



## STAFF REPORT

**Meeting Date:** August 16, 2016  
**To:** Honorable Mayor & City Council  
**From:** Kevin Kearney, Senior Management Analyst  
**Subject:** Request by Mayor Mirisch to Review Smoke-Free Multi-Unit Housing Policies  
**Attachments:**

1. Surrounding Cities with Multi-Unit Family Smoking Policies
2. Matrix of Strong Local Smoke-Free Multi-Unit Housing Policies

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### INTRODUCTION

As requested by the Mayor, this report reviews smoke-free multi-unit housing policies. The report provides a history of smoking regulations in Beverly Hills and provides a preliminary review of cities with smoking policies in the surrounding area. Should the Council decide to pursue a smoke-free multi-unit housing policy, it is recommended that the Council task the Health and Safety Commission with conducting additional research and report back findings to the City Council at a subsequent meeting.

### DISCUSSION

Multifamily residential, or multi-unit housing, is a classification of housing where multiple separate housing units for residential inhabitants are contained within one building or several buildings within one complex. A common form is an apartment building. Sometimes units in a multifamily residential building are condominiums, where the units are owned individually, rather than leased from a single apartment building owner. Unlike apartments, which are leased by their tenants, condominium units are owned outright. Many cities, such as Calabasas, South Pasadena, Huntington Park, and Pasadena, define multi-unit housing in their smoking policies as a residential property containing two or more dwelling units.

#### *Smoking Regulations in Beverly Hills*

According to a 2010 report from the Los Angeles County Department of Public Health, approximately 8% of the Beverly Hills adult population smokes, which is lower than the Los Angeles County average smoking rate of 14%. A smoke-free multi-unit housing policy in the

City of Beverly Hills could impact up to 63% of the housing stock in the City. Of this stock, 82% are apartments and 18% are condominiums.

According to 2015 data collected by the Beverly Hills Code Enforcement Department, there were fifteen (15) complaint calls received that were related to smoking in general, and it is estimated that five (5) of these calls were related to multi-unit housing. It should be noted that these numbers are estimates because the Code Enforcement Department does not record specific detail on single vs. multi-unit housing complaints.

To protect and promote the public health, the City of Beverly Hills regulates smoking in accordance with both state and local regulations. A summary of where smoking/vaping is permitted and not permitted is outlined in the following table below:

<b>Areas where Smoking is Permitted</b>	<b>Areas where Smoking is Not Permitted</b>
<p><b>According to State Law:</b></p> <ul style="list-style-type: none"> <li>• Designated hotel/motel rooms and areas</li> <li>• Private smoker lounges</li> <li>• Private single family residence</li> </ul>	<p><b>According to State Law:</b></p> <ul style="list-style-type: none"> <li>• Inside public buildings</li> <li>• Near windows of public buildings</li> <li>• Outdoor areas within 20 ft. of public buildings</li> <li>• Enclosed space at places of employment</li> <li>• Public school property</li> <li>• In a vehicle with a minor</li> </ul>
<p><b>Areas Currently Not Regulated:</b></p> <ul style="list-style-type: none"> <li>• Sidewalks</li> <li>• Alleyways</li> <li>• Beyond 5 ft. of outdoor dining areas</li> <li>• Beyond 20 ft. of operable doors and windows of public buildings</li> </ul>	<p><b>According to City Regulations</b></p> <ul style="list-style-type: none"> <li>• City parks and recreational facilities</li> <li>• Open air dining areas located on private and public property, including public right of way</li> <li>• Within 5 ft. of open air dining areas, except while actively passing by</li> <li>• City-owned vehicles</li> <li>• Outdoor public gathering events</li> <li>• Outdoor service lines (e.g. ATM and movie/theatre ticket lines)</li> <li>• Farmers Markets</li> <li>• Public and private plazas (except for clearly marked designated smoking areas on private plazas located beyond 20 ft. of operable doors)</li> </ul>

*Smoke-Free Multi-Unit Housing Policies in other Cities*

Communities throughout Southern California (and the State) have been regulating smoking in multi-unit housing. Since 2011, when Governor Jerry Brown signed Senate Bill (SB) 332 into law, California landlords have had the right to make their properties smoke-free. Additionally, a recent study conducted by the Center for Disease Control and Prevention demonstrated that Americans living in multi-unit housing are more likely to use tobacco products than people living in single-family housing. At present, sixty-nine cities – out of the approximate 482 incorporated cities - throughout California, have taken action to regulate smoking inside multi-family housing structures and common areas.

Some cities such as Huntington Park, Baldwin Park, and South Pasadena have imposed relatively stronger constraints on smoking inside multi-unit housing, while other cities such as Burbank have implemented more lenient standards. With the implementation of SB 332,

landlords in California have had the right to designate their multi-unit buildings as smoke-free if they choose, but some cities, such as those listed above, have implemented policies that require all multi-unit housing to be smoke-free regardless of the preference of the landlord. Thus, the 'strongest' smoke-free multi-unit housing policies are those that entirely restrict smoking within all existent and newly built units, including condominiums and apartments (including balconies and patios). Less stringent regulations, in Burbank for instance, are those that ban smoking only in certain areas, such as enclosed common areas, or within 5 feet of all entrances, exits, walkways, and hallways, while still allowing smoking inside the unit itself.

Smoke-free multi-unit housing regulations are comprehensive and often require extensive research, planning and implementation phases that can last several years. Prior to even crafting a policy, one of the first phases may be to conduct opinion surveys and meetings with residents, homeowners' associations and other stakeholders with the intent of gaining insight on their smoking preferences. The City of Pasadena, for instance, relied on volunteers to survey residents in public places over a 4-5 month period. Once feedback is received, the policy design is then subject to further complications with respect to landlord-tenant relationships, designating enforcement responsibilities and implementation time frames. Some cities (Culver City, Santa Monica, Compton and Pasadena) required immediate reductions in smoking inside new units once the policy was finalized, while others (Calabasas) have implementation phases lasting up to four years.

The Beverly Hills Municipal Code currently mentions that landlords may prohibit smoking within their buildings, including electronic cigarettes, as provided by the California Civil Code section 1947.5. If a smoke-free multi-unit housing policy were pursued by the City, Beverly Hills would expand upon this State legislation by prohibiting smoking within multi-unit housing, instead of leaving it as a choice for landlords.

**FISCAL IMPACT**

At present, the financial impacts are unknown, as the costs are dependent on the nature of the final policy design. While additional time will certainly need to be allocated for the implementation of this policy, the amount of additional resources, such as staffing, needed by code enforcement, the police or general staff is also unknown and will be dependent upon the final policy.

**RECOMMENDATION**

Should the Council decide to move forward with crafting a smoke-free multi-unit housing policy, Staff recommends tasking the Health and Safety Commission with conducting additional research and outreach for policy design and report back with their findings and/or recommendations to the Council at a subsequent meeting. It is recommended that the City Council review this report and direct Staff on how to proceed.

Pamela Mottice-Muller   
Approved By

# **Attachment 1**

## Surrounding Cities with Multi-Unit Family Smoking Policies

### *City of Santa Monica:*

The first stage in the implementation process of Santa Monica's ordinance required owners to conduct a survey of their tenants to designate their unit as 'smoking' or 'non-smoking,' and the owner of the building was then required to disclose the list of smoking/non-smoking units to the tenants and repeat the survey each year thereafter. Every unit that becomes vacant after the enactment of the ordinance shall thereafter be designated as 'non-smoking' regardless of its prior designation. While the city does not issue citations for violations of the ordinance, any complaining party can issue written warnings and pursue criminal/civil action against the violator. Landlords are primarily responsible for implementing and enforcing the policy, however, they cannot use smoking as grounds for eviction of tenancy.

### *City of Burbank:*

The Burbank ordinance does allow smoking inside multi-family units, but smoking is prohibited in all enclosed common areas, and in private balconies, patios, and private non-enclosed areas in all attached residential developments with two or more units. The Burbank policy does not allow their code enforcement department to give citations or notifications, and those who complain are redirected to the police department to file their complaints. In Burbank, the police are the primary enforcers of the policy because the city's municipal code specifically designates the Burbank Police Department as responsible for enforcing compliance with this policy. But the Code also states that any person is allowed to seek other remedies, penalties, or procedures provided by law including other routes that may not necessarily involve the Police Department in a primary-enforcer role.

### *City of Pasadena:*

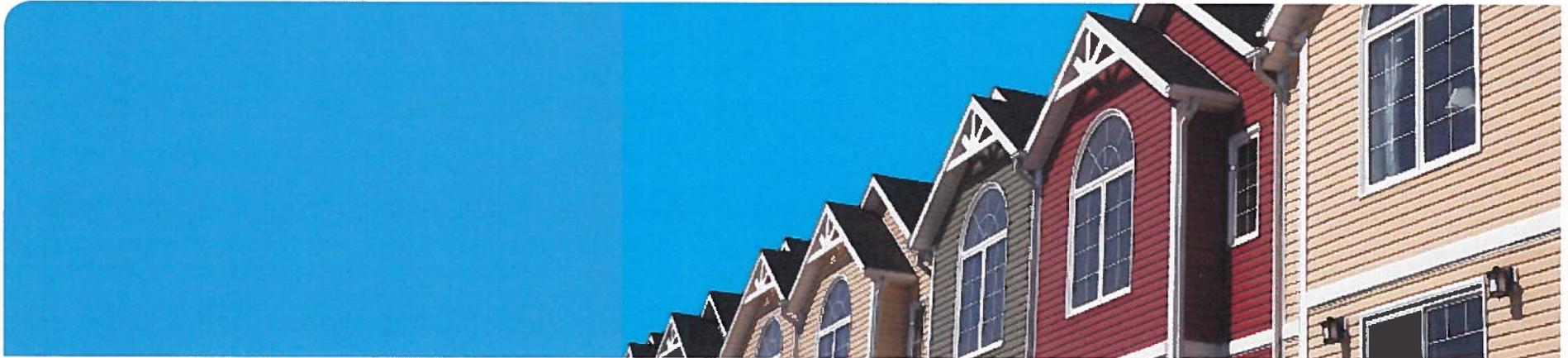
The Pasadena ordinance prohibits smoking in all common areas and new units of multi-unit housing, and landlords are not allowed to create smoking permitted areas. Owners, operators, managers, landlords, homeowners' associations, or anyone having control of multi-unit housing must post signs, but they are not required to assist with enforcing the provisions of the ordinance. City staff (particularly from the environmental health division) are the primary enforcers in Pasadena. It should be noted that the city has a Public Health Department to manage the smoking policy.

### *City of Glendale:*

The Glendale ordinance prohibits smoking in or within a twenty-foot distance of common areas inside all multi-unit rental housing and condominium complexes, including entrances/exits, open windows, and air intake vents for buildings occupied prior to June 26, 2013. All units that receive a certificate of occupancy after June 26, 2013 must be completely smoke-free unless the manager applies to the city to designate a specific smoking area. The ordinance also requires that landlords disclose whether smoking is permitted in the unit for rent and whether the unit was designated as smoking or non-smoking for the last tenant residing in it. In Glendale, the police are the primary enforcers of the policy, but citizens can also enforce it privately by filing civil action against the violating party.

# **Attachment 2**

# Matrix of Strong Local Smokefree Multi-Unit Housing Ordinances



## SEPTEMBER 2015

Cities and counties in California have led the way on many secondhand smoke issues throughout the years by passing groundbreaking local ordinances to restrict smoking in certain areas. On the issue of smokefree housing, California's communities are once again paving the way. Secondhand smoke exposure in multi-unit housing is a serious health threat because secondhand smoke drifts into housing units from neighboring units, balconies, patios and common areas. The most effective way to address this problem is to pass a strong policy that prohibits smoking in at least 75% of new and existing units in multi-unit housing. As local regulation of multi-unit housing has grown considerably stronger over the last few years, we have more accurately tailored this list to highlight the most health-protective policies being passed that are effectively improving the public health of those living in these environments.

There are 37 jurisdictions in California that have adopted a strong ordinance that prohibits smoking in multi-unit housing, with nine new policies passed since the last update (December 2013). The table on the following pages lists policy and enforcement provisions of smokefree housing ordinances and provides policy details for each of the 37 jurisdictions. This table makes it easier to learn more about and understand in detail these ordinances, as well as provides guidance on the types of issues that need to be addressed by other communities working on a smokefree housing ordinance. The 37 cities and counties are listed in reverse chronological order on the following three pages.

Page 2 - Burlingame, Santa Rosa, San Anselmo, Foster City, Culver City, San Mateo County, El Cerrito, Corte Madera, Berkeley, Lafayette, Walnut Creek, Glendale, Petaluma,

Page 3 - Daly City, Santa Monica, San Rafael, Sausalito, Huntington Park, Marin County, Alameda, Baldwin Park, Compton, Sonoma County, Tiburon, Pasadena,

Page 3 - Dublin, Fairfax, Larkspur, Union City, Santa Clara County, Contra Costa County, Sebastopol, South Pasadena, Pinole, Richmond, Calabasas, Belmont

More information about all smokefree housing policies regardless of strength can be found in the Center's Local California Smokefree Housing Policies: Detailed Analysis, which contains the full details on the policy and enforcement provisions in each smokefree housing ordinance. These documents and other smokefree housing documents are all available on the Center's website, [www.Center4TobaccoPolicy.org/smokefree-multi-unit-housing/](http://www.Center4TobaccoPolicy.org/smokefree-multi-unit-housing/).

# Breakdown of Smokefree Housing Units Ordinances

	POLICY PROVISIONS						ENFORCEMENT PROVISIONS				
	Date Passed/ Population	Percentage & Minimum # of Units	Implementation	Grandfathering	Includes condominiums	Includes electronic cigarettes	Nuisance	Eviction provisions for the landlord	Enforced by tenant	Enforced by public	Violations
BURLINGAME	July 2015 29,890	100% 2 units	180 days		X		X				Infraction w/fines starting at \$100, civil and criminal penalties
SANTA ROSA	June 2015 173,071	100% 2 units	Existing: 1 year New: Immediately		X	X	X			X	Infraction w/fines starting at \$100, civil and criminal penalties
SAN ANSELMO	December 2014 12,670	100% 2 units	Existing: 1 year New: 180 days		X	X	X		X	X	Infraction w/fines starting at \$250, civil and criminal penalties
FOSTER CITY	December 2014 32,390	100% 2 units	Existing: 1 year New: Immediately		X	X	X		X	X	Infraction w/fines starting at \$250
CULVER CITY	October 2014 39,773	100% 2 units	Existing: 18 months New: Immediately		X		X		X	X	Infraction w/fines starting at \$100, civil and criminal penalties
SAN MATEO COUNTY	October 2014 64,615	100% 2 units	Existing: 14 months New 6 months		X	X	X		X		Infraction w/fines starting at \$100 and criminal penalties
EL CERRITO	September 2014 24,288	100% 2 units	Existing: 1 year* New: Immediately		X	X			X	X	Infraction w/fines starting at \$100, civil and criminal penalties
CORTE MADERA	May 2014 9,491	100%* 2 units	Existing: 1 year New: Immediately		X	X	X		X	X	Infraction w/fines starting at \$100/civil and criminal penalties
BERKELEY	December 2013 118,780	100% 2 units	4 months		X	X					Infraction w/fines starting at \$100/civil and criminal penalties
LAFAYETTE	October 2013 25,154	New: 100% 3 units	New: Immediately	X	X					X	Infraction with fines starting at \$100
WALNUT CREEK	October 2013 66,868	100% 2 units	4 Months		X	X	X		X	X	Infraction with a \$100 fine/ subject to civil action
GLENDALE	May 2013 199,182	New: 100% 2 units	New: 1 month	X	X	X	X			X	Infraction with fines starting at \$100
PETALUMA	January 2013 59,540	100% 2 units	Existing: 1 year New: 7 months		X	X	X		X		In accordance with the municipal code

\*Corte Madera: For existing units, provides option where landlord may designate fewer than 100% units as nonsmoking units, but no less than 80%.

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	Date Passed/ Population	Percentage & Minimum # of Units	Implementation	Grandfathering	Includes condominiums	Includes electronic cigarettes	Nuisance	Eviction provisions for the landlord	Enforced by tenant	Enforced by public	Violations
DALY CITY	October 2012 105,810	100% 2 units	Existing: 14 months New: Immediately			X	X		X		Infraction with fines starting at \$100/ subject to civil action/in accordance to municipal code
SANTA MONICA	October 2012 93,283	100% 2 units	Existing: 180 days New: Immediately	X	X	X				X	N/A
SAN RAFAEL	October 2012 59,214	100% 3 units	Existing: 1 year New: 180 days		X				X		In accordance with the municipal code
SAUSALITO	August 2012 7,300	Existing: 80% New: 100% 2 units	Existing: 14 months New: Immediately		X		X		X		In accordance with the citation schedule in the municipal code
HUNTINGTON PARK	April 2012 59,312	Existing: 80% New: 100% 2 units	Existing: 14 months New: 1 month		X	X	X		X	X	Civil penalties of \$250 - \$1000/ subject to civil action
MARIN COUNTY	May 2012 68,488	Existing: 85% New: 100% 2 units	Existing: 12 months New: Immediately		X	X	X		X	X	Infraction with fines starting at \$100
ALAMEDA	November 2011 76,638	100% 2 units	Existing: 14 months New: Immediately		X				X	X	Infraction with fines starting at \$100/subject to civil action
BALDWIN PARK	November 2011 77,047	Existing: 80% New: 100% 2 units	Existing: 3 years New: 6 months		X	X	X		X	X	Infraction with fines starting at \$500
COMPTON	October 2011 98,506	100% 3 units	Existing: 14 months New: Immediately		X	X			X	X	Infraction with a fine of \$100
SONOMA COUNTY	September 2011 149,049	100% 2 units	Existing: 14 months New: 5 months		X						Infraction with fines starting at \$100/ subject to civil action
TIBURON	July 2011 9,200	100% 4 units	Existing: 35 months New: Immediately			X			X	X	Infraction with a fine up to \$100
PASADENA	July 2011 141,510	100% 2 units	Existing: 18 months New: Immediately		X						In accordance with the citation schedule in the municipal code

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	POLICY PROVISIONS						ENFORCEMENT PROVISIONS				
	Date Passed/ Population	Percentage & Minimum # of Units	Implementation	Grandfathering	Includes condominiums	Includes electronic cigarettes	Nuisance	Eviction provisions for the landlord	Enforced by tenant	Enforced by public	Violations
DUBLIN	July 2011 (orig. Dec 2008) 55,844	75% 16 units	25 months			X	X		X	X	Infraction with fines starting at \$100
FAIRFAX	May 2011 7,634	75% 4 units	14 months		X		X		X	X	In accordance with the town code/ Requires written warning
LARKSPUR	April 2011 12,347	Existing: 80% New: 100% 2 units	Existing: 13 months New: Immediately		X		X		X	X	Infraction with a fine of \$100/subject to civil enforcement
UNION CITY	November 2010 72,744	100% 2 units	Existing: 14 months New: Immediately			X	X		X	X	Infraction with a fine of \$100/subject to civil action
SANTA CLARA COUNTY	November 2010 87,182	100% 2 units	Existing: 14 months New: Immediately		X	X			X		Infraction with fines starting at \$100/subject to civil action
CONTRA COSTA COUNTY	October 2010 166,323	New: 100% 4 units	New: 15 months	N/A	X	X		X			In accordance with the municipal code
SEBASTOPOL	August 2010 7,507	100% 2 units	14 months		X	X	X		X	X	Infraction with fine of \$100
SOUTH PASADENA	August 2010 26,174	Existing: 80% New: 100% 2 units	3 Years		X	X	X		X	X	Infraction with fine of \$100
PINOLE	April 2010 18,946	New: 100% 2 units	Immediately	N/A	X						Infraction with fines starting at \$100
RICHMOND	July 2009 107,346	100% 2 units	Existing: 17 months New: Immediately		X				X	X	\$100 fine
CALABASAS	January 2008 23,802	80% 2 units	4 years	X		X	X	X	X	X	Misdemeanor or infraction/subject to civil action
BELMONT	October 2007 26,316	100% 2 units	14 months		X		X		X		Infraction subject to a \$100 penalty/civil action