San Jose City Council
200 E. Santa Clara St.
San Jose, CA 95113

September 24, 2021

RE: **San Jose City Council Meeting on Smoke-Free Housing Ordinance (Tuesday, September 28, 2021)**

Dear Respected City Council Members,

First, thank you for your efforts in protecting San Jose residents from secondhand smoke in multi-unit housing ("MUH"). I, as a concerned constituent, am beyond grateful for your attention to this matter. **That said, I was deeply disappointed to see that the City is not considering a more robust ordinance that would protect all San Jose MUH residents.** I was shocked to see that certain types of MUH will not be covered by the ordinance, which means my community and I will continue to be exposed to toxic secondhand smoke in our homes.

A more robust ordinance would contain the following **critical** provisions to protect **all** MUH residents:

• Any building with 2 or more units - even duplex residents who share a common wall should be protected from the dangers of secondhand smoke.

• Condominiums and townhomes (which are quite often high-density housing) - we should not deprive condo/townhome residents of their right to breathe clean air simply because they happen to live in a condo or townhome. They will absolutely still be subject to noxious secondhand smoke - the legal classification of their residence is irrelevant, and their lungs are just as important as anyone else's.

• All smoke, such that residents are protected from all types of noxious secondhand smoke exposure (not just traditional cigarette smoke).

These provisions are **logical**, will **protect** all of our residents, **benefit** the City in several ways (physically, socially, economically), and will **prevent** a patchwork of differing protections for different residents simply based on the type of MUH. As you may know **many** neighboring cities/counties (i.e., Los Gatos, Palo Alto, Monte Sereno, Santa Clara, Sunnyvale and Santa Clara County) have already passed smoke-free housing policies that restrict smoking in multi-unit housing with these very provisions. We should do the same for our beautiful City of San Jose.

Several scientific studies have established that secondhand smoke exposure is **harmful** and **deadly**. In fact, the U.S. Surgeon General has **unequivocally** stated that there is **no risk-free level** of exposure to secondhand smoke. It contributes to health problems such as asthma, heart disease, lung cancer and stroke. Children, pregnant women, those with respiratory issues, the elderly and the disabled, our most vulnerable citizens, are also the most vulnerable to secondhand smoke.

Secondhand smoke drifts from other units (e.g., balconies, patios, garages) and from common areas in **all** types of MUH. Secondhand smoke drifts in through open windows and doorways, but also through cracks, electrical outlets, ventilation systems and plumbing. The only solution to protecting our citizens, especially our youth, elderly and disabled populations, from secondhand smoke exposure is to make our communities **completely** smoke-free.

I **urge** you to carefully consider the health of **all** San Jose residents and protect them from dangerous and toxic secondhand smoke in their homes (regardless of type of MUH). Not a day goes by where we smell smoke in our homes and see hundreds of toxic cigarette butts littered all over our community. We trust you will make the right decision for our health and safety and **ban smoking entirely in and around all types of MUH communities**. Our lives depend on it.

Sincerely,

Haris Khan

Re: Agenda item #7.2: Support and friendly amendment request

Rules and Open Government Committee Agendas <rulescommitteeagenda@sanjoseca.gov>
Mon 9/27/2021 8:38 AM

To: City Clerk <city.clerk@sanjoseca.gov>; Agendadesk <Agendadesk@sanjoseca.gov>

Good Morning,

Forwarding it to Agendadesk for Council Agenda item 7.2.

Thank you!

Rules and Open Government Committee Agendas
City of San José|Office of the City Clerk
200 East Santa Clara St. – Tower 14th Fl.
San José, CA 95113-1905
Phone 408.535.1275| Fax 408.292.6207
rulescommitteeagenda@sanjoseca.gov

From: City Clerk <city.clerk@sanjoseca.gov>
Sent: Monday, September 27, 2021 7:44 AM
To: Rules and Open Government Committee Agendas <rulescommitteeagenda@sanjoseca.gov>
Subject: FW: Agenda item #7.2: Support and friendly amendment request

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From: Kathryn Hedges <[redacted]
Sent: Sunday, September 26, 2021 11:17 AM
To: District3 <district3@sanjoseca.gov>; The Office of Mayor Sam Liccardo <TheOfficeofMayorSamLiccardo@sanjoseca.gov>; mayorinbox@sanjoseca.gov; City Clerk <city.clerk@sanjoseca.gov>; City Clerk <city.clerk@sanjoseca.gov>; District1 <district1@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; District5 <District5@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>
Subject: Agenda item #7.2: Support and friendly amendment request

[External Email]

Dear Mayor and Councilmember:

As a tenant in multifamily housing in San Jose, I strongly support the ordinance banning smoking in multi-unit housing. However, the weakness of this ordinance is that it lacks tools for proving a particular tenant (or guest) is smoking in their unit. **The ordinance needs to require landlords to use technical methods to verify the source of tobacco or cannabis smoke, and indemnify the landlord from liability.** I am concerned that when I spoke to Code Enforcement, they had no idea such technology existed.

I have no commercial affiliation with these products, nor do I guarantee they are 100% suitable. I provide them as examples of readily available commercial technology used to solve the problem of proving a tenant or guest smoked in their unit.

https://www.hunker.com/12268037/how-to-test-for-cigarette-smoke-in-your-home

http://www.cigarettesmokedetector.com/

https://www.freshairsensor.com/

https://www.amazon.com/Tobacco-Smoke-Check-Indoor-Quality/dp/B071GM7QMG

I have had non-smoking units leases since the 1990s in San Diego, and the mid-2000s in Humboldt County. Tenants in market rate housing accepted that they could not smoke indoors. The question of how a tenant could prove another tenant was smoking never arose.

I have only had to deal with my neighbors smoking indoors (and asthma attacks from it) since moving to Santa Clara County where I have lived in larger affordable housing buildings.

I am appalled that my neighbors with small children expose them to tobacco and cannabis smoke by smoking indoors in our 400-450 sqft studio apartments with the children. The smoke also drifts between units, so even those of us who don't smoke are exposed to it. Our apartments have negative pressure from the ventilation fans, so any smoke in the building is sucked through any gaps in the structure.

However, this is still happening 4 years after our building adopted a non-smoking units lease addendum required by HUD. The reason the lease clause is unenforceable is that the complaining tenants and landlord have no way to prove the smoke comes from a specific unit in a multistory building. The wood frame construction in buildings of this size (102 units, 5 stories of wood frame over a concrete ground floor) allows smoke to travel from units on other floors. This makes it difficult to know whether the smoke is coming from the tenant next door or their downstairs neighbors. Smoke coming in the window could be from next door, downstairs, downstairs and upwind, or even rising from the sidewalk where tenants and guests smoke under a tree or balcony.

I don't see anything in the ordinance that authorizes landlords to verify that smoke is coming from a particular unit. My landlord's legal department says that attempting to verify that a tenant is smoking in their unit constitutes an illegal invasion of privacy. **The ordinance needs to be amended to require landlords to use tobacco and cannabis detection if needed to verify complaints, and indemnify landlords from lawsuits by smokers claiming a "right to smoke" or that it is an ADA accommodation (nicotine and cannabis can be consumed by other methods). Tenants have no authority or access to other tenants' units to verify smoking and we should not bear the burden of proof.**

https://www.hunker.com/12268037/how-to-test-for-cigarette-smoke-in-your-home

http://www.cigarettesmokedetector.com/

https://www.freshairsensor.com/

https://www.amazon.com/Tobacco-Smoke-Check-Indoor-Quality/dp/B071GM7QMG

I am also disappointed that tenants in duplexes and owner-residents of condominiums will not be protected under the ordinance and hope it will be amended accordingly (now or in the future).

Based on my experience in multi-unit housing, it is nearly impossible to determine the source tobacco or cannabis smoke and therefore the ordinance as written would only be enforceable in triplexes, quadplexes, or other small apartment buildings.

Your constituent,

Kathryn Hedges
[redacted]

San Jose City Council
200 E. Santa Clara St.
San Jose, CA 95113

Sep 27, 2021

RE: **San Jose City Council Meeting on Smoke-Free Housing Ordinance (Tuesday, September 28, 2021)**

Dear Respected City Council Members,

First, thank you for your efforts in protecting San Jose residents from secondhand smoke in multi-unit housing ("MUH"). I, as a concerned constituent, am grateful for your attention to this matter. **That said, I was extremely disappointed to see that the City is not considering a more robust ordinance that would protect ALL San Jose MUH residents.** I am flabbergasted to see that certain types of MUH won't be covered by the ordinance, which means my community and I will continue to be exposed to toxic secondhand smoke in our homes.

A more robust ordinance would contain the following **critical** provisions to protect **all** MUH residents:

• Any building with 2 or more units - even duplex residents who share a common wall should be protected from the dangers of secondhand smoke.

• Condominiums and townhomes (which are quite often high-density housing) - we should not deprive condo/townhome residents of their right to breathe clean air simply because they happen to live in a condo or townhome. They will absolutely still be subject to noxious secondhand smoke - the legal classification of their residence is irrelevant, and their lungs are just as important as anyone else's.

• All smoke, such that residents are protected from all types of noxious secondhand smoke exposure (not just traditional cigarette smoke).

These provisions are **logical**, will **protect** all of our residents, **benefit** the City in several ways (physically, socially, economically), and will **prevent** a patchwork of differing protections for different residents simply based on the type of MUH. As you may know **many** neighboring cities/counties (i.e., Los Gatos, Palo Alto, Monte Sereno, Santa Clara, Sunnyvale and Santa Clara County) have already passed smoke-free housing policies that restrict smoking in multi-unit housing with these very provisions. We should do the same for our beautiful City of San Jose.

Several scientific studies have established that secondhand smoke exposure is **harmful** and **deadly**. In fact, the U.S. Surgeon General has **unequivocally** stated that there is **no risk-free level** of exposure to secondhand smoke. It contributes to health problems such as asthma, heart disease, lung cancer and stroke. Children, pregnant women, those with respiratory issues, the elderly and the disabled, our most vulnerable citizens, are also the most vulnerable to secondhand smoke.

Secondhand smoke drifts from other units (e.g., balconies, patios, garages) and from common areas in **all** types of MUH. Secondhand smoke drifts in through open windows and doorways, but also through cracks, electrical outlets, ventilation systems and plumbing. The only solution to protecting our citizens, especially our youth, elderly and disabled populations, from secondhand smoke exposure is to make our communities **completely** smoke-free.

I **urge** you to carefully consider the health of **all** San Jose residents and protect them from dangerous and toxic secondhand smoke in their homes (regardless of type of MUH). Not a day goes by where we smell smoke in our homes and see hundreds of toxic cigarette butts littered all over our community. We trust you will make the right decision for our health and safety and **ban smoking entirely in and around all types of MUH communities**. Our lives and our loved ones depend on it.

Sincerely,

Saba Siddiqui

Breathe California of the Bay Area, Golden Gate, and Central Coast

1469 Park Avenue
San Jose, CA 95126
Phone: (408) 998-5865
Toll-Free: 1-877-3-BREATHE
Fax: (408) 998-0578
www.lungsrus.org
info@lungsrus.org

Tax ID#: 94-1156307

BREATHE CALIFORNIA

September 27, 2021

The Honorables Mayor Sam Liccardo, Vice Mayor Chappie Jones, and Councilmembers Sylvia Arenas, Magdalena Carrasco, David Cohen, Dev Davis, Lan Diep, Maya Esparza, Pam Foley, Sergio Jimenez, and Raul Perales
San Jose City Council
200 E. Santa Clara St.
San José, CA 95113

Via e-mail: gina.espejo@sanjoseca.gov; city.clerk@sanjoseca.gov; agendadesk@sanjoseca.gov

Re: **Amendment to Chapter 9.44, Regulation of Smoking, of Title 9, Health and Safety, of the San José Municipal Code in Alignment with City Council Policy Priority #18: Smoke-Free Housing**

Dear Mayor and Councilmembers:

I am writing to express support, with reservations, for the proposed ordinance to provide greater protection from secondhand smoke for San Jose's residents who live in multi-unit housing (MUH). Although the ordinance will provide much greater protection than in the past, it would not protect ALL San Jose residents in multi-unit housing. Those who live in condominiums and duplexes would be excluded.

We find this puzzling. Breathe California's Secondhand Smoke Helpline, in operation for thirty years, gets a large share of calls from condominium and duplex dwellers, who suffer the same serious consequences from their neighbor's smoking as do apartment dwellers. Although it assists with all types of secondhand smoke problems, multi-unit housing issues now comprise most of the cases.

It would appear that these exclusions were inserted purely for ease of administration, without regard to a need for all residents to receive equal protection under the law. Secondhand smoke is such a serious health problem that we urge you to reconsider being inclusive and improving the lives of ALL San Jose MUH dwellers. It has become an even more critical issue due to so many people working from home.

We are grateful that you have included all types of smoking in the draft ordinance and have included outdoor spaces such as balconies and patios. Please take the last step and add condominium and duplex dwellers to the list of residents who would benefit. We believe that the health of these residents would far outweigh any extra administrative costs.

Thanks for Your Consideration,

[redacted]

Margo Sidener, MS, CHES

TOBACCO-FREE COALITION
of Santa Clara County

1775 Story Road, Suite 120
San Jose, CA 95122

San Jose City Council
200 E. Santa Clara St.
San José, CA 95113

September 23, 2021

Re: Agenda Item 7.2, September 28 Meeting, Smoke-Free Housing

Dear Mayor Liccardo and Members of the San Jose City Council,

The Tobacco-Free Coalition of Santa Clara County, which consists of more than 20 organizations and individuals interested in promoting the health of our citizens, would like to thank the San Jose City Council for moving forward to protect San Jose residents from drifting secondhand smoke in multi-unit housing. We appreciate your focus on this important topic.

Across Santa Clara County more than 1 in 2 residents living in multi-unit housing are exposed to secondhand smoke in their home. Higher exposure rates are also correlated with different racial groups, lower income levels and educational attainment.

However, we are disappointed to see in the draft ordinance that the city is not considering the strongest ordinance which would protect all residents. It is upsetting that some residents of multi-unit housing will be not be covered by the ordinance, meaning they may continue to be exposed to secondhand smoke in their home.

A strong ordinance would include these key provisions to protect all residents of multi-unit housing:

- **Any building with 2 or more units** - so that even duplex residents who share a wall are protected
- **Condominiums and townhomes** - so that residents who own their multi-unit home are protected
- **All smoke** - so that residents are protected from all exposure, not just traditional cigarette smoke

These provisions are common sense and will prevent differing protections for different residents. In fact, more than half of the jurisdictions in Santa Clara County — 9 out of 16 — have already passed smokefree housing policies that restrict smoking in multi-unit housing with these provisions (Cupertino, Los Gatos, Milpitas, Mountain View, Palo Alto, Monte Sereno, Santa Clara, Sunnyvale and Santa Clara County).

Secondhand smoke exposure is harmful and potentially deadly. The U.S. Surgeon General has stated that there is no risk-free level of exposure to secondhand smoke. **Children, the elderly and the disabled — our most vulnerable citizens — are also the most vulnerable to secondhand smoke.**

Our coalition urges you to move forward with a stronger policy to protect ALL residents from dangerous secondhand smoke in their homes.

Sincerely,

Vanessa Marvin, Co-Chair
[redacted]

Carol Baker, Co-Chair
[redacted]

Law Foundation
OF SILICON VALLEY

Advancing Justice
Housing | Health | Children & Youth

September 23, 2021

Mayor Sam Liccardo and City Council
City of San Jose
200 E. Santa Clara Street
San Jose, CA 95113
Via E-mail to mayoremail@sanjoseca.gov; district1@sanjoseca.gov; district2@sanjoseca.gov; district3@sanjoseca.gov; district4@sanjoseca.gov; district5@sanjoseca.gov; district6@sanjoseca.gov; district7@sanjoseca.gov; district8@sanjoseca.gov; district9@sanjoseca.gov; district10@sanjoseca.gov; city.clerk@sanjoseca.gov; webmaster.manager@sanjoseca.gov; Rita.Tabaldo@sanjoseca.gov

RE: Agenda Item 7.2: Amendment to Chapter 9.44 of the San Jose Municipal Code

Dear Mayor and City Council:

The Law Foundation of Silicon Valley writes to express our concern with the proposed amendment to Chapter 9.44 of the San Jose Municipal Code, which would ban tenants in multifamily dwellings from smoking within their residences. While we understand the public health concerns around exposure to cigarette and other smoke, this amendment could potentially lead to increases in both evictions and incarceration among San Jose renters, and particularly among our client communities.

Specifically, we strongly suggest that the language of section 9.44.035(E)(1) be revised. As currently written, 9.44.035(E)(1) requires that repeated instances of smoking in one's unit or on one's private balcony be considered a material violation of a lease. We are extremely concerned about the potential implications of this language. Under both city ordinance and state statute, a material violation of a tenant's lease can serve as a just-cause grounds for evicting said tenant. Allowing evictions to occur on the basis of behavior that is generally compulsive is both unreasonable and unjust. We are further concerned that this impact would fall disproportionately on clients with mental health disabilities, who often use smoking as a means of coping with daily stressors. Additionally, we worry about unequal enforcement on communities of color, who are already evicted at levels disproportionate to their share of the population. We suggest removing language that finds that smoking is a material violation of the lease, and instead include language that states tenants *cannot* be evicted for violations of the amendment.

Additionally, we find the language of 9.44.035(D) to be overly punitive and suggest that it be removed from the proposed amendment. As written, 9.44.035(D) requires that a tenant who has violated the amendment two times within a twelve-month period be found guilty of a Title 1 infraction. Assuming that this is referencing the violations and penalties listed for infractions under Section 1.08.010 of the municipal code, such a violation would lead to a $100 fine at minimum. Eight violations of the amendment within a twelve-month period would lead to a tenant being found guilty of a misdemeanor, triggering a $1,000 fine or a six-month prison term.

Again, we believe the impact of these violations will fall disproportionately on our client communities, who often have less than $1,000 in savings and would be unable to pay such a high fine. Many of our clients have no savings, making it difficult for them to pay even a $100 fine. Because of this, we worry that these tenants will face prison terms if they repeatedly violate the proposed amendment. Authorizing incarceration for half a year for smoking in one's private residence is unquestionably an iniquitous response. The City Council and city policymakers are well aware of the extreme detrimental impacts that even short-term incarceration can have on low-income individuals, families, and communities.

Further, Section 9.44.035(D) allows the City to "employ any other remedies permitted by law" when resolving a violation of the amendment. Such language is broad, overly vague, and does not give enough notice of enforcement mechanisms to either potential tenants who may violate this amendment or legal aid organizations like the Law Foundation who may end up defending these cases. The Law Foundation finds this uncertain language extremely troubling, and we worry that the ability to "employ any other remedies" could lead to serious, as-yet unknown consequences for our client communities.

The Law Foundation understands the City's desire to create healthier communities for all its residents, but we believe the current language of the proposed amendment will lead to destructive consequences for our clients. We are happy to meet with Code Enforcement and/or City Council to discuss what enforcement mechanisms are necessary and ensure they are appropriately tailored.

Sincerely,

[redacted]

Tessa Baizer, Staff Attorney
Nadia Aziz, Director, Housing Program

September 28, 2021

The Honorable Sam Liccardo
Members of the San José City Council
200 E. Santa Clara St.
San Jose, Ca 95113

Dear Mayor Liccardo and Members of the San José City Council:

The American Cancer Society Cancer Action Network's (ACS CAN) mission is to end suffering and death from cancer, and we are committed to continuing that mission in the City of San José. Thank you for considering policies to create smoke-free multi-unit housing in San José. Exposure to secondhand smoke has killed more than 2.5 million non-smokers since 1964, according to a 2014 report by the U.S. Surgeon General, who has declared that there is no safe level of exposure to secondhand smoke. Secondhand smoke in multi-unit housing is especially troubling, as smoke can, and does, transfer between units, seeping under doorways and through wall cracks. We urge you to adopt a strong policy to create 100% smoke-free multi-unit housing.

The proposed policy defines multi-unit residence as a building with three or more units, instead of two or more units which is best practice. Secondhand smoke can travel into an apartment from other apartments and common areas through doorways, cracks in walls, electrical lines, ventilation systems and plumbing. Opening windows and using fans does not completely remove secondhand smoke. Heating, air conditioning and ventilation systems cannot eliminate exposure to secondhand smoke. In fact, these systems can distribute secondhand smoke throughout a building. Everyone deserves to breathe clean air in their homes, regardless of whether they can afford to rent or buy. Best practice supports that this policy be made effective for new as well as existing multi-unit housing residences, both rented and owner-occupied. The policy should require notice in every new lease and lease renewal, as well as signage on the property so that every resident is informed.

The only way to eliminate secondhand smoke exposure is to prevent it. ACS CAN supports a policy that prohibits smoking in all multi-unit housing, including condominiums and townhomes, and widely defines smoking to include smoke from tobacco, electronic smoking devices, and any plant products including cannabis whether the products are lighted, heated or burned. The current definition of smoking should be expanded to include "heated" in order to capture new and emerging tobacco products that claim to heat tobacco rather than burn it. Such a policy would prohibit smoking inside individual units as well as on balconies, patios and in common areas. Smoke-free multi-unit housing policies protect our children since more than a quarter of people living in multi-unit housing are under the age of 18, and home is the primary source of secondhand smoke for children. In addition to significant health benefits for residents, smoke-free policies would save California multi-unit housing property owners $18.1 million in renovation expenses each year.

Thank you for considering a strong smoke-free multi-unit housing policy to work towards a healthier community. Smoke-free spaces help former smokers stay quit and discourage youth from ever starting. It's time to join the numerous communities in the Bay Area and throughout California who have adopted comprehensive smoke-free multi-unit housing policies and make the health of San José residents a priority.

American Cancer Society Cancer Action Network
1001 Marina Village Parkway Suite 300 ▪ Alameda CA 94501 ▪ 510.464-8107

Sincerely,

[redacted]

Jen Grand-Lejano
Government Relations Director, Northern California
American Cancer Society Cancer Action Network

American Cancer Society Cancer Action Network
1001 Marina Village Parkway Suite 300 ▪ Alameda CA 94501 ▪ 510.464-8107

Fw: Letter of support for smokefree multi-unit housing

City Clerk <city.clerk@sanjoseca.gov>
Tue 10/19/2021 3:21 PM
To: Agendadesk <Agendadesk@sanjoseca.gov>

1 attachments (481 KB)
Letter to San Jose_MUH_10.18.21.pdf;

Office of the City Clerk | City of San José
200 E. Santa Clara St., Tower 14th Floor
San Jose, CA 95113
Main: 408-535-1260
Fax: 408-292-6207

How is our service? Please take our short survey.

From: Esparza, Maya <Maya.Esparza@sanjoseca.gov>
Sent: Tuesday, October 19, 2021 2:27 PM
To: City Clerk <city.clerk@sanjoseca.gov>
Subject: Fwd: Letter of support for smokefree multi-unit housing

Forwarding since we all got this letter

Get Outlook for iOS

From: Liz Williams <[redacted]
Sent: Tuesday, October 19, 2021 2:19:11 PM
To: Liccardo, Sam <sam.liccardo@sanjoseca.gov>; Jones, Chappie <Chappie.Jones@sanjoseca.gov>; Jimenez, Sergio <sergio.jimenez@sanjoseca.gov>; Peralez, Raul <Raul.Peralez@sanjoseca.gov>; Cohen, David <David.Cohen@sanjoseca.gov>; Carrasco, Magdalena <Magdalena.Carrasco@sanjoseca.gov>; Davis, Dev <dev.davis@sanjoseca.gov>; Esparza, Maya <Maya.Esparza@sanjoseca.gov>; Arenas, Sylvia <sylvia.arenas@sanjoseca.gov>; Foley, Pam <Pam.Foley@sanjoseca.gov>; Mahan, Matt <Matt.Mahan@sanjoseca.gov>
Subject: Letter of support for smokefree multi-unit housing

[redacted]

[External Email]

Good afternoon,

Americans for Nonsmokers' Rights would like to submit the attached letter regarding our support expanding San Jose's smokefree protections to include multi-unit housing and our concern with the exemption for owner-occupied housing, which will be heard at the October 26 City Council meeting.

Sincerely,

Liz Williams (she/her) | Project & Policy Manager
Americans for Nonsmokers' Rights |nonsmokersrights.org
American Nonsmokers' Rights Foundation |no-smoke.org
[redacted]

Join Us! | **Email Alerts**

ANR AMERICANS FOR NONSMOKERS' RIGHTS

October 18, 2021

Mayor Sam Liccardo
San Jose City Council
200 E. Santa Clara St.
San Jose, CA 95113

Re: File # 21-2260

Dear Mayor Liccardo and members of the City Council,

Americans for Nonsmokers' Rights is writing to express our support for a 100% smokefree multi-unit housing ordinance to protect the health and safety of multi-unit residents in San Jose and to help ensure everyone's right to a smokefree living environment.

San Jose has the opportunity to be a public health leader by protecting residents from the harmful effects of secondhand tobacco and marijuana smoke by prohibiting smoking in all multi-unit residences, including apartments and condominiums. Smokefree multi-unit housing is a powerful way to have a broad, positive community impact by reducing secondhand exposure where many people spend much of their time—especially children, the elderly, and people with disabilities—and can suffer from persistent levels of exposure.

The Centers for Disease Control and Prevention (CDC) estimates that nearly 5 million California multi-unit housing residents who keep a smokefree home are still exposed to a neighbor's secondhand smoke. The U.S. Surgeon General confirmed that there is **no risk-free level of exposure to secondhand smoke**, and that exposure can have both short and long term health risks, especially for people with existing health conditions like asthma and other respiratory conditions, heart disease, and cancer.

Smokefree multi-unit housing can help address health disparities faced by low-income residents and communities of color living in multi-unit residences. The CDC reports that 2 in every 5 children—including 7 in 10 Black children—remain exposed to secondhand smoke, and the U.S. Surgeon General confirmed that the home is the primary place children are exposed. Studies show high rates of exposure to secondhand smoke in low-income multi-unit housing, and lower-income individuals are also more likely to have health conditions that are exacerbated by secondhand smoke.

Americans for Nonsmokers' Rights is concerned with a significant gap in the coverage of the proposed ordinance. While it applies to rental multi-unit residences, it does not extend smokefree protections to owner-occupied multi-unit residences, like condominiums and townhomes.

Americans for Nonsmokers' Rights strongly recommends that the smokefree protections apply to all types of multi-unit residential properties. All San Jose residents of multi-unit properties should be able to breathe smokefree air at home and enjoy reduced health risks and fire risks. Secondhand smoke is an equal opportunity health hazard**,** regardless of whether a person rents or owns their unit.

San Jose families who live in owner-occupied multi-unit residences should not be left behind.

Action needs to be taken because secondhand smoke does not stay in the unit of a person who smokes. **Secondhand smoke can drift through multi-unit buildings** and enter common areas and units

occupied by non-smokers, where it becomes a nuisance and health risk to other residents. Research shows that up to 65% of the air in an apartment unit can come from other units in the building, and that secondhand smoke drifts under doors, through windows, hallways, and ventilation ducts, and through gaps around outlets, pipes, fixtures, and walls.

Smokefree multi-unit buildings create a healthier living environment for all residents, including people who smoke and their families. It's important to note that a smokefree building does not mean that people who smoke have to quit and it does not require people who smoke to move out. People who smoke simply need to go outdoors to appropriate areas to do so.

Americans for Nonsmokers' Rights strongly supports the expanded definition of smoking that includes cannabis smoking and vaping. San Jose's multi-unit residents should be able to breathe air that is free from **all types** of secondhand smoke exposure from both tobacco and cannabis. Cannabis should not be smoked or vaped inside multi-unit residences, just like it should not be smoked or vaped inside workplaces, because cannabis secondhand smoke and aerosol are sources of indoor pollution that poses health risks to non-users. While cannabis is now legal, it should not be used in ways that harm other people.

San Jose would be in good company by joining the California communities with laws requiring all multi-unit housing properties to be 100% smokefree—both rental and owner-occupied properties—including Palo Alto, Santa Clara, Sunnyvale, and unincorporated Santa Clara County.

Thank you for your leadership and desire to make San Jose the best place to live, work, and visit. Please feel free to contact me at 510-841-3045 if you have any questions, comments, or feedback.

Sincerely,

Cynthia Hallett, MPH
President and CEO

Americans for Nonsmokers' Rights is a national, member-based, not-for-profit organization based in Berkeley, CA that is dedicated to helping nonsmokers breathe smokefree air since 1976.

Fw: Letter of support for Agenda item 7.2 on 10/26

City Clerk <city.clerk@sanjoseca.gov>
Thu 10/21/2021 3:12 PM
To: Agendadesk <Agendadesk@sanjoseca.gov>

1 attachments (481 KB)
Letter to San Jose_MUH_10.18.21.pdf;

Office of the City Clerk | City of San José
200 E. Santa Clara St., Tower 14th Floor
San Jose, CA 95113
Main: 408-535-1260
Fax: 408-292-6207

How is our service? Please take our short survey.

From: Liz Williams [redacted]
Sent: Thursday, October 21, 2021 2:35 PM
To: City Clerk <city.clerk@sanjoseca.gov>
Subject: Letter of support for Agenda item 7.2 on 10/26

[redacted]

[External Email]

Good afternoon,

Americans for Nonsmokers' Rights would like to submit the attached letter regarding Agenda Item 7.2 that is scheduled to be addressed at the October 26 City Council meeting.

Sincerely,

Liz Williams (she/her) | Project & Policy Manager
Americans for Nonsmokers' Rights |nonsmokersrights.org
American Nonsmokers' Rights Foundation |no-smoke.org
[redacted]

ANR AMERICANS FOR NONSMOKERS' RIGHTS

October 18, 2021

Mayor Sam Liccardo
San Jose City Council
200 E. Santa Clara St.
San Jose, CA 95113

Re: File # 21-2260

Dear Mayor Liccardo and members of the City Council,

Americans for Nonsmokers' Rights is writing to express our support for a 100% smokefree multi-unit housing ordinance to protect the health and safety of multi-unit residents in San Jose and to help ensure everyone's right to a smokefree living environment.

San Jose has the opportunity to be a public health leader by protecting residents from the harmful effects of secondhand tobacco and marijuana smoke by prohibiting smoking in all multi-unit residences, including apartments and condominiums. Smokefree multi-unit housing is a powerful way to have a broad, positive community impact by reducing secondhand exposure where many people spend much of their time—especially children, the elderly, and people with disabilities—and can suffer from persistent levels of exposure.

The Centers for Disease Control and Prevention (CDC) estimates that nearly 5 million California multi-unit housing residents who keep a smokefree home are still exposed to a neighbor's secondhand smoke. The U.S. Surgeon General confirmed that there is **no risk-free level of exposure to secondhand smoke**, and that exposure can have both short and long term health risks, especially for people with existing health conditions like asthma and other respiratory conditions, heart disease, and cancer.

Smokefree multi-unit housing can help address health disparities faced by low-income residents and communities of color living in multi-unit residences. The CDC reports that 2 in every 5 children—including 7 in 10 Black children—remain exposed to secondhand smoke, and the U.S. Surgeon General confirmed that the home is the primary place children are exposed. Studies show high rates of exposure to secondhand smoke in low-income multi-unit housing, and lower-income individuals are also more likely to have health conditions that are exacerbated by secondhand smoke.

Americans for Nonsmokers' Rights is concerned with a significant gap in the coverage of the proposed ordinance. While it applies to rental multi-unit residences, it does not extend smokefree protections to owner-occupied multi-unit residences, like condominiums and townhomes.

Americans for Nonsmokers' Rights strongly recommends that the smokefree protections apply to all types of multi-unit residential properties. All San Jose residents of multi-unit properties should be able to breathe smokefree air at home and enjoy reduced health risks and fire risks. Secondhand smoke is an equal opportunity health hazard**,** regardless of whether a person rents or owns their unit.

San Jose families who live in owner-occupied multi-unit residences should not be left behind.

Action needs to be taken because secondhand smoke does not stay in the unit of a person who smokes. **Secondhand smoke can drift through multi-unit buildings** and enter common areas and units

occupied by non-smokers, where it becomes a nuisance and health risk to other residents. Research shows that up to 65% of the air in an apartment unit can come from other units in the building, and that secondhand smoke drifts under doors, through windows, hallways, and ventilation ducts, and through gaps around outlets, pipes, fixtures, and walls.

Smokefree multi-unit buildings create a healthier living environment for all residents, including people who smoke and their families. It's important to note that a smokefree building does not mean that people who smoke have to quit and it does not require people who smoke to move out. People who smoke simply need to go outdoors to appropriate areas to do so.

Americans for Nonsmokers' Rights strongly supports the expanded definition of smoking that includes cannabis smoking and vaping. San Jose's multi-unit residents should be able to breathe air that is free from **all types** of secondhand smoke exposure from both tobacco and cannabis. Cannabis should not be smoked or vaped inside multi-unit residences, just like it should not be smoked or vaped inside workplaces, because cannabis secondhand smoke and aerosol are sources of indoor pollution that poses health risks to non-users. While cannabis is now legal, it should not be used in ways that harm other people.

San Jose would be in good company by joining the California communities with laws requiring all multi-unit housing properties to be 100% smokefree—both rental and owner-occupied properties—including Palo Alto, Santa Clara, Sunnyvale, and unincorporated Santa Clara County.

Thank you for your leadership and desire to make San Jose the best place to live, work, and visit. Please feel free to contact me at 510-841-3045 if you have any questions, comments, or feedback.

Sincerely,

Cynthia Hallett, MPH
President and CEO

Americans for Nonsmokers' Rights is a national, member-based, not-for-profit organization based in Berkeley, CA that is dedicated to helping nonsmokers breathe smokefree air since 1976.

Fw: FIRST 5 Letter Of Support: San Jose City Council Meeting, Agenda Item 7.2

City Clerk <city.clerk@sanjoseca.gov>
Mon 10/25/2021 11:48 AM
To: Agendadesk <Agendadesk@sanjoseca.gov>

1 attachments (294 KB)
F5 Letter Of Support San Jose City Council Meeting, Agenda Item 7.2.pdf;

Office of the City Clerk | City of San José
200 E. Santa Clara St., Tower 14th Floor
San Jose, CA 95113
Main: 408-535-1260
Fax: 408-292-6207

How is our service? Please take our short survey.

From: Jodi Lindenthal <[redacted]on behalf of Patricia Gardner <Patricia.Gardner[redacted]
Sent: Friday, October 22, 2021 5:17 PM
To: Jones, Chappie <Chappie.Jones@sanjoseca.gov>; Jimenez, Sergio <sergio.jimenez@sanjoseca.gov>; Peralez, Raul <Raul.Peralez@sanjoseca.gov>; Cohen, David <David.Cohen@sanjoseca.gov>; Carrasco, Magdalena <Magdalena.Carrasco@sanjoseca.gov>; Davis, Dev <dev.davis@sanjoseca.gov>; Esparza, Maya <Maya.Esparza@sanjoseca.gov>; Arenas, Sylvia <sylvia.arenas@sanjoseca.gov>; Foley, Pam <Pam.Foley@sanjoseca.gov>; Mahan, Matt <Matt.Mahan@sanjoseca.gov>; Liccardo, Sam <sam.liccardo@sanjoseca.gov>
Cc: City Clerk <city.clerk@sanjoseca.gov>
Subject: FIRST 5 Letter Of Support: San Jose City Council Meeting, Agenda Item 7.2

[redacted]

[External Email]

Dear Mayor Liccardo and San Jose City Council Members,

FIRST 5 Santa Clara County (FIRST 5) serves young children and families as a funder, a resource, and an advocate throughout the county. We invest locally in health, early learning, and family support programs and initiatives based on the needs of our community's youngest children and their families. On behalf of FIRST 5, this letter is to express our support for the ordinance that will prohibit smoking in multi-unit housing. FIRST 5 also urges the city council to move forward with a more comprehensive policy that will protect all San Jose children and families who reside in multi-unit housing.

Secondhand smoke exposure can contribute to many health problems including, but not limited to, asthma, heart disease, lung cancer, stroke and tooth decay.[1] Infants and young children are particularly vulnerable to the

impacts of secondhand smoke exposure because their lungs are developing.[2] While many laws have been passed in both in California and in San Jose that protect young children from secondhand smoke, children and families who live multi-unit housing in the City of San Jose are not currently protected from secondhand smoke exposure in their own homes.

We urge the San Jose City Council to move forward with a strong ordinance to protect young children from second and thirdhand smoke exposure. A comprehensive ordinance would include these provisions:

- **All housing with 2 or more units** - so that even children and families residing in duplexes who share a wall are protected.
- **Condominiums and townhomes** - so that all children and families who reside in multi-unit housing are protected.
- **All smoke** - so that young children and their families are protected from all exposure, regardless if it's from cigarettes, vape products, or marijuana. Marijuana and vape product exposure have also been linked to health problems for young children.[3] [4]

More than half of the jurisdictions in Santa Clara County have already passed smoke-free housing policies that restrict smoking in multi-unit housing with these provisions. Thank you for considering this ordinance and the health of all children and families in the City of San Jose.

Sincerely,

Patricia Gardner, Interim CEO

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[1] Oberg M, Jaakkola MS, Woodward A, Peruga A, Pruss-Ustun A. Worldwider burden of disease from exposure to second-hand smoke: a retrospective analysis from 192 countries. *Lancet*. 2011;377(9760):139-146.

[1] Tanski SE, Wilson KM. Children and secondhand smoke: clear evidence for action. Pediatrics. 2012, 129(1):170-171.

[1] Johnson AB, Wang GS, Wilson K, Cline DM, Craven TE, Slaven S, Raghavan V, Mistry RD. Association between secondhand marijuana smoke and respiratory infections in children. Pediatric Research, 2021

[1] Govindrajan P, Spiller HA, Casavant MJ, Chounthirath T, Smith GA. E-cigarette and liquid nicotine exposures among young children. Pediatrics. 2018, 141(5).

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FIRST 5
SANTA CLARA COUNTY

The First 5 years.
Make them count.

October 26, 2021

San Jose City Council
200 E. Santa Clara St.
San José, CA 95113

Dear Mayor Liccardo and San Jose City Council Members,

FIRST 5 Santa Clara County (FIRST 5) serves young children and families as a funder, a resource, and an advocate throughout the county. We invest locally in health, early learning, and family support programs and initiatives based on the needs of our community's youngest children and their families. On behalf of FIRST 5, this letter is to express our support for the ordinance that will prohibit smoking in multi-unit housing. FIRST 5 also urges the city council to move forward with a more comprehensive policy that will protect all San Jose children and families who reside in multi-unit housing.

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- **All smoke** - so that young children and their families are protected from all exposure, regardless if it's from cigarettes, vape products, or marijuana. Marijuana and vape product exposure have also been linked to health problems for young children.[3,4]

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Sincerely

[redacted]

Patricia Gardner, Interim CEO

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Fw: Multi unit Housing San Jose Smoke free ordinance Octobef 26 2021

City Clerk <city.clerk@sanjoseca.gov>
Mon 10/25/2021 11:45 AM
To: Agendadesk <Agendadesk@sanjoseca.gov>

Office of the City Clerk | City of San José
200 E. Santa Clara St., Tower 14th Floor
San Jose, CA 95113
Main: 408-535-1260
Fax: 408-292-6207

How is our service? Please take our short survey.

From: Mary Dowd <[redacted]
Sent: Saturday, October 23, 2021 4:35 PM
To: City Clerk <city.clerk@sanjoseca.gov>
Subject: Multi unit Housing San Jose Smoke free ordinance Octobef 26 2021

Dear Sir

I am writing to ask that the Supervisors in the City of San Jose pass this ordinance on October 26. Please take note that this ordinance has been delayed numerous times over the course of a number of years.

Indeed, numerous organizations have provided detailed testimony regarding the health problems caused by second hand smoke. Those presentations have been provided in detail in numerous Council meetings. They are in fact specific, detailed and are both personal and professional considerations regarding the grave health problems associated with second hand smoke. They are eloquent persuasive and unequivocal about the long term consequences of second hand smoke on tenants in multi unit housing in San Jose

Despite these detailed presentations which have been presented on numerous occasions, the City of San Jose has chosen to delay enacting this ordinance because of some perceived concern regarding low income tenants who.smoke. This is despite the fact that a pack of cigarettes now costs over $8 00 a pack and is an extremely expensive habit for any low income tenants to maintain.

Moreover no recognized body recognizes nicotine addiction as a disability. Meanwhile tenants with recognized disabilities with lung disorders, heart disorders as well as vascular problems not to mention

diabetes have to wait for relief from the carcinogenic effects of second hand smoke where they live on an ongoing basis.

I take note that none of the case management providers who receive millions of dollars in funds from the City of San Jose are mandated to provide tobacvo counseling within their programs. As they are not mandated to provide any form of counseling for any substace abuse issue this is not an ocerzight. This is a distinct missing element within those comprehensive case management services. This is despite the fact that the Office of Supportive Housing list substance abuse disorder as one of the criteria for entry on supportive housing programs.

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Therefore anyone with concerns about low income tenants should be mandating that the case management providers directly address these issues within their #Housing First# programs. Since millions of dollars are allocated to these programs annually there is certainly adequate provision for them at this time.

Please take note that I would like to stipulate that ALL forms of smoking are harmful to health. Therefore ALL forms of smoking need to be covered within this ordinance and there are absolutely no exceptions.

There needs to be clear consequences for landlords of multi unit Housing to make certain that these policies are enacted throughout San Jose. In addition, needless to say, there need to be clear provisions for those tenants who repeatedly violate the ordinance. There are no excuses for permitting second hand smoke to be a public health issue in multi unit Housing in San Jose in 2022.

Thank you for your consideration

Mary Dowd