



## Comparison of Nonsmoking Housing Units Ordinances

August 2009

Cities and counties in California have led the way on many secondhand smoke issues throughout the years by passing groundbreaking local ordinances to restrict smoking in certain areas. On the issue of smokefree housing, California's communities are once again paving the way. Secondhand smoke exposure in multi-unit housing is a serious health threat because secondhand smoke drifts into housing units from other units, balconies, patios and common areas. The most effective way to address this problem is to pass a policy that restricts smoking in these areas, and most importantly within units in multi-unit housing.

There are now eight cities in California (Richmond, Rohnert Park, Dublin, Loma Linda, Novato, Calabasas, Belmont and Temecula) that have adopted an ordinance that prohibits smoking within a certain percentage of units in multi-unit housing. The policy and enforcement provisions in these ordinances vary greatly and some ordinances have several provisions that could be strengthened. Nonetheless, all eight of these groundbreaking ordinances go a long way towards protecting tenants from secondhand smoke exposure.

The table on the following pages lists questions about policy and enforcement provisions of smokefree housing ordinances and provides the answers for each of the eight cities. This table makes it easier to learn more about and understand in detail these eight ordinances, as well as providing some guidance on the types of issues that need to be addressed by other communities working on a smokefree housing ordinance.

If you have any questions about any of these ordinances or smokefree housing in general, please give the Center a call at (916) 554-5864. The Center's website, [www.Center4TobaccoPolicy.org/localpolicies-smokefreehousing](http://www.Center4TobaccoPolicy.org/localpolicies-smokefreehousing), has additional resources on smokefree housing, including a *Matrix of Local Smokefree Housing Policies* (that details all the types of smokefree housing policies beyond just policies that prohibit smoking in units) and a *Listing of Communities that Restrict Smoking in Outdoor Common Areas of Multi-Unit Housing*.

## BREAKDOWN OF NONSMOKING HOUSING UNITS ORDINANCES

CITY	POLICY PROVISIONS						
	Date Passed/ Population	What percentage of units is required to be designated as nonsmoking?	Do the nonsmoking unit requirements apply to existing housing, new housing or both?	How much time do landlords have to designate nonsmoking units?	Are current tenants who smoke grandfathered in, that is, allowed to smoke in their current unit past the implementation date?	Do the nonsmoking unit requirements apply to condominiums?	What size of multi-unit housing is required to have nonsmoking units?
RICHMOND	July 2009 103,577	100%	Both	17 months for existing units; new units must be nonsmoking when completed	No	Yes	2 or more units
ROHNERT PARK	April 2009 43,062	50% existing, 75% new	Both, but to a smaller percentage in existing housing	25 months for existing units; new units must be nonsmoking when completed	Yes	Yes	2 or more units
DUBLIN	December 2008 46,934	50%	Both	25 months	No	No	16 or more units
LOMA LINDA	June 2008 22,632	70%	Both	3 1/2 years	Yes	No	2 or more units
NOVATO	April 2008 52,737	50% existing, 75% new	Both, but to a smaller percentage in existing housing	90 days	Yes	Yes	10 or more units
CALABASAS	January 2008 23,725	80%	Both	4 years	Yes	No	2 or more units
BELMONT	October 2007 26,078	100%	Both	14 months	No	Yes	2 or more units that share a common floor and/or ceiling
TEMECULA	May 2007 101,057	25%	Both	5 years, up to 8 years with extensions	Yes	No	10 or more units

## BREAKDOWN OF NONSMOKING HOUSING UNITS ORDINANCES (continued)

CITY	POLICY PROVISIONS					
	Are balconies, patios and porches included in the definition of nonsmoking units?	Is smoking prohibited within a certain distance of an opening to a nonsmoking unit (including on balconies and patios of a smoking unit)?	Are nonsmoking units required to be grouped together and/or in a separate building?	Is smoking prohibited in outdoor common areas of apartments and condominiums?	What size of multi-unit housing is required to have smoking prohibited in outdoor common areas?	Are designated outdoor smoking areas required?
RICHMOND	Yes	Yes	N/A	Yes	2 or more units	No, but a landlord may create a designated smoking area that meets certain restrictions
ROHNERT PARK	Yes	Yes	Yes	Yes	2 or more units	No, but a landlord may create a designated smoking area that meets certain restrictions
DUBLIN	Yes	Yes	Yes	Only apartments	16 or more units	No, but a landlord may create a designated smoking area that meets certain restrictions
LOMA LINDA	Yes	Yes	Yes	Only apartments	2 or more units	Yes, but they must meet certain restrictions and exemptions are allowed if there is no suitable area on the property
NOVATO	Yes	Yes	Yes	Yes	2 or more units	No, but a landlord may create a designated smoking area that meets certain restrictions
CALABASAS	Yes	Yes	Yes	Only apartments	2 or more units	Yes, but they must meet certain restrictions and exemptions are allowed if there is no suitable area on the property
BELMONT	Yes	Yes	Yes	Yes	2 or more units	No, but a landlord may create a designated smoking area that meets certain restrictions
TEMECULA	Yes	Yes	Yes	Only apartments	2 or more units	No, but a landlord may create a designated smoking area that meets certain restrictions

## BREAKDOWN OF NONSMOKING HOUSING UNITS ORDINANCES (continued)

CITY	POLICY PROVISIONS				ENFORCEMENT PROVISIONS	
	Are landlords required to post "No Smoking" signs?	Are landlords required to include language in leases that states whether the unit is smoking or nonsmoking?	Are landlords required to disclose to tenants the location of smoking and nonsmoking units?	Are landlords required to give a map or list of smoking and nonsmoking units to the city?	Is secondhand smoke declared a nuisance?	Is there a process set up for evicting tenants who violate the nonsmoking provisions?
RICHMOND	Yes	Yes	Landlords and condo sellers will be required to disclose the ordinance requirements to all prospective and existing tenants and buyers beginning 90 days after the ordinance takes effect	N/A	No	No, landlords can evict but there is no specific process outlined
ROHNERT PARK	Yes	No	Yes	No	No	No, landlords can evict but there is no specific process outlined
DUBLIN	Yes	Yes	Yes	Yes	Yes	No, landlords can evict but there is no specific process outlined
LOMA LINDA	Yes	Yes	Yes	Yes, until 70 percent of units are designated nonsmoking	Yes	Yes, the landlord may evict upon receipt of letters of complaints from two individuals
NOVATO	Yes	Yes	Yes	No	Yes, in a place of human habitation	No, landlords can evict but there is no specific process outlined
CALABASAS	Yes	Yes	Yes	Yes, until 80 percent of units are designated nonsmoking	Yes	Yes, the landlord may evict upon receipt of letters of complaints from two individuals
BELMONT	Yes	Yes	No	N/A	Yes	No, landlords can evict but there is no specific process outlined
TEMECULA	Yes	No	Yes	Yes	No	No, landlords can evict but there is no specific process outlined

## BREAKDOWN OF NONSMOKING HOUSING UNITS ORDINANCES (continued)

CITY	ENFORCEMENT PROVISIONS				
	Are there ways for landlords to limit their liability for tenants violating the nonsmoking provisions?	Can a tenant affected by smoke drifting from a tenant who is violating the nonsmoking provisions enforce the lease provisions against the violating tenant?	Is there a private enforcement provision that allows the public (including the affected tenant) to enforce the nonsmoking law against violating parties?	What penalties can the city impose for violations?	Which city staff can enforce the nonsmoking provisions?
RICHMOND	Yes, by meeting the requirements in the ordinance	Yes	Yes, a person can bring legal action to enforce the ordinance and receive damages or exemplary damages	Violations are punishable by \$100 fine	City manager and any peace officer or code enforcement official
ROHNERT PARK	No	No	Yes, a person can bring legal action for damages or relief for violations of the ordinance	Violations are punishable as an infraction	No specific staff designated
DUBLIN	Yes, by meeting the lease language requirements	Yes	Yes, a person can bring legal action to enforce the ordinance	Violations are punishable as an infraction with fines starting at \$100	City manager
LOMA LINDA	Yes, by meeting the lease language requirements and providing written warnings to violating tenants upon receipt of a letter of complaint	Yes	No	Violations are punishable as an infraction	City prosecutor, city attorney, any peace officer and any code enforcement officer
NOVATO	Yes, by meeting the lease language requirements	Yes	Yes, a person can bring legal action to enforce the ordinance	Violations are punished as an infraction with fines starting at \$100. The Marin County Department of Public Health must provide a warning letter to violators before any civil penalties are levied	City manager
CALABASAS	Yes, by meeting the lease language requirements and providing written warnings to violating tenants upon receipt of a letter of complaint	Yes	Yes, a person may bring private action against another person as long as proper notice is given to the city and the city is not pursuing civil action	Violations are subject to punishment as a misdemeanor or infraction and are subject to civil action by the city	City prosecutor, city attorney, any peace officer and any code enforcement officer
BELMONT	Yes, by meeting the lease language requirements	Yes	No	Violations are an infraction subject to a \$100 penalty and are subject to civil action by the city	Any peace officer or code enforcement officer
TEMECULA	No	No	No	Violations are subject to penalties outlined in the municipal code and are subject to civil action by the city	Police officers or code enforcement officers

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