

TOBACCO AND MULTI-UNIT HOUSING

FULSTOP

• RESOURCES FOR PUBLIC STAKEHOLDERS •

Join the fight against
tobacco and health
disparities within the
City of Lemon Grove.

619-265-2959
fulstop@nilesisters.org

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**Families Uniting Locally to
Solve Tobacco Proliferation**



FULSTOP

Overview

FULSToP (Families Uniting Locally to Solve Tobacco Proliferation) is a community-based program designed to advance health equity and reduce tobacco-related health disparities among refugee, ethnic, and African American/Black communities in Southern California.

Collaborative Partners

- » Nile Sisters Development Initiative
- » The G.R.E.E.N. Foundation
- » Behavioral Assessment Inc.

Purpose

- » Establish a youth-led Community Advocacy Board
- » Champion smoke-free multi-unit housing (MUH) policies
- » Advocate smoke-free faith-based organizations
- » Campaign prohibition and restricted distribution of all flavored tobacco products, including menthol cigarettes

California Targets

Orange County

- » Anaheim
- » Lake Forest
- » Santa Ana

San Diego County

- » Lemon Grove
- » National City
- » Oceanside

Contact

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Funding

FULSToP contract 17–10977 receives funds from the California Department of Public Health, California Tobacco Control Program, through the Proposition 56 California Healthcare, Research, and Prevention Tobacco Act of 2016.



Multi-Unit Housing Policies

County Orange | Laguna Woods only
Date Passed 03 / 2011
Smoke Prohibitions In-Unit All patios and balconies in all apartment and condominium complexes with two or more units.
Smoke Prohibitions Common Areas All indoor and outdoor apartment and condominium housing.
Disclosure The city must make property owners and managers aware of multi-unit housing non-smoking policies.
Nuisance No
Enforcement Enforced by the city manager. Violations are a legal infraction, punishable with a \$50 maximum fine.

County San Diego | El Cajon only
Date Passed 08 / 2007
Smoke Prohibitions In-Unit All indoor and outdoor.
Smoke Prohibitions Common Areas Landlords may permit smoking in outdoor areas that meet certain criteria.
Disclosure None
Nuisance No
Enforcement Enforced by the city manager. Violations are either a legal misdemeanor or an infraction, punishable with a fine.

Compiled by The American Lung Association in California Center for Tobacco Policy and Organizing. Policies for all California counties available online: tinyurl.com/yajh3mgk

Program Funding

FULSTOP contract 17–10977 receives funds from the California Department of Public Health, California Tobacco Control Program, through the Proposition 56 California Healthcare, Research, and Prevention Tobacco Act of 2016.

**AN ORDINANCE OF THE CITY OF LEMON GROVE PROHIBITING
SMOKING IN AND AROUND MULTIUNIT RESIDENCES AND
AMENDING [CHAPTER XX] OF [TITLE X] OF THE MUNICIPAL CODE**

The City Council of the City of Lemon Grove does ordain as follows:

SECTION 1. FINDINGS

WHEREAS, secondhand smoke has repeatedly been identified as a health hazard, as evidenced by the following:

- The U.S. Surgeon General concluded that there is no risk-free level of exposure to secondhand smoke;
- The California Air Resources Board categorized secondhand smoke as a toxic air contaminant, along with most toxic automotive and industrial air pollutants, for which there is no safe level of exposure;
- The California Environmental Protection Agency (EPA) included secondhand smoke on the Proposition 65 list of chemicals known to the state of California to cause cancer, birth defects, and other reproductive harm;
- The American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) recommends that multiunit housing be free from secondhand smoke, cannabis smoke, and aerosol from electronic smoking devices;
- The American Heart Association has recommended all adults and children be protected from smoking in multiunit housing;

WHEREAS, exposure to secondhand smoke causes death and disease, as evidenced by the following:

- Since 1964, approximately 2.5 million nonsmokers have died from health problems caused by exposure to secondhand smoke;
- Secondhand smoke was responsible for an estimated 34,000 heart disease–related and 7,300 lung cancer–related deaths among adult nonsmokers each year during 2005-2009 in the United States;
- Exposure to secondhand smoke increases the risk of coronary heart disease by about 25% to 30% and increases the risk of stroke by 20% to 30%;
- Secondhand smoke kills more than 400 infants every year;

WHEREAS, electronic-smoking-device aerosol is a health hazard, as evidenced by the following:

- Research has found that the aerosol from electronic smoking devices contains at least ten chemicals known to the State of California to cause cancer, birth defects, or other reproductive harm, such as formaldehyde, acetaldehyde, lead, nickel, and toluene;
- Electronic smoking device aerosol is not harmless water vapor as it contains varying concentrations of particles and chemicals, with some studies finding particle sizes and nicotine concentrations similar to, or even exceeding, conventional cigarette smoke;

- Evidence continues to show that exposure to aerosol from electronic smoking devices, including secondhand exposure, has immediate impacts on the human respiratory and cardiovascular systems, and likely poses a risk to human health;
- Given the increasing prevalence of electronic smoking device use, especially among youth and young adults, widespread nicotine exposure resulting in addiction and other harmful consequences is a serious concern;
- A number of health authorities, including the U.S. surgeon general, ASHRAE, and State of California's Tobacco Education and Research Oversight Committee (TEROC) all support inclusion of electronic smoking devices in regulations of smoking and other tobacco product use.

WHEREAS, secondhand cannabis smoke has been identified as a health hazard, as evidenced by the following:

- The California EPA included cannabis smoke on the Proposition 65 list of chemicals known to the state of California to cause cancer;
- Cannabis smoke contains at least 33 known carcinogens;
- In one study, exposure to cannabis smoke in an unventilated setting resulted in detectable levels of cannabinoids in non-smoker participants' blood and urine, and participants experienced minor increases in heart rate and impaired cognitive performance; and
- A recent systematic review of the literature concluded that secondhand exposure to cannabis smoke leads to cannabinoid metabolites in bodily fluids and individuals experiencing self-reported psychoactive effects.

WHEREAS, individuals who live in multiunit dwellings can be exposed to neighbors' secondhand smoke, as evidenced by the following:

- Several peer-reviewed studies on drifting secondhand smoke in multiunit housing have confirmed that secondhand smoke transfers between units seeping into smoke-free areas from areas where smoking occurs;
- Residents of multiunit housing have higher levels of cotinine (a biomarker for nicotine) in their blood and saliva than those living in detached houses;
- Surveys have found that 65% to 90% of multiunit housing residents who experience secondhand smoke in their home are bothered by it;
- Between 44% and 46.2% of Californians living in multiunit housing with personal smoke-free home policies are exposed to secondhand smoke in their home;

WHEREAS, harmful residues from tobacco smoke can be absorbed by and cling to virtually all indoor surfaces long after smoking has stopped and then be emitted back into the air, making this "thirdhand smoke" a potential health hazard, as evidenced by the following:

- Thirdhand smoke contains carcinogenic materials that accumulate over time, presenting a health hazard long after the initial smoke is gone;
- A study found that thirdhand smoke remains months after nonsmokers have moved into units where smokers previously lived;

- Human exposure to these thirdhand smoke carcinogens can occur through inhalation, ingestion, or skin absorption through contact with carpeting, furnishings, or clothing;
- Thirdhand smoke potentially poses the greatest danger to infants and toddlers, who crawl on rugs and furnishings and place household items in their mouths;
- Nonsmokers who are exposed to thirdhand smoke have significantly higher nicotine and cotinine levels than those who have not been exposed to thirdhand smoke;
- Research has shown that thirdhand smoke damages human cellular DNA;

WHEREAS, smoking is a leading cause of fire-related injury and death, and contributes to health inequities, as evidenced by the following:

- In 2014, U.S. fire departments responded to an estimated 17,200 smoking-related structure fires, which resulted in an estimated 1,140 injuries, 570 deaths, and \$426 million in direct property damage;
- In 2014, smoking materials caused 5% of reported home fires, 21% of home fire deaths, 10% of home fire injuries, and 6% of the direct property damage from home fires;
- African-American males and American-Indian males have the highest mortality rate among fire-related deaths; African Americans accounted for 21% of all fire-related deaths in 2015, but made up only 13% of the U.S. population;
- Elderly people 85 or older have the highest fire death rate (39.5%), and the risk of dying from smoking-related fires increases with age;

WHEREAS, 32% of Californians (approximately 11.8 million people) live in multiunit housing, which accounts for one-seventh of the total multiunit housing population in the country;

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;

WHEREAS, smoke-free housing policies resulted in a roughly 8% reduction in self-reported exposure to secondhand smoke exposure for racially and ethnically diverse seniors living in low-income multiunit housing properties;

WHEREAS, several studies have confirmed that smoke-free multiunit housing policies are the most effective method to reduce secondhand smoke exposure in multiunit housing;

WHEREAS, secondhand smoke exposure in multiunit housing contributes to tobacco-related health inequities. For example, in California, when compared with adults who live in single family homes, adults who live in multiunit housing are more likely to be:

- People of color (63% of residents of multiunit homes versus 49.6% of residents of single family homes);
- Lower-income or below the poverty line (46.8% versus 27%);
- Lacking a high school diploma (21.4% versus 14.8%);

- Current smokers (17.5% versus 13.2%); as well as
- Uninsured (23.4% versus 14.2%);

WHEREAS, secondhand smoke in multiunit housing is a significant threat to the health and safety of California children, as evidenced by the following:

- About a quarter of those who live in multiunit housing (25.2%) are under the age of 18;
- The home is the primary source of secondhand smoke for children;
- 56.4% of youth living in apartment units in which no one smokes have elevated blood cotinine levels above 0.05 ng/mL, indicating they have been exposed to potentially dangerous levels of secondhand smoke;
- Children who live in apartments have mean cotinine levels that are 45% higher than cotinine levels in children who live in detached homes;

WHEREAS, a majority of multiunit housing residents, including a significant number of smokers, support smoke-free policies in multiunit residences, as evidenced by the following:

- 73.7% of United States adults surveyed favor smoke-free public housing;
- 61% of Californians surveyed favor limiting smoking inside apartment units and 69% would support limiting smoking in outdoor common areas of apartment buildings;

WHEREAS, there are significant savings from adopting a smoke-free multiunit housing policy, as evidenced by the following:

- HUD's smoke-free public housing policy is estimated to produce an annual savings of 4 to 8 million dollars a year for public housing authorities in renovation-related costs;
- Multiunit housing property owners in California would save \$18.1 million in renovation expenses each year;

WHEREAS, California state law allows local governments to adopt ordinances that permit residential rental agreements to prohibit smoking tobacco products within rental units;

WHEREAS, at least 90 California cities and counties have adopted smoke-free multiunit housing ordinances, and at least 51 of these jurisdictions have restricted smoking in at least 75% of units;

WHEREAS, there is no Constitutional right to smoke;

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

WHEREAS, local governments have broad latitude to declare nuisances and are not constrained by prior definitions of nuisance;

NOW THEREFORE, it is the intent of the city council in enacting this ordinance, to provide for the public health, safety, and welfare by discouraging the inherently dangerous behavior of

smoking around nontobacco users; by protecting children from exposure to smoking where they live and play; and by protecting the public from involuntary exposure to secondhand smoke in and around their homes.

SECTION 2. DEFINITIONS.

For the purposes of this chapter the following definitions shall govern unless the context clearly requires otherwise:

- (a) “Adjacent Unenclosed Property” means any unenclosed area of property, publicly or privately owned, that abuts a multiunit residence, but does not include property containing detached single-family homes.
- (b) “Cannabis” has the meaning set forth in California Business and Professions Code section 26001, as that section may be amended from time to time.
- (c) “Common Area” means every area of a multiunit residence that residents of more than one unit are entitled to enter or use, including, but not limited to, halls, pathways, lobbies, courtyards, elevators, stairs, community rooms, playgrounds, gym facilities, swimming pools, parking garages, parking lots, grassy or landscaped areas, restrooms, laundry rooms, cooking areas, and eating areas.
- (d) “Common interest development” means:
 - (1) A community apartment project as defined in California Civil Code section 4105, or any successor legislation;
 - (2) A condominium project as defined in California Civil Code section 4125, or any successor legislation;
 - (3) A planned development as defined in California Civil Code section 4175, or any successor legislation; and
 - (4) A stock cooperative as defined in California Civil Code section 4190, or any successor legislation.

“Electronic smoking device” means any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah.

- (e) “Enclosed Area” means all space between a floor and a ceiling that is bounded by walls, doorways, or windows, whether open or closed, covering more than 50 percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent.
- (f) “Home owners’ association or “HOA” means an organization or entity established for the purpose of managing and/or maintaining a common interest development. A homeowners’

association shall also mean “association” as defined in California Civil Code section 4080, or any successor legislation.

- (g) “Landlord” means any person or agent of a person who owns, manages, or is otherwise legally responsible for a unit in a multiunit residence that is leased to a residential tenant. For purposes of this ordinance, a tenant who sublets their unit (e.g., a sublessor) is not a landlord.
- (h) “Multiunit Residence” means property containing two or more units, including, but not limited to, apartment buildings, common interest developments, senior and assisted living facilities, and long-term health care facilities. Multiunit residence does not include the following:
- (1) A hotel or motel that meets the requirements of California Civil Code section 1940(b)(2);
 - (2) a mobile home park;
 - (3) a campground;
 - (4) a marina or port;
 - (5) A single-family home, except if used as a health care facility subject to licensing requirements; and
 - (6) a single-family home with a detached or attached in-law or second unit permitted pursuant to California Government Code sections 65852.1, 65852.150, 65852.2 or an ordinance of the City of Lemon Grove adopted pursuant to those sections, except if the single-family home or in-law/second unit is used as a health care facility subject to licensing requirements.
- (i) “Nonsmoking Area” means any area in which smoking is prohibited by
- (1) this [chapter / article] or other law;
 - (2) binding agreement relating to the ownership, occupancy, or use of real property; or
 - (3) a person with legal control over the area.
- (j) “Person” means any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity, including government agencies.
- (k) “Smoking” means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco, nicotine, or plant product intended for inhalation, including hookah and cannabis, whether natural or synthetic. Smoking includes the use of an electronic smoking device.

Smoking, as defined in this [chapter/article] does not include the use of traditional, sacred tobacco as part of an indigenous practice or a lawfully recognized religious, spiritual, or cultural ceremony or practice.

- (l) “Unenclosed Area” means any area that is not an enclosed area.
- (m) “Unit” means a personal dwelling space, even one lacking cooking facilities or private plumbing facilities, and includes any associated exclusive-use enclosed area or unenclosed area, such as a private balcony, porch, deck, or patio. “Unit” includes, without limitation, an apartment; a condominium; a townhouse; a room in a senior facility; a room in a long-term health care facility, assisted living facility, or hospital; a room in a hotel or motel; a dormitory room; a room in a single-room occupancy facility; a room in a homeless shelter; a mobile home; a camper vehicle or tent; a single-family home; and an in-law or second unit.

SECTION 3. SMOKING RESTRICTIONS IN ALL UNITS OF MULTIUNIT RESIDENCES.

Smoking is prohibited in all units of a multiunit residence and any associated exclusive-use enclosed areas or unenclosed areas, including, but not limited to, private balconies, porches, decks, or patios, whether enclosed or unenclosed

SECTION 3. SMOKING PROHIBITED IN COMMON AREAS.

- (a) Smoking in a common area, other than in a designated Smoking area established pursuant to subsection (b), is a violation of this chapter.
- (b) A person with legal control over a common area, such as a landlord or homeowners’ association, may designate a portion of the common area as a designated smoking area provided the designated smoking area complies with paragraph (c) below at all times.
- (c) A designated smoking area:
 - (1) Must be an unclosed area;
 - (2) Must be at least thirty feet from unenclosed areas primarily used by children and unenclosed areas with improvements that facilitate physical activity including, but not limited to playgrounds, tennis courts, swimming pools, and school campuses;
 - (3) Must be located at least thirty feet from any nonsmoking area. The location of nonsmoking areas may change due to the new enactment of a law, execution of an agreement, or other event that affects the area’s nonsmoking designation. If an event occurs that changes a nonsmoking area, a person with legal control over a designated smoking area located less than thirty feet from that nonsmoking area must modify, relocate, or eliminate that designated smoking area so as to maintain compliance with the requirements of this subsection (c).

- (4) Must be no more than ten percent of the total unenclosed area of the multiunit residence for which it is designated;
 - (5) Must be identified by conspicuous signs; and
 - (6) Must not overlap with any enclosed or unenclosed area where smoking is prohibited by this chapter or other law.
- (d) No Person with legal control over a common area in which smoking is prohibited by this chapter or other law shall permit the presence of ashtrays, ashcans, or other receptacles designed for or primarily used for disposal of smoking waste within the area.

SECTION 4. NONSMOKING BUFFER ZONES.

Smoking is prohibited in adjacent unenclosed property located within thirty feet in any direction of any doorway, window, opening, or other vent into an enclosed area of a multiunit residence.

SECTION 5. REQUIRED AND IMPLIED LEASE TERMS FOR ALL UNITS IN MULTIUNIT RESIDENCES.

- (a) After [effective date], every lease or other rental agreement for the occupancy of a unit in a multiunit residence, entered into, renewed, or continued month to month shall be amended to include the following provisions:
- (1) A clause providing that as of the effective date of this ordinance, it is a material breach of the agreement to allow, or engage in, smoking in the unit, including exclusive-use areas such as balconies, porches, or patios.
 - (2) A clause providing that it is a material breach of the agreement for tenant to allow, or engage in, smoking in any common area of the multiunit residence other than a designated Smoking area.
 - (3) A clause providing that it is a material breach of the agreement for tenant to violate any law regulating smoking while anywhere on the property, or to allow any other person subject to the control of the tenant to engage in such behavior.
 - (4) A clause expressly conveying third-party beneficiary status to all occupants of the Multiunit Residence as to the Smoking provisions of the lease or other rental agreement.
- (b) The clauses required by subsections (a) above shall be implied and incorporated by law into every agreement to which subsections (a) applies and shall become effective as of the earliest possible date on which the landlord could have made the insertions pursuant to subsection (a).

- (c) A tenant who breaches, or allows any other person subject to the control of the tenant to breach, a smoking provision of a lease or other rental agreement for the occupancy of a unit in a multiunit residence shall be liable for the breach to (i) the landlord; and (ii) any occupant of the multiunit residence who is exposed to Smoke or who suffers damages as a result of the breach. A landlord shall not be liable to any person for a tenant's breach of smoking regulations if the landlord has fully complied with this section.
- (d) Failure to enforce any smoking provision required by this [article/chapter] 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.

SECTION 6. NOTICE AND SIGNAGE REQUIREMENTS FOR RENTAL PROPERTIES.

The following requirements apply to multiunit residences other than units in a common interest development that are not being rented:

- (a) Within [six months] of the effective date of this ordinance, every landlord shall deliver the following to each unit of a multiunit residence:
 - (1) a written notice clearly stating:
 - (i) All units are designated nonsmoking units, and smoking is illegal in a unit and any associated exclusive-use enclosed area or unenclosed area, including, but not limited to, a private balcony, porch, deck, or patio, as of effective date of this ordinance; and
 - (ii) Smoking in all common areas, except for specifically designated smoking areas, is a violation of this chapter as of the effective date of this ordinance.
 - (2) a copy of this ordinance.
- (b) As of the effective date of ordinance, every landlord shall provide prospective tenants with written notice clearly stating that:
 - (1) Smoking is prohibited in all units and any associated exclusive-use enclosed areas or unenclosed areas, including, but not limited to, private balconies, porches, decks, or patios, as of the effective date of this ordinance; and
 - (2) Smoking is prohibited in all common areas, except for specifically designated smoking areas, as of the effective date of this ordinance.

- (c) As of the effective date of the ordinance, the person or persons with legal control over common areas shall post clear and unambiguous “No Smoking” signs in sufficient numbers and locations in common areas where Smoking is prohibited by this chapter or other law. In addition, the person or persons with legal control over the multiunit residence shall post signs in sufficient numbers and locations in the multiunit residence to indicate that smoking is prohibited in all units. The person or persons with legal control over the common areas shall maintain such signs. The absence of signs shall not be a defense to a violation of any provision of this chapter. “No Smoking” signs are not required inside or on doorways of units, except for hotels or motels which meet the criteria listed in California Civil Code section 1940, subdivision (b)(2).
- (d) No Person with legal control over any nonsmoking area shall permit smoking in the nonsmoking area, except as provided in Section 3.
- (e) Landlords with knowledge of violations shall take reasonable steps to investigate and enforce the regulations, including a written notice to the resident of the landlord’s knowledge of the violation, a request to cease the violation, and the course of action to be taken if the violation is not corrected. [The landlord shall also provide resources provided for free by the city to assist with nicotine dependence such as referrals to quitline or online resources.]

SECTION X. NOTICE AND SIGNAGE REQUIREMENTS FOR COMMON INTEREST DEVELOPMENTS.

The following requirements apply to common interest developments:

- (a) Within [six months] of the effective date of this ordinance, the HOA shall provide the following to all owners of units:
- (1) a written notice clearly stating:
 - i. All units are designated nonsmoking units, and smoking is illegal in a unit and any associated exclusive-use enclosed area or unenclosed area, including, but not limited to, a private balcony, porch, deck, or patio, as of effective date of this ordinance; and
 - ii. Smoking in all common areas, except for specifically designated smoking areas, is a violation of this chapter as of the effective date of this ordinance.
 - (2) a copy of this ordinance.
- (b) As of the effective date of ordinance, every seller of a unit shall provide prospective buyers or renters, a copy of this ordinance and written notice clearly stating that:

- (1) Smoking is prohibited in all units and any associated exclusive-use enclosed areas or unenclosed areas, including, but not limited to, private balconies, porches, decks, or patios, as of the effective date of this ordinance; and
 - (2) Smoking is prohibited in all common areas, except for specifically designated smoking areas, as of the effective date of this ordinance.
- (c) As of the effective date of the ordinance, the HOA, or any person having legal ownership or control over common areas shall post clear and unambiguous “No Smoking” signs in sufficient numbers and locations in the common interest development to make it obvious to a reasonable person that smoking is prohibited throughout the common interest development. The absence of signs shall not be a defense to a violation of any provision of this ordinance.
 - (d) No Person with legal control over any nonsmoking area shall permit smoking in the nonsmoking area, except as provided in Section 3.
 - (e) A HOA with knowledge of violations shall take reasonable steps to investigate and enforce the regulations, including a written notice to the resident of the HOA’s knowledge of the violation, a request to cease the violation, and the course of action to be taken if the violation is not corrected. [The HOA shall also provide resources provided for free by the city to assist with nicotine dependence such as referrals to quitline or online resources.]

SECTION 7. NUISANCE; OTHER

- (a) The provisions of this chapter shall be liberally construed to protect the public health to the maximum effect possible. Notwithstanding (i) any provision of this chapter or of this code, (ii) any failure by any person to restrict smoking under this chapter, or (iii) any explicit or implicit provision of this code that allows 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, but not limited to, rights in nuisance, trespass, property damage, warranty of habitability, personal injury, or other legal or equitable principles.
- (b) For all purposes within the jurisdiction of the City of Lemon Grove, each incident of involuntary exposure to smoke occurring on or drifting into residential property is a nuisance, and the uninvited presence of smoke on residential property is a nuisance.
- (c) Any violation of this chapter by a landlord or HOA is hereby declared to be a public nuisance.
- (d) In addition to the provisions of this chapter, pursuant to California state law, Health and Safety Code sections 11362.3 and 11362.79, smoking cannabis is prohibited wherever smoking tobacco is prohibited.

- (e) Notwithstanding any provision to the contrary, nothing in this ordinance shall be interpreted to restrict or otherwise regulate the use of a drug, device, or combination product authorized for sale by the United States Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

SECTION 8. PENALTIES AND ENFORCEMENT.

- (a) The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.
- (b) Any person may initiate enforcement of this chapter by registering a complaint with the City Manager, or a designee.
- (c) Every instance of Smoking in violation of this chapter is an infraction subject to a [one hundred dollar] fine.
- (d) Enforcement of this chapter shall be the responsibility of City of Lemon Grove officials.
- (e) Landlords or HOAs found to have violated this chapter are subject to a civil fine not less than [\$250] and not exceeding [\$1,000] per violation.
- (f) Violations of this chapter are subject to a civil action brought by the City of Lemon Grove, punishable by a civil fine not less than \$250 and not exceeding \$1,000 per violation.
- (g) No Person shall intimidate, harass, or otherwise retaliate against any Person who seeks compliance with this chapter. Any person in violation of this subsection is subject to a civil fine not less than [\$250] and not exceeding [\$1,000] per violation.
- (h) Causing, permitting, aiding, or abetting a violation of any provision of this chapter shall constitute a violation of this chapter.
- (i) 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 code enforcement proceedings, and suits for injunctive relief.
- (j) Any violation of this chapter is hereby declared to be a public nuisance.
- (k) Any person, including a legal entity or organization acting for the interests of itself, its members, or the general public, may bring a civil action to enforce this chapter by way of

a conditional judgment or an injunction to prevent future such violations and may sue to recover such actual or statutory damages as he or she may prove.

- (l) Except as otherwise provided, enforcement of this chapter is at the sole discretion of the City of Lemon Grove. Nothing in this chapter shall create a right of action in any person against the City of Lemon Grove or its agents to compel public enforcement of this chapter against private parties.

SECTION II. CONSTRUCTION, SEVERABILITY.

It is the intent of the City Council of the City of Lemon Grove 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 Lemon Grove 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, subsections, subdivisions, paragraphs, sentences, clauses, or phrases hereof be declared invalid or unenforceable.

Quick Facts



Secondhand smoke includes the smoke breathed out by a smoker plus the smoke from the burning end of the cigarette.

The smoke contains poisons like arsenic, ammonia, and carbon monoxide.

Smoke-filled rooms can have six times more pollution than a crowded highway.

Smoke can drift into your apartment from outside and from the hallway.

Smoke can travel between apartments through the air vents.

Resources



Contact FULSToP
www.nilesisters.org/FULSToP
FULSToP@nilesisters.org

Orange County Partner
www.thegreenfoundation.net
info@thegreenfoundation.net

California Smokers' Helpline
1-800-NO-BUTTS
(1-800-662-8887)
www.nobutts.org

**Smokefree Apartment
House Registry**
1-818-363-4220
<http://smokefreeapartments.org>

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© 2008. Revised 2016. California Department of Public Health. Funded under contract #10-10046.
Produced and distributed by the Tobacco Education Clearinghouse of California, a project of ETR Associates.
www.TobaccoFreeCatalog.org

J838 - Custom



Healthy
Homes
Healthy
Families

The facts about
secondhand smoke
for tenants



Secondhand smoke hurts you and your family

Kids who breathe secondhand smoke regularly suffer from:

- Coughs and colds
- Ear infections
- Asthma attacks
- Bronchitis and pneumonia

Babies whose mothers breathe secondhand smoke while pregnant:

- Weigh less at birth
- Are more likely to die from Sudden Infant Death Syndrome (SIDS)

Adults are more likely to have:

- Lung cancer
- Heart disease
- Stroke
- Breathing problems

Secondhand smoke affects everyone.

Your pets suffer from secondhand smoke too. Dogs, cats, birds, and other pets can be hurt by tobacco smoke. They can breathe it in and may lick it off their fur.

Secondhand smoke can cause breathing problems and cancer in cats, dogs, and birds.



You have the right to breathe smoke-free air.



How to protect yourself and your family

- If you smoke, get help to quit. (Free helpline information is on the back of this brochure.)
- Post **No Smoking** signs in your home.
- Ask smokers to smoke outside, away from windows and doors.
- If smoke is drifting into your home, talk to your neighbors.
- If that doesn't help, report the problem to your building manager or landlord.
- Ask your building manager or landlord to create nonsmoking rules for your apartment building and common areas.

Share Walls, Not Smoke



When one person smokes, everyone in the building smokes.



When your neighbor smokes it can get into your home.

Smoke can travel through doors, windows, vents, pipes and cracks.

Smoke from your neighbors can hurt your family.

- You might feel headaches, or get heart problems.
- Your children could have more ear infections, lung problems and asthma.
- Pregnant women can get sick from this smoke too. The baby may be born premature or with a low birth weight.

Protect your family from smoke.

- Talk with neighbors. Let them know that the smoke is hurting your family.
- Ask your manager to make the building smoke free.

Add local information here

How secondhand smoke hurts babies and kids

Secondhand smoke hurts babies and children more than adults because their bodies are small and still growing.



The risks start even before a baby is born
Secondhand smoke can cause:

- ◆ Miscarriage
- ◆ Premature birth
- ◆ Low birth weight

Children breathing secondhand smoke are more likely to suffer from:

- ◆ Colds
- ◆ Coughing
- ◆ Sore throat
- ◆ Ear infections
- ◆ Asthma attacks
- ◆ Bronchitis
- ◆ Pneumonia



Free help to quit smoking

California Smokers' Helpline

1-800-NO-BUTTS (1-800-662-8887)

Help is available in a variety of languages. www.nobutts.org

National Quit Line

1-800-QUIT-NOW (1-800-784-8669)

www.smokefree.gov

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Funded under contract #02-25400.
www.TobaccoFreeCatalog.org J958-11/16

Protect Your Family



from
secondhand smoke

What is secondhand smoke?

Have you ever gone to a park or beach on a family outing only to find that the drifting smoke from a nearby cigarette irritates your family's eyes, throat and lungs? You have just inhaled secondhand smoke.

Secondhand smoke is the smoke from the burning end of a cigarette, pipe or cigar as well as the smoke breathed out by a smoker.



How secondhand smoke hurts your family

Secondhand smoke is more than just irritating; it is a real health risk.

Secondhand smoke contains at least 250 toxic chemicals that hurt your body. More than 50 that can cause cancer. People who breathe in secondhand smoke have a higher risk of:

- ◆ Lung cancer
- ◆ Heart disease
- ◆ Asthma
- ◆ Other cancers



How to make your home and car smoke free

It can be hard at first asking friends and family not to smoke in your home or car. Let them know it isn't about them smoking, it's about keeping your family healthy.

- ◆ Be polite and sympathetic, but firm about your rules.
- ◆ Post signs inside and outside your home asking people not to smoke.
- ◆ Tell people that smoke in your car makes it hard for everyone to breathe.
- ◆ If a family member smokes, work together to find outdoor places and times for smoking; then encourage them to quit.
- ◆ Tell daycare providers and babysitters not to smoke around your children indoors or outside. Let them know it is bad for your children's health.

Benefits of a smoke free home and car

- ◆ Your family, friends and children will breathe easier.
- ◆ Your hair, clothes and furniture will smell fresher and cleaner.
- ◆ Your car and home will be easier to clean and stay clean longer.
- ◆ Your food will taste better.
- ◆ Your family will have fewer colds and illnesses.
- ◆ Everyone is more likely to feel better and be healthier longer.
- ◆ Your family will be less likely to get cancer or heart disease.



Secondhand Smoke in Housing

There is no safe level of exposure to secondhand smoke.

Secondhand smoke drifts through multi-unit buildings and can enter common areas and units occupied by non-smokers.



Secondhand smoke harms children

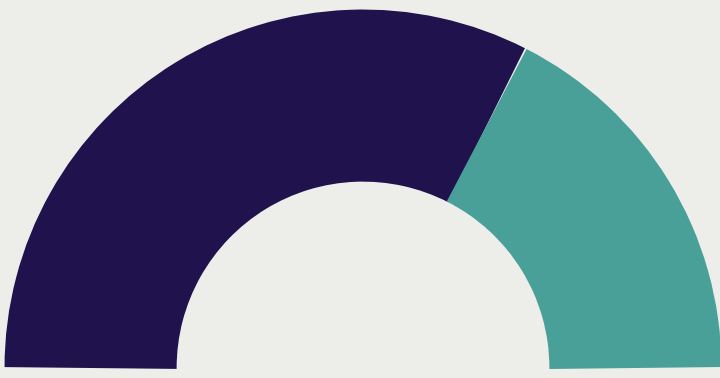
by increasing the risk of asthma attacks, ear infections, respiratory infections, sudden infant death syndrome (SIDS), and behavioral problems.

Secondhand smoke drifts

through doors, windows, hallways, and ventilation ducts, and through gaps around outlets, fixtures, and walls.

Ventilation systems,

air purifiers, and sealing up cracks cannot prevent secondhand smoke from drifting throughout buildings.



Up to 65% of the air in an apartment can come from other units in the building.

The only way to protect health is for buildings to be completely smokefree.

Residents NEED and WANT smokefree housing.



1 in 3 nonsmokers living in rental housing are exposed to secondhand smoke.



Only 30% of multi-unit residents live in smokefree buildings, but the majority would prefer their building to be smokefree.

Everyone deserves to breathe smokefree air at home.



A smokefree building is legal and is not discriminatory.



Residents have the right to speak up and ask for the building to be smokefree.

Healthier
✓
Reduce health risks

Cleaner
✓
Reduce smoke damage

Safer
✓
Reduce fire risk

