

WILLIAM B. WALKER, M.D.
HEALTH SERVICES DIRECTOR

DANIEL PEDDYCORD, RN,
MPA/HA
DIRECTOR OF PUBLIC HEALTH



CONTRA COSTA
PUBLIC HEALTH
597 CENTER AVENUE, SUITE 200
MARTINEZ, CALIFORNIA 94553
PH (925) 313-6712
FAX (925) 313-6721
WENDEL.BRUNNER@HSD.CCCOUNTY.US

To: Family and Human Services Committee, Contra Costa Board of Supervisors
From: Daniel Peddycord, RN, MPA/HA, Director, Public Health
Re: Annual Report on Implementation of Secondhand Smoke Protections Ordinance and Draft Smokefree Multi-unit Residences Ordinance
Date: 11/13/17

Summary

At the April 2015 Family and Human Services Committee Meeting, Public Health presented its annual report on implementation of the County's Secondhand Smoke Ordinance and discussed challenges to protecting residents, workers and visitors from secondhand smoke and electronic smoking devices. Of specific concern were issues for residents living in multi-unit housing. The Committee directed staff to work with County Counsel to draft an ordinance that would create 100% Smokefree Multi-unit housing for the unincorporated communities. The draft ordinance, titled Smokefree Multi-Unit Residences, as well as the red-lined version of the relevant sections of Chapter 445, are attached to this report for review and consideration. A brief report on implementing the current ordinance is also presented.

Draft Ordinance Background

The Board of Supervisors adopted a comprehensive Secondhand Smoke Protections Ordinance in 2006. This decision came on the heels of the California Air Resources Board report designating secondhand smoke as a toxic air contaminant based on a review of the research linking secondhand smoke with numerous adverse health effects. The vast majority of Contra Costans do not smoke, with data showing that 13.4% of residents in the County do smoke. The Board strengthened the County's secondhand smoke protections in October 2009, October 2010, April 2013, June 2014 and July 2017 in response to community complaints regarding drifting smoke and the need for additional policies to protect public health. These amendments to the county code included expanding secondhand smoke protections to make all County-owned properties 100% smoke-free, and inclusion of electronic smoking devices in the definition of "secondhand smoke."

The majority of the 120 secondhand smoke complaints received by the Public Health Department's Tobacco Prevention Program over the last three years continue to be from multi-family housing residents, with 96 complaints regarding unit-to-unit and outside-to-unit drifting smoke. For residents of the unincorporated county, staff follows up with landlords and property owners regarding compliance with the County's current laws. However, since the County's ordinance does not include protections that address unit-to-unit drifting smoke, many of these residents are still exposed to secondhand smoke in their homes.

In 2007, the World Health Organization issued policy recommendations on Protection from Exposure to Second-Hand Tobacco Smoke, stating, "Scientific evidence has firmly established that there is no safe level of exposure to second-hand tobacco smoke (SHS), a pollutant that causes serious illness in adults and children. There is also indisputable evidence that implementing 100% smoke-free environments is the only effective way to protect the population from the harmful effects of exposure to SHS."

WHO's recommendation 1, in full, reads:

1. Remove the pollutant – tobacco smoke – by implementing 100% smoke-free environments. This is the only effective strategy to reduce exposure to tobacco smoke to safe levels in indoor environments and to provide an acceptable level of protection from the dangers of SHS exposure. Ventilation and smoking areas, whether separately ventilated from non-smoking areas or not, do not reduce exposure to a safe level of risk and are not recommended.



Air filtration companies agree that ventilation systems do not eliminate health risks caused by secondhand smoke, and in 2015, the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) updated its ventilation standards and re-confirmed its 2006 position that acceptable indoor air quality is based on an environment that is completely free from secondhand tobacco smoke, secondhand marijuana smoke, and emissions from electronic smoking devices.

Many communities in California have moved to address the issue of drifting secondhand smoke between units as an air quality and health issue. At least 90 communities statewide, including 27 jurisdictions in the Bay Area, have adopted 100% smokefree multi-unit housing laws, including Danville, El Cerrito, Richmond and Walnut Creek in Contra Costa, and the Counties of Sonoma, San Mateo and Santa Clara. Unit-to-unit drifting smoke exposure would be alleviated with a similar provision in the County's ordinance.

Provisions of the Ordinance

The definition of "multi-unit residence" in the ordinance is unchanged and means a building containing two or more dwelling units, including but not limited to apartments, condominiums, senior housing, nursing homes and single room occupancy hotels.

The attached draft ordinance revises the County Code to:

- Prohibit smoking in all dwelling units in multi-unit residences.
- Require every new, renewed, or continued lease or other rental agreement for the occupancy of a dwelling unit in a multi-unit residence to include terms that prohibit smoking in the dwelling unit.

Smoking would be permitted in a dwelling unit subject to a lease or other rental agreement that authorizes smoking until the agreement is modified as required by the ordinance, and in a dwelling unit that is owner-occupied until one year after the effective date of the ordinance. In order to provide outreach and education, and to allow time for landlords to include the terms that prohibit smoking in every new, renewed, or continued lease or other rental agreement, a one year implementation plan will be developed by staff, and all multi-unit housing residences will be expected to be smoke-free one year from the effective date of the ordinance.

Implementation Considerations

If adopted, the Smokefree Multi-Unit Residences ordinance will be implemented through the Public Health Department's Tobacco Prevention Program. Compliance with the new smokefree multi-unit housing law will be achieved through educational efforts with owners, property managers and residents of multi-unit housing, and community groups. Educational efforts would include updating the County's brochures on Secondhand Smoke laws; an educational mailing to multi-unit housing managers, owners and associations; presentations to the Municipal Advisory Committees and community groups; and collaborations with the California Apartment Association to provide technical assistance to landlords in implementing the new law.

Outreach and education efforts to the community will include information on how to make a complaint about drifting smoke in multi-unit residences, and an educational approach will be employed to address non-compliance. This approach will include working with owners/managers to assure that requirements of owners/managers under the ordinance are met, and providing technical assistance to owners/managers on compliance issues. If the owner/manager has implemented the required lease terms and signage, staff will also correspond with the tenant to educate the tenant on the law. The Tobacco Prevention Program has utilized a similar approach for addressing violations of other multi-unit residence smoking restrictions under the County's ordinance, such as no smoking in common areas or near doors and windows of these buildings.

Implementation of the Smoke-free County Properties Provision and other Secondhand Smoke Protections Ordinance Provisions over the Past Year

Smoke-Free County Campuses Provision:

Tobacco Prevention Program staff continues to take complaints about non-compliance with the County's smoke-free County Campuses law, and works with staff to address these complaints. A presentation was made to Risk



Management's Countywide Safety Coordinators meeting in January 2017, and "Smokefree Contra Costa" paper signage was updated and distributed for posting to the County Building Safety Coordinators at that presentation. Tobacco Prevention Program staff continue to maintain the Contra Costa Smoke-Free Campus web pages on the Health Services website (www.smokefreecc.org). This includes information on the ordinance and the "Frequently Asked Questions" document for the public.

Other Ordinance Provisions and Addressing Complaints:

The Tobacco Prevention Program continues to educate the public and businesses on provisions of the ordinance through community presentations, distributing educational brochures, responding to complaints and inquiries, and incorporating materials into County business license materials. Additionally, the Tobacco Prevention Program responds to drifting smoke complaints from residents throughout the County. Eight of these complaints over the past year were related to either outdoor drifting smoke or business-related complaints. The other 33 complaints received this year were regarding drifting smoke in multi-unit housing.

Recommendations

Staff recommends that the Family and Human Services Committee consider the draft Smokefree Multi-Unit Housing Ordinance as part of today's report, that the ordinance be brought forward from the Committee to the full Board of Supervisors for consideration and that, if adopted by the full Board, staff update the Family and Human Services Committee on implementation of the ordinance annually as part of its annual report on the County's Secondhand Smoke Protections Ordinance.

Attachments:

1. Ordinance No. 2017- ____ Draft Smokefree Multi-Unit Housing Residences
2. Ordinance (Smokefree Multi-Unit Housing Residences) Redline Version Draft
3. Brochures titled "A Guide to Contra Costa County's Secondhand Smoke Protections Ordinance" and "For Property Managers, Developers and Landlords in unincorporated Contra Costa."

