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Direct questions or concerns to the Commission Liaison at (310) 618-5912, or individual department head prior to submission to the Commission. Parties will be notified if the complaint will be included on a subsequent agenda.

Security procedures: Members of the public will be directed to enter City Hall on the East side of the building through the sliding door. All other entrances will remain locked for entry. Oversized bags or backpacks will not be allowed in the Council Chamber or Commission meeting room. All bags are subject to search.

Any correspondence received after 2:00 p.m. on February 23, 2023 on any item on the agenda will be provided to the Commission electronically and available for public inspection in the City Clerk's Office. A copy of the correspondence will be available for public inspection in a binder at the back of the Council Chamber or Commission Meeting room.

**TORRANCE ENVIRONMENTAL QUALITY AND ENERGY CONSERVATION
COMMISSION AGENDA
MARCH 02, 2023
REGULAR MEETING
7:00 P.M. IN WEST ANNEX COMMISSION MEETING ROOM
AT 3031 TORRANCE BOULEVARD
TORRANCE, CA 90503**

**ENVIRONMENTAL QUALITY AND ENERGY CONSERVATION COMMISSION MAY
TAKE ACTION ON ANY ITEM LISTED ON THE AGENDA**

1. CALL MEETING TO ORDER

ROLL CALL: Commission members: Endo-Roberts, Hill, Jendrucko, Love, Seferian, Wright, and Chair Stecker

2. FLAG SALUTE

3. REPORT OF THE STAFF ON THE POSTING OF THE AGENDA

The agenda was posted on the Public Notice Board at 3031 Torrance Bl. and on the City's Website on Thursday, February 23, 2023.

4. ANNOUNCEMENT OF WITHDRAWN, DEFERRED, AND/OR SUPPLEMENTAL ITEMS

5. ORAL COMMUNICATIONS (Limited to a 15 minute period)

*This portion of the meeting is reserved for comment on items on the Consent Calendar or not on the agenda. Under the Ralph M. Brown Act, the Commission cannot act on items raised during public comment, but may respond briefly to statements made or questions posed; request clarification; or refer the item to staff. **No longer than 1 minute per speaker.** If presenting handout material to Commission, please provide 10 copies to staff before speaking.*

6. CONSENT CALENDAR

Matters listed under the Consent Calendar are considered routine and will be enacted by one motion and one vote. There will be no separate discussion of these items. If discussion is desired, that item will be removed by a Councilmember from the Consent Calendar and considered separately.

6A. Approve Commission Minutes: February 02, 2023

7. ADMINISTRATIVE MATTERS

7A. Community Development – Review and Discuss an Ordinance to Prohibit Smoking In and Around Multi Unit Residences - Discuss options for the draft ordinance regarding the regulation of smoking in multifamily residential uses.

8. PUBLIC HEARINGS

9. COMMISSION ORAL COMMUNICATIONS

10. ADJOURNMENT

10A. Adjournment of Environmental Quality and Energy Conservation Commission Meeting to Thursday, April 06, 2023, at 7:00 p.m. in the Commission Meeting Room.

**MINUTES OF A REGULAR MEETING OF
THE TORRANCE ENVIRONMENTAL QUALITY
& ENERGY CONSERVATION COMMISSION**

1. CALL TO ORDER

The Torrance Environmental Quality and Energy Conservation Commission convened in a regular session at 7:00 p.m. on Thursday, February 2, 2023, in the West Annex Commission Meeting Room City Hall.

ROLL CALL

Present: Commissioners Hill, Jendrucko, Love, Seferian and Wright, and Chair Stecker.

Absent: Commissioner Endo-Roberts.

Also Present: Staff Liaison Nora Duncan and Community Development Director Michelle Ramirez.

2. FLAG SALUTE

Commissioner Love led the Pledge of Allegiance.

3. REPORT OF STAFF ON THE POSTING OF THE AGENDA

Staff Liaison Duncan reported that the agenda was posted on the Public Notice Board at 3031 Torrance Boulevard on Thursday, January 26, 2023.

4. WITHDRAWN, DEFERRED, AND/OR SUPPLEMENTAL ITEMS

None.

5. ORAL COMMUNICATIONS

None.

6. CONSENT CALENDAR

6A. APPROVAL OF MINUTES: DECEMBER 1, 2022

MOTION: Commissioner Wright moved to approve the December 1, 2022 minutes as presented. Commissioner Love seconded the motion; a roll call vote reflected 6-0 approval (Commissioner Endo-Roberts absent).

7. ADMINISTRATIVE MATTER

**7A. COMMUNITY DEVELOPMENT – DISCUSS OPTIONS & PROVIDE DIRECTION
PERTAINING TO LAND USE STUDY LUP19-00002 / CITY OF TORRANCE
(RESIDENTIAL SMOKING REGULATION)**

Staff Liaison Duncan presented the informational Item regarding the Smoking Regulation in multi-family buildings with more than (3) units:

- November 9, 2019, a Land Use Item was presented to the Commission with several options; a motion was made to recommend adoption of an ordinance to ban any form of smoking in all common areas and allow owners to declare properties non-smoking. Due to a cyber-attack, COVID-19, and the state looking at additional legislation to regulate smoking in multi-family developments, the Item was not taken back to City Council; staff is seeking the Commissions guidance on how to proceed.

Community Development Director Ramirez stated that if the Commission wishes to bring back an ordinance, staff can draft an ordinance for review including information on other cities. Once the ordinance is accepted and finalized, a public hearing can take place before the Commission and once approved, it would move to a public hearing at City Council level.

Chair Stecker stated that he would recommend Community Development Director Ramirez's advice in drafting an ordinance and having a public hearing.

MOTION: Commissioner Love moved to have staff bring back the ordinance for the Commission's review. Commissioner Wright seconded the motion; a roll call vote reflected a 6-0 approval (Commissioner Endo-Roberts absent).

8. PUBLIC HEARINGS

None.

9. COMMISSION ORAL COMMUNICATIONS

Commissioner Wright requested that the Commission be presented with any environmental events coming up in the City of Torrance to keep the community informed.

Commissioner Wright stated that he cannot find the Climate Awards online and requested staff amend the issue.

Chair Stecker stated that a couple of months ago, he brought up a concern that the Commission lacked Agenda Items and staff participation.

Chair Stecker presented a letter to the Commission that staff drafted regarding guidelines on what Commission can and cannot do. Community Development Director Ramirez replied that the guidelines were out of the City of Torrance's Municipal Codes and stated that the Commission could reach out to staff for additional information / clarification if needed.

Commissioner Jendrucko requested information on the City Yard Fair. Staff Liaison Duncan acknowledged the request.

Community Development Director Ramirez announced that City Council will not have a joint meeting with the Commission due to the Commission's decisions that could potentially be appealed to City Council.

Staff Liaison Duncan presented Chair and Vice Chair training certificates to Chair Stecker and Commissioner Seferian.

10. **ADJOURNMENT**

MOTION: At 7:32 p.m., Commissioner Wright moved to adjourn the meeting to Thursday, March 2, 2023 at 7:00 p.m. The motion was seconded by Commissioner Hill; a roll call vote reflected 6-0 approval (Commissioner Endo-Roberts absent).

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Subject to Approval

Chair and Members
of the Environmental Quality and Energy Conservation Commission
City Hall
Torrance, California

Members of the Commission:

SUBJECT: Community Development – Review and Discuss an Ordinance to Prohibit Smoking In and Around Multi Unit Residences

During the Environmental Commission meeting of February 2, 2023, the Commission directed staff to prepare a smoke-free multi-unit housing ordinance, regulating smoking in multi-family apartment buildings with two or more units in order to improve air quality and reduce secondhand smoke.

BACKGROUND

In 2019, the City Council directed the Community Development Department to prepare an informational item regarding residential smoking regulation. On November 7, 2019, staff presented the Environmental Commission with Land Use Study LUS19-00002 offering several options for the Commission (Attachment A).

At the meeting, staff responded to Commissioner inquiries related to understanding the study and potential regulations and provided the Commission the following options:

- 1) Direct Staff to forward the item to Council with a recommendation of no action;
- 2) Direct Staff to conduct further research in a specified area and present at a future TEQECC meeting; or
- 3) Direct Staff to forward the matter to Council for consideration with any recommendations for action from the Commission.

After public input and Commission discussion, a motion to recommend adoption of an ordinance to the City Council banning any form of smoking in all common areas, including balconies and patios, in rental properties having three or more units, and allowing owners to declare their properties non-smoking without any action taken by the City passed 4-3 (Attachment B).

Due to a Cyber attack and the COVID-19 pandemic in early 2020, the item was not taken to City Council as planned. Additionally, pending State legislation was also looking to regulate smoking in multi-family developments. On February 2, 2023, staff reintroduced the item to the Environmental Commission for discussion. At the conclusion of the item, the Commission directed staff to prepare a draft ordinance that would prohibit smoking in and around multi-unit residences.

DISCUSSION

The proposed ordinance would amend the Torrance Municipal Code (TMC) by adding Chapter 19 entitled “Smoking in Multi-Family Dwellings” to Division 4 of the Torrance Municipal Code. The purpose and intent of the ordinance is to prohibit smoking in and around Multi-Unit Residences to protect the health, safety, and general welfare of residents within the City of Torrance. The ordinance would require multi-unit residences to be smoke-free in the following areas:

- Indoor and common areas, such as halls, pathways, lobbies, stairwells, mail areas/rooms, community rooms, playgrounds, pools, laundry rooms, and parking lots;
- Individual units, including exclusive use balconies, porches, decks and patios; and
- A buffer zone of 25 feet around any doorway, window, opening or vent into a multi-unit residence.

For purposes of the proposed ordinance, a “multi-unit residence” includes, but is not limited to, apartments, townhomes, condominium complexes, senior and assisted living facilities, and long-term health care facilities. The following types of housing are not considered a multi-unit residence: hotels; single-family homes; accessory dwelling units, junior accessory dwelling units, and mobile homes in a mobile home park.

The proposed ordinance covers the following matters:

- Purpose and Intent
- Definitions
- Smoking Prohibition in Multi-Unit Residence Units
- Smoking Prohibition in Multi-Unit Residence Common Areas Except in Designated Smoking Areas
- Smoking Prohibition within Buffer Zones
- Responsibility of Persons with Legal Control of Nonsmoking Areas
- Notice and Signage Requirements
- Lease Agreement Requirements
- Exception for Drug, Device, or Combination Product Authorized by United States Food and Drug Administration
- Smoking and Smoke Generally
- Prohibitions Apply To Cannabis
- Medical Marijuana
- Education
- Administrative Enforcement
- Enforcement
- Termination of Tenancy; Requirements, and
- Authority to Adopt Regulations to Implement this Chapter.


RECOMMENDATION

Staff requests that the Environmental Commission consider the following options:

- 1) Direct staff to finalize the proposed ordinance, request the City Attorney’s Office review, and bring it back for the Environmental Commission’s consideration at a future date; or
- 2) Accept and file, with no changes to the TMC, and direct staff to report the Environmental Commission’s findings to the City Council.

Respectfully submitted,

MICHELLE G. RAMIREZ
COMMUNITY DEVELOPMENT DIRECTOR

By 

Nora Duncan
Sr. Environmental Quality Officer

Attachments: A) No Smoking in Multi-Family Unit DRAFT Ordinance

ORDINANCE NO. _

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TORRANCE, CALIFORNIA, ADDING ARTICLE 19 ENTITLED "SMOKING IN MULTI-FAMILY DWELLINGS" TO DIVISION 4 OF THE TORRANCE MUNICIPAL CODE**RECITALS**

WHEREAS, tobacco use causes death and disease and continues to be an urgent public health threat; and

WHEREAS, secondhand smoke has repeatedly been identified as a health hazard; and

WHEREAS, exposure to secondhand smoke causes death and disease; and

WHEREAS, nonsmokers who live in multi-unit dwellings can be exposed to neighbors' secondhand smoke; and

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 "third hand smoke" a potential health hazard; and

WHEREAS, smoking is a leading cause of fire deaths and fire-related injury, and contributes to fire-related health inequities; and

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 exposures; and

WHEREAS, several studies have confirmed that smoke free multi-unit housing policies are the most effective method to fully reduce secondhand smoke exposure in multi-unit housing' and

WHEREAS, secondhand smoke exposure in multi-unit housing contributes to tobacco-related health inequities; and

WHEREAS, secondhand smoke in multi-unit housing is a significant threat to the health and safety of California children; and

WHEREAS, there are significant saving from adopting a smoke free multi-unit housing policy; and

WHEREAS, a majority of multi-unit housing residents, including a large portion of smokers, support smoke free policies in multi-unit residences; and

WHEREAS, secondhand smoke can seep under doorways and through wall cracks; and

WHEREAS, there is no Constitutional right to smoke; and

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; and

WHEREAS, California 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

WHEREAS, a local ordinance that authorizes residential rental agreements to include a prohibition on smoking within rental units is not prohibited by California law; and

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

NOW, THEREFORE, the City Council of the City of Torrance does hereby ordain as follows:

SECTION 1

The City Council of the City of Torrance hereby finds and determines that all the above Recitals are true and correct and incorporates such Recitals into this Ordinance.

SECTION 2

Chapter 19 is added to Division 4 of the Torrance Municipal Code to read in its entirety as follows:

“CHAPTER 19

SMOKING IN MULTI-FAMILY DWELLINGS

419.1.010 PURPOSE AND INTENT.

It is the purpose and intent of the City Council of the City of Torrance to prohibit smoking in and around Multi-Unit Residences to protect the health, safety, and general welfare of residents within the City of Torrance.

419.1.020 DEFINITIONS.

Except as otherwise expressly set forth herein, the following words and terms as used in this Chapter shall have the following meanings:

"Adjacent Unenclosed Property" means any Unenclosed Area of property, publicly or privately owned, that abuts a Multi-Unit Residence, but does not include a Lot containing a single-family home.

"Cannabis" has the meaning set forth in California Business and Professions Code section 26001, as that section may be amended from time-to-time.

"City" means the City of Torrance or its designated representative.

"City Manager" means the City Manager of the City of Torrance, or his or her designee.

"Common Area" means every Enclosed Area and every Unenclosed Area of a Multi-Unit Residence that residents of more than one Unit are entitled to enter or use, including, but not limited to, halls, pathways, lobbies, courtyards, balconies, 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.

"Department" means the Community Development Department of the City of Torrance and its authorized representatives, designees, or agents.

"Director" means the Community Development Director of the City.

"Electronic Smoking Device" means an electronic device that can be used to deliver an inhaled dose of nicotine, or substances, including any component, part, or accessory of such a device, whether or not sold separately. "Electronic Smoking Device" includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor.

"Enclosed Area" means an area in which outside air cannot circulate freely to all parts of the area, and includes an area that has:

- 1) Any type of overhead cover, whether or not that cover includes vents or other openings, and at least three (3) walls or other vertical constraints to airflow, including, but not limited to, vegetation of any height, whether or not those boundaries include vents or other openings; or
- 2) Four (4) walls or other vertical constraints to airflow, regardless of composition, including, but not limited to, vegetation, that exceed six (6) feet in height, whether or not those boundaries include vents or other openings.

"Enforcement Officer" means any Police Officer, Code Enforcement Officer, Environmental Quality Officer, or other personnel employed by the City and designated by the City Manager.

“Landlord” means any Person or agent of a Person who owns, manages, or is otherwise legally responsible for a Unit in a Multi-Unit Residence that is leased to a residential tenant, except this term does not apply to a tenant who sublets their Unit.

“Lot” means a separate parcel of land shown and identified as such on the records of the county recorder or on the final map of an approved and recorded subdivision.

“Multi-Unit Residence” means a Lot with two or more Units, including, but not limited to, apartments, townhomes, condominium complexes, senior and assisted living facilities, and long-term health care facilities; or a Lot with a Unit attached to another Unit on an adjacent Lot, including but not limited to attached townhomes. For the purpose of determining whether a property is a Multi-Unit Residence, the following do not constitute “Units”: hotels; single-family homes; accessory dwelling units, as defined by Torrance Municipal Code Section 92.2.10(b)(1); junior accessory dwelling units, as defined by Torrance Municipal Code Section 92.2.11(b)(1); and, mobile homes in a mobile home park, as defined by California Civil Code Section 798.3.

“Nonsmoking Area” means any Enclosed Area or Unenclosed Area in which Smoking is prohibited by this Chapter or other law.

“Person” means any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

“Smoke-Free Residence” means a multi-unit residence that complies with the requirements of this Chapter as of July 1, 2023.

“Smoking” means inhaling, exhaling, burning, or carrying any lighted, heated, or ignited cigar, cigarette, cigarillo, pipe, hookah, electronic smoking device, or any other device that delivers to a Person nicotine or other substances, including substances derived from Cannabis. “Smoking” includes using an electronic device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral device for the purpose of circumventing the prohibition of Smoking.

“Unenclosed Area” means any area that is not an Enclosed Area.

“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 unit; a condominium unit; 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 (“SRO”) facility; a room in a homeless shelter. This definition does not include a room in an unlicensed group living facility with 6 or fewer residents. This definition does not include accessory dwelling units, as defined by Torrance Municipal Code Section 92.2.10(b)(1); junior accessory dwelling units, as defined by Torrance Municipal Code Section 92.2.11(b)(1);

and, mobile homes in a mobile home park, as defined by California Civil Code Section 798.3.

419.1.030 SMOKING PROHIBITION IN MULTI-UNIT RESIDENCE UNITS.

Smoking is prohibited in all Units of a Multi-Unit Residence, including any associated exclusive use Enclosed Areas or Unenclosed Areas, such as a private balcony, porch, deck, or patio.

419.1.040 SMOKING PROHIBITION IN MULTI-UNIT RESIDENCE COMMON AREAS EXCEPT IN DESIGNATED SMOKING AREAS.

- a) Smoking is prohibited in Common Areas of a Multi-Unit Residence, except within a designated Smoking area meeting the following requirements:
 - 1) The designated Smoking area is established by Persons with legal control over a Common Area, such as a Landlord or homeowners' association.
 - 2) The designated Smoking area is:
 - A. An Unenclosed Area;
 - B. At least twenty-five (25) feet from Unenclosed Areas primarily used by children, Unenclosed Areas of K-12 school campuses, and Unenclosed Areas with improvements that facilitate physical activity including, for example, playgrounds, tennis courts, and swimming pools, including any accessory features (e.g., seating, water fountains) but not including parking facilities;
 - C. At least twenty-five (25) feet from any Nonsmoking Area;
 - D. At least twenty-five (25) feet from any doorway, window, opening, or other vent into an Enclosed Area, including an Enclosed Area not regulated by this Chapter.
 - E. No more than ten percent (10%) of the total Unenclosed Area of the Multi-Unit Residence for which it is designated;
 - F. Clearly marked with a perimeter;
 - G. Identified by conspicuous signs; and
 - H. Not within any Enclosed or Unenclosed Area where Smoking is otherwise prohibited by this Chapter or other law.

- b) 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 primarily used for disposal of Smoking waste within the Common Area.

419.1.050 SMOKING PROHIBITION WITHIN BUFFER ZONES.

- a) Smoking is prohibited in Adjacent Unenclosed Property located within twenty-five (25) feet of any doorway, window, opening, or other vent into an Enclosed Area of a Multi-Unit Residence. This area shall be known as a "Buffer Zone."
- b) Section 419.1.050(a) above does not apply to a Person who is Smoking in a Buffer Zone while actively passing on the way to another destination where Smoking is permitted.

419.1.060 RESPONSIBILITY OF PERSONS WITH LEGAL CONTROL OF NONSMOKING AREAS.

No Person with legal control over any Nonsmoking Area, including property owners, tenants, and subtenants, shall permit or suffer Smoking in a Nonsmoking Area in violation of this Chapter. For property subject to a lease agreement, a Landlord shall not be held responsible, and will not be liable, for a tenant's violation of this Chapter.

419.1.070 NOTICE AND SIGNAGE REQUIREMENTS.

- a) No later than June 1, 2023, every Person responsible for establishing rules in a Multi-Unit Residence shall deliver to each Unit of a Multi-Unit Residence a written notice meeting the requirements of Section 419.1.070(d).
- b) Beginning July 1, 2023, prior to the signing of a lease agreement every Landlord shall provide prospective tenants written notice meeting the requirements of Section 419.1.070(d).
- c) Beginning July 1, 2023, prior to any sale every seller of a Multi-Unit Residence or Unit within shall provide the buyer a written notice meeting the requirements of Section 419.1.070(d).
- d) Written notice must provide the following information:
 - 1) Beginning July 1, 2023, Smoking is prohibited in all Units, including any associated exclusive use Enclosed Area or Unenclosed Area, such as a private balcony, porch, deck, or patio; and
 - 2) Beginning July 1, 2023, Smoking is prohibited in all Common Areas except within specifically designated Smoking areas, if applicable.

- e) Beginning July 1, 2023, Persons with legal control over Common Areas shall post and maintain clear and unambiguous “No Smoking” signs in sufficient numbers and locations in Common Areas where Smoking is prohibited by this Chapter or other law. Additionally, signs shall be posted in sufficient numbers and locations in the Multi-Residence to indicate that Smoking is prohibited in all Units. Such signs shall be maintained by the Persons with legal control over the Common Areas. 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.
- f) No Person with legal control over any Nonsmoking Area shall permit Smoking in the Nonsmoking Area, except as provided in Section 419.1.040(a).

419.1.080 LEASE AGREEMENT REQUIREMENTS.

- a) Beginning July 1, 2023, every Landlord shall cause all lease agreements for a Multi-Unit Residence regulated by this Chapter to meet the following requirements:
 - 1) The agreement must contain a provision stating all requirements in Section 419.1.070(d).
 - 2) For an agreement in effect before July 1, 2023, the agreement shall be amended upon the first renewal, or continuance, such as month-to-month, on or after July 1, 2023.
- b) Whether or not a Landlord complies with Section 419.1.080(a), this section shall be implied and incorporated by law into every agreement to which Section 418.1.080 (a) applies and shall become effective as of the earliest possible date on which the Landlord could have made the insertions pursuant to said section.
- c) A tenant who breaches a Smoking provision of a lease or other rental agreement for the occupancy of a Unit in a Multi-Unit Residence, or who knowingly permits any other Person subject to the control of the tenant or present by invitation or permission of the tenant, shall be liable for the breach to the Landlord and any occupant of the Multi-Residence who is exposed to Smoke or who suffers damages as a result of the breach.
- d) This Chapter shall not create additional liability for a Landlord to any Person for a tenant’s breach of any Smoking provision in a lease or other rental agreement for the occupancy of a Unit in a Multi-Unit Residence if the Landlord has fully complied with this Section.

419.1.090 EXCEPTION FOR DRUG, DEVICE, OR COMBINATION PRODUCT AUTHORIZED BY UNITED STATES FOOD AND DRUG ADMINISTRATION.

Notwithstanding any provision to the contrary, nothing in this Chapter 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. This exception does not apply to tobacco products regulated by the United States Food and Drug Administration.

419.1.100 SMOKING AND SMOKE GENERALLY.

- a) The provision of this Chapter are restrictive only and establish no new rights for a Person who engages in Smoking. Notwithstanding (1) any provision of this Chapter, (2) any failure by any Person to restrict Smoking under this Chapter, or (3) any explicit or implicit provision of this Chapter that allows Smoking in any place, nothing in the Chapter shall be interpreted to limit any Person's legal rights under other laws with regard to Smoking, including for example, rights in nuisance, trespass, property damage, personal injury or other legal or equitable principles.
- b) Nonconsensual 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 and a trespass.

419.1.110 PROHIBITIONS APPLY TO CANNABIS.

California Health and Safety Code Section 11362.3(a)(2) and 11362.79(a), as may be amended or renumbered from time-to-time, prohibits Smoking cannabis wherever Smoking tobacco is prohibited. Notwithstanding Section 419.1.120, the prohibitions on Smoking in Multi-Unit Residence found in this article expressly apply to the Smoking of Cannabis.

419.1.120 MEDICAL MARIJUANA.

Notwithstanding any other provision of this Chapter, Smoking marijuana for medical purposes, as permitted by California Health and Safety Code Section 11362.7 et seq. in any Unit of a Multi-Residence is not prohibited by this Chapter, so long as the Smoke is not detectable by or an annoyance to other tenants.

419.1.130 EDUCATION.

- a) The City shall educate community members about the requirements in this Chapter.
- b) The City shall establish and implement a process for issuing warnings. Each warning shall be accompanied by educational materials explaining the requirements of this Chapter.

419.1.140 ADMINISTRATIVE ENFORCEMENT.

- a) Upon a finding that a Person has violated any provision of this Chapter, the Enforcement Officer designated by the Department shall give written notice of the violation to the Person in possession of the Unit; or to an owner, landlord, or homeowners' association for a violation of Sections 419.1.070 or 419.1.080. Such notice shall be provided by any means deemed adequate to the City, which includes but is not limited to, physical delivery, delivery by first class mail, delivery by overnight carrier service, or delivery by digital and shall include a copy of this Chapter and a statement describing the section(s) found to be violated.
- b) Any Person in violation of any provisions of this Chapter may be issued an administrative citation by an Enforcement Officer as prescribed in Article 8, Chapter 2, Division 1 "Administrative Citations and Fines" of the Torrance Municipal Code."
- c) The Department shall not issue any written notice of violation for or impose any administrative penalties upon a Person unless they have been issued at least three warnings.
- d) The City at its discretion may pursue any and all legal and equitable remedies for the collection of unpaid administrative penalties, interest and penalties (e.g. private collection agencies, Franchise Tax Board (FTB) Interagency Intercept Collection (IIC) Program, etc.).

419.1.150 ENFORCEMENT.

- a) The remedies provided by this Chapter are cumulative and in addition to any other remedies available at law or in equity.
- b) Violations of this Chapter are subject to a civil action brought by the City Attorney, punishable by a civil fine not less than two hundred fifty dollars (\$250) and not exceeding one thousand dollars (\$1,000) per violation.
- c) Causing, permitting, aiding, abetting, or concealing a violation of any provision of this Chapter shall also constitute a violation of this Chapter and shall be subject to enforcement as described in Section 419.1.140.
- d) In addition to other remedies provided by this Chapter or by other law, any violation of this Chapter may be remedied by a civil action brought by the City, including, for example, civil or criminal Code enforcement proceedings, and suits for injunctive relief.

419.1.160 TERMINATION OF TENANCY; REQUIREMENTS.

No Landlord may terminate a tenancy for a Multi-Unit Residence regulated by this Chapter based on a tenant's violation of this Chapter prohibiting Smoking unless the Department has issued at least three written notices of violation to the tenant.

419.1.170 AUTHORITY TO ADOPT REGULATIONS TO IMPLEMENT THIS CHAPTER.

The Department may adopt rules and regulations that are necessary or appropriate to implement, administer, and enforce the provisions of this Chapter.

SECTION 3

Any provisions of the Municipal Code or its appendices, or any other ordinances of the City of Torrance inconsistent with this ordinance to the extent of the inconsistencies and no further, are repealed.

SECTION 4

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason deemed or held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council of the City of Torrance hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or other portions might subsequently be declared invalid or unconstitutional.

SECTION 5

This ordinance was reviewed pursuant to the California Environmental Quality Act (Public Resources Code §§ 21000, et seq., "CEQA") and the regulations promulgated thereunder (14 Cal. Code of Regulations §§ 15000, et seq., the "CEQA Guidelines"). This ordinance is exempt pursuant to CEQA Guidelines 15378, because the activity undertaken involves general text amendments that would not cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and does not meet the definition of a "Project" under CEQA. The proposed Ordinance is also exempt from CEQA Guidelines under Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment. The ordinance consists only of bolstering public nuisance regulations. Adoption of this ordinance will not have the effect of deleting or substantially changing any regulatory standards or required findings.

SECTION 6

This ordinance will take effect thirty days after the date of its adoption. Within fifteen days following adoption, this ordinance or a summary of this ordinance, if authorized by the City Council, will be published at least once in the Daily Breeze, a newspaper of general circulation, published and circulated in the City of Torrance.

INTRODUCED and **APPROVED** this _____ day _____ 2023.
ADOPTED and **PASSED** this _____ day of _____ 2023.

Mayor George Chen

APPROVED AS TO FORM:
PATRICK Q. SULLIVAN, City Attorney

ATTEST:

by _____
Tatia Y. Strader, Assistant City Attorney

Rebecca Poirier, City Clerk

DRAFT