

ORDINANCE NO. 2018-07

SMOKEFREE MULTI-UNIT RESIDENCES

The Contra Costa County Board of Supervisors ordains as follows (omitting the parenthetical footnotes from the official text of the enacted or amended provisions of the County Ordinance Code):

SECTION I. SUMMARY. This ordinance amends Division 445 of the County Ordinance Code to prohibit smoking in all dwelling units in any multi-unit residence and to require that the prohibition be included in the terms of any new lease or rental agreement, and to prohibit smoking in all guest rooms in any hotel or motel.

SECTION II. Section 445-4.004 of the County Ordinance Code is amended to read:

445-4.004 Prohibition of Smoking. Smoking is prohibited in the following places within the unincorporated area of Contra Costa County:

- (a) Enclosed places of employment.
- (b) Enclosed public places.
- (c) Service areas.
- (d) All areas within twenty feet of doors, windows, air ducts, and ventilation systems of enclosed places of employment, except while passing on the way to another destination.
- (e) All areas within twenty feet of doors, windows, air ducts, and ventilation systems of enclosed public places, except while passing on the way to another destination.
- (f) The following outdoor areas:
 - (1) Outdoor dining areas at bars and restaurants.
 - (2) Outdoor lounges and outdoor dining areas at places of employment.
 - (3) Public trails and public parks.
 - (4) Public event venues.
- (g) All multi-unit residence common areas, except that a landlord may designate a portion of an outdoor common area as a smoking area. A designated smoking area of an outdoor common area of a multi-unit residence must not overlap with any area where smoking is otherwise prohibited by local, state, or federal law; must be located at least twenty-five

feet in all directions from non-smoking areas; must not include areas used primarily by children; must be no more than twenty-five percent of the total outdoor common area; must have a clearly marked perimeter; and must be identified by conspicuous signs.

- (h) All areas within twenty feet of doors, windows, air ducts, and ventilation systems of multi-unit residences, except while passing on the way to another destination.
- (i) All outdoor balconies, porches, decks, patios, and carports of multi-unit residences.
- (j) All dwelling units in any multi-unit residence, except as otherwise provided in Section 445-4.006. (Ords. 2018-07 § 2, 2010-10 § 3, 2006-66 § 5, 91-44 § 2).

SECTION III. Section 445-4.006 of the County Ordinance Code is amended to read:

445-4.006 Exceptions.

- (a) Smoking is permitted at any location within the county unless otherwise prohibited by this code or by state or federal law.
- (b) If a dwelling unit in a multi-unit residence is subject to a lease or other rental agreement and smoking is authorized under the lease or rental agreement, smoking is permitted in the dwelling unit until the lease or rental agreement is modified to prohibit smoking in accordance with Section 445-4.014.
- (c) If a dwelling unit in a multi-unit residence is owner-occupied, smoking is permitted in the owner-occupied dwelling unit until July 1, 2019. (Ords. 2018-07 § 3, 2010-10 § 4, 2006-66 § 5, 91-44 § 2).

SECTION IV. Section 445-4.008 of the County Ordinance Code is amended to read:

445-4.008 Posting requirements. "Smoking" or "No Smoking" signs, whichever are appropriate, with letters of not less than one inch in height, or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it), shall be conspicuously posted in every building or other place where smoking is regulated by this division by the owner, operator, manager or other person having control of the building or other place. This section does not require the posting of "No Smoking" signs inside or on the doorway of any dwelling unit in a multi-unit residence. (Ords. 2018-07 § 4, 2006-66 § 5, 91-44 § 2).

SECTION V. Section 445-4.012 of the County Ordinance Code is amended to read:

445-4.012 Disclosure of smoking complaint policy. In a multi-unit residence where units are rented or leased to tenants, the owner and manager of the residence shall disclose whether a policy for handling smoking complaints is in effect at the multi-unit residence, and if so, shall

provide a copy of that policy to each tenant along with every new lease or rental agreement for the occupancy of a unit in the multi-unit residence. (Ords. 2018-07 § 5, 2009-26, § III, 10-20-09)

SECTION VI. Section 445-4.014 of the County Ordinance Code is amended to read:

445-4.014 Required lease terms.

- (a) Commencing July 1, 2018, every lease and other rental agreement for the occupancy of a dwelling unit in a multi-unit residence that is entered into, renewed, or continued month-to-month must include the terms specified in subsection (b) of this section on the earliest possible date allowed by law after providing any required legal notice.
- (b) Required Terms.
 - (1) A clause stating that smoking is prohibited in all dwelling units must be included in the written agreements specified in subsection (a) of this section.
 - (2) A clause stating that it is a material breach of the lease or rental agreement to: (i) violate any law regarding smoking while on the premises; (ii) smoke in any dwelling unit; or (iii) smoke in any multi-unit residence common area where smoking is prohibited, must be included in the written agreements specified in subsection (a) of this section.
- (c) The California Apartment Association's Form 34.0, revised December 2016 and as amended from time to time, may be used to comply with this section.
- (d) A landlord's failure to enforce any smoking regulation of a lease or rental agreement on one or more occasions does not constitute a waiver of the lease or rental agreement provisions required by this section and does not prevent future enforcement of the lease or rental agreement provisions required by this section.
- (e) A landlord is not liable under this chapter to any person for a tenant's breach of smoking regulations if:
 - (1) The landlord has fully complied with all provisions of this chapter; and
 - (2) Upon receiving a signed, written complaint regarding prohibited smoking, the landlord provides a warning to the offending tenant, stating that the tenant may be evicted if another complaint is received. Upon receiving a second signed, written complaint against the offending tenant, the landlord may evict the tenant, but is not liable for the failure to do so. (Ords. 2018-07 § 6, 2010-10 § 5).

SECTION VII. Subsection (m) of Section 445-2.006 of the County Ordinance Code is amended to read:

- (m) "Place of employment" means any area under the control of an employer, business, or nonprofit entity that an employee, volunteer, or the public may have cause to enter in the normal course of operations, regardless of the hours of operation. Places of employment include, but are not limited to: indoor work areas; bars; restaurants; hotels and motels, including all guest rooms; vehicles used for business purposes; taxis; employee lounges and breakrooms; conference and banquet rooms; bingo and gaming facilities; long-term health care facilities; warehouses; retail or wholesale tobacco shops; and private residences used as licensed child-care or health-care facilities when employees, children, or patients are present and during business hours. The places specified in subdivisions (e)(1), (2), (6), and (7) of Labor Code section 6404.5 are places of employment for the purposes of this division and are regulated as specified in this division. The places specified in subdivisions (e)(3), (4), and (5) of Labor Code section 6404.5 are not places of employment for the purposes of this division.

(Ords. 2018-07 § 7, 2017-01 § 2, 2013-10 § 2, 4-9-13, 2010-10 § 2, 10-12-10, 2006-66 § 4, 98-43 § 2, 91-44 § 2)

SECTION VIII. EFFECTIVE DATE. This ordinance becomes effective 30 days after passage, and within 15 days after passage shall be published once with the names of supervisors voting for or against it in the Contra Costa Times, a newspaper published in this County.

PASSED on March 13, 2018, by the following vote:

AYES: Gioia, Andersen, Burgis, Mitchoff, Glover

NOES: None

ABSENT: None

ABSTAIN: None

ATTEST: DAVID J. TWA,
Clerk of the Board of Supervisors
and County Administrator


Board Chair Karen Mitchoff

By:


Deputy

[SEAL]

KCK:

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