

Council Moves Forward on Apartment Smoking Ban

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Observer Reporter

If you're old enough you may remember the commercial from the days when cigarette ads were allowed on TV—"just a silly millimeter longer." On August 11, the City Council moved a not-at-all-silly millimeter closer to a ban on smoking in apartment complexes and condos, giving direction to the City for drafting an ordinance that would ban smoking in any complex of two or more units.

The issue might seem to be a no-brainer but the Council has moved cautiously due to the liability factor of landlords and homeowners associations (HOAs) and the alleged difficulties of enforcement of a ban on smoking in private residences.

On March 24 of this year, the Council took up discussion of a Discussion Draft Ordinance with a "menu" of options. At that time, after hearing several speakers, including representatives of HOAs, the Council decided to continue the matter in order to survey property owners and HOAs.

The decision to direct the city to draft an ordinance was agreed upon by four of the five Council members. The sole dissent came from [Jeff Cooper](#), who, while not by any means in favor of smoke hazards, expressed a discomfort with the idea of invoking a ban that would reach beyond public places into private residences.

"It's too much government," said Cooper, adding that he was also concerned about the problems of enforcing an ordinance and that he would rather have the police "out there fighting crime instead of enforcing a smoking ban."

The Council heard pleas by public speakers for a ban that would help them be able to breathe clean air.

One speaker, Glenda Jeffrey, noted that not all potentially hazardous smoke comes from tobacco products. She mentioned clove cigarettes and medical marijuana as problems.

Speaking as an advocate for the owner point of view, Rich Kissel, a realtor, stated that the banning of smoke-creating substances should be handled by "individual property owners" rather than the government.

On behalf of the city attorney's office, Heather Baker told the Council that "landlords would not be liable" as long as they followed the provisions of the ordinance.

[Jim Clarke](#) proposed a few terms: the ordinance should be for buildings with two or more units, should provide for a smoking section in "common areas" of the complex 25 feet or further from the closest residents, should include medical marijuana and other smoke-creating products, should be phased in over an 18-month period (for renters), and should be privately enforced.

Andy Weissman agreed with Clarke's points and added the idea of the common area "buffer zone" being an "option. Clarke had also proposed that "e-cigarettes," the electronic devices used by smokers to gradually kick the habit, also be banned but the Council had that as a separate agenda item. Later in the evening, the Council decided that the e-cigarette issue was too complicated to rule on at this time.

The directives agreed upon will be used by the city to write a draft ordinance, which will be vetted at a future Council meeting, leading to a final ordinance.