

City Council approves language to ban smoking in multi-uniting housing

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The health of children living in proximity to smokers won the argument Nov. 2 as the City Council approved a smoking ban within multi-unit housing complexes.

Counselors started split before discussion on imposing a ban, with Alex Fallman unsure about the effect it would unfairly have on addicts and Jason Greenough worried about infringements on personal liberties.

In the end, Greenough was the lone holdout, as the council approved the ordinance 4-1.

The ordinance bans smoking in complexes consisting of two or more units and prohibits smoking in balconies, porches and patios along within common areas. It does allow landlords to designate smoking areas in no more than 10 percent of an unincorporated area that's at least 25 feet from where smoke can reach others. In addition, these areas must be clearly marked with signs and notices and can include ashtrays and cigarette cans.

The ordinance also establishes exposure to smoke as a nuisance and prescribes fines from \$250 to \$1,000 for violations.

The biggest issue for Greenough, he said, remains just because the city can impose a ban, should the city be doing this.

"There's already things on the books in the state of California, you can already talk to and appeal to your landlord, if there's unhealthy issues, you can appeal to the health department," Greenough said. "I think this ought to be placed back in the place between the landlord and the person renting."

However, Mayor Pro Tem Heidi Kime said she usually agrees with Greenough on liberty issues, but just not on this one.

“Unfortunately, there are people who have reached out to their landlord for over a decade. There are apartment complexes owned by landlords that are out of town, and they don’t care,” Kime said. “I was willing to work on the ad hoc committee on this because there have been people coming forward to ask the city for help.”

City Attorney Martha Rice said Monday after completing her review of the ordinance language she was satisfied with it being consistent with similar programs in other cities to get past her initial concerns when it was introduced Oct. 19.

“There are often requirements for noticing or to say that you need to provide a remedy for this, that or the other thing. But to have very specific terms, it’s not very common,” Rice said. “The others have been justified on both using the city’s constitutional police powers and the fact that state law does not specifically cover this particular area. It’s not preempted by some other provision in state law.”

Initially, Fallman’s opposition to the ordinance came from a feeling policing an addiction doesn’t work.

First, Crescent City Police Chief Richard Griffin said this has nothing to do with the addiction of smoking.

“They’re still going to be able to walk outside the residence, go over to a prescribed smoking area and smoke if they want to. What it hits home for is smoke that travels outside your unit through the walls, through the ventilation, two doors down and causes issues for the kids,” Griffin said. “We would not be going in as a police department and cite everyone in violation. We don’t have the time or manpower. What it’s designed to do is give that property owner of the multi-unit housing some teeth into it.”

Fallman changed his mind after hearing personal stories involving exposure to secondhand smoke. Amber Wier, health education coordinator for the county’s Tobacco Use Prevention Program, recalled the story of a mother who rented a second apartment to get her kids away from second-hand smoke, even while still paying rent on the first apartment.

“She called public health and we called the landlords. Her manager tried to seal the apartment so her kids’ toothbrushes didn’t smell like second-hand smoke,” Wier explained. “The neighbor didn’t care and the owner of the complex lived in Oakland and he didn’t care. She ended up moving to Klamath while still paying rent on her apartment here in Crescent City because her landlord wouldn’t allow her out of their lease agreement.”

“After hearing all these stories of people trapped in their homes, paying rent in apartments they don’t live in, when would this ordinance have kicked in and persuaded the landlord to change their behavior. If that is what we’re talking about, that can be persuasive to me,” Fallman said.

The ordinance will be brought before the City Council for final approval Nov. 16. If approved, it would go into effect in January, 2021. Mayor Inscore explained landlords would then have until June to present all this

information to their tenants. It then becomes law in January 2022 and become a part of all lease agreements. Landlords will not have the option of determining if a person can or cannot smoke within the apartment itself, Inscore explained.

“The landlords will be obliged to do that first level of enforcement. I think that’s where it should be. They should be the one doing that in relationship with contractual agreements that they have,” he added.