



County of San Mateo

Inter-Departmental Correspondence

Department: COUNTY MANAGER

File #: 18-960

Board Meeting Date: 10/23/2018

Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors

From: John L. Maltbie, County Manager

Subject: Board of Supervisors' Response to the 2017-2018 Civil Grand Jury Report, "Smoke-Free Multiunit Housing: No Ifs, Ands, Or Butts."

RECOMMENDATION:

Approve the Board of Supervisors' response to the 2017-2018 Grand Jury Report, "Smoke-Free Multiunit Housing: No Ifs, Ands, Or Butts."

BACKGROUND:

On July 26, 2018, the 2017-2018 San Mateo County Civil Grand Jury issued a report titled "Smoke-Free Multiunit Housing: No Ifs, Ands, Or Butts." The Board of Supervisors is required to submit comments on the findings and recommendations pertaining to the matters over which it has some decision making authority within 90 days. The Board's response to the report is due to the Honorable V. Raymond Swope no later than October 24, 2018.

DISCUSSION:

The Grand Jury made fourteen findings and eight recommendations in its report. The Board responses follow each finding and the eight recommendations that the Grand Jury requested that the Board respond to within 90 days.

FINDINGS

Finding 1:

Since 1967, exposure to secondhand smoke has killed approximately 2.5 million nonsmokers of all ages in the United States.

Response:

The respondent agrees with the finding.

Finding 2:

Enforcement officers report that their primary focus when responding to MUH smoking violation

complaints is to educate alleged smokers regarding the requirements of the smoking ordinances, and that most alleged smokers report being unfamiliar with the requirements of the ordinance.

Response:

The respondent partially agrees with the finding. Respondent is not an enforcement officer, but have heard this sentiment from enforcement personnel.

Finding 3:

The Belmont, Brisbane, Daly City, Redwood City, San Bruno, and the County of San Mateo MUH smoking ordinances expressly prohibit retaliation against individuals who report a violation; however, the MUH smoking ordinances for Burlingame, Foster City, the City of San Mateo, and South San Francisco do not.

Response:

The respondent agrees with the finding related to the County of San Mateo.

Finding 4:

Searches for “smoking” or “smoke” using the website search tool for Burlingame and Daly City do not yield any information regarding their MUH smoking ordinances, whereas the search tools for each of the other jurisdictions with MUH smoking ordinances do.

Response:

The respondent agrees with the finding.

Finding 5:

The websites for Burlingame, Daly City, Redwood City, the County of San Mateo, and South San Francisco do not contain summaries of their MUH smoking ordinances. The websites for each of the other jurisdictions with MUH smoking ordinances do.

Response:

The respondent partially disagrees with the finding. The term “summary” could be applied broadly to the press release on the website for South San Francisco which summarizes the ordinance. The press release was found by searching “smoking” on the website and shows up as the first listing which links to the press release. Direct address:
<http://www.ssf.net/home/showdocument?id=1636>

Finding 6:

The websites for Belmont, Burlingame, Daly City, Redwood City, the City of San Mateo, and South San Francisco do not provide specific information on how to make complaints regarding MUH smoking violations. The websites for each of the other jurisdictions with MUH smoking ordinances do.

Response:

The respondent agrees with the finding.

Finding 7:

The websites for the cities of Belmont, Brisbane, Foster City, Redwood City, San Bruno, San Mateo, and South San Francisco, as well as the County’s Health System website (for unincorporated San Mateo County) have links on their home pages that lead to information on how to report specific types of nuisances such as barking dogs, loud parties, abandoned mattresses, and shopping carts. However, these links do not provide information on how to report MUH smoking violations.

Burlingame's website links to Code Compliance from its home page.

Response:

The respondent partially disagrees with the finding.

For City of Belmont's website, there is a link on the home page to "Submit a Problem" which leads to submission forms for reporting specific types of nuisances such as "Complaint/Blight." Under the category of "Complaint/Blight" is the option to submit a form for: "MUH" Smoking Ordinance Violation. Link: <http://www.publicstuff.com/submit?client_id=414>

For City of Brisbane's website, there is a "Living" link on the home page that can be hovered over and a drop down menu appears. From the drop down menu, "Smoking Ordinance" can be clicked. Clicking this link leads to a page with links with information about reporting ordinance violations. There is no submission form for reporting a violation though. Link: <<http://brisbaneca.org/smoking-ordinance>>

For City of Foster City's website, there is a "Report a..." button on the home page that when clicked, opens a side menu. From the side menu, "Smoking Violation" can be clicked. Clicking this link leads to page with information on reporting ordinance violations. There is no submission form for reporting a violation though. Link: <<https://www.fostercity.org/citymanager/page/smoking-ordinance-update>>

Finding 8:

The websites for Brisbane, San Bruno, and the County of San Mateo (on the County Health System website) provide information about the TPP or TEC or how to contact them regarding an MUH smoking issue. The websites for the other MUH jurisdictions do not.

Response:

The respondent agrees with the finding.

Finding 9:

In all MUH jurisdictions, the issuance of citations for violations of MUH smoking ordinances is limited by the need to (1) observe the violation in progress, (2) see other compelling evidence that a violation had occurred, or (3) have the alleged violator admit to law or code enforcement that he or she had been smoking in violation of the MUH smoking ordinance.

Response:

The respondent partially disagrees with the finding. While we cannot speak to the real world practical application of the ordinance by law enforcement, website information did not explicitly detail the above listed limitations.

Belmont: Did not see any of these limitations listed on city's website or in the MUH smoking ordinance

Brisbane: Did not see any of these limitations listed on city's website or in the MUH smoking ordinance

Burlingame: Did not see any of these limitations listed on city's website or in the MUH smoking ordinance

Daly City: Did not see any of these limitations listed on city's website or in the MUH smoking ordinance

Redwood City: Did not see any of these limitations listed on city's website or in the MUH smoking ordinance

San Bruno: Did not see any of these limitations listed on city's website or in the MUH smoking ordinance

San Mateo: Did not see any of these limitations listed on city's website or in the MUH smoking ordinance

South San Francisco: Did not see any of these limitations listed on city's website or in the MUH smoking ordinance

San Mateo County: Did not see any of these limitations listed on San Mateo County Health System's website or in the MUH smoking ordinance

Finding 10:

The towns/cities of Colma, East Palo Alto, Half Moon Bay, Menlo Park, Millbrae, Pacifica, Portola Valley, and San Carlos do not have smoking ordinances that restrict smoking in their multiunit residences, except in some common areas. Atherton, Hillsborough, and Woodside have no multiunit housing.

Response:

The respondent agrees with the finding as of 8/15/18.

Finding 11:

The MUH smoking ordinances for the cities of Brisbane, Burlingame, Daly City, and the County of San Mateo for its unincorporated areas do not prohibit smoking medical marijuana in multiunit housing.

Response:

The respondent partially disagrees with the finding. While the above listed is a statement of fact, Proposition 64 states that anywhere tobacco smoking is prohibited, so too is marijuana which would apply in these instances without a direct inclusion in the ordinance

Finding 12:

The TPP web pages do not include the following information: (a) a summary of residents' rights and obligations under the MUH smoking ordinances in their jurisdictions, (b) links to each jurisdiction's MUH smoking ordinance, and (c) information on how residents of multiunit housing can report violations of MUH smoking ordinances in their specific jurisdictions.

Response:

The respondent agrees with the finding.

Finding 13:

TPP reported limited success in obtaining MUH smoking complaints data from jurisdictions, making it difficult to assess the efficacy of MUH ordinances and develop trend information.

Response:

The respondent agrees with the finding.

Finding 14:

The funding allocation from the California Department of Public Health's Tobacco Control Program for TPP increased from \$150,000 in FY 2016-2017 to \$784,000 in FY-2017-2018.

Response:

The respondent disagrees with this finding. The allocation for FY 2017-18 was \$784,019.

RECOMMENDATIONS

Recommendation 1:

Each jurisdiction with an MUH smoking ordinance (Belmont, Brisbane, Burlingame, Daly City, Foster City, Redwood City, San Bruno, City of San Mateo, South San Francisco and the County of San Mateo for its unincorporated areas) should improve their educational outreach to residents regarding such ordinances, including at a minimum each of the following, by no later than March 31, 2019:

- Publishing summaries of residents' rights and obligations under their MUH smoking ordinances, including on their websites
- Publishing information on how to report violations of MUH smoking ordinances, including on their websites
- Informing residents that they can report violations of MUH smoking ordinances anonymously
- Informing residents, including on their websites, that it is unlawful for any landlord or other person to take any retaliatory action against them for having reported a violation of an MUH smoking ordinance
- Ensuring that information about reporting MUH smoking ordinance violations is just as readily accessible on their websites as information about other forms of nuisance
- Ensuring that, upon typing the word "smoking," or the like in the search features of their websites, users are directed to all information about the jurisdiction's MUH smoking ordinance and related complaints process

Response:

The recommendation has not yet been implemented, but will be done by the County by December 31, 2018. Respondent cannot respond on the current or future actions of other jurisdictions.

Recommendation 2:

The cities of Burlingame, Foster City, San Mateo, and South San Francisco should amend their MUH smoking ordinances, by no later than December 31, 2018, to prohibit retaliation against individuals who report violations of the MUH smoking ordinances.

Response:

The recommendation has not yet been implemented and the respondent cannot respond on the current or future actions of the above listed jurisdictions.

Recommendation 3:

The cities of Brisbane, Burlingame, Daly City, and the County of San Mateo for its unincorporated areas should amend their MUH smoking ordinances, by no later than December 31, 2018, to prohibit smoking medical marijuana in multiunit housing.

Response:

The recommendation has not yet been implemented, but will be by December 31, 2018 by the County. Respondent cannot respond on the current or future actions of other jurisdictions.

Recommendation 4:

Each jurisdiction with an MUH smoking ordinance (Belmont, Brisbane, Burlingame, Daly City, Foster City, Redwood City, San Bruno, City of San Mateo, South San Francisco, and the County of San Mateo for its unincorporated areas) should, by June 30, 2019, evaluate ways to improve its collection and retrieval of complaints of MUH smoking violations so that:

- Information regarding each complaint of an MUH smoking ordinance violation, and the response to it (complaints data) is recorded in a searchable electronic database
- The jurisdiction can evaluate trends in the complaints data and the efficacy of the MUH smoking ordinance

Response:

This recommendation has been partially implemented at the County with calls that come into the Smoke Free Hotline monitored by TPP. The calls and follow-up efforts are logged in an Excel spreadsheet and tallied on a regular basis. While searchable, this method can be improved and streamlined. These updates will occur by December 31, 2018. The respondent cannot respond on the current or future actions of other jurisdictions.

Recommendation 5:

Each jurisdiction with an MUH smoking ordinance should, by December 31, 2018, make their complaints data (with names of alleged violators deleted) available to the TPP and TEC on at least an annual basis.

Response:

The respondent supports this recommendation, but cannot respond on the current or future actions of the other jurisdictions.

Recommendation 6:

Each jurisdiction with an MUH smoking ordinance should, by December 31, 2018, conduct a review of current methods used by the public to report MUH smoking violations and possible improvements (including online reporting on their websites and use of mobile phone apps) to ensure ease of reporting.

Response:

The recommendation has not yet been implemented, but will by December 31, 2018 by the County.

Recommendation 7:

The towns/cities of Colma, East Palo Alto, Half Moon Bay, Menlo Park, Millbrae, Pacifica, Portola Valley, and San Carlos should, by December 31, 2018, hold public hearings to evaluate issues and hear residents' views on restricting smoking in multiunit housing in their jurisdictions.

Response:

The recommendation has not been implemented and the respondent cannot respond on the current or future actions of other jurisdictions.

Recommendation 8:

TPP and TEC should update their web pages by March 31, 2019, to include the following:

- Links to MUH jurisdictions' smoking ordinances and their summaries/FAQs
- Information on how to report violations of MUH smoking ordinances in each applicable jurisdiction

Response:

The recommendation has not been implemented, but will be by March 31, 2019.

Acceptance of the report contributes to the Shared Vision 2025 outcome of a Collaborative Community by ensuring that all Grand Jury findings and recommendations are thoroughly reviewed by the appropriate County departments and that, when appropriate, process improvements are made to improve the quality and efficiency of services provided to the public and other agencies.

FISCAL IMPACT:

There is no Net County Cost associated with accepting this report.