

REPORT

To the Honorable Mayor and City Council
From the City Manager

October 2, 2017

SUBJECT

Adoption of a Smoke-free Multi Family Housing Ordinance

RECOMMENDATION

Waive first reading and introduce an Ordinance adding Article V to Chapter 15 (Smoking Regulations) of the City Code of Redwood City relating to prohibiting smoking in and around multi-unit residences

BACKGROUND

In 2016, the City was contacted by Public Health Educators within the Tobacco Prevention Program at San Mateo County Health Systems ("County Health Systems). County Health Systems staff presented data and well-researched studies that not only detail the negative consequences of tobacco use and second hand smoke, but how second hand smoke negatively impacts multifamily residents. Based on this information, City staff began the process of developing an ordinance for the City Council's consideration that would ban smoking within multifamily units. This proposed ordinance is based on model ordinances, a San Mateo County ordinance, and numerous ordinances that have been adopted by other cities in the County and State.

Documented Health Impacts

Most people are well aware of the negative impacts of smoking and second-hand smoke. The following is recent data related to tobacco use and second-hand smoke, with a particular focus on its potential impacts to multi-family residents.

- 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.
- While parental smoking is the most common source of secondhand tobacco-smoke exposure for children, studies have found that children who live in multi-family housing are exposed to second-hand smoke at increased levels, even when they do not have a parent (or other occupant) who smokes inside the unit.

This is because smoke can migrate through walls, ductwork, windows, and ventilation systems of multi-unit dwellings and potentially affect residents in other units far removed from the smoking area. In addition to the dissemination of this secondhand smoke into other apartments, tobacco toxins may persist on and be absorbed from surfaces in the indoor environment well beyond the period of active smoking (American Academy of Pediatrics).

- Tobacco-smoke exposure causes illness in children, including asthma and respiratory infections and has been associated with sudden infant death syndrome, metabolic syndrome, and otitis media. There is no “safe level” of exposure to tobacco smoke. Very low levels of tobacco smoke exposure have been associated with attenuated endothelial function in children, as well as decreased score on reading, math, and block-design tests of cognitive function (American Academy of Pediatrics).
- Although not the primary focus on this report, it is also important to note that smoking contributes to a significant percentage of fire related fatalities and injuries in residential buildings (US Fire Administration).

The points above are only a high-level summary of the impacts of smoking within multifamily buildings. Several studies attached to this report provide greater detail about these and other health impacts. On a positive note, most multifamily building owners have already banned smoking within their buildings. According to the California Apartment Association, approximately 80% of their members already prohibit smoking within units. Nonetheless, the health impacts for the residents of the remaining units remain, and several studies have shown that smoke free multi-unit housing policies are the most effective method to fully reduce secondhand smoke exposure in multi-unit housing.

As noted above, other jurisdictions within San Mateo County have already adopted ordinances that ban smoking in multi-family units. These jurisdictions include San Mateo County, and the cities of Belmont, Burlingame, San Mateo and San Bruno. In addition, the City of Palo Alto and other nearby San Clara County cities have similar ordinances. Across California these ordinances are becoming more commonplace.

ANALYSIS

About half of all Redwood City residents live within multi-family buildings. A multi-family building is defined as a building with three or more attached units; it excludes duplexes. In Redwood City, approximately 948 buildings with 16,418 dwelling units meet this definition.

If adopted by Council, staff would begin an outreach process to ensure that all property owners understand their obligations under the new law. Existing apartment buildings would have over one year to fully comply, as smoking would be banned in existing multifamily buildings beginning January 1, 2019. Certain noticing requirements for existing buildings go into effect prior to that date as outlined in the ordinance.

Key Provisions in Ordinance

The following is a summary of the key provisions found within the ordinance.

- **The ordinance would apply to all multi-family residences with three or more units.** This includes, but not limited to, apartment buildings, condominium complexes, senior and assisted living facilities, and long-term health care facilities. Multi-Unit Residences do not include hotels, mobile home parks, campgrounds, marinas or ports, or single-family homes (except when used as a daycare).
- **Smoking would be prohibited in all units, including all “exclusive use” indoor and outdoor areas.** Exclusive use areas include private balcony, porch, deck or patio. Smoking would be prohibited in all common areas as well, except in limited “designated smoking areas.”
- **Smoking would be allowed in limited, designated areas as outlined in Section 15.33 (C) of the draft ordinance.** The designated smoking area must be enclosed, 25’ away from areas primarily used by children or for physical exercise, 25’ away from any non-smoking area, and not more than 10% of the total enclosed area of the building. In addition, the designed area must have a clearly marked perimeter and it must include proper signage. Further details about designated smoking areas can be found within the attached ordinance.
- **Smoking, vaping or otherwise igniting tobacco, cannabis and/or illegal drugs would be banned.** Greater detail regarding the definitions of smoke, smoking and electronic device can be found in the definitions section of the attached ordinance.
- **January 1, 2018 would be the effective date for new buildings.** The smoking bans and related provisions of this ordinance would be applied to all new buildings occupied after January 1, 2018.
- **January 1, 2019 would be the effective date for existing buildings:** For existing buildings, the smoking bans and most related provisions of this ordinance would

take full effect on January 1, 2019. However, landlords and property owners would have certain responsibilities to inform tenants of the new rules prior to this date as outlined below and in the attached ordinance.

- **Landlord and Tenant Responsibilities:** Landlords and tenants would have certain responsibilities as follows:
 - Leases must be updated as early as possible; the ordinance includes specific timeframes. Updates include, but are not limited, to:
 - Every lease or rental agreement shall include language that specifies it is a breach of the lease to allow or engage in smoking in the unit, including exclusive-use areas such as balconies, porches, or patios.
 - Every lease or rental agreement shall include language that specifies it is a breach of the lease for a tenant or any other person subject to the control of the tenant to engage in smoking in any common area of the multi-unit residence other than a designated smoking area.
 - Every lease or rental agreement shall include language that specifies that it is breach of the agreement for tenant or any other person subject to the control of the tenant to violate any law regulating smoking while anywhere on the property.
 - Every lease or rental agreement shall include language that specifies that other occupants of the property may enforce such provisions by any lawful means, including by bringing a civil action in a court of law
 - A tenant who breaches a smoking provision of a lease or other rental agreement for the occupancy of a unit in a multi-unit residence, or who knowingly permits any other person subject to the control of the tenant or present by invitation or permission of the tenant, shall be liable for the breach to the Landlord and to any occupant of the Multi-Unit Residence who is exposed to smoke or who suffers damages as a result of the breach.
 - Every landlord shall deliver a written notice to all tenants by July 1, 2018 that clearly states details where smoking is prohibited as outlined in this ordinance. The specific language and timing required for this notice can be found 15.36 of this ordinance. Similar noticing requirements are required for sellers of multi-family buildings and units.

Outreach

City staff has been in contact with San Mateo County Health Systems and the California Apartment Association. Although both organizations have been aware that the City was considering the adoption of this ordinance for some time, there was limited amount of time to review the final ordinance. Therefore, they are expected to present their comments prior to or at the City Council Meeting. The California Apartment Association has been generally supportive (or at least not in opposition to) similar ordinances adopted in other cities.

If adopted, City staff will continue outreach to the County, California Apartment Association and other related organizations. Most importantly, multi-family building owners, multi-family building tenants and local property managers will be informed of the new ordinance and their responsibilities in the coming months. While the prohibitions on smoking in newly constructed multi-unit residences take effect immediately, staff purposely delayed the effectiveness of the prohibitions on smoking for existing multi-unit residences until January 1, 2019, to allow ample time for property owners and tenants to adjust to the new law.

Next Steps

As is the case with most ordinances, this ordinance requires a first and second reading. If the Council adopts the first reading on October 2, 2017, staff would bring back the second reading for adoption later in October or November as a consent item. The ultimate timing of the second reading depends on the scope of any changes requested by the Council. The ordinance would take effect on January 1, 2018, and would fully apply to existing buildings on January 1, 2019.

ALTERNATIVES

The City Council could choose not to adopt this ordinance, and multifamily apartment owners could still prohibit smoking in units, however, they would not be required to do so. It is expected that smoking would still occur in a number of units. The Council could also choose to revise any of the details of this ordinance, or choose different dates for implementation.

FISCAL IMPACT

There will be considerable amount of staff time spent on outreach and implementation efforts associated with this ordinance. In addition, a minimal amount of ongoing staff time will be required to enforce this ordinance.

ENVIRONMENTAL REVIEW

This adoption of this ordinance is exempt from CEQA pursuant to Section 15061(b)(3) because it can be seen with certainty that adoption of this ordinance will not have a significant adverse effect on the environment.



AARON AKNIN
ASSISTANT CITY MANAGER AND COMMUNITY DEVELOPMENT DIRECTOR



MELISSA STEVENSON DIAZ
CITY MANAGER

ATTACHMENTS

1. Ordinance Prohibiting Smoking In and Around Multi-Unit Residences
2. Secondhand Smoke Transfer in Multiunit Housing
3. Pediatrics Journal – Tobacco-smoke Exposure in Children Who Live in Multiunit Housing
4. Residential Building Fire Death Causes