



# Weekly Management Report

## March 25, 2022

- 1. Memo**                      Landlord-Tenant Commission  
Meeting on March 7, 2022  
**Community Development Department**
  
- 2. Memo**                      CM Tracking List Item No. 2356: Multi-Family  
Secondhand Smoke Control Ordinance  
**Community Development Department**



# MEMORANDUM



## COMMUNITY DEVELOPMENT

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**DATE:** March 15, 2022

**TO:** Justin Hess, City Manager

**FROM:** Patrick Prescott, Community Development Director *DUC For PD*  
VIA: Simone McFarland, Assistant Community Development Director *[Signature]*

**SUBJECT:** Landlord-Tenant Commission Meeting – March 7, 2022

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- Three members of the public attended the Zoom meeting. One member had questions for the Commission. The other two members were listening for educational purposes. The question one member of the public asked about if a tenant can get a combined increase on the parking space lease as well as the rent increase. The tenant lives in Long Beach and the Commission recommended reaching out to Long Beach for clarification.
- The Commission discussed the revised version of the Tenant Information Form which included the removal of the “repairs needed immediately” section. The Commission also had several changes to the AB 1482 section of the form. Staff will be providing a revised version of the agreed changes and will discuss further at the next meeting.
- The Commission provided intake form updates to nine cases related to: rental payment methods, evictions, security deposits, rent increases, service animals, pest control and repairs.
- The Commission approved the draft minutes of February 7, 2022
- The meeting adjourned at 6: 54 p.m.



# MEMORANDUM




## COMMUNITY DEVELOPMENT

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**DATE:** March 7, 2022

**TO:** Justin Hess, City Manager

**FROM:** Patrick Prescott, Community Development Department Director   
BY: Collin Ogle, Code Enforcement Manager

**SUBJECT:** CM Tracking List Item No. 2356: Multi-Family Secondhand Smoke Control Ordinance

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The purpose of this memo is to provide information on the Burbank Municipal Code's Secondhand Smoke Control Ordinance, BMC Title 4, Article 7, as it relates to multi-family properties. The Secondhand Smoke Control Ordinance was originally adopted by Council on April 3, 2007, as a method of limiting the negative effects of secondhand smoke on residents, businesses and visitors at commercial and multi-family residential properties.

The City's ordinance currently prohibits smoking in all enclosed common areas of multi-family buildings. Enclosed common areas include hallways, stairways, elevators, lobbies, laundry rooms, trash rooms, recreation rooms, and gyms. The ordinance also prohibits smoking within five feet of entrances, exits, walkways, open hallways and open stairways.

On October 5, 2010, Council amended the ordinance to further restrict exposure to secondhand smoke in multi-family properties, such as apartments, assisted living centers and condominium buildings. The amendments specifically prohibit smoking on private balconies, private patios, in children play areas and when two or more units share a common ventilation system. Smoking is also prohibited in the vicinity of swimming pools, spas and hot tub areas when children 17 years of age or younger are using such areas for their intended use and not just passing through the area. These amendments went into effect May 1, 2011.

This ordinance does not prohibit smoking inside attached and detached private residences, except when a residence is being used for childcare or as a healthcare facility subject to applicable licensing requirements, or where 2 or more residences share a common ventilation system. This does not preclude a person or entity that owns or controls private residential property, including but not limited to a condominium association or an apartment complex owner, from prohibiting smoking within private residences under its control.

Any property owner may designate an outdoor smoking area in a multi-family residential property in a location where smoking would otherwise be prohibited as long as the area meets the following criteria:

- The smoking area is as small as practicable given the expected number of users but is no smaller than 50 square feet with no dimension less than 5 feet.
- The smoking area is not located within 5 feet of any entrance or exit of any building open to the public or within 5 feet of any walkway leading to an entrance or exit of that property.
- The smoking area has one or more signs clearly designating it as a smoking area.

Building & Safety Division's code enforcement section does not enforce the Secondhand Smoke Control Ordinance. Under this ordinance the Police Department is designated as the enforcing body. When a secondhand smoking complaint for a multi-family property is received by code enforcement an inspector contacts the property owner/property manager. They are informed of the smoking complaint and the restrictions for smoking on multi-family properties based on the Secondhand Smoke Control Ordinance. Educational material on the ordinance may also be sent to the property owner/property manager for distribution to their tenants.

If additional smoking complaints are received for the same property the complainant is directed to contact the Police Department for further enforcement, which may include a citation. Smoking violations are an infraction, similar to a moving violation. Therefore, officers have discretion about enforcement. Calls related to smoking violations are uncommon and most people are compliant when the officers ask them to stop.

The Building and Safety Division's code enforcement section received complaints related to the smoking ordinance 8 times in 2017, 22 times in 2018, 15 times in 2019, 13 times in 2020 and 25 times in 2021. These statistics include all complaints related to possible smoking violations not just multi-family related smoking violations.

The Police Department was called out for service related to smoking 76 times in 2017, 80 times in 2018, 44 times in 2019, 41 times in 2020 and 23 times in 2021. The database statistics include all calls related to prohibited smoking not just multi-family related smoking violations. Citations issued based on the BMC code sections 4-1-701 through 4-1-708 for enforcement of the smoking ordinance totaled 99 citations in 2017, 54 citations

in 2018 and 39 citations in 2019.<sup>1</sup> No citations related to the smoking ordinance were issued in 2020. Officers' overall enforcement went down drastically in 2020 due to the COVID-19 pandemic and the majority of people remaining in their homes. Similarly in 2021 only 2 smoking related citations were issued.

There is currently no statewide prohibition on smoking in private residential units, such as apartments and condos. However, there are some cities in Southern California that have adopted ordinances to completely ban smoking for both public and private areas in multi-unit housing, such as Pasadena and Beverly Hills. In these cities the nonsmoking laws apply to all residents in all multi-family residential units. Other cities in the area, such as Glendale, have no-smoking ordinances similar to Burbank that ban smoking in common areas in multi-family residential properties and smoking in private non-enclosed areas of a unit, such as a balcony or a patio.

The following are considerations for adopting a full ban on smoking in multi-family residential properties:

- Determine the findings for further restrictions to the smoking ordinance.
- Given the short-term nature of someone smoking, violations of the current smoking restrictions are difficult to observe and obtain the necessary evidence to verify a violation. Obtaining access into a dwelling unit in an apartment building to verify someone is smoking would present additional challenges for enforcement.
- Review other cities' smoking ordinance models and their effectiveness in enforcing on smoking violations inside multi-family dwellings.
- Determine if there are any legal protections for people claiming medical requirements for marijuana use.
- Determine staff time needed to investigate and verify smoking violations inside multi-family dwellings.
- Determine the potential cost and additional staffing needed to properly enforce a full ban on smoking in multi-family residential properties.

The City's current smoking ordinance bans smoking in most areas on multi-family properties, except for the interior of the dwelling units, other locations onsite with the proper distance from restricted areas and designated smoking areas. The number of smoking complaints received by the City related to multi-family properties is a small percentage of the overall complaints submitted by citizens. However, some cities have established a complete ban on smoking in multi-family properties.

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<sup>1</sup> The Police Department's database does not differentiate which citations were specifically for multi-family buildings.