



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
Board of Supervisors



Date: September 22, 2014
Board Meeting Date: October 21, 2014
Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors

From: Supervisor Carole Groom
Supervisor Adrienne Tissier

Subject: Addition of Section 4.97 to Title 4 of the San Mateo County Ordinance Code prohibiting smoking in and around multi-unit residences.

RECOMMENDATION:

Adopt an Ordinance adding a Chapter 4.97 to Title 4 of the San Mateo County Ordinance Code prohibiting smoking in and around multi-unit residences, and amending Chapter 4.96 to delete references to multi-unit residences.

BACKGROUND:

Tobacco use is the number one cause of preventable death and disease in San Mateo County. Data from the Office of Statewide Health Planning and Development (OSHPD) indicate that there were 47,066 smoking-associated hospitalizations in San Mateo County between 2006 and 2010. Treatment costs for these hospitalizations were \$566,797,878; with \$20,780,822 of this total spent at the San Mateo Medical Center (Jacobson, B. and Van Olst, D., 2013).

The impact of secondhand smoke has been extensively studied, with research indicating that exposure increases the risk of coronary heart disease by approximately 30 percent and causes lower respiratory tract infections in as many as 300,000 children in the United States each year. Secondhand smoke has been proven to travel through wall cracks, ventilation systems and under doorways. Its effects present the greatest harm to children, the elderly and those living with chronic respiratory conditions.

The San Mateo County Board of Supervisors has been in the forefront of enacting legislation that controls the impact of tobacco use in the community. Ordinances previously enacted by the County include those requiring smokefree workplaces and restaurants; banning tobacco self-service displays, requiring licenses for tobacco retailers; prohibiting smoking within 30 feet of doors/windows in County owned or

operated buildings, and requiring smokefree County campuses. Local laws such as these have helped lead to the State's implementation of statewide tobacco policies.

While the public is generally protected from exposure to secondhand smoke in most public places, many people who live in multi-unit housing (MUH) facilities (e.g., apartments, condos, multiplexes, etc.) continue to be involuntarily exposed to the hazards of tobacco in their homes. Smoke in MUH facilities seeps through floors, windows, walls, and heating/cooling/ventilation systems and can affect the air quality of neighboring units. This issue is most concerning to families of children with respiratory tract infections, asthma and chronic ear infection/disease, because exposure to secondhand smoke can trigger episodes and exacerbate symptoms.

Low income communities, communities of color, the elderly, and young families make up the majority of residents in multi-unit housing facilities in unincorporated San Mateo County. Thus, our efforts to address the health disparities that impact specific segments of our community must consider the protection of health in multi-unit housing facilities.

In 2013, Breathe California, Sunset Russian Tobacco Project, and the Youth Leadership Institute conducted a survey in San Mateo County that showed that 100% of tenants believe secondhand smoke is harmful and 95% would be bothered by the smell of tobacco in their apartments. More than three-quarters (3/4) of residents surveyed throughout San Mateo County were in support of smokefree MUH policies. As of December 2013, 33 jurisdictions in California (including Belmont and Daly City, in San Mateo County) have implemented strong smokefree multi-unit housing policies that prohibit smoking within a certain percentage of units; 26 of those jurisdictions prohibit smoking in 100% of all or new units.

Attachment 1 contains the list of references used in the Findings section of this Ordinance.

DISCUSSION:

Within the unincorporated areas of San Mateo County, there are 135 multi-unit housing facilities with four or more units for a total of 1,069 units. Of these, 105 facilities, with a total of 835 units, are in the unincorporated area in the vicinity of Redwood City. Staff are working with other sources to identify 2- and 3-unit facilities to add to the list.

Following the Board study session on March 25, 2014, staff met with the North Fair Oaks Community Council (NFOCC), the San Mateo County Association of Realtors, and the San Mateo County Tobacco Education Coalition to discuss the proposed ordinance. Additionally, staff met with the California Apartment Association Tri-County Division and have included language in the ordinance to address the CAA's concerns related to landlord/property manager liabilities. The NFOCC recommended adoption of the ordinance at its May 22, 2014, meeting.

The following are the key provisions of the proposed ordinance:

- It prohibits smoking in all units (including decks, patios, etc.) within multi-unit residences in the unincorporated areas of the County, as well as in all enclosed and unenclosed common areas of multi-unit residences except designated smoking areas within such common areas that conform to the ordinance requirements for such areas, and within 30 feet of an operable doorway, window, opening, or other vent into a non-smoking area.
- It applies to multi-unit residences owned or leased by San Mateo County, wherever located.
- It applies to properties with two or more units (with one or more shared ceilings, floors, walls or ventilation systems), including condominium complexes, townhouse complexes, and apartment complexes.
- It does not apply to hotels and motels, residential care and assisted living facilities, detached, single family homes, or detached, single family homes with detached or attached in-law or second units.
- It allows landlords to establish designated smoking areas. Any designated smoking area would require a clearly marked perimeter identified by conspicuous signs, and it would have to be at least 30 feet in any direction from any operable door, window, opening or vent into an enclosed nonsmoking area, and any unenclosed areas primarily used by children or for physical activity (including playgrounds, swimming pools and school campuses).
- It requires "no smoking" signs at every building and unenclosed area where smoking is prohibited pursuant to this ordinance or any other law.
- It provides that every lease or other rental agreement for a unit in a multi-unit residence that is entered into, renewed, or continued month-to-month after the effective date of the ordinance must contain lease terms that (1) make it a material breach of the agreement to smoke on the affected property in violation of the ordinance or any other law; (2) clearly describe all areas where smoking is allowed or prohibited on the property; and (3) allow all other tenants of the multi-unit residence to enforce the smoking provisions of the agreement.
- It prohibits the smoking of electronic devices such as e-cigarettes.
- It exempts the smoking of medical marijuana.
- It would be enforced by the County Health System.
- It would go into effect 30 days after the ordinance's final approval, but smoking would not be prohibited in existing units of multi-unit residences until 14 months after the ordinance's final approval.

The San Mateo County Tobacco Education Coalition has prioritized the advocacy for smokefree multi-unit housing facilities in its 2014-17 strategic plan.

FISCAL IMPACT:

None