



To: Contra Costa Board of Supervisors
From: Daniel Peddycord, RN, MPA/HA, Director, Public Health
Re: Smokefree Multi-unit Residences and Hotels Ordinance and Staff Report
Date: 2/27/18

I. Background

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.

Staff presented a draft ordinance and report to the Family and Human Services Committee on November 13, 2017. The Committee accepted the report and recommendations, and directed staff to broaden the ordinance to include 100% smokefree hotels and take the revised ordinance to the full Board of Supervisors early in the new year. Staff was also directed to conduct outreach to the California Apartment Association, hotels in the unincorporated county, and home owner associations that may be affected.

Addressing Secondhand Smoke in Contra Costa County. 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 same year, the US Surgeon General reported that there is no safe level of exposure to secondhand smoke. The World Health Organization issued a similar statement in 2007 and added that there is indisputable evidence that implementing 100% smoke-free environments is the only effective way to protect the population from the harmful effects of secondhand smoke. WHO went on to say that 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.

Secondhand smoke and the harmful chemicals contained in the smoke are associated with causation of sudden infant death syndrome, respiratory infections, ear infections and asthma attacks in infants and children. They also have a strong relationship with heart disease, stroke, and lung cancer in adult nonsmokers. 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 outdoor

properties 100% smoke-free, and inclusion of electronic smoking devices in the definition of “secondhand smoke.”

While the vast majority of Contra Costans do not smoke, many people are exposed to secondhand smoke where they live, especially children, the elderly and persons with vulnerable illness who spend much of their time at home. Research also shows that lower-income populations and communities of color have markedly higher rates of exposure to and therefore greater health risks from secondhand smoke.¹ There are approximately 10,000 individual multi-unit housing units in the unincorporated county alone (California Department of Finance). Secondhand smoke can and does transfer between units, through wall cracks and under doors, with 65% of air in apartments coming from other units.^{2,3,4} 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 current 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.

An increasing number of communities in California have moved to address the issue of drifting secondhand smoke between in multi-unit residences 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.

II. Provisions of the Ordinance

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.

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 expressly prohibit smoking in the dwelling unit.
- Prohibit smoking in all hotel and motel guest rooms.

In order to provide for sufficient notification to landlords and owners, staff proposes that the requirement to modify leases and other rental agreements will go into effect on July 1, 2018. Beginning July 1, 2018, every new, renewed, or continued lease or other rental agreement for the occupancy of a dwelling unit in a multi-unit residence must include terms that prohibit smoking in the dwelling unit. After July 1, 2018, smoking will only be allowed in a dwelling unit (1) that is subject to a lease or other rental agreement that authorizes smoking and only until that agreement is modified as required by the ordinance, or (2) that is owner-occupied and only until July 1, 2019. Staff will develop an implementation plan that will provide outreach and education to landlords and occupants in anticipation that all multi-



unit housing residences will be smoke-free by July 1, 2019, one year from the effective date of the ordinance.

III. Outreach and Implementation Considerations

In response to 11/13/17 Family and Human Services direction, outreach was conducted and information obtained from the following organizations:

- The California Apartment Association was consulted for feedback on the ordinance, and is supportive of smokefree multi-unit housing. The Association requested one modification to the ordinance, to explicitly exempt the signage posting requirements for individual units. This modification is included in the draft ordinance.
- Staff was asked to contact Home Owner Associations (HOAs) in the unincorporated county to get input on the proposed smokefree multi-unit residences ordinance. In the course of trying to identify these organizations, it was found that many HOAs represent single-family home owners, which are not covered under the draft ordinance. However, staff was able to make contact with representatives from three HOAs in the unincorporated county, as well as one property management company with close to 200 complexes in the East Bay. A brief interview with these representatives was conducted, with 2 representatives expressing concern and 2 representatives conveying enthusiastic support for smokefree multi-unit residences.
- Hotels located in the unincorporated county were identified and contacted about their existing smoking policies. There are 4 hotels (Burlington Hotel in Port Costa; Crown Plaza in Concord; Embassy Suites and The Renaissance Hotel in Walnut Creek) each have their own smoke-free rooms policy, and do not allow smoking anywhere inside the hotel.

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.

IV. Fiscal Impact. Minimal fiscal impacts to the County are expected. Should the Board adopt the ordinance, a portion of the Prop 99/Prop 56 funding received for Public Health's Tobacco Prevention Program can be utilized to implement the ordinance over the next year.



Attachments:

1. Ordinance No. 2018-07 Draft Smokefree Multi-Unit Residences
2. Chapter 445-2 Smokefree Multi-Unit Residences Redline Version
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.”

¹ Chambers C, Sung H, Max W. Home Exposure to Secondhand Smoke among People Living in Multiunit Housing and Single Family Housing: A Study of California Adults, 2003 – 2012. *J Urban Heal*. 2014. doi:10.1007/s11524-014-9919-y

² Centers for Disease Control and Prevention (CDC). Secondhand Smoke: An Unequal Danger. *CDC Vital Signs*. 2015. Available at: www.cdc.gov/vitalsigns/pdf/2015-02-vitalsigns.pdf.

³ Snyder K, Vick JH, King BA. Smoke-free multiunit housing: a review of the scientific literature. *Tob Control*. 2015;0:1–12. doi:10.1136/tobaccocontrol-2014-051849.

⁴ Martínez-Sánchez JM, Sureda X, Fu M, et al. Secondhand smoke exposure at home: Assessment by biomarkers and airborne markers. *Environ Res*. 2014;133:111–116. doi:10.1016/j.envres.2014.05.013.



