

- Secondhand smoke is responsible for as many as 73,000 deaths among nonsmokers each year in the United States⁸; and
- Exposure to secondhand smoke increases the risk of coronary heart disease by approximately thirty percent⁹; and
- Secondhand smoke exposure causes lower respiratory tract infections, such as pneumonia and bronchitis in as many as 300,000 children in the United States under the age of 18 months each year¹⁰; and exacerbates childhood asthma¹¹; and

WHEREAS, the U.S. Food and Drug Administration conducted laboratory analysis of electronic cigarette samples and found they contained carcinogens and toxic chemicals to which users and bystanders could potentially be exposed¹²; and

WHEREAS, tobacco use and exposure to secondhand smoke impose great economic costs, as evidenced by the following:

- The total annual economic burden of smoking in the United States is \$193 billion¹³; and
- From 2001-2004, the average annual health care expenditures attributable to smoking were approximately \$96 billion¹⁴; and
- The medical and other costs to nonsmokers due to exposure to secondhand smoke were estimated at over \$10 billion per year in the United States in 2005¹⁵; and
- The total annual cost of smoking in California was estimated at \$475 per resident or \$3,331 per smoker per year, for a total of nearly \$15.8 billion in smoking-related costs in 1999 alone¹⁶; and
- California's Tobacco Control Program saved the state and its residents \$86 billion in health care expenditures between the year of its inception, 1989, and 2004, with savings growing yearly¹⁷; and

8 US Department of Health and Human Services, Centers for Disease Control and Prevention. *Fact Sheet – Secondhand Smoke*. 2006. Available at: www.cdc.gov/tobacco/data_statistics/fact_sheets/secondhand_smoke/general_facts/index.htm.

9 Barnoya, J and Glantz, S. "Cardiovascular Effects of Secondhand Smoke: Nearly as Large as Smoking." *Circulation*, 111: 2684-2698, 2005. Available at: www.circ.ahajournals.org/cgi/content/full/111/20/2684.

10 US Department of Health and Human Services, Centers for Disease Control and Prevention. *Targeting Tobacco Use: The Nation's Leading Cause of Preventable Death*. 2008, p. 2. Available at: www.cdc.gov/nccdphp/publications/aag/pdf/osh.pdf.

11 US Department of Health and Human Services, Centers for Disease Control and Prevention. *Fact Sheet – Secondhand Smoke*. 2006. Available at: www.cdc.gov/tobacco/data_statistics/fact_sheets/secondhand_smoke/general_facts/index.htm.

12 US Food and Drug Administration. *News Release, FDA and Public Health Experts Warn About Electronic Cigarettes*. 2009. Available at: www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm173222.htm.

13 Centers for Disease Control and Prevention. *News Release, Slightly Lower Adult Smoking Rates*. 2008. Available at: www.cdc.gov/media/pressrel/2008/r081113.htm.

14 Centers for Disease Control and Prevention. *News Release, Slightly Lower Adult Smoking Rates*. 2008. Available at: www.cdc.gov/media/pressrel/2008/r081113.htm.

15 Behan DF, Eriksen MP and Lin, Y. *Economic Effects of Environmental Tobacco Smoke*. Schaumburg, IL: Society of Actuaries, 2005, p. 2. Available at: [www.soa.org/files/pdf/ETSReportFinalDraft\(Final%203\).pdf](http://www.soa.org/files/pdf/ETSReportFinalDraft(Final%203).pdf).

16 Max W, Rice DP, Zhang X, et al. *The Cost of Smoking in California, 1999*. Sacramento, CA: Tobacco Control Section, California Department of Health Services, 2002, p. 74. Available at: <http://repositories.cdlib.org/cgi/viewcontent.cgi?article=1026&context=ctcre>.

17 Lightwood JM, Dinno A and Glantz SA. "Effect of the California Tobacco Control Program on Personal Health Care Expenditures." *PLoS Med*, 5(8): e178, 2008. Available at:

1 **WHEREAS**, smoking is the primary cause of fire-related injuries and deaths in the home, as
2 evidenced by the following:

- 3 • Cigarettes, cigars, pipes and other smoking materials are the leading cause of fire deaths in the
4 United States¹⁸; causing an estimated 142,900 smoking-related fires, 780 deaths, 1,600
injuries, and \$606 million in direct property damage in 2006¹⁹; and
- 5 • One in four fatalities from home fires caused by smoking is NOT the smoker whose cigarette
6 started the fire, and 25% of those deaths were of neighbors or friends of the smoker²⁰; and
- 7 • Smoking in a residence where long-term oxygen therapy takes place is very dangerous as
8 oxygen is a fire accelerant, and 27% of fatalities due to smoking during long-term oxygen
therapy occurred in multifamily dwellings²¹; and
- 9 • The United States Fire Administration recommends that people smoke outdoors²²; and

10 **WHEREAS**, nonsmokers who live in multi-unit dwellings can be exposed to neighbors' secondhand
11 smoke, as evidenced by the following:

- 12 • Secondhand smoke can seep under doorways and through wall cracks²³; and
- 13 • Persons living in apartments near smokers can be exposed to elevated pollution levels for 24
14 hours a day, and at times, the particulate matter exposure can exceed the U.S. Environmental
Protection Agency's 24-Hour Health Based Standard²⁴; and
- 15 • The Surgeon General has concluded that eliminating smoking in indoor spaces is the only
16 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 exposure²⁵; and

17 www.plosmedicine.org/article/info:doi/10.1371/journal.pmed.0050178.

18 18 Leistikow B, Martin DC and Milano CE. "Fire Injuries, Disasters, and Costs from Cigarettes and Cigarette Lights: A Global
19 Overview." *Preventive Medicine*, 31: 91-99, 2000. Available at: <http://leistikow.ucdavis.edu/SmokingFires.pdf>.

20 19 Hall JR. *U.S. Smoking-Material Fire Problem*. Quincy, MA: National Fire Protection Association, 2008, p. vii. Available at:
21 www.nfpa.org/assets/files/PDF/OS.Smoking.pdf. (Factsheet available at:
www.nfpa.org/assets/files/PDF/smokingfactsheet.pdf.)

22 20 Hall JR, Ahrens M, Rohr K, et al. *Behavioral Mitigation of Smoking Fires Through Strategies Based on Statistical Analysis*.
23 US Department of Homeland Security, 2006, p. 17. Available at: www.usfa.dhs.gov/downloads/pdf/publications/fa-302-508.pdf.

24 21 US Department of Health and Human Services, Centers for Disease Control and Prevention. "Fatal Fires Associated with
25 Smoking During Long-Term Oxygen Therapy – Maine, Massachusetts, New Hampshire, and Oklahoma, 2000 – 2007."
Morbidity and Mortality Weekly Report, 57(31): 852-854, 2008. Available at:
www.cdc.gov/mmwr/preview/mmwrhtml/mm5731a3.htm?s_cid=mm5731a3_e.

26 22 Hall JR, Ahrens M, Rohr K, et al. *Behavioral Mitigation of Smoking Fires Through Strategies Based on Statistical Analysis*.
27 US Department of Homeland Security, 2006, p. 19. Available at: www.usfa.dhs.gov/downloads/pdf/publications/fa-302-508.pdf.

28 23 Wagner J, Sullivan DP, Faulkner D, et al. "Environmental Tobacco Smoke Leakage from Smoking Rooms." *Journal of
Occupational and Environmental Hygiene*, 1: 110-118, 2004. Available at: <http://eetd.lbl.gov/IEP/pdf/LBNL-51010.pdf>.

29 24 Klepeis N. *Measuring the Seepage of Tobacco Smoke Particles Between Apartment Units*. California's Clean Air Project,
2008. Available at: www.phlpnet.org/sites/phlpnet.org/files/CCAP_Measuring_the_Seepage_Klepeis_article.pdf.

30 25 US Department of Health and Human Services, Office of the Surgeon General. *The Health Consequences of Involuntary
Exposure to Tobacco Smoke: A Report of the Surgeon General*. 2006, p. 11. Available at:
www.cdc.gov/tobacco/data_statistics/sgr/sgr_2006/index.htm#full.

1 **WHEREAS**, most Californians do not smoke and a majority favor limitations on smoking in multi-
2 unit residences, as evidenced by the following:

- 3 • Nearly 87% of Californians and 91% of California women are nonsmokers²⁶; and
- 4 • 74% of Californians surveyed approve of apartment complexes requiring at least half of rental
5 units be nonsmoking²⁷; and
- 6 • 69% of Californians surveyed favor limiting smoking in outdoor common areas of apartment
7 buildings and 78% support laws that create nonsmoking units²⁸; and
- 8 • 62% of California renters feel that there is a need for laws to limit smoking in apartments²⁹;
9 and

10 **WHEREAS**, a local ordinance that authorizes residential rental agreements to include a prohibition
11 on smoking of tobacco products within rental units is not prohibited by California law³⁰; and

12 **WHEREAS**, there is no Constitutional right to smoke³¹; and

13 **WHEREAS**, California law prohibits smoking in virtually all indoor places of employment reflecting
14 the state policy to protect against the dangers of exposure to secondhand smoke³²; and

15 **WHEREAS**, California law declares that anything which is injurious to health or obstructs the free
16 use of property, so as to interfere with the comfortable enjoyment of life or property, is a nuisance³³; and

17 **WHEREAS**, local governments have broad latitude to declare nuisances and are not constrained by
18 prior definitions of nuisance³⁴; and

19 **WHEREAS**, it is the intent of the City Council in enacting this ordinance, to provide for the public
20 health, safety, and welfare by discouraging the inherently dangerous behavior of smoking around non-
21 tobacco users; by protecting children from exposure to smoking where they live and play; and by

22 26 California Department of Health Services. *News Release, New Data Show 91 Percent of California Women Don't Smoke*.
23 2007. Available at: [www.applications.dhs.ca.gov/pressreleases/store/PressReleases/07-37%20dhs%20smoking%20rates-
24 with%20charts.html](http://www.applications.dhs.ca.gov/pressreleases/store/PressReleases/07-37%20dhs%20smoking%20rates-with%20charts.html).

25 27 Goodwin Simon Victoria Research. *Study of California Voters' Attitudes About Secondhand Smoke Exposure*. 2008.
26 Available at: www.center4tobaccopolicy.org/files/files/Results%20of%20SHS%20Poll%20November%202008.pdf
27 (Statewide poll of 600 California voters, conducted November 2008).

28 28 Goodwin Simon Victoria Research. *Study of California Voters' Attitudes About Secondhand Smoke Exposure*. 2008.
29 Available at: www.center4tobaccopolicy.org/files/files/Results%20of%20SHS%20Poll%20November%202008.pdf
30 (Statewide poll of 600 California voters, conducted November 2008).

31 29 American Lung Association of California, Center for Tobacco Policy and Organizing. *Statewide Apartment Renter Study*.
32 2004. Available at:
33 www.center4tobaccopolicy.org/files/files/5242_Center%20Renter%20Survey%20Results%20May%202004.pdf (A survey
34 of apartment residents throughout California).

35 30 Cal. Legislative Counsel Op., 21547, *Secondhand Smoke in Multi-Unit Housing (Apartments & Condos) Smoking Bans:
36 Residential Rental Property*, (September 23, 1999). Highlights available at: www.respect-ala.org/drift_samsmokingbans.htm.

37 31 Public Health Law & Policy, Technical Assistance Legal Center. *There Is No Constitutional Right to Smoke*. 2005. Available
38 at: www.phlpnet.org/tobacco-control.

39 32 Cal. Lab. Code § 6404.5 (West 2009).

40 33 Cal. Civil Code § 3479 (West 2009).

41 34 *In Re Jones*, 56 Cal.App.2d 658, 663 (1943); *See also* Cal. Const., art. XI, § 7 and Cal. Gov. Code § 38771 (West 2009).

1 protecting the public from nonconsensual exposure to secondhand smoke in and around their homes.

2 **NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HUNTINGTON PARK**
3 **DOES HEREBY ORDAIN AS FOLLOWS:**

4 **SECTION 1.** The recitals set forth herein above are adopted as findings of the City Council.

5 **SECTION 2.** Title 4 of the City of Huntington Park Municipal Code is hereby amended to add
6 Chapter 12A, which shall read as follows:

7 **Chapter 12A MULTI-UNIT HOUSING SMOKING REGULATIONS**

8 **4-12A.01. DEFINITIONS.**

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

11 (a) "Common Area" means every Enclosed Area or Unenclosed Area of a Multi-Unit Residence
12 that residents of more than one Unit of that Multi-Unit Residence are entitled to enter or use, including,
13 for example, halls and paths, lobbies and courtyards, elevators and stairs, community rooms and
14 playgrounds, gym facilities and swimming pools, parking garages and parking lots, shared restrooms,
15 shared laundry rooms, shared cooking areas, and shared eating areas.

16 (b) "Common Interest Complex" means a Multi-Unit Residence that is a condominium project, a
17 community apartment project, a stock cooperative, or a planned Unit development as defined by
18 California Civil Code section 1351.

19 (c) "Enclosed Area" means an area in which outside air cannot circulate freely to all parts of the
20 area, and includes an area that has:

21 (1) any type of overhead cover whether or not that cover includes vents or other openings and at
22 least three (3) walls or other vertical boundaries of any height whether or not those boundaries
23 include vents or other openings; or

24 (2) four (4) walls or other vertical boundaries that exceed six (6) feet in height whether or not
25 those boundaries include vents or other openings.

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

(e) "Multi-Unit Residence" means property containing two (2) or more Units, except the
following specifically excluded types of housing:

(1) a hotel or motel that meets the requirements set forth in California Civil Code section
1940(b)(2);

(2) a single-family home;

(3) a single-family home with a detached or attached in-law or second unit when permitted
pursuant to California Government Code sections 65852.1, 65852.150, 65852.2 or an ordinance of

1 the City adopted pursuant to those sections; and

2 (f) "New Unit" means a Unit that is issued a Certificate of Occupancy more than 180 days after
3 July 1, 2012.

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

11 (h) "Person" means any natural person, partnership, cooperative association, corporation, personal
12 representative, receiver, trustee, assignee, or any other legal entity including government agencies.

13 (i) "Rental Complex" means a Multi-Unit Residence for which fifty percent (50%) or more of
14 Units are let by or on behalf of the same Landlord.

15 (j) "Smoke" means the gases, particles, or vapors released into the air as a result of combustion,
16 electrical ignition or vaporization, when the apparent or usual purpose of the combustion, electrical
17 ignition or vaporization is human inhalation of the byproducts, except when the combusting or
18 vaporizing material contains no tobacco or nicotine and the purpose of inhalation is solely olfactory,
19 such as, for example, smoke from incense. The term "Smoke" includes, but is not limited to, tobacco
20 smoke, electronic cigarette vapors, marijuana smoke, and crack cocaine smoke.

21 (k) "Smoking" means engaging in an act that generates Smoke, such as, for example: possessing a
22 lighted pipe, a lighted hookah pipe, a lighted cigar, an operating electronic cigarette or a lighted
23 cigarette of any kind; or lighting or igniting a pipe, a hookah pipe, a cigar, or a cigarette of any kind.

24 (l) "Unenclosed Area" means any area that is not an Enclosed Area.

25 (m) "Unit" means a personal dwelling space, even where lacking cooking facilities or private
26 plumbing facilities, and includes any associated exclusive-use Enclosed Area or Unenclosed Area,
27 such as, for example, a private balcony, porch, deck, or patio. "Unit" includes without limitation: an
28 apartment; a condominium; a townhouse; a room in a long-term health care facility, assisted living
29 facility, or hospital; a hotel or motel room; a room in a single room occupancy ("SRO") facility; a
30 room in an emergency shelter; a mobile home; a camper vehicle or tent; a single-family home; and an
31 in-law or second unit. Unit includes a New Unit.

32 **4-12A.02. NO SMOKING PERMITTED IN COMMON AREAS EXCEPT IN DESIGNATED 33 SMOKING AREAS.**

34 (a) Smoking is prohibited in all Common Areas as defined in Section 4-12A.01(a) except that a
35 Person with legal control over a Common Area, such as, for example, a Landlord or homeowners'
36 association, may designate a portion of the Common Area as a designated Smoking area provided that
37 at all times the designated Smoking area complies with paragraph (b) below.

38 (b) A designated Smoking area:

1 (1) Must be an Unenclosed Area.

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

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

11 (4) Must be no more than ten percent (10%) of the total Unenclosed Area of the Multi-Unit
12 Residence for which it is designated.

13 (5) Must have a clearly marked perimeter.

14 (6) Must be identified by conspicuous signs.

15 (c) No Person with legal control over a Common Area in which Smoking is prohibited by this
16 chapter or other law shall knowingly permit the presence of ash trays, ash cans, or other receptacles
17 designed for or primarily used for disposal of Smoking waste within the area.

18 (d) Clear and unambiguous "No Smoking" signs shall be posted in sufficient numbers and
19 locations to make Common Areas where Smoking is prohibited by this chapter or other law obvious
20 to a reasonable person. The signs shall have letters of no less than one inch in height or contain the
21 international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette
22 enclosed in a red circle crossed by a red bar). Such signs shall be maintained by the Person or Persons
23 with legal control over the Common Areas. The absence of signs shall not be a defense to a violation
24 of any provision of this chapter.

25 **4-12A.03. NONSMOKING BUFFER ZONES.**

26 (a) Smoking is prohibited in Unenclosed Areas of Multi-Unit Residence, including balconies,
27 porches, decks, and patios, within twenty-five (25) feet in any direction of any doorway, window,
28 opening, or other vent into an Enclosed Area that is a Nonsmoking Area.

(b) Notwithstanding any other provision of this chapter, Smoking is prohibited in all exclusive-use
Unenclosed Areas associated with a Unit, such as, for example, a private balcony, porch, deck, or
patio.

29 **4-12A.04. SMOKING RESTRICTIONS IN NEW AND EXISTING UNITS OF RENTAL 30 COMPLEXES.**

31 (a) All New Units of a Rental Complex are hereby designated nonsmoking Units.

32 (b) All Units of a Rental Complex that are not New Units are hereby designated nonsmoking
33 Units as of July 1, 2013.

1 (c) Smoking in a designated nonsmoking Unit is a violation of this chapter as provided in Section
2 4-12A.08.

3 (d) At least sixty (60) days before July 1, 2013, Landlords shall provide each tenant with:

4 (1) a written notice clearly stating that all Units, including the tenant's Unit, are designated
5 nonsmoking Units and that Smoking in a Unit will be illegal as of 4-12A.08(b); and

6 (2) a copy of this chapter.

7 **4-12A.05. NONSMOKING DESIGNATIONS FOR EXISTING UNITS OF A COMMON
8 INTEREST COMPLEX.**

9 (a) All Units of a Common Interest Complex that are not New Units are hereby designated
10 nonsmoking Units as of July 1, 2013; provided, however, that a lesser percentage of Units may be
11 designated nonsmoking Units if a Common Interest Complex fully complies with subsection (c)
12 below.

13 (b) Smoking in a designated nonsmoking Unit is a violation of this chapter as provided in Section
14 4-12A.08.

15 (c) By a vote of the membership as provided in subsection (1) below, a Common Interest
16 Complex may choose to designate fewer than one-hundred percent (100%) of existing Units as
17 nonsmoking Units by fully complying with the requirements stated in subsections (1) - (4) below.
18 Otherwise subsection (a) above shall apply.

19 (1) A vote by the membership on the threshold question of allowing less than one-hundred
20 percent (100%) of Units to be designated nonsmoking Units must take place before December 31,
21 2012.

22 (2) Up to one hundred percent (100%), but no less than eighty percent (80%), of Units that are
23 not New Units shall be permanently designated as nonsmoking Units.

24 (3) Where possible, best efforts shall be made to group nonsmoking Units together, both
25 horizontally and vertically, and physically separate them from Units where Smoking may be
26 allowed.

27 (4) No later than April 1, 2013 the final designations must be made and the following must be
28 submitted in accordance with Section 4-12A.09:

(i) a description of each designated nonsmoking Unit sufficient to readily identify the
Unit; and

(ii) a diagram depicting the location of the designated nonsmoking Units in relation to all
other Units.

**4-12A.06. NONSMOKING DESIGNATIONS FOR NEW UNITS OF A COMMON INTEREST
COMPLEX.**

(a) Up to one-hundred percent (100%), but no less than eighty percent (80%), of New Units of a

1 Common Interest Complex shall be permanently designated as nonsmoking Units by the Person or
2 Persons causing the construction of the New Units.

3 (b) Smoking in a designated nonsmoking Unit is a violation of this chapter as provided in Section
4-12A.08.

4 (c) Designated nonsmoking Units shall not share a ventilation system with a Unit in which
5 Smoking may be allowed. To the maximum extent practicable, nonsmoking Units shall be grouped
6 together vertically and horizontally and physically separated from Units where Smoking may be
7 allowed. Where possible, all units where Smoking may be allowed shall be in a single building of a
8 multi-building Multi-Unit Residence.

9 (d) The designations required by subsection (a) above shall be permanent; shall be submitted in
10 accordance with Section 4-12A.09; and shall be submitted by the Person who controls the Multi-Unit
11 Residence in which the New Unit is located prior to any sale or lease of a New Unit and before a New
12 Unit is occupied. The submitted designations must contain a description of each designated
13 nonsmoking Unit sufficient to identify the Unit and must be accompanied by a diagram depicting the
14 location of the designated nonsmoking Units in relation to all other Units.

11 **4-12A.07. REQUIRED AND IMPLIED LEASE TERMS FOR ALL NEW AND EXISTING**
12 **UNITS IN RENTAL COMPLEXES.**

13 (a) Every lease or other rental agreement for the occupancy of a Unit in a Rental Complex,
14 including, for example, New Units and existing Units, entered into, renewed, or continued month-to-
15 month after July 1, 2012, shall include the provisions set forth in subsection (b) below on the earliest
16 possible date when such an amendment is allowable by law when providing the minimum legal
17 notice.

18 (b) Every lease or other rental agreement for the occupancy of a Unit in a Rental Complex,
19 including, for example, New Units and existing Units, entered into, renewed, or continued month-to-
20 month after July 1, 2012, shall be amended to include the following provisions:

21 (1) A clause providing that as of July 1, 2013, it is a material breach of the agreement to allow
22 or engage in Smoking in the Unit unless the Landlord has supplied written notice that the Unit has
23 not been designated a nonsmoking Unit and no other prohibition against Smoking applies. Such a
24 clause might state, "It is a material breach of this agreement for tenant or any other person subject
25 to the control of the tenant or present by invitation or permission of the tenant to engage in
26 smoking in the unit as of July 1, 2013 unless landlord has provided written notice that the unit has
27 not been designated a nonsmoking unit and smoking in the unit is not otherwise prohibited by this
28 agreement, other agreements, or by law."

(2) A clause providing that it is a material breach of the agreement for tenant or any other
Person subject to the control of the tenant or present by invitation or permission of the tenant to
engage in Smoking in any Common Area of the property other than a designated Smoking area.
Such a clause might state, "It is a material breach of this agreement for tenant or any other person
subject to the control of the tenant or present by invitation or permission of the tenant to engage in
smoking in any common area of the property, except in an outdoor designated smoking area, if
one exists."

(3) A clause providing that it is a material breach of the agreement for tenant or any other

1 Person subject to the control of the tenant or present by invitation or permission of the tenant to
2 violate any law regulating Smoking while anywhere on the property. Such a clause might state, "It
3 is a material breach of this agreement for tenant or any other person subject to the control of the
tenant or present by invitation or permission of the tenant to violate any law regulating smoking
while anywhere on the property."

4 (4) A clause expressly conveying third-party beneficiary status to all occupants of the Rental
5 Complex as to the Smoking provisions of the agreement. Such a clause might state, "Other
6 occupants of the property are express third-party beneficiaries of those provisions in this agreement
that concern smoking. As such, other occupants of the property may seek to enforce such provisions
by any lawful means, including by bringing a civil action in a court of law."

7 (c) Whether or not a Landlord complies with subsections (a) and (b) above, the clauses required
8 by those subsections shall be implied and incorporated by law into every agreement to which
9 subsections (a) or (b) apply and shall become effective as of the earliest possible date on which the
Landlord could have made the insertions pursuant to subsections (a) or (b).

10 (d) A tenant who breaches a Smoking provision of a lease or other rental agreement for the
11 occupancy of a Unit in a Rental Complex, or who knowingly permits any other Person subject to the
12 control of the tenant or present by invitation or permission of the tenant, shall be liable for the breach
to: (i) the Landlord; and (ii) any occupant of the Rental Complex who is exposed to Smoke or who
suffers damages as a result of the breach.

13 (e) This chapter shall not create additional liability in a Landlord to any Person for a tenant's
14 breach of any Smoking provision in a lease or other rental agreement for the occupancy of a Unit in a
15 Rental Complex if the Landlord has fully complied with this Section and Section 4-12A.06.

16 (f) Failure to enforce any Smoking provision required by this chapter shall not affect the right to
17 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.

18 **4-12A.08. SMOKING PROHIBITED BY LAW IN CERTAIN AREAS.**

19 (a) Smoking in a Common Area, on or after July 1, 2012, other than in a designated Smoking area
20 established pursuant to Section 4-12A.02, is a violation of this chapter.

21 (b) Smoking in a designated nonsmoking Unit, on or after July 1, 2013, is a violation of this
chapter.

22 (c) No Person shall engage in Smoking in any Nonsmoking Area.

23 (d) No Person with legal control over any Nonsmoking Area shall permit Smoking in the
24 Nonsmoking Area, except as provided in Section 4-12A.07(e).

25 **4-12A.09. PROCEDURES AND REQUIREMENTS FOR MANDATED SUBMISSIONS.**

26 (a) Submissions required by this chapter must be received by the Huntington Park Police
27 Department Code Enforcement Division on or before any applicable due date. The submissions shall
28 include all material and information required by this chapter and such other materials and information
as the Huntington Park Police Department Code Enforcement Division deems necessary for the

1 administration and enforcement of this chapter.

2 (b) All material and information submitted pursuant to this chapter constitute disclosable public
3 records and are not private or confidential.

4 **4-12A.10. SMOKING AND SMOKE GENERALLY.**

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

12 (b) For all purposes within the jurisdiction of the City of Huntington Park, nonconsensual
13 exposure to Smoke occurring on or drifting into residential property is a nuisance, and the uninvited
14 presence of Smoke on residential property is a nuisance and a trespass.

15 **4-12A.11. PENALTIES AND ENFORCEMENT.**

16 (a) The remedies provided by this chapter are cumulative and in addition to any other remedies
17 available at law or in equity.

18 (b) Every instance of Smoking in violation of this chapter is an infraction subject to a one hundred
19 dollar (\$100) fine. Other violations of this chapter may, in the discretion of the City Prosecutor, be
20 prosecuted as infractions when the interests of justice so require. Enforcement of this chapter shall be
21 the responsibility of the Huntington Park Police Department Code Enforcement Division. In addition,
22 any peace officer also may enforce this chapter.

23 (c) Violations of this chapter are subject to a civil action brought by the City of Huntington Park,
24 punishable by a civil fine not less than two hundred fifty dollars (\$250) and not exceeding one
25 thousand dollars (\$1,000) per violation.

26 (d) No Person shall intimidate, harass, or otherwise retaliate against any Person who seeks
27 compliance with this chapter. Moreover, no Person shall intentionally or recklessly expose another
28 Person to Smoke in response to that Person's effort to achieve compliance with this chapter. Violation
of this subsection shall constitute a misdemeanor.

(e) Causing, permitting, aiding, or abetting a violation of any provision of this chapter shall also
constitute a violation of this chapter.

(f) Any violation of this chapter is hereby declared to be a public nuisance.

(g) In addition to other remedies provided by this chapter or otherwise available at law or in
equity, any violation of this chapter may be remedied by a civil action brought by the City Attorney,
including, without limitation, administrative or judicial nuisance abatement proceedings, civil or
criminal code enforcement proceedings, and suits for injunctive relief.

(h) Except as otherwise provided, enforcement of this chapter is at the sole discretion of the City

1 of Huntington Park. Nothing in this chapter shall create a right of action in any Person against the
2 City of Huntington Park or its agents to compel public enforcement of this chapter against private
3 parties.

4 **4-12A.12. PRIVATE ENFORCEMENT.**

5 (a) Any Person, including a legal entity or organization or a government agency, acting for the
6 interests of itself, its members, or the general public may bring a civil action to enforce this chapter.
7 Upon proof of a violation, a court shall award the following:

8 (1) Damages in the amount of either:

9 (i) upon proof, actual damages; or

10 (ii) with insufficient or no proof of damages, \$500 for each violation of this chapter
11 (hereinafter "Statutory Damages"). Each day of a continuing violation shall constitute a
12 separate violation. Notwithstanding any other provision of this chapter, no Person suing on
13 behalf of the general public shall recover Statutory Damages based upon a violation of this
14 chapter if a previous claim brought on behalf of the general public by another Person for
15 Statutory Damages and based upon the same violation has been adjudicated, whether or not
16 the Person bringing the subsequent claim was a party to the prior adjudication.

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

20 (b) The Person may also bring a civil action to enforce this chapter by way of a conditional
21 judgment or an injunction. Upon proof of a violation, a court shall issue a conditional judgment or an
22 injunction.

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

28 (d) Nothing in this chapter prohibits a Person from bringing a civil action in small claims court to
enforce this chapter, so long as the amount in demand and the type of relief sought are within the
jurisdictional requirements of that court.

SECTION 3. It is the intent of the City Council of the City of Huntington Park to supplement
applicable state and federal law and not to duplicate or contradict such law and this Ordinance shall be
construed consistently with that intention. If any section, subsection, subdivision, paragraph, sentence,
clause or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held
to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or
enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or
phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the
City of Huntington Park hereby declares that it would have adopted each section, subsection, subdivision,
paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections,

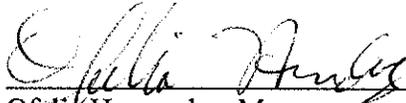
1 subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or
unenforceable.

2 **SECTION 4.** This Ordinance shall take effect thirty (30) days after its final passage by the City
3 Council.

4 **SECTION 5.** The City Clerk shall certify as to the adoption of this Ordinance.

5
6 **PASSED, APPROVED, AND ADOPTED** this 5th day of March, 2012.

7
8 **CITY OF HUNTINGTON PARK**

9 
10 _____
Ofelia Hernandez, Mayor

11
12 **ATTEST:**

13 
14 _____
15 Rosanna Ramirez, City Clerk

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ATTEST:

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS
CITY OF HUNTINGTON PARK)

I, Rosanna M. Ramirez, City Clerk of the City of Huntington Park, California, do hereby certify that the whole number of members of the City Council of said City is five; that the foregoing Ordinance, being Ordinance No. 882-NS, was duly passed and adopted by the City Council of the City of Huntington Park, approved and signed by the Mayor of said City, and attested to by the City Clerk of said City, all at a regular meeting of the City Council held on the 5th day of March, 2012, and that the same was so passed and adopted by the following vote, to wit:

AYES: Council Members – Gomez, Molina, Guerrero, Perez, Hernandez

NOES: Council Members – None

ABSENT: Council Members – None

ABSTAIN: Council Members – None



City Clerk

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ATTEST:

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS
CITY OF HUNTINGTON PARK)

I, Rosanna M. Ramirez, City Clerk of the City of Huntington Park, California, do hereby certify that the City Council approved Ordinance No. 882-NS, FOR FIRST READING ONLY at a regular meeting held the 21st day of February, 2012. A copy of Ordinance No. 882-NS was posted in the City Clerk's Office on the 22nd day of February, 2012.



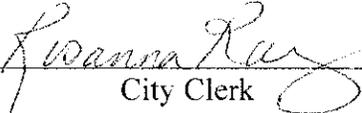
City Clerk

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ATTEST:

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS
CITY OF HUNTINGTON PARK)

I, Rosanna Ramirez, City Clerk of the City of Huntington Park, California, do hereby certify that the City Council approved Ordinance No. 882-NS, FOR SECOND AND FINAL READING at a regular meeting held the 5th day of March, 2012. A copy of Ordinance No. 882-NS was posted in the City Clerk's Office on the 15th day of March, 2012.



City Clerk