interest development includes condominiums, townhouses, and other housing developments comprised of individually owned units with commonly owned shared facilities and common areas that are either owned by a home owners association, or by the owners of the separate interests who possess rights to use the common area.

3. Implementation date for leased condominium units

   Under the Proposed Ordinance, a leased condominium unit would be designated as non-smoking as of January 1, 2018 (January 1, 2019 for existing leases). If the condominium unit owner were to occupy the unit that was previously leased, and therefore designated as non-smoking, the unit owner would then be permitted to smoke within the unit until the implementation date of January 1, 2020 (example next page).
Example: A condominium unit newly leased on February 2, 2018 would be designated non-smoking. If the leased expired on February 1, 2019 and the unit was subsequently occupied by the owner, the unit would be designated as smoking until January 1, 2020.

4. Landlord enforcement of restrictions

The Commission has previously indicated support for limiting the extent to which landlords would be liable for a tenant’s breach of any smoking restrictions. The Proposed Ordinance includes language that limits a landlord from being criminally or civilly liable for a tenant’s breach provided the landlord complies with the requirements set forth in the municipal code (removing ash trays in common areas, posting signage, distributing written notices, including no-smoking language in leases, etc.).

Outreach Activity Since May 22, 2017 Meeting

Since the last Commission meeting on May 22, Staff has received two emails from residents of separate apartment complexes. Each email expressed concerns with smoking taking place at nearby apartment units and asked whether current municipal code restrictions would apply. Staff promptly followed up with each resident (both an email an additional phone call) and explained the development of the current smoking restrictions over the past several months. One of these residents requested the email (included in Attachment 2) be read into the public record.

One additional individual submitted an email addressed to the Mayor, Vice-Mayor and Members of the City Council expressing concerns over increased restrictions. This email is also included in Attachment 2.

One local newspaper, the Beverly Press, wrote an article (Attachment 3) about the development of the multi-unit housing smoking regulations and the Commission discussion at the May 22, 2017 meeting

Additionally, in an email newsletter (Attachment 4) distributed on June 5, 2017, the Beverly Hills Renters’ Alliance briefly discussed recently effective smoking restrictions in the public right-of-way as well as the development of the current multi-unit smoking policy.

RECOMMENDATION

Staff recommends that the Commission move to recommend City Council adoption of the Proposed Ordinance.

If the Commission recommends that City Council adopt the Proposed Ordinance, staff would then present the Proposed Ordinance at a City Council Study Session during August and seek Council direction.

Staff will be available to answer questions.