

## ORDINANCE NO. 21-1134

AN ORDINANCE OF THE CITY OF WEST HOLLYWOOD PROHIBITING SMOKING IN COMMON AREAS AND NEW UNITS LOCATED IN MULTI-FAMILY DWELLINGS BY ADDING CHAPTER 7.10 (SMOKING IN MULTI-FAMILY DWELLINGS) TO TITLE 7 (HEALTH) OF THE WEST HOLLYWOOD MUNICIPAL CODE AND AMENDING CHAPTER 1.08 (GENERAL PENALTY PROVISIONS) TO MAKE VIOLATIONS OF CHAPTER 7.10 SUBJECT TO ADMINISTRATIVE PENALTY PROCEDURES.

THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: A new Chapter 7.10, entitled “Smoking in Multi-Family Dwellings” is added to Title 7 of the West Hollywood Municipal Code (“Code”) to read as follows:

### CHAPTER 7.10 – Smoking in Multi-Family Dwellings

#### 7.10.010 – Purpose

Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution and that breathing secondhand smoke is a cause of disease in nonsmokers. At special risk are elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, such as asthmatics and those with obstructive airway disease. The U.S. Surgeon General has concluded that there is no risk-free level of exposure to secondhand smoke. The United States Environmental Protection Agency has found secondhand smoke to be a risk to public health and has classified secondhand smoke as a group “A” carcinogen, which is the most dangerous class of carcinogens. The California Air Resources Board has put secondhand smoke in the same category as the most toxic automotive and industrial air pollutants by categorizing it as a toxic air contaminant for which there is no safe level of exposure. Secondhand smoke can seep under doorways and through wall cracks. The City Council finds and declares that the purpose of this Chapter is to protect the public health and welfare from secondhand smoke by prohibiting tobacco and cannabis smoking and vaping in enclosed and unenclosed common areas of multi-family dwellings and tobacco smoking in all new multi-family dwelling units, to gradually reduce secondhand smoke in multi-family housing, and to promote self-enforcement through educational outreach regarding smoking prohibitions. Regulating secondhand smoke is challenging and must balance various considerations and interests. The City Council further finds that, in the interest of the public health and welfare, imposing restrictions on smoking or vaping cannabis in the privacy of one’s residence is not warranted for tenants that consume cannabis for medicinal, therapeutic or recreational purposes. State law does not allow cannabis smoking

in public places and prohibiting cannabis consumption in private units would not leave available safe alternatives.

#### 7.10.020 – Definitions.

As used in this Chapter:

- a. “Cannabis” and “Cannabis Product” shall mean the same as defined in Chapter 1 of Division 10 of the California Health and Safety Code.
- b. “Common Area” shall mean every enclosed and unenclosed space of a Multi-Family Dwelling that residents of more than one Dwelling Unit are entitled to enter or use, including, without limitation, hallways, lobbies, courtyards, patios, landscape areas, elevators and stairs, community rooms, gym facilities, parking garages and parking lots, restrooms, laundry rooms, cooking areas, and eating areas.
- c. “Dwelling Unit” shall mean the same as defined in Title 19 of this Code.
- d. “Existing Unit” shall mean a Dwelling Unit in a Multi-Family Dwelling that:
  1. Was purchased, leased, or rented for residential use prior to May 19, 2021, or
  2. Was initially occupied by the owner, lessor, or tenant prior to May 19, 2021.
- e. “Multi-Family Dwelling” shall mean the same as defined in Title 19 of this Code.
- f. “New Unit” shall mean a Dwelling Unit in a Multi-Family Dwelling that is:
  1. Issued a certificate of occupancy on or after May 19, 2021, or
  2. For buildings already constructed, a unit that is purchased, leased, or rented for residential use on or after May 19, 2021.
- g. “Smoke” or “Smoking” shall mean and include the inhaling, burning, or carrying of a lighted or heated pipe, cigar, or cigarette of any kind, or any other lighted or heated Tobacco Product intended for inhalation, whether natural or synthetic, in any manner or in any form. This definition excludes the Vaping of tobacco or a Tobacco Product.
- h. “Smoke Cannabis” or “Smoking Cannabis” shall mean and include inhaling, burning, or carrying of a lighted or heated pipe or any other lighted or heated Cannabis or Cannabis Product intended for inhalation, whether natural or synthetic, in any manner or in any form. This definition includes Vaping Cannabis or a Cannabis Product.
- i. “Tobacco Product” shall mean a product containing, made, or derived from tobacco or nicotine that is intended for human consumption, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, or snuff.
- j. “Vape” or “Vaping” shall mean the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking.

#### 7.10.030 - Smoking Regulations

- a. Smoking is prohibited in all Common Areas on and after July 15, 2021, and in private balconies and private patios in New Units, and in all New Units on and after July 15, 2021.
- b. Smoking Cannabis and Vaping is prohibited in all Common Areas on and after July 15, 2021.

7.10.040 – RESERVED.

7.10.050 – Noticing Requirement

- a. The landlord or homeowners' association of every Multi-Family Dwelling shall provide notice of the requirements in this Chapter and remedies in Section 7.10.070 of this Chapter to all occupants by posting and maintaining one or more prominent signs in conspicuous locations in each Common Area.
- b. "No Smoking" or "Smoke Free" signs with letters not less than one inch in height or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly, sufficiently, and conspicuously posted in every Common Area of every Multi-Family Dwelling.
- c. Sales contracts for units in common interest developments entered as of May 19, 2021, shall disclose the prohibition of Smoking and Smoking Cannabis in Multi-Family Dwellings as set forth in this Chapter.
- d. Reference to the restrictions in this Chapter shall be included in the Covenants, Conditions, and Restrictions of any new common interest development established on or after May 19, 2021.

7.10.060 – Enforcement

- a. A violation of this Chapter is subject to the administrative penalty procedure provisions of Sections 1.08.030 through 1.08.070 of this Code and enforced by the City's Code Compliance Division. Until such time as Smoking is prohibited in an Existing Unit, if a unit is the subject to a complaint for violation of this Chapter, the unit will be deemed a New Unit unless the tenant or landlord can demonstrate through a lease or other documentation that the unit is an Existing Unit.
- b. Notwithstanding any provision of Title 17 of this code, a violation of this Chapter shall not in and of itself constitute grounds for eviction as reflected in Section 17.52.010 of Title 17, and the provisions of this Chapter shall not be the basis for a unilateral change by a landlord to the terms and conditions of any tenancy.

7.10.070 – Limitations and Exceptions

This Chapter shall not apply to the following:

- a. Single-Family Dwellings and Duplexes.
- b. Temporary and special needs housing facilities for people with disabling conditions, including addiction to substances.

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SECTION 2: The list in Section 1.08.010(d) of Municipal Code chapters and sections that are subject to the administrative penalty procedure provisions in Section 1.08.030 through 1.08.070 in Chapter 1.08 of Title 1 of the West Hollywood Municipal Code is amended to add "Chapter 7.10, Smoking in Multi-Family Dwellings;" to the list in numeric order, and the remainder of the list is to remain unchanged.

SECTION 3: Saving Clause. Adoption of this Ordinance shall in no manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date of this Ordinance, nor be construed as a waiver of any license, fee or penalty at the effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any penalty, or the penal provisions applicable to any violation thereof. Nor shall this Ordinance prevent or interfere with the enforcement of applicable State laws, or the remedies available under such laws, which shall continue in full force and effect as though this Ordinance had not been adopted.

SECTION 4: Environmental Review. The City Council finds that adoption and implementation of this ordinance is not a "project" for purposes of the California Environmental Quality Act (CEQA), as that term is defined by CEQA guidelines (Guidelines) section 15378(b)(5). Alternatively, this ordinance is exempt from CEQA pursuant to 15061(b)(3), because it has no potential for causing a significant effect on the environment.

SECTION 5: Effective Date. This ordinance shall take effect thirty days after its passage and adoption pursuant to California Government Code section 36937. The City Clerk shall insert the effective date in the ordinance provisions above.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of West Hollywood at a regular meeting held this 19<sup>th</sup> day of April, 2021 by the following vote:

AYES:	Councilmember:	D'Amico, Erickson, Shyne, Mayor Pro Tempore Meister, and Mayor Horvath.
NOES:	Councilmember:	None.
ABSENT:	Councilmember:	None.
ABSTAIN:	Councilmember:	None.

DocuSigned by:

*Lindsey P. Horvath*

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LINDSEY P. HORVATH, MAYOR

ATTEST:

DocuSigned by:

*Melissa Crowder*

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MELISSA CROWDER, ACTING CITY CLERK

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STATE OF CALIFORNIA       )  
COUNTY OF LOS ANGELES   )  
CITY OF WEST HOLLYWOOD   )

I, MELISSA CROWDER, Acting City Clerk of the City of West Hollywood, do hereby certify that the foregoing Ordinance No. 21-1134 was duly passed, approved, and adopted by the City Council of the City of West Hollywood at a regular meeting held on the 19<sup>th</sup> day of April, 2021, after having its first reading at the regular meeting of said City Council on the 5<sup>th</sup> day of April, 2021.

I further certify that this ordinance was posted in three public places as provided for in Resolution No. 5, adopted the 29<sup>th</sup> day of November, 1984.

WITNESS MY HAND AND OFFICIAL SEAL THIS 20<sup>th</sup> DAY OF APRIL, 2021.

DocuSigned by:



MELISSA CROWDER, ACTING CITY CLERK

ORDINANCE NO. 21-1147

AN ORDINANCE OF THE CITY OF WEST HOLLYWOOD PROHIBITING SMOKING IN EXISTING UNITS IN MULTI-FAMILY DWELLINGS AND CREATING AN EXEMPTION BY AMENDING CHAPTER 7.10 (SMOKING IN MULTI-FAMILY DWELLINGS) OF TITLE 7 (HEALTH) OF THE WEST HOLLYWOOD MUNICIPAL CODE.

THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: The recitals and findings in Ordinance No. 21-1134 are incorporated herein by reference.

SECTION 2: Section 7.10.040 of Chapter 7.10 of Title 7 of the West Hollywood Municipal Code is added to read as follows:

7.10.040 – Existing Tenancies

Smoking is prohibited in Existing Units and in private balconies and private patios of Existing Units after December 31, 2022.

SECTION 3: A new Section 7.10.080 of Chapter 7.10 of Title 7 of the West Hollywood Municipal Code is added to read as follows:

7.10.080. Reasonable Accommodation.

An individual with a disability, who has a physical or mental impairment that limits their ability to leave their unit to comply with the terms of this ordinance, may request from the City Manager or designee, a reasonable accommodation for an exception to the prohibition from Smoking in their Existing Unit. An accommodation approved under this Section is considered a personal accommodation for the individual and does not run with the land. The request shall include: (1) The basis for the claim that the individual is considered disabled under the law; and (2) The reason the requested accommodation may be necessary. The City Manager may promulgate regulations for processing the reasonable accommodation requests.

SECTION 4: Saving Clause. Adoption of this Ordinance shall in no manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date of this Ordinance, nor be construed as a waiver of any license, fee or penalty at the effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any penalty, or the penal provisions applicable to any violation thereof. Nor shall this Ordinance prevent or interfere with the enforcement of applicable State laws, or the remedies available under such laws, which shall continue in full force and effect as though this Ordinance had not been adopted.

SECTION 5: Environmental Review. The City Council finds that adoption and



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implementation of this ordinance is not a "project" for purposes of the California Environmental Quality Act (CEQA), as that term is defined by CEQA guidelines (Guidelines) section 15378(b)(5). Alternatively, this ordinance is exempt from CEQA pursuant to 15061(b)(3), because it has no potential for causing a significant effect on the environment, as it governs restrictions in existing units.

SECTION 6: Effective Date. This ordinance shall take effect thirty days after its passage and adoption pursuant to California Government Code section 36937. The City Clerk shall insert the effective date in the ordinance provisions above.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of West Hollywood at a regular meeting held this 19<sup>th</sup> day of April, 2021 by the following vote:

AYES:	Councilmember:	D'Amico, Erickson, Shyne, and Mayor Horvath.
NOES:	Councilmember:	Mayor Pro Tempore Meister.
ABSENT:	Councilmember:	None.
ABSTAIN:	Councilmember:	None.

DocuSigned by:

*Lindsey P. Horvath*

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LINDSEY P. HORVATH, MAYOR

ATTEST:

DocuSigned by:

*Melissa Crowder*

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MELISSA CROWDER, ACTING CITY CLERK

STATE OF CALIFORNIA           )  
COUNTY OF LOS ANGELES    )  
CITY OF WEST HOLLYWOOD    )

I, MELISSA CROWDER, Acting City Clerk of the City of West Hollywood, do hereby certify that the foregoing Ordinance No. 21-1147 was duly passed, approved, and adopted by the City Council of the City of West Hollywood at a regular meeting held on the 19<sup>th</sup> day of April, 2021, after having its first reading at the regular meeting of said City Council on the 5<sup>th</sup> day of April, 2021.

I further certify that this ordinance was posted in three public places as provided for in Resolution No. 5, adopted the 29<sup>th</sup> day of November, 1984.

WITNESS MY HAND AND OFFICIAL SEAL THIS 20<sup>th</sup> DAY OF APRIL, 2021.

DocuSigned by:

*Melissa Crowder*

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MELISSA CROWDER, ACTING CITY CLERK