



REPORT TO COUNCIL City of Sacramento

915 I Street, Sacramento, CA 95814-2671
www.CityofSacramento.org

STAFF REPORT
December 5, 2006

Honorable Mayor and
Members of the City Council

Title: Resolution Encouraging Landlords and Property Managers of Multi-Unit Housing to Designate at Least 25% of Existing Rental Units as Non-Smoking

Location/Council District: City-wide

Recommendation: This report transmits a **Resolution** encouraging landlords and property managers of multi-unit housing to designate at least 25 percent of existing rental units as non-smoking for Council consideration and possible action.

Contact: Max Fernandez, Director of Code Enforcement, (916) 808-7940; Bob Rose, Code Enforcement Manager, (916) 808-5947

Presenters: Max Fernandez, Director of Code Enforcement; Bob Rose, Code Enforcement Manager

Department: Code Enforcement

Division: Business Compliance

Organization No: 4652

Description/Analysis

Issue: Substantial research and evidence has concluded that secondhand smoke is a serious public health hazard. Non-smokers residing in rental units and apartment buildings are often exposed to tobacco smoke from other tenants who smoke. The California Air Resources Board recently declared secondhand smoke as a toxic air contaminant.

Policy Considerations: If the attached resolution is approved, the City of Sacramento would become the first city in California to adopt a resolution addressing smoking within rental units by encouraging landlords and property managers to designate at least 25% of rental units as non-smoking. The Sacramento County Tobacco Education Program (TEP) would provide the City with plaques as needed to recognize multi-housing unit owners and managers that designate at least 25% of their contiguous units as smoke-free. TEP will also provide media advertising to encourage participation and provide lists of those smoke-free multi-housing units to the public.

Committee Recommendations: None.

Environmental Considerations: This recommendation does not constitute a "project" and therefore is exempt from the California Environmental Quality Act (CEQA) according to Section 15061 (b)(1) and 15378(b)(3) of the CEQA guidelines.

Rationale for Recommendations: This proposal is presented to the City Council based on the evidence that secondhand smoke is a serious health issue. The resolution is part of the City of Sacramento's continuous efforts of enacting tobacco control measures and is consistent with the Code Enforcement Department's goal of maintaining and improving the quality of life through fair and equitable enforcement of health, safety and nuisance codes.

Financial Considerations: This report has no fiscal implications.

Emerging Small Business Development (ESBD): Not applicable. No goods or services are being purchased.

Respectfully Submitted by:


MAX B. FERNANDEZ
Code Enforcement Director

Recommendation Approved:

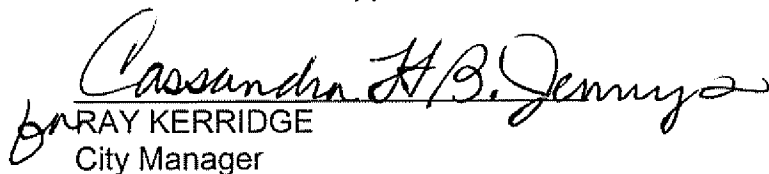

RAY KERRIDGE
City Manager

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Attachment 1**Background**

State and local laws currently prohibit smoking in most common public areas such as workplaces and restaurants. Many cities and counties have adopted anti-smoking ordinances relating to common areas and outside restrictions. Due to the overwhelming evidence of the secondhand smoke danger, limiting smoking in rentals is beginning to receive more attention. Some jurisdictions have considered adopting ordinances, while a few have adopted ordinances specifically prohibiting smoking within apartment or rental complexes. According to the State Department of Health, only 14 percent of California residents currently smoke. However, tobacco use still remains the number one preventable cause of death in California, killing more than 40,000 people each year.

The City has taken an active role in reducing smoking since first amending the City Code in 1985 and more recently has pursued ordinances that regulate smoking:

- Code Section 8.80.140 limits smoking to within 20 feet of any opening to a City building during its usual hours of operation;
- Code Section 5.138 requires tobacco retailers to obtain a license to sell tobacco-related products within the City limits. As a result, underage sting operations have resulted in a decrease of illegal sales of tobacco products to minors from 27% to 7% since implementation in March 2004.

California recently became the first state in the nation to designate secondhand smoke as a "toxic air contaminant." The California State Air Resources Board unanimously voted to place secondhand smoke in the same categories as arsenic and benzene. The board voted to target environmental tobacco smoke on the basis of studies linking secondhand smoke to increased cases of breast cancer, heart disease, asthma and reproductive problems among non-smokers.

Goodwin Simon Strategic Research conducted a survey with 600 apartment renters and with 300 apartment owners and managers resulting in 69% of renters and 57% of owners/managers favoring non-smoking sections. Support for smoke-free apartments rises to 67% among owner/managers when they learn such regulations would protect people from second-hand smoke and reduce their fire insurance premiums. Most apartment owners/managers are willing to put aside a sizable proportion of smoke-free apartment units. The median proportion of units they are willing to set aside is 50 percent. Only ten percent of apartment managers/owners were unwilling to set aside any non-smoking units.

A recent statewide survey of 602 apartment residents demonstrated broad support for smoke-free areas in apartment complexes. The survey, commissioned by the American Lung Association of California's Center for Tobacco Policy and Organizing, found that almost half of the residents experienced tobacco smoke drifting into their units and 69% would favor requiring all apartment buildings to offer nonsmoking sections. Ninety percent of tenants believe exposure to secondhand smoke is harmful, with 70% saying it is very harmful. Of the tenants who believe exposure to be very harmful, 81% endorse separate nonsmoking sections in apartment buildings.

The Sacramento Housing and Redevelopment Agency is working with residents of public housing to determine the best method to implement smoke free housing within the Housing Authority owned units. The Resident Advisory Board will finalize a survey for residents to determine their preferences for living in smoke free apartment units. Once the survey data is collected and tabulated, the Housing Authority will develop an implementation plan to address the needs of residents regarding designation of smoke free units, information on second hand smoke and smoking cessation information. The survey is being conducted in conjunction with consultants from Resources and Education Supporting People Everywhere Controlling Tobacco (RESPECT) and the County of Sacramento.

The State Treasurer's office now awards an extra point in scoring for competitive Low-Income Housing Tax Credits for any multi-family rental project that will contain nonsmoking buildings or sections of buildings. Nonsmoking sections must consist of at least half the units within the building, and those units must be contiguous (California Code of Regulations Title 4, Division 17, Chapter 1, Section 10325(8)).

RESOLUTION NO.

Adopted by the Sacramento City Council

**RESOLUTION ENCOURAGING LANDLORDS AND PROPERTY MANAGERS OF
MULTI-UNIT HOUSING TO DESIGNATE AT LEAST 25% OF EXISTING RENTAL
UNITS AS NON-SMOKING**

BACKGROUND

- A. The City of Sacramento has been a leader in protecting its citizens by enacting measures for tobacco control; and
- B. The California Air Resources Board declared Secondhand Smoke a Toxic Air Contaminant in 2006; and
- C. Tobacco use and exposure to secondhand smoke impose great social and economic costs; and
- D. Most Californians do not smoke and a majority favor limitations on smoking in multi-unit residences; and
- E. State law prohibits smoking in virtually all indoor places of employment reflecting the state policy to protect against the dangers of exposure to secondhand smoke; and
- F. Restrictions on indoor smoking motivate smokers to quit and help former smokers remain smoke-free.

**BASED ON THE FACTS AS SET FORTH IN THE BACKGROUND, THE CITY
COUNCIL RESOLVES AS FOLLOWS:**

- Section 1. The City of Sacramento encourages landlords and property managers of multi-unit rental housing to protect the health of residents by designating at least 25% of existing units as non-smoking, including private patios and balconies.
- Section 2. The City of Sacramento supports landlords and property managers who create entirely smoke-free buildings within a multi-unit housing complex.
- Section 3. The City of Sacramento will publicly recognize those landlords and property managers who choose to designate at least 25% of existing units as non-smoking, or who create entirely smoke-free buildings within a multi-unit housing complex.

Attachment 3**Smoking Regulations from Sample Jurisdictions**

| Jurisdiction | Key Provisions Relating to Non-Smoking Rental Units | Enforcement/ Penalties | Application/ Comments |
|------------------------|---|--|--|
| City of Calabasas | The "Comprehensive Second-Hand Smoke Control Ordinance" prohibits smoking in all public places at times when other persons can be exposed to second-hand smoke. This includes indoor and outdoor businesses, hotels, parks, sidewalks, restaurants and bars where people can be reasonably expected to congregate or meet. The ordinance also designates at least 80% of hotel or motel rooms as non-smoking. | Any violation shall constitute a misdemeanor; citizens may also bring civil action. | The ordinance is one of strictest in the nation in regards to secondhand smoke. |
| City of West Hollywood | The city plans to publicize that landlords now can declare smoke-free units in their properties under existing laws. Landlords will be able to list units and buildings as smoking or nonsmoking with a city registry. When a non-smoking tenant files a complaint concerning smoke drifting in from a neighbor's apartment, the city will arbitrate the conflict. The City Council also adopted an ordinance outlawing self-service tobacco displays, typically found in convenience stores. | People who refuse to mediate or who violate arbitration agreements could potentially face fines and eviction. | Most West Hollywood residents are renters, with an estimated 65% living in apartments and 24% living in condominiums. |
| City of Thousand Oaks | Resolution adopted requiring the inclusion of a contractual condition of funding for all future publicly-assisted rental residential projects designating one-third of all approved units as smoke free units and prohibiting smoking inside of the units. | No specific penalties; the City shall monitor the progress of this policy with written reports with the consideration of increasing the prohibition of smoke to a higher percentage. | Applies only to publicly-assisted rental residential housing. The "Smoking Prohibition Group" has considered the policy issues in adopting this ordinance. |

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RESPECT

Attachment 4

Resources and Education
Supporting People Everywhere
Controlling Tobacco

August 22, 2006

Mayor Heather Fargo and
Sacramento City Council Members
915 I Street
Sacramento, CA 95814-2671

RE: **Smoke-Free Multi-Unit Housing Resolution**

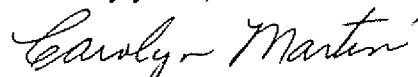
Dear Mayor Fargo and Council Members:

Sacramento has the opportunity to maintain its position as the local government leader in tobacco control with approval of the proposed Resolution urging 50% smoke-free multi-unit housing. Although Californians enjoy smoke-free workplaces and even some protection from Second Hand Smoke outdoors, two areas of peril remain: inside cars and in multi-unit dwellings.

The January 2006 declaration of the California Air Resources Board that Second Hand Smoke is a Toxic Air Contaminant with no safe level of exposure was followed this summer with the Surgeon General's Report. Dr. Richard Carmona was unequivocal. "The debate is over. The science is clear. Secondhand smoke is not a mere annoyance, but a serious health hazard. . . There is no risk-free level of exposure to secondhand smoke".

The Resolution will serve to educate both apartment house owners/managers and renters that smoke-free is perfectly legal and essential for good health. Polling data as summarized in the staff reports shows strong support. Based on responses at many RESPECT workshops for owners/managers, it appears that the biggest obstacle is the tobacco industry propaganda that smokers have "rights". Once convinced that this is absolutely false, the questions quickly shift to "how" to make the change to smoke-free. The California Rental Housing Association has created a lease addendum and published a legal opinion on the smoke-free choice. Protecting tenants from Second Hand Smoke exposure is good for business and good for health.

Sincerely yours,



Carolyn B. Martin, Consultant
RESPECT

A STATEWIDE PROJECT OF THE



AMERICAN LUNG ASSOCIATION
of the East Bay

When You Can't Breathe,
Nothing Else Matters

"Our vision is to transform the Sacramento County into
a Smoke Free Society in the 21st Century."



September 25, 2006

Mayor Heather Fargo and
Sacramento City Council Members
915 I Street
Sacramento, CA 95814-2671

RE: Smoke-Free Multi-Unit Housing Resolution

Cathy Lumb-Edwards
Kaiser Permanente

Theresa Boschert
RESPECT

Laurie Comstock
Community at Large

Menalin Ganai
Sacramento Chinese
Community Center

Ann Knickelbein
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Dear Mayor Fargo and Council Members:

The Sacramento County Tobacco Control Coalition with representatives from over twenty-five organizations develops a master plan for tobacco control every three years. We determine priorities in a series of meetings based on extensive background information and community input. In our current plan, smoke-free multi-unit housing is a top priority.

The Coalition is co-sponsoring a booth at the Rental Housing Association Expo and our staff has worked with apartment house owners and managers who have decided to go smoke-free. Once educated that smokers have no "rights", the response has been very positive to our public health message and it is good for business given the high cost of preparing a smoker's unit for new tenants.

We have met several times with Sacramento Housing and Redevelopment Agency staff. As a first step, approximately 1500 affordable housing tenants will be surveyed this fall about smoke-free options and attitudes. The Tobacco Control Section of the County Health Department will evaluate all responses and work with SHRA to create a plan for the educational and policy changes needed to create smoke-free living opportunities.

We commend the Council for its past leadership on tobacco control. This Resolution will continue that proud history and be an opportunity to alert tenants and owners/managers that this is a wise and healthy choice. We are committed to providing maximum public recognition at no cost to the City for switches to smoke-free multi-unit housing. It's a logical and important step from smoke-free workplaces, and our polling shows it enjoys very strong public support.

Sincerely yours,

A handwritten signature in cursive script that reads "Cathy Lumb-Edwards".

Cathy Lumb-Edwards, Chairperson

