

Nebraska town considers banning smoking in apartments

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Some leaders in a blue-collar Nebraska suburb that's home to Offutt Air Force Base are borrowing an idea from a vastly more liberal state: Ban apartment renters from smoking cigarettes and e-cigarettes inside.

The proposal, which would be one of the few such restrictions outside of California and is similar to federal rules for public housing across the U.S., isn't meant to protect the health of the city's 50,000 residents, but instead to prevent fires.

Councilman Don Preister proposed the ban, which wouldn't affect duplexes and single-family homes, in August after cigarette smoking at a single Bellevue apartment complex led to two fires a month earlier. The second fire destroyed the building, displacing dozens of people, and injured four, including a firefighter.

"We had firefighters in the building ... when the floor started giving way," Preister said. "Had they not evacuated, we could have lost lives in the fire. I want to prevent that going forward."

But some residents in the city that borders Omaha set in a deeply conservative state see the proposal—set for a vote by the City Council on Monday—as an example of government overreach.

"I don't see how you're going to tell people what they can do in their homes," Brent Clatterbuck, who owns three apartment complexes in Bellevue, told the City Council earlier this month. "You're messing with

somebody's home."

Even some anti-smoking advocates noted that Nebraska would seem an odd choice for the proposal.

"It would be surprising, if it had come up in isolation," said Pat McKone of the American Lung Association, an anti-smoking group. "But there was a fire. We all understand—no matter what our political persuasion—that fire kills."

The ban, which Preister acknowledged would have secondary benefits of reducing health problems caused by secondhand smoke, is similar to those in dozens of California cities. Federal officials have adopted similar rules in public housing nationwide, but cities have rarely taken up the effort.

The Nebraska Department of Health and Human Services, which oversees the anti-tobacco group SmokeFree Nebraska, said it couldn't find any local ordinances in Nebraska or surrounding states that are similar to the Bellevue proposal.

"Smoking is both a health and safety issue," McKone said. "I'm not sure why we separate the issues of secondhand smoke and fire safety. Both are a danger to those living in multi-family dwellings."

Preister, who said he has nothing against smokers, argues that such a ban would also lower insurance premiums by preventing expensive fires. U.S. Fire Administration statistics show smoking is the No. 1 cause of home fire deaths.

Opponents of the proposal said officials haven't thought through the proposed change.

Margie Guy, a smoker who also rents four apartments located above her bridal boutique, recently told council members that three of her four renters smoke and two live on fixed incomes.

"Who are we to tell them they can't smoke in their own homes?" Guy asked. "What are the costs of actually enforcing these laws? Has anybody looked at that?"

James Hardy, a smoker who lives in an apartment, argues the measure would violate a state law that says people have a reasonable expectation of privacy in their own homes. He also contends it relegates apartment dwellers, who are often poorer than homeowners, to second-class citizens.

"By passing this law, you're effectively saying to the whole country, 'If you're a private property owner, you may still exercise your personal liberties and still have a reasonable expectation of privacy within your own dwelling' ... you're saying to the denizens of all apartments that this new class of citizen must surrender their civil liberties by virtue of where they chose to live."

David Sutton, a spokesman for Richmond, Virginia-based Altria Group Inc., which owns the nation's biggest cigarette maker, Philip Morris USA, said in an email there are places where smoking should be banned, such as in small enclosed areas, such as elevators, and places where children primarily are, such as schools.

"Complete bans go too far," he said. "Owners of private residences and other private places should determine the smoking policy for that particular location."

Preister understands the arguments against his proposal. He's not backing down.

"I can empathize with smokers who are continually feeling put upon," he said. "However, smoking is a choice. It's not a protected class. ... They just need to go outside or to a safe place."

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