

**Morris, Erin**

---

**From:** Liz Williams <liz.williams@no-smoke.org>  
**Sent:** Thursday, March 26, 2015 4:14 PM  
**To:** Morris, Erin  
**Subject:** e-cigarette information  
**Attachments:** Letter to Santa Rosa CA\_03.26.15.pdf

Hi Erin,

It was good talking with you this morning. I've attached a letter of support that I will email to the Santa Rosa City Council this afternoon.

On our website, we list current e-cigarette research at <http://www.no-smoke.org/learnmore.php?id=645#ecigaresearch>. The list includes 107 studies (!) published from December 2014 through March 2015. So you're absolutely right that new research is constantly being released. Some studies are about marketing, youth use rates, and such, so I'm going to list some below that might be of particular interest in terms of the aerosol exposure. I hope this information can be supportive of Santa Rosa's effort to prohibit the use of e-cigarettes in smokefree spaces.

"Exhaled electronic cigarette emissions: what's your secondhand exposure?," RTI Press Research Brief: 1-4, March 2015. [http://www.rti.org/pubs/Secondhand\\_Exposure\\_to\\_Electronic\\_Cigarette\\_Emissions.pdf](http://www.rti.org/pubs/Secondhand_Exposure_to_Electronic_Cigarette_Emissions.pdf)

**Findings include:** A non-user may be exposed to aerosol particles smaller than 1000 nanometers, similar in size to tobacco smoke and diesel engine smoke. The exact size distribution depends on the chemical composition of the electronic cigarette liquid, the e-cigarette device operation, and user vaping preferences.

"Guidance to employers on integrating e-cigarettes/electronic nicotine delivery systems into tobacco worksite policy," Journal of Occupational and Environmental Medicine 57(3): 334-343, March 2015.

[http://journals.lww.com/joem/Fulltext/2015/03000/Guidance\\_to\\_Employers\\_on\\_Integrating.15.aspx](http://journals.lww.com/joem/Fulltext/2015/03000/Guidance_to_Employers_on_Integrating.15.aspx)

**Includes a good summary of workplace exposure and recommendations include:** Employers should include e-cigarettes in their tobacco-free policies and should ban e-cigarette use in their smoke-free work areas.

" [Environmental health hazards of e-cigarettes and their components: oxidants and copper in e-cigarette aerosols](#)," 198: 100-107, March 2015.

" [Dual use of smokeless tobacco or e-cigarettes with cigarettes and cessation](#)," *American Journal of Health Behavior* 39(2): 277-284, March 2015.

" [Electronic cigarettes may lead to nicotine addiction](#)," *Journal of the National Cancer Institute* 107(3): djv070, March 2015.

" [Exposure to electronic cigarettes impairs pulmonary anti-bacterial and anti-viral defenses in a mouse model](#)," *PLOS ONE*, February 4, 2015.

" [Evaluation of electronic cigarette liquids and aerosol for the presence of selected inhalation toxins](#)," *Nicotine and Tobacco Research* 17(2): 168-174, February 2015.

**Finding:** This study evaluated electronic cigarette liquids for the presence of diacetyl and acetyl propionyl, which are chemicals approved for food use (ie ingestion) but are associated with respiratory disease when inhaled, and found that these chemicals are present in many sweet-flavored electronic cigarettes.

" [Electronic cigarettes are a source of thirdhand exposure to nicotine](#)," *Nicotine and Tobacco Research* 17(2): 256-258, February 2015.

" [Hidden formaldehyde in e-cigarette aerosols](#)," *New England Journal of Medicine* 372: 392-394, January 22, 2015.

**Finding:** In samples of the studied e-cigarette aerosol, more than 2% of the total solvent molecules converted to formaldehyde-releasing agents, reaching concentrations higher than concentrations of nicotine. This happens when propylene glycol and glycerol are heated in the presence of oxygen to temperatures reached by commercially available e-cigarettes operating at high voltage.

" [Electronic nicotine delivery systems: a policy statement from the American Association for Cancer Research and the American Society of Clinical Oncology](#)," *Journal of Clinical Oncology* [Epub ahead of print], January 8, 2015.

**One of several policy recommendations:** The AACR and ASCO are concerned about the potential adverse health consequences of exposure to second- and thirdhand ENDS aerosol. To protect the health of nonusers, we support prohibiting the use of ENDS in places where combustible tobacco product use is prohibited by federal, state, or local law until the safety of second- and thirdhand aerosol exposure is established.

"Aerosol deposition doses in the human respiratory tree of electronic cigarette smokers," *Environmental Pollution* 196: 257-267, January 2015. <http://www.sciencedirect.com/science/article/pii/S0269749114004369>

**Finding:** The study shows that e-cigarette aerosol is source of high particle dose in respiratory system, from 23% to 35% of the daily dose of a no-smoking individual...E-cigarettes were recognized as a source of extremely high particle doses in the human respiratory system.

" [Cigarettes vs. e-cigarettes: passive exposure at home measured by means of airborne marker and biomarkers](#)," *Environmental Research* 135: 76-80, November 2014.

**Finding:** The first peer-reviewed study to look at exposure to aerosol from ESDs in real-use conditions in the home environment found that non-smokers who were exposed to conventional cigarette smoke and ESD aerosol absorbed comparable levels of nicotine, as measured by the nicotine biomarker in their blood.

Please let me know if there's anything else we can do to be helpful!

Liz Williams

Liz Williams  
Project Manager  
Americans for Nonsmokers' Rights  
American Nonsmokers' Rights Foundation  
2530 San Pablo Ave, Suite J  
Berkeley, CA 94702  
Phone: 510-841-3032 x314  
Fax: 510-841-3071  
liz.williams@no-smoke.org  
[www.no-smoke.org](http://www.no-smoke.org)

\*\*\*\*\*

**Morris, Erin**

---

**From:** Liz Williams <liz.williams@no-smoke.org>  
**Sent:** Thursday, March 26, 2015 4:26 PM  
**To:** \_CityCouncilListPublic  
**Subject:** Letter of support for e-cigarette proposal  
**Attachments:** Letter to Santa Rosa CA\_03.26.15.pdf

Dear Mayor Sawyer and City Council members,

Americans for Nonsmokers' Rights would like to submit the attached letter of support for Item #13.1 on Tuesday's agenda regarding Santa Rosa's proposed ordinance to amend the smoking provisions, including prohibiting the use of e-cigarettes in smokefree spaces.

Additionally, we'd like to submit the following two documents:

Electronic Cigarettes and Secondhand Aerosol  
<http://www.no-smoke.org/pdf/ecigarette-secondhand-aerosol.pdf>

Electronic Smoking Devices and Smokefree Laws  
<http://www.no-smoke.org/pdf/ecigarettes-4-pager.pdf>

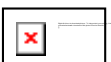
Thank you,  
Liz Williams

Liz Williams  
Project Manager  
Americans for Nonsmokers' Rights  
American Nonsmokers' Rights Foundation  
2530 San Pablo Ave, Suite J  
Berkeley, CA 94702  
Phone: 510-841-3032 x314  
Fax: 510-841-3071  
liz.williams@no-smoke.org  
[www.no-smoke.org](http://www.no-smoke.org)

\*\*\*\*\*

**Are you a member of ANR?** Our work depends on the support of our members. Please [click here](#) to view our membership options. We would love to have you join us!

**Show your support for smokefree air** by putting a static-cling decal in your window at work, home, or the car. To purchase, visit: <http://www.no-smoke.org/aboutus.php?id=440>.



March 26, 2015

Mayor John Sawyer  
Santa Rosa City Hall  
100 Santa Rosa Avenue Rm 10,  
Santa Rosa, CA 95404

Dear Mayor Sawyer,

On behalf of its members in Santa Rosa, Americans for Nonsmokers' Rights encourages the Santa Rosa City Council to support the proposed ordinance that would prohibit the use of electronic cigarettes (e-cigarettes) and other electronic smoking devices in smokefree venues, where people may be exposed to the secondhand aerosol they emit.

E-cigarette companies and proponents claim that the aerosol emitted by these products is completely harmless and only contains "water vapor." However, research on the constituents shows that e-cigarettes produce dense visible aerosol of liquid sub-micron droplets consisting of glycols, nicotine, & some carcinogens (e.g., formaldehyde, metals like cadmium, lead, & nickel, and nitrosamines). So while some may believe the product is "safer," use of and exposure to e-cigarettes certainly isn't harmless or risk-free (see attached fact sheet).

Santa Rosa would be in good company in prohibiting the use of electronic smoking devices in places that are required to be smokefree, both indoors and outdoors. Currently, more than 330 municipalities and three states include e-cigarettes as products prohibited for use in smokefree environments. This includes more than 60 California communities, from San Francisco to Los Angeles, and from Oroville to San Bernardino.

E-cigarettes heat and vaporize a solution typically containing nicotine and are often designed to mimic the look and feel of a real cigarette, while others resemble pens or other innocuous objects. The devices come in a variety of flavors and nicotine levels, all claiming to be a safer alternative to smoking cigarettes. Although e-cigarettes contribute less to indoor air pollution than tobacco cigarettes, they are not emission-free.

E-cigarettes are currently unregulated, which leaves a great deal of unknowns not only about potential health risks to the user (and non-user exposed to the secondhand aerosol), but also about product manufacturing quality and safety. While the Food and Drug Administration (FDA) can and should regulate the production of electronic smoking devices, they do not have the authority to address where the products may be used. States and cities can and are enacting laws that regulate when and where these devices can be used, as well as laws that regulate sales to minors and where the product can be sold.

While research shows that the levels of toxins in e-cigarette aerosol are lower than in tobacco smoke, the levels are *higher* than what are found in FDA-approved nicotine inhalers, and there is evidence that at least 10 chemicals identified in the aerosol are on the California Prop 65 list of dangerous carcinogens and reproductive toxins, including Acetaldehyde, Benzene, Cadmium, Formaldehyde, Isoprene, Lead, Nickel, Nicotine, N-Nitrosornicotine, and Toluene.

E-cigarette proponents argue that these products are safer, healthier, and help people quit tobacco smoking. It may be true that e-cigarettes, in general, are less polluting than tobacco cigarettes, but they still emit pollutants and toxins into the air. In fact, not only do non-users show levels of cotinine, a biomarker for nicotine, in their system, there is now evidence of third-hand exposure to the aerosol. Given the current science base, we should take the precautionary approach and ensure individuals are not exposed to the secondhand aerosol in smokefree environments.

E-cigarette manufacturers and proponents are using unrestrained marketing tactics, especially aimed at youth and young adults via online media, to normalize product use and to promote electronic smoking devices as a “safe” alternative to smoking and as an easy way to quit smoking. There is also a concerted effort by these companies and proponents to prevent regulation of the product, and now that the three major U.S. tobacco companies—Altria, RJ Reynolds, and Lorillard—own or have developed e-cigarette brands, we are seeing even more aggressive and deceptive marketing and lobbying. For instance, Los Angeles radio stations aired ads by Blu E-cigarettes, owned by Lorillard Tobacco Company, and Vuse E-cigarettes, an RJ Reynolds product, asking people to attend the March 2014 City Council hearing to oppose the proposed ordinance.

Thankfully, the Los Angeles City Council resisted the industry pressure and voted unanimously to include electronic smoking devices in the city’s smokefree air law. Opponents of including e-cigarettes in smokefree laws are fighting tirelessly to oppose these commonsense public health laws, and social media is at the forefront of their strategy. A paper, “Tweeting for and Against Public Health Policy: Response to the Chicago Department of Public Health’s Electronic Cigarette Twitter Campaign,” documents the organized campaign—based outside of Chicago (and outside Illinois)—designed to generate opposition to Chicago’s successful 2014 ordinance.

Santa Rosa has the opportunity to protect public health from exposure to secondhand aerosol. We have enough science to make an intelligent decision that secondhand aerosol is not harmless, and that it is a new source of air pollution that contains ultrafine particles, toxicants, and carcinogens.

Given these facts, Americans for Nonsmokers’ Rights urges the Santa Rosa City Council to include e-cigarettes and other electronic smoking devices to the city’s smokefree air laws, without exception.

Thank you for your leadership and desire to make Santa Rosa the best place to live, work, and visit. Please feel free to contact me at 510-841-3045 if you have any questions, comments, or feedback.

Sincerely,

A handwritten signature in blue ink that reads "Cynthia Hallett". The signature is fluid and cursive, with the first name "Cynthia" being more prominent than the last name "Hallett".

Cynthia Hallett, MPH  
Executive Director

cc: City Council Members

Attachments: Electronic Cigarettes and Secondhand Aerosol fact sheet  
Electronic Smoking Devices and Smokefree Laws

*Americans for Nonsmokers’ Rights is a national, member-based, not-for-profit organization based in Berkeley, CA that is dedicated to helping nonsmokers breathe smokefree air since 1976.*

**Morris, Erin**

---

**From:** PaulJohnston@ebmc.com  
**Sent:** Thursday, March 26, 2015 2:50 PM  
**To:** \_CityCouncilListPublic  
**Subject:** Proposed Smoking Ordinance

Mayor Sawyer & Council members,

I operate rental property in Santa Rosa. I am proud to provide a quality, safe place for people to call home.

I am committed to the health and safety of my residents and appreciate your efforts to reduce the negative health effects of smoking in our community. Before adopting the proposed smoking ordinance, I respectfully request your consideration of the following:

1. Provide rental owners 60 days from the effective date of the ordinance before common areas (pools, walkways, etc) must be non-smoking. This additional time will provide me with adequate time to update house rules, post signs, and educate my residents about the new prohibition.
2. This ordinance requires that landlords support the implementation and enforcement of smoking prohibition in multi-family residences. The current language outlining a rental property owner's role to comply and enforce the ordinance is vague. Rental property owners need specific and clear steps they must take to be in compliance.

Your incorporation of these two considerations will ensure a more successful implementation of this ordinance.

I appreciate the City's collaborative approach to promote the public's health.

Thank you for your continued leadership on this important issue.

Regards,

Paul Johnston  
Property Supervisor  
Residential Leasing and Management  
Eugene Burger Management Corporation, AMO  
6600 Hunter Drive  
Rohnert Park, CA 94928  
(707)584-5123 x 160 (707)584-5124fax  
BRE License # 01291617  
pauljohnston@ebmc.com  
[www.ebmc.com](http://www.ebmc.com)

Notice of Confidentiality: This email and any attachments thereto are intended only for the use by the addressee(s) named herein and may contain legally privileged and/or confidential information. If you are not the intended recipient of this email, you are hereby notified that any dissemination, distribution or copying of this email, and any attachments is prohibited. If you have received this email in error, please immediately notify me by email (by replying to this message) or

telephone (noted above) and permanently delete the original and any copy or printout of this email. Thank you for your cooperation.

**Morris, Erin**

---

**From:** Goodwin Property Management <pj@sonic.net>  
**Sent:** Thursday, March 26, 2015 3:09 PM  
**To:** \_CityCouncilListPublic  
**Cc:** pj@sonic.net  
**Subject:** Non-Smoking Ordinance

Dear Mayor Sawyer & Councilmembers,

I operate rental property in Santa Rosa. I am proud to provide a quality, safe place for people to call home.

I am committed to the health and safety of my residents and appreciate your efforts to reduce the negative health effects of smoking in our community. Before adopting the proposed smoking ordinance, I respectfully request your consideration of the following:

1. Provide rental owners 60 days from the effective date of the ordinance before common areas (pools, walkways, etc) must be non-smoking. This additional time will provide me with adequate time to update house rules, post signs, and educate my residents about the new prohibition.
2. This ordinance requires that landlords support the implementation and enforcement of smoking prohibition in multifamily residences. The current language outlining a rental property owner's role to comply and enforce the ordinance is vague. Rental property owners need specific and clear steps they must take to be in compliance.

Your incorporation of these two considerations will ensure a more successful implementation of this ordinance.

I appreciate the City's collaborative approach to promote the public's health.

Thank you for your continued leadership on this important issue.

Sincerely,

Larry Goodwin

Goodwin Property Management  
PO Box 6381, Santa Rosa, CA 95406  
707-539-4939 office  
707-539-2004 mobile  
707-539-4963 fax  
[pj@sonic.net](mailto:pj@sonic.net)

BRE Lic. #01730258 ~ BRE Lic. #01729780



**Morris, Erin**

---

**From:** GabrielleBaum@ebmc.com  
**Sent:** Thursday, March 26, 2015 2:49 PM  
**To:** \_CityCouncilListPublic  
**Subject:** Proposed smoking ordinance

Mayor Sawyer & Council members,

I operate rental property in Santa Rosa. I am proud to provide a quality, safe place for people to call home.

I am committed to the health and safety of my residents and appreciate your efforts to reduce the negative health effects of smoking in our community. Before adopting the proposed smoking ordinance, I respectfully request your consideration of the following:

1. Provide rental owners 60 days from the effective date of the ordinance before common areas (pools, walkways, etc) must be non-smoking. This additional time will provide me with adequate time to update house rules, post signs, and educate my residents about the new prohibition.
2. This ordinance requires that landlords support the implementation and enforcement of smoking prohibition in multi-family residences. The current language outlining a rental property owner's role to comply and enforce the ordinance is vague. Rental property owners need specific and clear steps they must take to be in compliance.

Your incorporation of these two considerations will ensure a more successful implementation of this ordinance.

I appreciate the City's collaborative approach to promote the public's health.

Thank you for your continued leadership on this important issue.

Regards,

Gabrielle Baum, Property Supervisor  
BRE# 01955224  
Residential Leasing and Management-Northbay Service Area  
Eugene Burger Management Corporation  
6600 Hunter Drive  
Rohnert Park CA, 94928  
707-584-5123 extension 144  
Fax 707-584-5124  
gabriellebaum@ebmc.com

**Morris, Erin**

---

**From:** Morningside Apartments <apartmentsmorningside@gmail.com>  
**Sent:** Thursday, March 26, 2015 9:48 PM  
**To:** \_CityCouncilListPublic  
**Subject:** No smoking law

*I operate rental property in Santa Rosa. I am proud to provide a quality, safe place for people to call home.*

*I am committed to the health and safety of my residents and appreciate your efforts to reduce the negative health effects of smoking in our community. Before adopting the proposed smoking ordinance, I respectfully request your consideration of the following:*

- 1. Provide rental owners 60 days from the effective date of the ordinance before common areas (pools, walkways, etc) must be non-smoking. This additional time will provide me with adequate time to update house rules, post signs, and educate my residents about the new prohibition.*
- 2. This ordinance requires that landlords support the implementation and enforcement of smoking prohibition in multifamily residences. The current language outlining a rental property owner's role to comply and enforce the ordinance is vague. Rental property owners need specific and clear steps they must take to be in compliance.*

*Your incorporation of these two considerations will ensure a more successful implementation of this ordinance.*

*I appreciate the City's collaborative approach to promote the public's health.*

*Thank you for your continued leadership on this important issue.*

*Sincerely,*

*Elisandro & Marisabel Arriaza*

*Morningside Apartments*

*3018 Coffey Ln #8, S. R., CA. 95403*

**Morris, Erin**

---

**From:** PatrickAaron@ebmc.com  
**Sent:** Thursday, March 26, 2015 2:45 PM  
**To:** \_CityCouncilListPublic  
**Subject:** Proposed Smoking Ordinance

Mayor Sawyer & Council members,

I operate rental property in Santa Rosa. I am proud to provide a quality, safe place for people to call home.

I am committed to the health and safety of my residents and appreciate your efforts to reduce the negative health effects of smoking in our community. Before adopting the proposed smoking ordinance, I respectfully request your consideration of the following:

1. Provide rental owners 60 days from the effective date of the ordinance before common areas (pools, walkways, etc) must be non-smoking. This additional time will provide me with adequate time to update house rules, post signs, and educate my residents about the new prohibition.
2. This ordinance requires that landlords support the implementation and enforcement of smoking prohibition in multi-family residences. The current language outlining a rental property owner's role to comply and enforce the ordinance is vague. Rental property owners need specific and clear steps they must take to be in compliance.

Your incorporation of these two considerations will ensure a more successful implementation of this ordinance.

I appreciate the City's collaborative approach to promote the public's health.

Thank you for your continued leadership on this important issue.

Regards,

Patrick T. Aaron  
BRE# 01939038

Director of Leasing and Management  
North Bay Service Area  
Eugene Burger Management Corporation, AMO  
6600 Hunter Drive, Rohnert Park, CA 94928  
(707) 584-5123 Extension 179  
(707) 584-5124 Fax  
patrickaaron@ebmc.com  
[www.ebmc.com](http://www.ebmc.com)

Notice of Confidentiality: This email and any attachments thereto are intended only for the use by the addressee(s) named herein and may contain legally privileged and/or confidential information. If you are not the intended recipient of this email, you are hereby notified that any dissemination, distribution or copying of this email, and any attachments is

prohibited. If you have received this email in error, please immediately notify me by email (by replying to this message) or telephone (noted above) and permanently delete the original and any copy or printout of this email. Thank you for your cooperation.

## Bliss, Sandi

---

**From:** Williams, Stephanie  
**Sent:** Wednesday, March 25, 2015 2:25 PM  
**To:** Morris, Erin; Bliss, Sandi  
**Cc:** Griffin, Terri  
**Subject:** FW: Smoke-free Protections  
**Attachments:** Santa Rosa SF 3-30-15.docx

Hi,

Email received by Council for Smoking Regs item next week. Please upload to the correspondence attachment. Thank you.

**Stephanie Williams, CMC | Deputy City Clerk**

City Manager's Office/City Clerk's Office | 100 Santa Rosa Avenue | Santa Rosa, CA 95404

Tel. (707) 543-3011 | Fax (707) 543-3030 | [swilliams@srcity.org](mailto:swilliams@srcity.org)



---

**From:** Cassie Ray [<mailto:cassie.ray@cancer.org>]  
**Sent:** Wednesday, March 25, 2015 1:13 PM  
**To:** \_CityCouncilListPublic  
**Subject:** Smoke-free Protections

Dear Mayor Sawyer and Members of the Santa Rosa City Council:

Thank you for your careful consideration and work on an ordinance, which, if passed, will greatly improve the protections provided to those who live and work in Santa Rosa, as well as those who visit. We do suggest that you include 100% of hotel rooms, as most larger hotels already include 100% smoke-free rooms, and smaller hotels are not only workplaces, but they are also often temporary residences.

We are also asking that definitions be updated. The definitions used appear to have come from the Change Labs Solutions template. They have since updated their definitions. I have included the new definitions in the attached letter.

Thank you once again for your work in creating meaningful protections for the residents of Santa Rosa

**Cassie Ray** | Northern California Government Relations

American Cancer Society Cancer Action Network, Inc.

980 9th Street Suite 2200

Sacramento, CA 95814

Phone: 707.290.0003 | Mobile: 707.290.0003 | Fax: 916.447.6931

[acscan.org](http://acscan.org)





*This message (including any attachments) is intended exclusively for the individual to whom it is addressed and may contain proprietary, protected, or confidential information. If you are not the named addressee, you are not authorized to read, print, copy, or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately.*



March 25, 2015

The Honorable John Sawyer  
City of Santa Rosa  
100 Santa Rosa Avenue, Room 10  
Santa Rosa, CA 95404

Dear Mayor Sawyer and Members of the Santa Rosa City Council:

The American Cancer Society Cancer Action Network is committed to protecting the health and well-being of the citizens of Santa Rosa, and appreciates the work that has been put into updating the city's current smoke-free protections. If passed, this ordinance will protect residents, workers, and those who visit the City of Santa Rosa by prohibiting smoking in multi-unit housing, and all public places, including: dining, service areas, common areas, shopping, parks and playgrounds.

Smoking remains the leading cause of preventable death in the U.S. However, it is not only smokers who breathe in the deadly smoke from tobacco use—everyone around them is forced to inhale it too. Exposure to secondhand smoke causes many of the same tobacco-related diseases and premature deaths as active smoking. In fact, 42,000 Americans die each year as a result of inhaling the smoke of others, and the U.S. Surgeon General has declared that there is no safe level of exposure to secondhand smoke. Even brief exposure to secondhand smoke can cause serious health effects, especially for vulnerable populations.

The multi-unit housing (MUH) smoke-free protections contained within this ordinance will improve the quality of life for nonsmokers, and will prevent the unintentional exposure that many receive as a result of smoking neighbors. Secondhand smoke can travel from an individual housing unit or common area and infiltrate a non-smoking unit, similar to traveling from a smoking to a smoke-free section of a restaurant or bar. More than 80% of Californians completely prohibit smoking in their homes, and yet, in MUH, one smoking resident can expose the neighbors in all surrounding units. It has been estimated that 44-46% of MUH residents are involuntarily exposed to secondhand smoke in their homes.

We encourage you to amend the 75% of hotel rooms to be 100% smoke-free, as hotels are workplaces, which are otherwise covered by this ordinance. Many hotels are already voluntarily 100% smoke-free, but small hotels are often independently owned, and sometimes used as multi-unit housing residences, which are also otherwise covered. 100% smoke-free

hotels would be consistent with the workplace provisions, as well as the MUH provisions being proposed in the ordinance.

We also ask that you change the definitions for “electronic smoking device” as well as “smoking” to the definitions now being used in the Change Labs Solutions model ordinances, as well as by our own organization and others. We do not recommend exclusions in the case that electronic devices should ever become approved as cessation devices, as we would still not want these used in public. Public use would involuntarily expose others who are around the user to the aerosol in these products, and would severely complicate enforcement of laws passed to protect residents.

**“Electronic Smoking Device”** means any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor.

**“Smoking”** means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, including hookahs and marijuana, whether natural or synthetic, in any manner or in any form. “Smoking” also includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this Article.

Smoke-free laws are an effective way to protect nonsmokers, workers, and children from the deadly effects of secondhand smoke. The smoke-free ordinance being considered by this council is comprehensive and contains many important protections, which, if passed, will protect community members where they live, work and play.

Sincerely,

A handwritten signature in cursive script that reads "Cassie Ray".

Cassie Ray  
Government Relations Director, Northern California  
American Cancer Society Cancer Action Network





March 25, 2015

The Honorable John Sawyer  
City of Santa Rosa  
100 Santa Rosa Avenue, Room 10  
Santa Rosa, CA 95404

Dear Mayor Sawyer and Members of the Santa Rosa City Council:

The American Cancer Society Cancer Action Network is committed to protecting the health and well-being of the citizens of Santa Rosa, and appreciates the work that has been put into updating the city's current smoke-free protections. If passed, this ordinance will protect residents, workers, and those who visit the City of Santa Rosa by prohibiting smoking in multi-unit housing, and all public places, including: dining, service areas, common areas, shopping, parks and playgrounds.

Smoking remains the leading cause of preventable death in the U.S. However, it is not only smokers who breathe in the deadly smoke from tobacco use—everyone around them is forced to inhale it too. Exposure to secondhand smoke causes many of the same tobacco-related diseases and premature deaths as active smoking. In fact, 42,000 Americans die each year as a result of inhaling the smoke of others, and the U.S. Surgeon General has declared that there is no safe level of exposure to secondhand smoke. Even brief exposure to secondhand smoke can cause serious health effects, especially for vulnerable populations.

The multi-unit housing (MUH) smoke-free protections contained within this ordinance will improve the quality of life for nonsmokers, and will prevent the unintentional exposure that many receive as a result of smoking neighbors. Secondhand smoke can travel from an individual housing unit or common area and infiltrate a non-smoking unit, similar to traveling from a smoking to a smoke-free section of a restaurant or bar. More than 80% of Californians completely prohibit smoking in their homes, and yet, in MUH, one smoking resident can expose the neighbors in all surrounding units. It has been estimated that 44-46% of MUH residents are involuntarily exposed to secondhand smoke in their homes.

We encourage you to amend the 75% of hotel rooms to be 100% smoke-free, as hotels are workplaces, which are otherwise covered by this ordinance. Many hotels are already voluntarily 100% smoke-free, but small hotels are often independently owned, and sometimes used as multi-unit housing residences, which are also otherwise covered. 100% smoke-free

hotels would be consistent with the workplace provisions, as well as the MUH provisions being proposed in the ordinance.

We also ask that you change the definitions for “electronic smoking device” as well as “smoking” to the definitions now being used in the Change Labs Solutions model ordinances, as well as by our own organization and others. We do not recommend exclusions in the case that electronic devices should ever become approved as cessation devices, as we would still not want these used in public. Public use would involuntarily expose others who are around the user to the aerosol in these products, and would severely complicate enforcement of laws passed to protect residents.

**“Electronic Smoking Device”** means any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor.

**“Smoking”** means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, including hookahs and marijuana, whether natural or synthetic, in any manner or in any form. “Smoking” also includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this Article.

Smoke-free laws are an effective way to protect nonsmokers, workers, and children from the deadly effects of secondhand smoke. The smoke-free ordinance being considered by this council is comprehensive and contains many important protections, which, if passed, will protect community members where they live, work and play.

Sincerely,



Cassie Ray  
Government Relations Director, Northern California  
American Cancer Society Cancer Action Network



March 24, 2015

Joshua Howard  
California Apartment Association - Silicon Valley  
1530 The Alameda, Suite 100  
San Jose, CA 95126

Dear Mr. Howard,

Thank you for your letter dated February 4, 2015 regarding the City of Santa Rosa's smoking ordinance update and for meeting with City staff on March 16, 2015 to discuss your organization's comments and those of the North Coast Rental Housing Association. We have appreciated the participation of both groups in helping City staff develop the draft smoking ordinance pertaining to multifamily residential properties. The purpose of this letter is to provide a response to the issues identified in the most recent letters and at the meeting.

#### Timing of New Regulations

As discussed at our meeting, the proposed ordinance allows up to 60 days for owner-occupied units and units leased on a month-to-month basis to transition to smoke-free. The 60-day time period follows the mandatory 30-day waiting period which will follow the second reading of the smoking ordinance. If the Council introduces the proposed smoking ordinance on March 31, 2015, there will be a total of 99 days until the affected units must be smoke-free on July 8, 2015. Staff believes that this provides sufficient time for the transition to occur.

Similarly, there will be 38 days from the March 31<sup>st</sup> meeting before multifamily common areas must be smoke-free. As we discussed at our meeting, City staff and Sonoma County Department of Health Services staff will conduct public outreach about the smoking regulations following Council action on the item, including two workshops for landlords and property managers planned for April and May 2015. We welcome assistance from the CAA and NCRHA in getting the word out to your members.

#### Landlord Role in Enforcing Ordinance

We understand that some members of your organization are concerned about the landlord's role in implementing and enforcing the smoking ordinance. In response to an earlier concern that the draft ordinance was too vague, the ordinance was revised to identify specific "appropriate steps" that a landlord or property manager shall take to implement the ordinance, such as posting signs, sending every tenant information on ordinance requirements, and contacting individual tenants in the event of a complaint to further educate on the smoking

ordinance. As discussed at our meeting, there are other methods that a landlord may use to pursue adherence to the ordinance including calling the tenant or knocking on their door. It is staff's position that the draft ordinance provides sufficient clarity while remaining flexible to allow creativity in implementing the ordinance.

#### Violations

Members of the North Coast Rental Housing Association expressed concern that Section 9-20.150 makes it appear that violations of the smoking ordinance are automatically a misdemeanor, and requested that the language be softened to indicate that such violations may or may not be charged as such. City staff researched this issue and determined that flexibility for charging misdemeanors is already provided in Section 1-28.010 of Santa Rosa City Code. We feel that this is responsive to the concern.

#### Housing and Urban Development (HUD) Affordable Units

At our meeting, a question was raised about how to implement smoke-free provisions for HUD units due to the federal lease requirements for such units. City staff researched this issue and found an informational brochure from HUD which states that HUD supports smoke-free housing communities and suggests that smoking restrictions may be addressed in the "house rules" for a property as an interim implementation measure, and over time through an amendment to the leases. Here is the link for reference:

<http://portal.hud.gov/hudportal/documents/huddoc?id=smokefreeowners.pdf>

#### Conclusion

In conclusion, we appreciate the participation and comments of the CAA and NCRHA, and we look forward to working with you on publicizing and implementing the new regulations if approved by the City Council.

Sincerely,



ERIN L. MORRIS  
Senior Planner

Cc: Nancy Pullen, North Coast Rental Housing Association



## Bliss, Sandi

---

**From:** Williams, Stephanie  
**Sent:** Wednesday, March 25, 2015 2:25 PM  
**To:** Morris, Erin; Bliss, Sandi  
**Cc:** Griffin, Terri  
**Subject:** FW: Smoke-free Protections  
**Attachments:** Santa Rosa SF 3-30-15.docx

Hi,

Email received by Council for Smoking Regs item next week. Please upload to the correspondence attachment. Thank you.

**Stephanie Williams, CMC | Deputy City Clerk**

City Manager's Office/City Clerk's Office | 100 Santa Rosa Avenue | Santa Rosa, CA 95404

Tel. (707) 543-3011 | Fax (707) 543-3030 | [swilliams@srcity.org](mailto:swilliams@srcity.org)



---

**From:** Cassie Ray [<mailto:cassie.ray@cancer.org>]  
**Sent:** Wednesday, March 25, 2015 1:13 PM  
**To:** \_CityCouncilListPublic  
**Subject:** Smoke-free Protections

Dear Mayor Sawyer and Members of the Santa Rosa City Council:

Thank you for your careful consideration and work on an ordinance, which, if passed, will greatly improve the protections provided to those who live and work in Santa Rosa, as well as those who visit. We do suggest that you include 100% of hotel rooms, as most larger hotels already include 100% smoke-free rooms, and smaller hotels are not only workplaces, but they are also often temporary residences.

We are also asking that definitions be updated. The definitions used appear to have come from the Change Labs Solutions template. They have since updated their definitions. I have included the new definitions in the attached letter.

Thank you once again for your work in creating meaningful protections for the residents of Santa Rosa

**Cassie Ray** | Northern California Government Relations

American Cancer Society Cancer Action Network, Inc.

980 9th Street Suite 2200

Sacramento, CA 95814

Phone: 707.290.0003 | Mobile: 707.290.0003 | Fax: 916.447.6931

[acscan.org](http://acscan.org)





*This message (including any attachments) is intended exclusively for the individual to whom it is addressed and may contain proprietary, protected, or confidential information. If you are not the named addressee, you are not authorized to read, print, copy, or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately.*



March 25, 2015

The Honorable John Sawyer  
City of Santa Rosa  
100 Santa Rosa Avenue, Room 10  
Santa Rosa, CA 95404

Dear Mayor Sawyer and Members of the Santa Rosa City Council:

The American Cancer Society Cancer Action Network is committed to protecting the health and well-being of the citizens of Santa Rosa, and appreciates the work that has been put into updating the city's current smoke-free protections. If passed, this ordinance will protect residents, workers, and those who visit the City of Santa Rosa by prohibiting smoking in multi-unit housing, and all public places, including: dining, service areas, common areas, shopping, parks and playgrounds.

Smoking remains the leading cause of preventable death in the U.S. However, it is not only smokers who breathe in the deadly smoke from tobacco use—everyone around them is forced to inhale it too. Exposure to secondhand smoke causes many of the same tobacco-related diseases and premature deaths as active smoking. In fact, 42,000 Americans die each year as a result of inhaling the smoke of others, and the U.S. Surgeon General has declared that there is no safe level of exposure to secondhand smoke. Even brief exposure to secondhand smoke can cause serious health effects, especially for vulnerable populations.

The multi-unit housing (MUH) smoke-free protections contained within this ordinance will improve the quality of life for nonsmokers, and will prevent the unintentional exposure that many receive as a result of smoking neighbors. Secondhand smoke can travel from an individual housing unit or common area and infiltrate a non-smoking unit, similar to traveling from a smoking to a smoke-free section of a restaurant or bar. More than 80% of Californians completely prohibit smoking in their homes, and yet, in MUH, one smoking resident can expose the neighbors in all surrounding units. It has been estimated that 44-46% of MUH residents are involuntarily exposed to secondhand smoke in their homes.

We encourage you to amend the 75% of hotel rooms to be 100% smoke-free, as hotels are workplaces, which are otherwise covered by this ordinance. Many hotels are already voluntarily 100% smoke-free, but small hotels are often independently owned, and sometimes used as multi-unit housing residences, which are also otherwise covered. 100% smoke-free

hotels would be consistent with the workplace provisions, as well as the MUH provisions being proposed in the ordinance.

We also ask that you change the definitions for “electronic smoking device” as well as “smoking” to the definitions now being used in the Change Labs Solutions model ordinances, as well as by our own organization and others. We do not recommend exclusions in the case that electronic devices should ever become approved as cessation devices, as we would still not want these used in public. Public use would involuntarily expose others who are around the user to the aerosol in these products, and would severely complicate enforcement of laws passed to protect residents.

**“Electronic Smoking Device”** means any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor.

**“Smoking”** means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, including hookahs and marijuana, whether natural or synthetic, in any manner or in any form. “Smoking” also includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this Article.

Smoke-free laws are an effective way to protect nonsmokers, workers, and children from the deadly effects of secondhand smoke. The smoke-free ordinance being considered by this council is comprehensive and contains many important protections, which, if passed, will protect community members where they live, work and play.

Sincerely,

A handwritten signature in cursive script that reads "Cassie Ray".

Cassie Ray  
Government Relations Director, Northern California  
American Cancer Society Cancer Action Network



## Morris, Erin

---

**From:** patricia@cucinagalleria.com  
**Sent:** Monday, February 09, 2015 11:41 AM  
**To:** Morris, Erin  
**Subject:** Apartment Living with Neighbors that Smoker

I'm submitting my experience for review by the board with regards to living in an apartment with smokers as neighbors.

I moved into the Oak Creek Apartments over a year ago. One of the first questions I asked, were the apartments smoke free.

It was explained that there was no smoking in the apartments but little did I know that would affect me more. This allows my smoker neighbors to step outside their apartment and smoke on their balcony above me.

During warm weather spring days and early evenings, I would have to close my patio slider because of drifting smoke. This is required each and every time the smokers above me would smoke outside on their balcony. And having 2 smokers living above me, this did occur often, even into late hours of the night. Usually occurring on an hourly base at its peak, it was easier to just keep my slider closed.

During the hot summer days I was not able to use my air conditioner because this would pull in their second hand smoke from upstairs. Even without the air conditioner on, it seem to pull their second hand smoke into my apartment through this unit. The unit is installed on the wall just 3 feet from the sofa I sit on.

Living below smokers also requires you to clean up after them. I picked up their discarded cigarette butts and plastic wrapping from the packaging. Then there are the full cigarettes that had fallen through the wooden slats of the balcony above me into my flower garden.

I have incurred personal property damage in the form of several burn holes in my small sun umbrella on my patio. It is disquieting to step outside and see yet another burn hole in your sun umbrella which was a gift from my sister.

The manager has offered to pay for the replacement; however, it requires me to go out and shop to find a replacement. This is easier said than done, as a disabled person, it is not easy to go to different stores looking for a new umbrella. How do I get this new umbrella from my car into the apartment, installed and remove the damaged one? And once I have the new one, what stops that one from being burned by discarded cigarettes?

Being disabled doesn't allow me to take long walks at the park or hike as I used to in order to enjoy nature. I'm home most of the day and night, limited by what I can do. So having some fresh air from outside is a blessing. Being connected with plants my sister planted and bird feeders gives me a small measure of being with nature.

After a year of enduring I now have new neighbors and I am smelling smoke again.

Living below smokers limits my enjoyment of having fresh air to breathe.

Sincerely,  
Patricia M. Scott

707-318-8658

**Morris, Erin**

---

**From:** Nancy Pullen <NPullen@caanet.org>  
**Sent:** Wednesday, February 04, 2015 3:24 PM  
**To:** Morris, Erin  
**Subject:** FW: NCRHA - Comment to undated revisions by the City to the smoking ordinance 1/28/15  
**Attachments:** Comments Re Prop Santa Rosa Smoking Ordinance 01-28-15.pdf

Erin,

I've attached feedback and comments to the smoking ordinance revisions from one of our board members. We would appreciate the opportunity to work with you, prior to the February 10th City Council meeting, to resolve outstanding issues.

Please contact me to arrange a meeting.

Nancy Pullen ▪ Executive Director  
North Coast Rental Housing Association / CAA North Coast npullen@caanet.org ▪ (925) 746-7131 x3635

**COMMENTS REGARDING THE CITY OF SANTA ROSA'S  
UNDATED REVISIONS TO THE  
OCTOBER 15, 2014, PUBLIC DRAFT OF THE  
PROPOSED SANTA ROSA SMOKING ORDINANCE**

The proposed revised ordinance continues to require property owners and managers to enforce the ordinance against smokers, continues to subject owners and managers to criminal charges for the acts of third parties (smokers) and continues to include vague language regarding steps owners and managers can take to avoid criminal, and civil, liability.

Section 9-20.080 should omit the requirement that the required language be included in leases "as soon as possible." The phrase "as soon as possible" is open to interpretation. There needs to be a definite date for compliance.

The date to include the required language in leases should be July 1, 2016, in order to confirm with effective dates for state laws. Lawyers look for changes in the law to be effective January 1 or, less often, July 1. A March 27 date is a trap for innocent landlords and is yet another ground for tenants to sue landlords. (9-20-.080(A).) We saw this problem with the new required language for 30 and 60 Day Notices. One of the results was that the already overburdened court system saw numerous cases filed twice because landlords were not aware of the new requirement that became effective at an odd time of the year.

The exact steps that landlords need to take in order to comply with the ordinance should be clearly listed. (9-20-080(B).) The phrase "such as" should be removed. Subpart B should read: "Landlords are required to post signs stating there is no smoking on the premises."

The requirement that landlords send "...every tenant information on the requirements of this ordinance..." is redundant and should be eliminated because landlords are required to include a provision in leases and rental agreements prohibiting smoking pursuant to the language of the ordinance contained in 9-20-080(A).

The language that landlords contact individual tenants in the event of a complaint "...to further educate on the requirements this ordinance (sic)" is vague. Contact how? Educate how? This language opens the door to lawsuits against landlords and managers by tenants. (9-20-080(B).)

Landlords and property managers should not be required to enforce the ordinance. (9-20.808(B).) Further, the language that "So long as Landlord (sic) can demonstrate that it is making good faith efforts to implement appropriate steps towards compliance with this

ordinance...” is vague and subjects landlords to lawsuits by tenants. (9-20-808(B).) (See above discussion.) The phrase should be omitted.

Section 9-20.150 continues to subject landlords and managers to criminal charges including being charged with a misdemeanor. A property owner or manager should not be subject to criminal charges for the acts of a third party; i.e., the smoking tenant.

Enforcement of the proposed ordinance is problematic for landlords and managers especially since evidence that a particular tenant is smoking is elusive. Law enforcement trained in investigations and collecting evidence should enforce the ordinance, not landlords and property managers who do not have law enforcement training. The criminal penalties should be against the smokers and not against landlords and managers who do not have police powers.

Linda Ryan  
Board Member  
North Coast Rental Housing Association

The above is not legal advice and should not be relied upon as legal advice. You should consult with an attorney of your choice for individualized advice regarding your own unique situation. No attorney-client relationship is formed between Linda Ryan and you by receipt of and/or viewing the above e-mail communication.

## Morris, Erin

---

**From:** Joshua Howard <JHoward@caanet.org>  
**Sent:** Wednesday, February 04, 2015 2:00 PM  
**To:** Joshua Howard  
**Subject:** Smoking Ordinance- Updated Feedback from California Apartment Association  
**Attachments:** Santa Rosa\_Smoking in Multi-Unit Housing-020415.pdf

Dear Councilmembers,

Attached please find an update to the letter I sent to you earlier this afternoon. This letter replaces the version sent to you earlier today.

I appreciate your consideration of our feedback and look forward to our continued partnership to help address the health concerns of the city and its residents and the city's rental property owners and managers.

Thank you,

---

**Joshua Howard** - Senior Vice President, Local Public Affairs  
California Apartment Association  
1530 The Alameda, Suite 100, San Jose, CA 95126  
[jhoward@caanet.org](mailto:jhoward@caanet.org) - (408) 342-3507

*CAA is your partner in the rental housing industry.  
Find out how we're working for you.*

---

**From:** Joshua Howard  
**Sent:** Wednesday, February 04, 2015 1:06 PM  
**To:** Joshua Howard  
**Subject:** Smoking Ordinance-Feedback from California Apartment Association

Dear Mayor Sawyer and City Councilmembers,

Attached to this email please find a letter from the California Apartment Association outlining our concerns with the current version of the proposed ordinance to regulate smoking in multi-unit housing. On behalf of CAA, I am more than happy to meet with any of you or speak with you via phone to discuss our concerns in greater detail.

We appreciate your consideration of our feedback and look forward to our continued partnership to help address the health concerns of the city and its residents and the city's rental property owners and managers.

---

**Joshua Howard** - Senior Vice President, Local Public Affairs  
California Apartment Association  
1530 The Alameda, Suite 100, San Jose, CA 95126  
[jhoward@caanet.org](mailto:jhoward@caanet.org) - (408) 342-3507

CAA is your partner in the rental housing industry.  
*Find out how we're working for you.*



California Apartment Association  
Silicon Valley

1530 The Alameda, Suite 100  
San Jose, CA 95126  
408.342.3500 ■ caanet.org

February 4, 2015

Hon. John Sawyer  
City of Santa Rosa  
100 Santa Rosa Avenue, Room 10  
Santa Rosa, CA 95404

RE: Draft Ordinance Regulating Smoking in Multi-Unit Housing

Dear Mayor Sawyer,

The California Apartment Association North Coast Division (CAA North Coast) which represents owners and managers of rental housing in Sonoma County appreciates working closely with you and the City of Santa Rosa to protect citizens from second hand smoke and promote public health.

We appreciate the consideration the city has given to the comments and feedback we provided in our letter dated December 10, 2014. In reviewing the most recent draft of the proposed ordinance to regulate smoking and curtail the effects of second hand smoke sent to us on January 26, 2014, we respectfully request that staff consider the amendments outlined below before moving forward with a recommendation to the City Council.

CAA North Coast remains deeply concerned with the sections of the proposed ordinance surrounding implementation and enforcement. We respectfully request consideration of the recommendations outlined below.

The amendments outlined in this letter are designed to protect residents in multi-unit rental housing, offer clarity to rental property owners and managers, and provide a level of consistency with similar ordinances in California.

**Section 9-20.080 Landlord compliance with smoking prohibition in multifamily residences**

The new version of the ordinance adds a requirement units rented on a month-to-month basis must be converted to non-smoking within 60 days. This is challenging for both rental owners and their residents. The proposed requirement forces individuals who might be smokers to immediately move, quit smoking, and/or make drastic lifestyle changes simply because they rent an apartment on a month-to-month basis

and smoke. Additionally, this requires rental owners to immediately serve notices to their residents changing the terms of their rental agreement.

The new language also requires “owner-occupied multifamily residences” to become non-smoking within 60 days. It is unclear what this means- if a duplex is occupied by a smoking owner and a smoking tenant with a year lease, does the owner have to stop smoking in their home and the tenant can continue (for the time being).

We strongly recommend that there be a consistent phase-in period for all existing renters that does not discriminate based on the type of rental agreement the residents has with the property owner. In addition, to provide as much clarity as possible to rental owners and their residents regarding their compliance with the new law, we recommend that Section 9-20.080 be re-written as follows:

- (A) Every landlord of a multifamily residence, as defined in this chapter, in order to demonstrate compliance with the applicable provisions in this chapter, include in every lease or rental agreement for a multifamily residence executed 60 days after the effective date of this chapter a provision prohibiting any smoking within any such unit, including any exclusive use areas such as patios, balconies and porches, as well as in common areas and on the property as a whole, except in a designated smoking area consistent with this chapter. Such provision shall
  - i. State that Smoking is prohibited in the Unit;
  - ii. State it is a breach of the lease or agreement to
    - 1. violate any local law regulating Smoking while on the premises;
    - 2. Smoke in violation of a non-smoking lease term, such as smoking in a non-smoking Unit;
    - 3. Smoke in any Multi-Unit Residence Common Area in which Smoking is prohibited
- (B) A Unit shall not be subject to the Smoking restrictions in this Chapter until thirteen (13) months after the effective date of this chapter, or until the legal occupants on the effective date of this chapter vacate the Unit, or the landlord specifies an earlier effective date, whichever occurs first.
- (C) A tenant who breaches the Smoking regulations of a lease or knowingly allows another person to do so shall be liable to: (i) the Landlord; and (ii) to any lawful occupant of the Multi-Unit Residence who is exposed to secondhand smoke as a result of that breach. A Landlord shall not be liable to any person or government enforcement agent for a tenant’s breach of Smoking regulations if the Landlord has fully complied with subsection (A) above and posted signs as noted in this chapter
- (D) Failure to enforce any Smoking regulation of a lease or agreement on one or more occasions shall not constitute a waiver of the lease or agreement provisions required by this ordinance and shall not prevent future enforcement of any such Smoking regulation on another occasion.

The recommended language above provides a clear and consistent phase-in period for all renters and rental owners in Santa Rosa. In addition, it makes clear that a rental property owner must inform their residents of the city requirement prohibiting smoking, the posting of signs, and does not allow an unnoticed or unenforced violation of this ordinance to



waive future enforcement by the property owner/manager or the city. We feel this language is much clearer than the “appropriate steps” requirement as outlined in the January 26, 2015 draft.

CAA looks forward to working with you to arrive at a mutually agreeable solution to this issue. With the city’s consideration and incorporation of the amendments outlined in this letter our members in Santa Rosa will be much more comfortable with this proposal moving forward in the public policy process. I would like to offer the opportunity for us to meet in person to further discuss these points and hopefully arrive at a mutually agreeable solution that we can all be proud to endorse.

We are proud of our work in other cities to develop public policy on this issue that balances the needs of the city, rental property owners, and residents.

Please do not hesitate to contact me via email at [jhoward@caanet.org](mailto:jhoward@caanet.org) or by phone at (408) 342-3507 if you have any questions or would like to further discuss the contents of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Joshua Howard", with a stylized flourish at the end.

Joshua Howard  
Senior Vice President, Local Public Affairs  
California Apartment Association

CC:

Chris Coursey, Vice Mayor  
Erin Carlstrom, Councilmember  
Julie Combs, Councilmember  
Ernesto Olivares, Councilmember  
Tom Schwedhelm, Councilmember  
Gary Wysocky, Councilmember  
Sean McGlynn, City Manager  
Erin Morris, Senior Planner

**Morris, Erin**

---

**From:** Arlie <ajhaig@sonic.net>  
**Sent:** Monday, February 02, 2015 9:49 AM  
**To:** agomes@burbankhousing.org  
**Cc:** jncombs; cypressridge@burbankhousing.org; Morris, Erin  
**Subject:** Smoking ban effects, problems, solutions

Greetings Alicia, Danielle, others,

I am very supportive of Burbank Housing's efforts to ban smoking on their premises. However, for some, this decision just pushes the problem onto others.

I am the volunteer coordinator of the Kawana Community Organic Garden which is on Bellevue Union School District property, and is situated between the western border of Cypress Ridge and the elementary school parking lot on Moraga Dr. in SE Santa Rosa. We established this garden for the benefit of the surrounding residents; at least half of the gardeners live in Burbank's Cypress Ridge.

Since the ban on smoking on the actual housing site, it has caused the smokers to go smoke at the nearest area, offsite. Burbank has finally installed (on Jan 31) a cigarette depository which is on the property line but the smokers are still congregating within a few feet outside of the Kawana organic garden gate -- they like to sit on the parking lot curb and on the fire gate. The ground for a wide area has been littered with cigarette butts.

An additional factor is that since the parking lot and garden are school district property, no smoking is allowed - by law on their property. I have mentioned the smoking issue to the school and suggested they mount a sign but they haven't yet responded. A sign is needed and will be posted at some point. Another consideration is that I am not sure who owns or is in control of the fire access road but I think the school does. I did call the fire dept admin and they have no opinion or control on smoking in their right of way.

A few months ago when I presented this issue to the Cypress manager, she assured me I would be contacted to discuss the location of the cigarette depository. This didn't happen and its installation is very near the NE corner of the garden, and also very close to the back patio of the end unit apartment.

It would have been better to place it directly across the fire access road from where it is now, or at the southwest end of Citrine Way near the open field, or to outlaw smoking in the fire access road and school parking lot altogether.

If any of the above options are not carried out, I thought that if there were a bench very near to the depository and if it were located across from its current location, the smokers would find that more comfortable and convenient, along with a sign posted.

I will pursue contacting the school to post a sign outlawing smoking on their property.

I am happy to meet with a Burbank representative at the site to show the problem area. Feel free to call me to discuss further, after Feb 14.

Thank you,

Arlie Haig  
1958 Moraga Dr.  
707-360-5060

**Morris, Erin**

---

**From:** Pam Granger <Pam.Granger@lung.org>  
**Sent:** Wednesday, January 21, 2015 8:57 AM  
**To:** \_CityCouncilListPublic  
**Cc:** Morris, Erin  
**Subject:** Lung Association Releases Sonoma County Tobacco Grade Today  
**Attachments:** Sonoma County.pdf

Good morning, Mayor Sawyer and council members,

Exciting times - Below is a copy of the press release on the 2015 State of Tobacco Control Report. Although the Santa Rosa grade did not change this year, you are on the path to the top of the class in Smokefree Housing for 2015.

*Pam*

**Pam Granger**  
American Lung Association in California

WE ARE A **FORCE** TO BE RECKONED WITH

Join the **FORCE** for lung health. Find out how at [www.lungforce.org](http://www.lungforce.org)

---

**From:** Pam Granger  
**Sent:** Wednesday, January 21, 2015 8:36 AM  
**To:** Pam Granger  
**Subject:** Lung Association Releases Sonoma County Tobacco Grade Today

*Dear Editor,*

*The American Lung Association released our annual "State of Tobacco Control" report today which assigns grades to all California cities and counties, including Sonoma County on key tobacco control policies. Tobacco use continues to take a toll on the lives of residents here in our region but the Lung Association is taking the lead in fighting for stronger tobacco control policies to protect public health by working with the Coalition for a Tobacco Free Sonoma County in Healdsburg who raised their grades in 2014.*

*Exciting activity in Santa Rosa, Sonoma and Sonoma County suggest improvement in the works for next year's report card*

*A copy of our press release is included below for your reference. Please feel free to contact me if you wish to learn more about this important report.*



**Media Contact:** Pam Granger, 707.775.6045, [Pam.Granger@lung.org](mailto:Pam.Granger@lung.org)

## North Coast Shows Mixed Grades in Lung Association “State of Tobacco Control 2015” Report; Calls on Region to Increase Efforts to Eliminate Tobacco-Caused Death and Disease

*American Lung Association in California report grades all California cities and counties on tobacco control policies; Officials must take steps to achieve bold lifesaving goals, California coalition urges tobacco tax effort*

**(January 21, 2015, Santa Rosa, CA)** – Progress in the fight against tobacco use is at a standstill in California and in most cities and counties in the North Coast as advances in statewide and local tobacco control policies have stagnated. These were the findings of the American Lung Association *State of Tobacco Control 2015* report released today. The *State of Tobacco Control 2015* report tracks yearly progress on key tobacco control policies at the federal and state levels, assigning grades based on whether laws are adequately protecting citizens from the enormous toll tobacco use takes on lives and the economy. In conjunction with the national report, the American Lung Association in California released its *State of Tobacco Control 2015 – California Local Grades* report, which issues grades for all 482 cities and 58 counties in California on local tobacco control policies. To view the complete California report, visit [www.lung.org/california](http://www.lung.org/california)

Locally, San Rafael and Marin County received the highest grades in the state with an overall tobacco control grade of an A, and six municipalities (Healdsburg, Petaluma, Mill Valley, Sebastopol, San Anselmo and Sonoma County) received an overall grade of B. In addition, Healdsburg, American Canyon, Corte Madera and San Anselmo all passed strong policies in 2014 to further protect their residents from tobacco-related death and disease.

“Despite improvements, more still needs to be done in the North Coast to better protect residents from the harmful effects of smoking,” says pulmonologist Eugene Belogorsky, MD, volunteer physician for the American Lung Association in California. “We have a lot of work to do to safeguard public health from tobacco-related illnesses. Tobacco use continues to be the leading cause of preventable death and illness in the U.S., and we must take the necessary steps to ensure a tobacco-free environment for our community.”

Once a proactive leader in tobacco control efforts, California now falls behind in protecting residents from tobacco. This year’s report shows that while California earned a B for its smokefree air policies, the state received an F for its low tobacco taxes, an F for failing to sufficiently fund tobacco prevention and control programs, and a D for poor coverage of smoking cessation and treatment services.

In 2014, the Lung Association and its partners called for immediate action on tobacco use by all levels of government to achieve three bold goals: reduce smoking rates currently at about 18 percent to less than 10 percent by 2024; protect all Americans from secondhand smoke by 2019 and; ultimately eliminate the death and disease caused by tobacco use. “The American Lung Association is urging the federal, states, and local governments to take needed steps to achieve these bold goals,” says Olivia J. Gertz, President and CEO, American Lung Association in California. “It’s no secret that to reduce tobacco use in the United States, our leaders need to muster the political will to implement proven policies. We cannot afford the health or financial consequences of their continued failure to act.”

California’s weakened position on tobacco prevention is due to the fact that the state has not increased its tobacco tax since 1999 and now ranks 33<sup>rd</sup> in the country at 87 cents per pack, far behind states like New York, Illinois, Texas, Florida, Oregon and Washington.

“Increasing the tobacco tax has been proven to reduce tobacco use,” says Gertz. “This is why the American Lung Association in California is standing with [Save Lives California](http://www.savelivescalifornia.org), a broad coalition dedicated to passing a lifesaving \$2 per pack tobacco tax – either through the legislature or by ballot measure – by the end of 2016. By passing this measure, we will not only save the lives of about 100,000 people, we also will save taxpayers billions in health care costs.” Tobacco-related deaths are the single, most preventable cause of death in California. More than 21,300 kids start smoking each year in the state, and tobacco costs California \$18 billion – a tremendous burden that the state cannot afford.

[Save Lives California](http://www.savelivescalifornia.org) will generate revenue to expand treatment services for Medi-Cal patients with tobacco-related and other illnesses, support existing statewide programs to prevent youth from using tobacco, stop illegal sales of tobacco,

increase funding for medical research into new treatments and cures for deadly diseases such as cancer and lung disease, and restore California's leadership in tobacco control efforts.

In 2014, the federal government took small steps to protect citizens from the harmful effects of tobacco, but still fell short in important areas such as tobacco taxes and finalizing its regulatory authority over all tobacco products. In April, the Food and Drug Administration (FDA) [proposed](#) to assert authority over all tobacco products including e-cigarettes, little cigars and other tobacco products. [The American Lung Association also expressed strong opposition to](#) the Obama Administration's proposal to exempt certain cigars from basic FDA oversight and that it failed to finalize the proposal by the end of 2014.

"We must increase our efforts in stopping tobacco from robbing another generation of their health," says Gertz. "I urge everyone to join the American Lung Association in California and Save Lives California, and help us tell our leaders to take action now to save lives."

This year's *State of Tobacco Control* report features new methodology to reflect the updated [2014 Centers for Disease Control and Prevention \(CDC\) Best Practices for Comprehensive Tobacco Control Programs](#) as communities adopt stronger, more health-protective policies to improve public health and eliminate tobacco-caused death and disease. It incorporates also other tobacco product taxes and tobacco cessation coverage under Medicaid expansion into the grades. Due to revisions in the methodology, all grades from the *State of Tobacco Control 2015* report cannot be directly compared to grades from *State of Tobacco Control 2014* or earlier reports.

#### About the American Lung Association in California

Now in its second century, the American Lung Association is the leading organization working to save lives by improving lung health and preventing lung disease. With your generous support, the American Lung Association is "Fighting For Air" through research, education and advocacy. For more information about the American Lung Association or to support the work it does, call 1-800-LUNG-USA (1-800-586-4872) or visit [www.lung.org/california](http://www.lung.org/california)

# # #

*Pam*

**Pam Granger | Senior Advocacy Manager - North Coast**

American Lung Association in California

(707) 775-6045 office

(866) 515-4625 e-fax

(707) 775-8185 cell

[pam.granger@lung.org](mailto:pam.granger@lung.org) | <http://www.lung.org/california>

**WE ARE A **FORCE** TO BE RECKONED WITH**

Join the **FORCE** for lung health. Find out how at [www.lungforce.org](http://www.lungforce.org)

## State of Tobacco Control 2015 – California Local Grades



### SONOMA COUNTY

|                                                 | Cloverdale | Cotati   | Healdsburg | Petaluma | Rohnert Park | Santa Rosa | Sebastopol | Sonoma   | Windsor  | County<br>Unincorporated |
|-------------------------------------------------|------------|----------|------------|----------|--------------|------------|------------|----------|----------|--------------------------|
| <b>Overall Tobacco Control Grade</b>            | <b>F</b>   | <b>F</b> | <b>B</b>   | <b>B</b> | <b>C</b>     | <b>D</b>   | <b>B</b>   | <b>F</b> | <b>D</b> | <b>B</b>                 |
| Total Points                                    | 0          | 1        | 8          | 8        | 6            | 4          | 8          | 1        | 3        | 8                        |
| <b>Smokefree Outdoor Air</b>                    | <b>F</b>   | <b>F</b> | <b>B</b>   | <b>A</b> | <b>A</b>     | <b>A</b>   | <b>A</b>   | <b>F</b> | <b>B</b> | <b>A</b>                 |
| Dining                                          | 0          | 0        | 4          | 4        | 4            | 4          | 4          | 0        | 4        | 4                        |
| Entryways                                       | 0          | 0        | 4          | 4        | 4            | 4          | 4          | 0        | 4        | 4                        |
| Public Events                                   | 0          | 0        | 4          | 3        | 4            | 4          | 4          | 0        | 4        | 3                        |
| Recreation Areas                                | 0          | 2        | 4          | 4        | 2            | 4          | 4          | 2        | 4        | 3                        |
| Service Areas                                   | 0          | 0        | 0          | 4        | 4            | 2          | 4          | 0        | 0        | 4                        |
| Sidewalks                                       | 0          | 0        | 0          | 0        | 0            | 1          | 0          | 0        | 0        | 0                        |
| Worksites                                       | 0          | 0        | 0          | 1        | 0            | 0          | 1          | 0        | 0        | 0                        |
| Total Points                                    | 0          | 2        | 16         | 20       | 18           | 19         | 21         | 2        | 16       | 18                       |
| <b>Smokefree Housing</b>                        | <b>F</b>   | <b>D</b> | <b>D</b>   | <b>A</b> | <b>C</b>     | <b>F</b>   | <b>A</b>   | <b>D</b> | <b>F</b> | <b>A</b>                 |
| Nonsmoking Apartments                           | 0          | 0        | 0          | 4        | 1            | 0          | 4          | 0        | 0        | 4                        |
| Nonsmoking Condominiums                         | 0          | 0        | 0          | 4        | 1            | 0          | 4          | 0        | 0        | 4                        |
| Nonsmoking Common Areas                         | 0          | 2        | 2          | 4        | 4            | 0          | 4          | 2        | 0        | 4                        |
| Nonsmoking Housing Authority                    | n/a        | n/a      | n/a        | n/a      | n/a          | n/a        | n/a        | n/a      | n/a      | n/a                      |
| Total Points                                    | 0          | 2        | 2          | 12       | 6            | 0          | 12         | 2        | 0        | 12                       |
| <b>Reducing Sales of Tobacco Products</b>       | <b>F</b>   | <b>F</b> | <b>A</b>   | <b>F</b> | <b>F</b>     | <b>F</b>   | <b>F</b>   | <b>F</b> | <b>F</b> | <b>F</b>                 |
| Tobacco Retailer Licensing                      | 0          | 0        | 4          | 0        | 0            | 0          | 0          | 0        | 0        | 0                        |
| Total Points                                    | 0          | 0        | 4          | 0        | 0            | 0          | 0          | 0        | 0        | 0                        |
| <b>Emerging Issues Bonus Points</b>             |            |          |            |          |              |            |            |          |          |                          |
| Emerging Products Definition - Secondhand Smoke | 0          | 0        | 1          | 1        | 0            | 0          | 1          | 0        | 0        | 1                        |
| Emerging Products Definition - Licensing        | 0          | 0        | 1          | 0        | 0            | 0          | 0          | 0        | 0        | 0                        |
| Retailer Location Restrictions                  | 0          | 0        | 0          | 0        | 1            | 0          | 0          | 0        | 1        | 0                        |
| Sampling of Tobacco Products                    | 0          | 0        | 0          | 0        | 0            | 1          | 1          | 0        | 0        | 0                        |
| Sale of Tobacco Products in Pharmacies          | 0          | 0        | 1          | 0        | 0            | 0          | 0          | 0        | 0        | 0                        |
| Flavored Tobacco Products                       | 0          | 0        | 0          | 0        | 0            | 0          | 0          | 0        | 0        | 0                        |
| Minimum Pack Size of Cigars                     | 0          | 0        | 0          | 0        | 0            | 0          | 0          | 0        | 0        | 0                        |
| Total Points                                    | 0          | 0        | 3          | 1        | 1            | 1          | 2          | 0        | 1        | 1                        |

Overall Tobacco Control Grade: A (11-12), B (8-10), C (5-7), D (2-4), F (0-1);  
determined by grades and points from other three categories – A (4), B (3), C (2), D (1), F (0)  
Smokefree Outdoor Air Grade: A (18+), B (13-17), C (8-12), D (3-7), F (0-2)

Smokefree Housing Grade: A (11+), B (8-10), C (5-7), D (2-4), F (0-1)  
Reducing Sales of Tobacco Products Grade: A (4+), B (3), C (2), D (1), F (0)

## Morris, Erin

---

**From:** Serena Chen <Serena.Chen@lung.org>  
**Sent:** Wednesday, January 07, 2015 6:10 PM  
**To:** Morris, Erin; Jay Macedo (Jay.Macedo@sonoma-county.org); Ellen Swedberg; Pam Granger  
**Cc:** Terese Voge  
**Subject:** RE: Smoking Regulations Update  
**Attachments:** Marijuana Smoke and Smoke 2013.doc

Hi Ellen,  
Happy New Year! I had some additional comments to share with you after reviewing your update.

Only a very small percentage of a community will use the nuisance "option" to resolve a seeping smoke issue since it involves a willingness and ability by the complainant to pursue a private legal action. For folks with less education and resources, the nuisance provision provides little protection.

We have found Berkeley's approach to enforcement of their 100% smokefree housing law to be unique and we are monitoring it to see how effective it is. It is all explained on their website: [http://www.cityofberkeley.info/Smoke-Free\\_MUH/](http://www.cityofberkeley.info/Smoke-Free_MUH/)

California's EPA Office of Environmental Health Hazards has declared secondhand marijuana smoke as containing known human carcinogens and has placed it on the Prop. 65 notification list. Please see the attached handout which summarizes what we know about marijuana smoke. [http://oehha.ca.gov/prop65/public\\_meetings/pdf/cicslides060509.pdf](http://oehha.ca.gov/prop65/public_meetings/pdf/cicslides060509.pdf)

HUD has sent out a memo to all housing authorities and Section 8 providers that states clearly that known users of marijuana may not be allowed to live in federally subsidized housing. The federal government does not recognize the use of medical marijuana as a reasonable accommodation. [http://www.leadingage.org/Why\\_Medical\\_Marijuana\\_Is\\_Not\\_A\\_Reasonable\\_Accommodation.aspx](http://www.leadingage.org/Why_Medical_Marijuana_Is_Not_A_Reasonable_Accommodation.aspx)

*Serena*

**Serena Chen** | Regional Advocacy Director  
American Lung Association in California  
333 Hegenberger Rd., Ste. 450  
Oakland, CA 94621  
Phone: 510.982.3191  
Fax: 510.638.8984  
[Serena.Chen@lung.org](mailto:Serena.Chen@lung.org) | <http://www.lung.org/california>

**WE ARE A FORCE TO BE RECKONED WITH**

Join the **FORCE** for lung health. Find out how at [www.lungforce.org](http://www.lungforce.org)

---

**From:** Morris, Erin [mailto:EMorris@srcity.org]  
**Sent:** Wednesday, January 07, 2015 1:46 PM  
**To:** Jay Macedo (Jay.Macedo@sonoma-county.org); Ellen Swedberg; Pam Granger  
**Cc:** Serena Chen; Terese Voge  
**Subject:** FW: Smoking Regulations Update



FYI, the attached memo went out today to the Mayor and City Council.

Jay and Ellen, thanks for sharing your matrix of local smoking regulations as a starting point—it was incredibly helpful to me. The information about medical marijuana and reasonable accommodation was also very helpful.

Serena and Pam, thanks for sharing the Dublin staff report which helped me really dig into the topic of smoke as a nuisance, and for sharing information about the Sanders case, as well as the other information.

I continue to be grateful for your ongoing technical assistance.

Best regards,

**Erin Morris | Senior Planner**

Community Development | 100 Santa Rosa Avenue, Room 3 | Santa Rosa, CA 95404  
Tel. (707) 543-3273 | Fax (707) 543-3218 | [emorris@srcity.org](mailto:emorris@srcity.org)



---

**From:** Regalia, Chuck

**Sent:** Wednesday, January 07, 2015 11:14 AM

**To:** @010000 - City Council

**Cc:** McGlynn, Sean; Fowler, Caroline; Griffin, Terri; Sheppard, Suzanne; Dillon, Molly; Kranz, Lisa; Morris, Erin; Schreeder, Robert; Gouin, David; McKinnon, Rhonda; Guhin, David

**Subject:** Smoking Regulations Update

FOR INFORMATION ONLY; PLEASE DO NOT REPLY TO ALL

Mayor Sawyer and Members of the City Council:

At the December 16, 2014 Study Session for the Smoking Regulations Update, the Council raised a number of questions about the proposed regulations and issues associated with the regulation of smoking in general. Attached, is a memorandum prepared by staff to provide an initial response to the key issues raised by Council members.

A complete staff report addressing all of the issues will be provided in the packet for the February 10, 2015 Council meeting.

Please let me know if you have additional questions.

**Chuck Regalia | Assistant City Manager |**

Community Development Department | 100 Santa Rosa Avenue | Santa Rosa, CA 95403  
Tel. (707) 543-3189 | Fax (707) 543-3269 | [cregalia@srcity.org](mailto:cregalia@srcity.org)





## Marijuana Smoke and Smoke-Free Laws in Housing

While the medicinal use of marijuana use is allowed under California state law, the seepage of marijuana smoke into other dwellings has emerged as a source of complaints by people concerned that the fumes are harming them.

Vulnerable populations like infants, children, pregnant women, people with lung and/or heart conditions, chronic disease, or diabetes, and the elderly are especially at risk for the worsening of their conditions by exposure to tobacco and marijuana smoke.

In cases where marijuana smokers combine marijuana with tobacco in the form of blunts and/or cigars, the well-documented health risks of secondhand tobacco smoke are definitely present.

Marijuana smoke itself has been found by California's Office of Environmental Health Hazard Assessment (OEHHA) -- an office of the Environmental Protection Agency -- to contain toxins known to cause cancer in humans. (June 2009) [http://www.oehha.ca.gov/prop65/docs\\_state/mjcrnr061909.html](http://www.oehha.ca.gov/prop65/docs_state/mjcrnr061909.html)

### **Marijuana Smoke Listed Effective June 19, 2009 as Known to the State Of California to Cause Cancer**

The Office of Environmental Health Hazard Assessment (OEHHA) of the California Environmental Protection Agency is adding marijuana smoke to the Proposition 65 list<sup>1</sup>, effective June 19, 2009.

Marijuana smoke was considered by the Carcinogen Identification Committee (CIC) of the OEHHA Science Advisory Board<sup>2</sup> at a public meeting held on May 29, 2009. The CIC determined that marijuana smoke was clearly shown, through scientifically valid testing according to generally accepted principles, to cause cancer. Consequently, marijuana smoke is being added to the Proposition 65 list, pursuant to Title 27, California Code of Regulations, section 25305(a)(1) (formerly Title 22, California Code of Regulations, section 12305(a)(1)).

At least 33 individual constituents present in both marijuana smoke and tobacco smoke are Proposition 65 carcinogens.

In summary, marijuana smoke is being listed under Proposition 65 as known to the State to cause cancer.

Download the Hazard Identification document for Marijuana Smoke at: [http://www.oehha.ca.gov/prop65/hazard\\_ident/pdf\\_zip/FinalMJsmokeHID.pdf](http://www.oehha.ca.gov/prop65/hazard_ident/pdf_zip/FinalMJsmokeHID.pdf)

The **Contra Costa County Counsel** has rendered the following opinion on marijuana use as it relates to smoke-free laws:

**County Counsel's Report on Medical Marijuana (July 2010)** As per direction from the Board, County Counsel has reviewed the issue of including medical marijuana under the

County's smoking prohibitions. County Counsel reports that County's Secondhand Smoke Ordinance prohibits the smoking of marijuana for medical purposes at all locations where tobacco smoking is prohibited. The County ordinance defines "smoking" as "inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe or any other device containing any tobacco product or any other leaf, weed or plant." (Ordinance Code, § 445-2.006(h).)

Marijuana, whether used for medical purposes or not, is a plant, so if it is smoked, it falls within the ordinance's definition of "smoking." California's medical marijuana laws do not require the County to allow medical marijuana smoking at locations where the County's ordinance prohibits tobacco smoking. In general, the Medical Marijuana Program Act (Health and Safety Code sections 11362.7 through 11362.83) gives certain people – qualified patients, primary caregivers, and holders of valid medical marijuana program identification cards – an affirmative defense if they are charged with specific state crimes for transporting, processing, administering, or giving away marijuana to qualified persons for medical use.

The Medical Marijuana Program Act, however, **does not allow qualified patients or people who hold valid identification cards to smoke at any location.**

The Medical Marijuana Program Act also does not allow medical marijuana smoking in "any place where smoking is prohibited by law." (Health and Saf. Code, §11362.79(a).) This provision means that medical marijuana smoking is not allowed in any place where smoking is prohibited by the County's ordinance. County Counsel recommends that the Board not exempt medical marijuana smoking from the provisions of the Secondhand Smoke Ordinance. The reason for this is that the ordinance is aimed at protecting nonsmokers from the harmful health effects of secondhand smoke, regardless of the type of secondhand smoke.

From the American Lung Association website: <http://www.lung.org/stop-smoking/about-smoking/health-effects/marijuana-smoke.html>

## **Health Hazards of Smoking Marijuana**

Marijuana smoke contains a greater amount of carcinogens than tobacco smoke. In addition, marijuana users usually inhale more deeply and hold their breath longer than tobacco smokers do, further increasing the lungs exposure to carcinogenic smoke. Marijuana use is not only associated with adverse physical effects, but also mental, emotional and behavioral changes.

People who smoke marijuana frequently, but do not smoke tobacco, have more health problems and miss more days of work than nonsmokers. Many of these extra sick days are due to respiratory illnesses.

Patients considering using marijuana for medicinal purposes should make this decision in consultation with their doctor, and consider means of administration other than smoking.

*Updated November 27, 2012*

## **Marijuana Smoke Contains Particulate Matter**

*Particulates cause serious health problems*

The size of particles is directly linked to their potential for causing health problems. Small particles less than 10 micrometers in diameter pose the greatest problems, because they can get deep into your lungs, and some may even get into your bloodstream.

Exposure to such particles can affect both your lungs and your heart. Small particles of concern include "inhalable coarse particles" (such as those found near roadways and dusty industries), which are larger than 2.5 micrometers and smaller than 10 micrometers in diameter and "fine particles" (such as those found in smoke and haze), which are 2.5 micrometers in diameter and smaller.

The Clean Air Act requires EPA to set air quality standards to protect both public health and the public welfare (e.g. crops and vegetation). Particle pollution affects both.

### **Health effect of particles drifting between units**

Particle pollution - especially fine particles - contains microscopic solids or liquid droplets that are so small that they can get deep into the lungs and cause serious health problems. Numerous scientific studies have linked particle pollution exposure to a variety of problems, including:

- increased respiratory symptoms, such as irritation of the airways, coughing, or difficulty breathing, for example
- decreased lung function
- aggravated asthma
- development of chronic bronchitis
- irregular heartbeat
- nonfatal heart attacks
- premature death in people with heart or lung disease

People with heart or lung diseases, children and older adults are the most likely to be affected by particle pollution exposure. However, even those who are healthy may experience temporary symptoms from exposure to elevated levels of particle pollution.

<http://www.epa.gov/pm/pdfs/pm-color.pdf>

### **Medical Marijuana in Condos May Be Considered Nuisance**

<http://www.hoalawblog.com/MarijuanaNuisance.pdf>

### **2011 HUD Memo on Marijuana in Public Housing and Choice Voucher program (Section 8)**

<http://portal.hud.gov/huddoc/med-marijuana.pdf>

**Morris, Erin**

---

**From:** Pam Granger <Pam.Granger@lung.org>  
**Sent:** Sunday, January 04, 2015 4:47 PM  
**To:** Pam Granger  
**Subject:** Liquid nicotine to get tighter restrictions in New York

New York takes the lead in requiring child safety caps on highly toxic liquid nicotine.

## Liquid nicotine to get tighter restrictions in New York

Posted: Friday, January 2, 2015 3:00 am

By Audrey Matott Columbia-Greene Media [thedailymail.net](http://thedailymail.net)

Gov. Andrew Cuomo's office has announced that the governor is signing legislation that would prevent the sale of liquid nicotine to minors and require child safety caps on the containers.

Along with the increasing popularity of electronic cigarettes has also come an increasing number of injury and even death to children who have accidentally ingested the drug. The severity of accidental nicotine poisoning was supported through data from the Centers for Disease Control.

"According to a 2014 CDC report, the number of calls to poison control centers involving liquid nicotine rose from one per month in September 2010 to 215 per month in February 2014. More than half of the calls (51.1 percent) involved children under age 5," the governor's office said.

Liquid nicotine — or as it is more commonly known, electronic liquid or e-liquid — contains nicotine, propylene glycol and glycerin. The liquid is used in electronic cigarettes, which creates an aerosol that is inhaled by smokers.

When ingested, even in small doses, liquid nicotine is highly toxic. For the infants and small children who have accidentally ingested the solution, it has proven to be lethal.

The new legislation comes too late to save one life, that of a 1-year-old boy in Fort Plain who ingested the toxic solution. However, it is the hope that the new regulations will help prevent further such tragedies from happening.

(cont.) • [Liquid nicotine to get tighter restrictions in New York](#) — Catskill (NY) Daily Mail

*Pam*

**Pam Granger** | Senior Advocacy Manager - North Coast  
American Lung Association in California  
(707) 775-6045 office

(866) 515-4625 e-fax

(707) 775-8185 cell

[pam.granger@lung.org](mailto:pam.granger@lung.org) | <http://www.lung.org/california>

*Questions about lung health? Call the American Lung Association Lung HelpLine at 1-800-LUNGUSA (1-800-586-4872) for answers.*



Please consider the environment and do not print this e-mail unless you really need to.

**Morris, Erin**

---

**From:** Pam Granger <Pam.Granger@lung.org>  
**Sent:** Sunday, January 04, 2015 3:48 PM  
**To:** 'Michelle McGarry'; Pam Granger; 'Jeff Hoffman'; 'Lori Bremner'; 'Elizabeth Emerson'; Lowenthal, Paul; Sarah Marikos; 'scastellucci@ci.petaluma.ca.us'; 'Martin Rivarola'; 'Diana Cassady'; Morris, Erin; 'Shan.X.Magnuson@kp.org'; Terese Voge  
**Subject:** August 2013 - Fire damages west Santa Rosa apartment complex

Greetings Smokefree Housing workgroup members!

Clearing up my inbox and was reminded of this Santa Rosa apartment complex fire caused by discarded cigarette butts just over a year ago. Damage to multiple units resulted in displacing almost 60 adults and children.

Danger of fire and opportunity to save on fire insurance are two reasons to support regulating smoking in multi-unit housing

# The Press Democrat

## Fire damages west Santa Rosa apartment complex

*BY RANDI ROSSMANN  
August 13, 2013, 12:13PM*



Discarded cigarette butts helped start a west Santa Rosa apartment complex fire early Tuesday, damaging several units and displacing dozens of people.

The fire caused an estimated \$200,000 in damage, said Scott Moon, Santa Rosa fire marshal.

The butts had been discarded earlier in the night. Two men renting the Marlow Road apartment had been smoking on the deck, said Moon. They put the butts into a plastic container stored on the deck of their second-story residence. During the night the remnants heated up the container, which caught fire.

Gasoline from a motor scooter and a 1-gallon container of gas — both stored on the small deck — likely added fuel to the fire, Moon said.

Some residents reported hearing repeated "boom" noises, which firefighters said most likely came from the exploding gas can, fuel tank and some aerosol cans. Blaring smoke detectors awakened several residents, who all gathered outside to watch firefighters.

"Everybody just stood in awe," said Joel Cervantes, who lives at the complex.

The two-story building holds 16 apartments at the Marlow Road Apartments complex near Piner Road.

The fire caused only minor damage to several apartments. But, due to smoke or water, about 58 adults and children needed a place to go, at least for the rest of the morning.

On Tuesday afternoon, some residents were allowed to retrieve items from their homes.



Manager Jessica Canfield said efforts were being made to relocate several of the displaced families to other apartment complexes in Santa Rosa.

"We're working on recovery, finding everyone somewhere to live for now," Canfield said.

Residents who didn't have an alternative were provided temporary shelter by Red Cross volunteers.

Some residents learned their building was on fire just after 1 a.m. when smoke set off some detectors. Residents began calling 911 at 1:04 a.m.

The residents of the apartment on fire initially tried to put out the flames themselves. One man suffered apparent minor burns to one hand when he tried to close a sliding glass door to the burning deck, said Moon.

The first Santa Rosa engine arrived from the Coffey Lane station, just blocks away, at 1:09 a.m., according to Sonoma County dispatch records.

Firefighters found the deck on fire with flames spreading inside the residence and up toward the roof. Flames also were spreading to a patio below, threatening a second apartment.

Battalion Chief Jack Piccinini called for a second alarm at 1:12 a.m., bringing a total of 30 firefighters from throughout Santa Rosa to the effort.

The fire got into a common attic and began moving across the large building, said Piccinini. Firefighters went into adjoining apartments and cut holes in ceilings and from the roof, stopping the fire.

The fire was under control at 1:45 a.m., according to dispatch records.

It mainly damaged the original apartment. Virtually everything in the residence was a loss, said Moon.

There was minor fire, water and smoke damage to a few other apartments.

*Pam*

**Pam Granger** | Senior Advocacy Manager - North Coast

American Lung Association in California

(707) 775-6045 office

(866) 515-4625 e-fax

(707) 775-8185 cell

[pam.granger@lung.org](mailto:pam.granger@lung.org) | <http://www.lung.org/california>

*Questions about lung health? Call the American Lung Association Lung HelpLine at 1-800-LUNGUSA (1-800-586-4872) for answers.*





Please consider the environment and do not print this e-mail unless you really need to.

## Morris, Erin

---

**From:** Ellen Swedberg <Ellen.Swedberg@sonoma-county.org>  
**Sent:** Wednesday, December 24, 2014 7:04 AM  
**To:** Morris, Erin  
**Subject:** Fwd: Flavor manufacturers warn companies that breathing heated flavors can be dangerous; relevant to e-cigs

Begin forwarded message:

**From:** "Glantz, Stanton A" <[Stanton.Glantz@UCSF.EDU](mailto:Stanton.Glantz@UCSF.EDU)>  
**Date:** December 23, 2014 at 2:54:16 PM PST  
**To:** <[STANGLANTZ-L@LISTSRV.UCSF.EDU](mailto:STANGLANTZ-L@LISTSRV.UCSF.EDU)>  
**Subject:** Flavor manufacturers warn companies that breathing heated flavors can be dangerous; relevant to e-cigs  
**Reply-To:** "Glantz, Stanton A" <[Stanton.Glantz@UCSF.EDU](mailto:Stanton.Glantz@UCSF.EDU)>

E-cigarette companies and the people who support them love to point out that the flavors used in e-cigarettes are "generally recognized as safe" (GRAS). The GRAS definition applies to *ingested* (eaten) not *inhaled* (breathed) use of these chemicals.

In fact, the Flavor and Extract Manufacturers Association of America (FEMA), the organization which assigns most of the GRAS designations, specifically warns its members to ensure that workers are protected from inhaling flavors while working with them. In its 32 page guide, *[Respiratory Health and Safety in the Flavor Manufacturing Workplace](#)*, it recommends that the following two signs be posted where people are working with flavors:

***WARNING – This flavor may pose an inhalation hazard if improperly handled. Please contact your workplace safety officer before opening and handling, and read the MSDS [material safety data sheet]. Handling of this flavor that results in inhalation of fumes, especially if the flavor is heated, may cause severe adverse health effects.***

***ATTENTION - Safe flavors can be used in an unsafe manner. Please contact your workplace safety officer before opening and handling this flavor, and read the MSDS.***

FEMA goes on to highlight the special dangers of inhaling heated flavors and how ventilation is not a solution. (This is important not only for e-cigarette user safety but also speaks to why e-cigarettes should be included in clean indoor air laws.)

## Heating of flavors

***Heating of flavors is of particular concern with regard to potential hazardous exposures. Heating will increase volatility and greatly increase air concentrations of flavoring substances.*** Mixing of heated flavors should be conducted in closed vessels with local ventilation. Workers should not open heated vessels to conduct visual inspections in such a way as to create an opportunity for exposure. In instances when workers must work near open vessels that are heated and cannot be closed or do not have local ventilation, their exposures should be promptly evaluated by environmental sampling. If exposures are elevated then the proper personal protective equipment should be employed.

## Ventilation

Flavoring substances and mixtures, whether liquid or dry, must be ***handled in such a way as to minimize the creation of airborne aerosols*** or particulate matter. This means that mixing, blending, and other physical manipulation activities should be performed in closed systems when possible. When systems must remain open, local (“spot”) ventilation (e.g. “elephant trunks”) should be used. Fume hoods are commonly used in research and development laboratories. Dilution through general room ventilation seldom results in exposure reduction unless extremely high volumes of air are circulated. [emphasis added]

In addition to being of concern to people using e-cigarettes and bystanders breathing the secondhand heated aerosol, these issues should be of particular concern to people working in and visiting vape shops.

The whole GRAS process, by the way, is not an effective way to protect the public from potentially dangerous flavors. I used to think that the FDA was who identified flavors are “generally recognized as safe” (for ingestion), but it turns out that the flavor industry awards GRAS designations to itself through a process that is rife with conflicts of interest.

Thomas Neltner and colleagues published a searing analysis of the current self-voluntary system, [“Conflicts of interest in approvals of additives to food determined to be generally recognized as safe: out of balance,”](#) in *JAMA Internal Medicine* in 2013. Here is the abstract of their paper:

## IMPORTANCE:

Food and Drug Administration (FDA) guidance allows food manufacturers to determine whether additives to food are "generally recognized as safe" (GRAS). Manufacturers are not required to notify the FDA of a GRAS determination, although in some instances they notify the agency. The individuals that companies select to make these determinations may have financial conflicts of interest.

## **OBJECTIVE:**

To determine the extent to which individuals selected by manufacturers to make GRAS determinations have conflicts of interest between their obligations to ensure that the use of the additive is safe and their financial relationships to the company. DESIGN Using conflict of interest criteria developed by a committee of the Institute of Medicine, we analyzed 451 GRAS notifications that were voluntarily submitted to the FDA between 1997 and 2012.

## **MAIN OUTCOMES AND MEASURES:**

Number of GRAS notices submitted to the FDA; frequency of various types of relationships between decision maker and additive manufacturer; frequency of participation on GRAS panels by individuals; and number of GRAS safety determinations identified by the FDA that were not submitted to the agency.

## **RESULTS:**

For the 451 GRAS notifications, 22.4% of the safety assessments were made by an employee of an additive manufacturer, 13.3% by an employee of a consulting firm selected by the manufacturer, and 64.3% by an expert panel selected by either a consulting firm or the manufacturer. A standing expert panel selected by a third party made none of these safety assessments. The 290 panels that made GRAS determinations had an average of 3.5 members, with a maximum of 7. Ten individuals served on 27 or more panels; 1 individual served on 128 panels (44.1%). At least 1 of the 10 individuals with the most frequent service was a member of 225 panels (77.6%).

## **CONCLUSIONS AND RELEVANCE:**

Between 1997 and 2012, financial conflicts of interest were ubiquitous in determinations that an additive to food was GRAS. The lack of independent review in GRAS determinations raises concerns about the integrity of the process and whether it ensures the safety of the food supply, particularly in instances where the manufacturer does not notify the FDA of the determination. The FDA should address these concerns.

This post is on my blog at <http://tobacco.ucsf.edu/flavor-manufacturers-warn-companies-breathing-heated-flavors-can-be-dangerous-relevant-e-cigs> and @ProfGlantz.

---

Use this link to [unsubscribe](#) from this mailing list.

**2013-2014  
Board of Directors**

**San Francisco/  
San Mateo County**

**Chairman of the Board**  
Patricia Sprincin

**President**

Yerem Yeghiazarians, MD,  
FACC, FAHA, FSCAI

Barbara Adachi  
Sean Alpert  
Michael Covarrubias  
Laura Doan  
Keith Donnermeyer  
Kenneth A. Fox, MD  
Richard A. Francoz, MD  
Gordon L. Fung, MD, MPH, PhD,  
FACC, FAHA  
Chuck Harvey  
Thomas G. Hennessy  
Robert H. Lustig, MD  
John Maa, MD  
Bill Pearce  
Collin P. Quock, MD  
Melvin Scheinman, MD  
Laureen Seeger  
Deepak Srivastava, MD  
Chris Tsakalakis  
Sebastian Wong

**East Bay**

**Chairman of the Board**  
Chuck Prosper

**President**

Jeffrey Klingman, MD

Kim Burch  
Dennis Byas, PhD  
Ginger Campbell, RN, PhD  
Matthew DeVane, DO, FACC  
Luis E. Fonseca, MHA  
Barney Fonzi  
Dennis Garrison  
Faizul Haque, MD  
Junaid Khan, MD  
Eric Kolstad, PE  
Ronald Krauss, MD  
Michael Lee, MD  
Janice Murphy  
Kate Newkumet, MD  
Dan Rosenthal  
Dan Smoot  
Mike Thomas

**Executive Director**  
Jill DiGiacomo

December 19, 2014

Jay Macedo, MA  
Health Information Specialist II  
County of Sonoma Department of Health Services  
Health Policy, Planning and Evaluation Division

Dear Jay,

I am writing to express the American Heart Association's support for an ordinance updating Chapter 9-20: Prohibiting Smoking In or Around Workplaces, Public Places, and Private Places.

The American Heart Association is committed to protecting the health and wellbeing of all residents and visitors of Santa Rosa, and revising the definition of tobacco products to include e-cigarettes and other electronic smoking devices is important for the City of Santa Rosa.

Making sure that electronic cigarettes are defined as tobacco products and are subject to those same smoking regulations is an important step in keeping Santa Rosa healthy and continuing to change people's attitudes about smoking. More importantly, the de-normalization of smoking will continue to discourage the inherently dangerous behavior of tobacco use – especially among children. Electronic smoking devices are relatively untested products and their use has the potential to create new tobacco users and reverse efforts that have made smoking socially unacceptable.

Cities nationwide such as New York, Chicago, Los Angeles, and San Francisco have taken the important step to prohibit the use of electronic smoking devices in places where smoking is otherwise already prohibited and the American Heart Association encourages the City of Santa Rosa to do the same by the adoption of these amendments.

Should you have any additional questions, please contact the AHA's Government Relations Director, Brittnei Chicuata, at 510-903-4025 or [Brittnei.Chicuata@heart.org](mailto:Brittnei.Chicuata@heart.org).

Sincerely,



American Heart Association Volunteer  
Todd Salnas, President, St. Joseph Health Sonoma  
Santa Rosa, CA



**Greater Bay Area Division**

426 17th St, Ste. 300, Oakland, CA 94612  
Phone (510) 903-4050 Fax (510) 903-4049

[www.heart.org](http://www.heart.org)

**Cc:**

The Honorable Mayor John Sawyer  
Councilmember Chris Coursey  
Councilmember Erin Carlstrom  
Councilmember Julie Combs  
Councilmember Ernesto Olivares  
Councilmember Tom Schwedhelm  
Councilmember Grey Wysocky



**From:** Ellen Swedberg <Ellen.Swedberg@sonoma-county.org>  
**Sent:** Wednesday, December 17, 2014 8:58 AM  
**To:** Terese Voge; Morris, Erin  
**Subject:** FW: 5 recently published articles on e-cigarettes

**Electronic cigarettes for smoking cessation and reduction**

**The Cochrane Library**

**Cochrane Database of Systematic Reviews 2014, Issue 12. Art. No.: CD010216. DOI: 10.1002/14651858.**

Published Online: **17 DEC 2014**

Hayden McRobbie, Chris Bullen, Jamie Hartmann-Boyce, Peter Hajek

<http://onlinelibrary.wiley.com/doi/10.1002/14651858.CD010216.pub2/abstract>

“There is evidence from two trials that ECs [electronic cigarettes] help smokers to stop smoking long-term compared with placebo ECs. However, the small number of trials, low event rates and wide confidence intervals around the estimates mean that our confidence in the result is rated 'low' by GRADE standards. The lack of difference between the effect of ECs compared with nicotine patches found in one trial is uncertain for similar reasons. ECs appear to help smokers unable to stop smoking altogether to reduce their cigarette consumption when compared with placebo ECs and nicotine patches, but the above limitations also affect certainty in this finding. In addition, lack of biochemical assessment of the actual reduction in smoke intake further limits this evidence.”

**Aerosol deposition doses in the human respiratory tree of electronic cigarette smokers**

**Environ Pollut. 2014 Oct 29;196C:257-267. doi: 10.1016/j.envpol.2014.10.013. [Epub ahead of print]**

Manigrasso M, Buonanno G, Fuoco FC, Stabile L, Avino P.

<http://www.sciencedirect.com/science/article/pii/S0269749114004369>

Our study shows that e-cigarette aerosol is source of high particle dose in respiratory system, from 23% to 35% of the daily dose of a no-smoking individual... This study reports for the first time size segregated dosimetry data per airway generation for e-cigarette-generated aerosols. E-cigarettes were recognized as a source of extremely high particle doses in the human respiratory system.”

**The importance of product definitions in US e-cigarette laws and regulations**

**Tob Control** doi:10.1136/tobaccocontrol-2014-051913

Published Online First **14 December 2014**

Lauren K Lempert, Rachel Grana, Stanton A Glantz

<http://tobaccocontrol.bmj.com/content/early/2014/12/14/tobaccocontrol-2014-051913.abstract>

Definitions separating e-cigarettes from other tobacco products are common. Similar to past 'Trojan horse' policies, e-cigarette policies that initially appear to restrict sales (eg, limit youth access) may actually undermine regulation if they establish local pre-emption or create definitions that divide e-cigarettes from other tobacco products. Comparable issues are raised by the European Union Tobacco Products Directive and e-cigarette regulations in other countries. Policymakers should carefully draft legislation with definitions of e-cigarettes that broadly define the products, do not require nicotine or tobacco, do not pre-empt stronger regulations and explicitly include e-cigarettes in smoke-free and taxation laws.



**Risk Factors for Exclusive E-Cigarette Use and Dual E-Cigarette Use and Tobacco Use in Adolescents Pediatrics**

Published online **December 15, 2014**

Thomas A. Wills, Rebecca Knight, Rebecca J. Williams, Ian Pagano, and James D. Sargent

<http://pediatrics.aappublications.org/content/early/2014/12/09/peds.2014-0760.abstract>

<http://pediatrics.aappublications.org/content/early/2014/12/09/peds.2014-0760.full.pdf+html>

This study reports a US adolescent sample with one of the largest prevalence rates of e-cigarette only use in the existing literature. Dual use also had a substantial prevalence. The fact that e-cigarette only users were intermediate in risk status between nonusers and dual users raises the possibility that e-cigarettes are recruiting medium-risk adolescents, who otherwise would be less susceptible to tobacco product use.

**Electronic cigarettes: patterns of use, health effects, use in smoking cessation and regulatory issues Tobacco Induced Diseases 2014, 12 :21 (15 December 2014)**

Rahman M, Hann N, Wilson A, Worrall-Carter L

<http://www.tobaccoinduceddiseases.com/content/12/1/21/abstract>

<http://www.tobaccoinduceddiseases.com/content/pdf/1617-9625-12-21.pdf>

The cytotoxicity and long term health effects of e-cigarettes are unknown. Nevertheless the ecigarette market continues to expand, largely driven by middle-aged smokers who claim to be using e-cigarettes in an attempt to reduce or quit smoking. E-cigarettes may have some potential as smoking cessation aids and, in the researchers' view, should therefore be subject to further research and regulation similar to other nicotine replacement therapies.

Phillip Gardiner, Dr. P. H.

Policy and Regulatory Sciences  
Program Officer

Tobacco Related Disease Research Program  
University of California Office of the President  
300 Lakeside Drive, 6th Floor  
Oakland, CA 94612-3550

Ph. (510) 987-9853

Fx. (510) 835-4740

[phillip.gardiner@ucop.edu](mailto:phillip.gardiner@ucop.edu)

url. [www.trdrp.org](http://www.trdrp.org)

## Morris, Erin

---

**From:** Pam Granger <Pam.Granger@lung.org>  
**Sent:** Tuesday, December 16, 2014 12:05 PM  
**To:** \_CityCouncilListPublic  
**Cc:** Morris, Erin  
**Subject:** Teen E-Cigarette Use Steams Past Smoking, Survey Finds - US News  
**Attachments:** 14-10-01 SNR Ecigarette-secondhand-aerosol.pdf

Dear Mayor Sawyer and Santa Rosa Councilmembers,

As we continue the discussion on expanding secondhand smoke protections for Santa Rosa, electronic nicotine delivery devices have regrettably dominated much of the discussion which we suggest *should be really be around celebrating significant strides towards providing equal access to clean and healthy air where people live, work and play.*

- The choice of an adult to smoke an e-cig is a personal one, just as choosing to smoke a conventional cigarette. Both products contain addictive ingredients and other harmful chemicals. I know there is great passion expressed around e-cigarette. Unfortunately, cigarette and electronic cigarette emissions do not stay with the user. *The problems arise when that personal decision affects others who have chosen not to breath air contaminated with extra, harmful ingredients.* The ordinance as drafted does not tell those who smoke either product that they have to quit – they just have to quit using them where they impact others. Those who smoke are accustomed to moving away from those who do not, which Santa Rosa’s current ordinance requires in outdoor public spaces.
- With the information that is available today, the version of the updated Santa Rosa ordinance which regulates e-cigarettes as other tobacco products should stand as drafted for four reasons.
  - 1) Public use of e-cigarettes lowers the perception of harm by youth and increases likelihood of youth initiation – *see the article below for an update on an alarming trend of teen e-cigarette use.*
  - 2) Public use of e-cigarettes promises to cause confusion in non-smoking areas (e-cig smoking use may confuse regular cigarette users into thinking smoking is allowed) – *Think enforcement issues...*
  - 3) Public use of e-cigarettes serves as a “trigger” for former and recently quit smokers, increasing the risk of relapse
  - 4) The FDA has not approved any manufacturer’s e-cigarette and according to the World Health Organization, “Claims that these products have health benefits, reduce harm, or can be used to aid smoking cessation should be prohibited until they are scientifically proven. There are more ingredients in an e-cigarette than water vapor, nicotine and propylene glycol. There are approved cessation methods which do not impact on the health and wellbeing of others. *Regulating electronic nicotine delivery devices as tobacco products is supported by the FDA, the CDC, the California Department of Health Services, the Sonoma County Department of Health Services, Sebastopol, Petaluma and the County of Sonoma and more than 165 other municipalities in California.*

With over 450 different companies (600 according to the NY Times article carried in the PD [http://www.nytimes.com/2014/12/14/business/international/chinas-e-cigarette-boom-lacks-oversight-for-safety-.html?\\_r=0](http://www.nytimes.com/2014/12/14/business/international/chinas-e-cigarette-boom-lacks-oversight-for-safety-.html?_r=0)) and 7,000 different flavors plus lax to non-existent oversight, what we don’t know can hurt us. What we didn’t know about the tobacco industry’s products did hurt us.

See the attached “Electronic Smoking Devices and Secondhand Aerosol” fact sheet from Americans for Nonsmokers’ Rights.

*Pam*

**Pam Granger** | Senior Advocacy Manager - North Coast  
American Lung Association in California  
(707) 775-6045 office

**Sent:** Tuesday, December 16, 2014 11:04 AM

**To:** STANGLANTZ-L@LISTSRV.UCSF.EDU

**Subject:** FW: Teen E-Cigarette Use Steams Past Smoking, Survey Finds - US News

FOR IMMEDIATE RELEASE: December 16, 2014

CONTACT: Peter Hamm, 202-296-5469

## **New National Survey: More U.S. Teens Used E-Cigarettes than Traditional Cigarettes in 2014**

***Shocking Results Show Why FDA Must Act Now to Regulate E-Cigarettes – Our Kids Can’t Wait***

### **Statement of Matthew L. Myers President, Campaign for Tobacco-Free Kids**

WASHINGTON, DC – A respected national survey of teen substance abuse has truly shocking news that should sound an alarm at the FDA: Significantly more teens reported recent use of e-cigarettes than traditional cigarettes in 2014.

Released today, the government-sponsored [Monitoring the Future survey](#) is the first national survey to show teen use of e-cigarettes surpassing use of regular cigarettes and the first to report tobacco use data for 2014. It follows the release in November of the CDC’s [2013 National Youth Tobacco Survey](#), which found that e-cigarette use among high school students tripled between 2011 and 2013 (from 1.5 percent to 4.5 percent who reported using e-cigarettes in the past 30 days).

Monitoring the Future provides new evidence that kids are trying e-cigarettes at an alarming rate. It found that past-month e-cigarette use exceeded past-month cigarette use among all three grades surveyed (8<sup>th</sup>, 10<sup>th</sup> and 12<sup>th</sup>), with more than twice as many 8<sup>th</sup> and 10<sup>th</sup> graders reporting using e-cigarettes compared to regular cigarettes:

- Among 8<sup>th</sup> graders, 8.7 percent reported using an e-cigarette in the past 30 days, while only 4 percent reported using a traditional cigarette.
- Among 10<sup>th</sup> graders, 16.2 percent reported using an e-cigarette and 7.2 percent reported using a traditional cigarette.
- Among 12<sup>th</sup> graders, 17.1 percent reported e-cigarette use and 13.6 percent reported use of a traditional cigarette.

In addition to these surveys on youth e-cigarette use, [the American Association of Poison Control Centers](#) reports that poisoning incidents involving e-cigarettes and nicotine liquids continue to soar. Through November 30, there have been 3,638 calls to poison control centers involving exposures to e-cigarette devices and nicotine liquids. This is more than double the 1,543 calls in all of 2013 and more than 13 times the 271 calls in 2011. In a terrible tragedy, a one-year-old boy in New York last week became the first person in the United States to die accidentally from swallowing liquid nicotine, according to [news reports](#).

The big increases in both youth use of e-cigarettes and poisoning cases show that e-cigarettes are a clear and present danger to our children. How much more evidence does the government need before it acts?

These developments underscore the urgent need for the FDA to finalize its proposed rule to regulate all tobacco products, including e-cigarettes. We again call on the FDA to issue a final rule by April 25, 2015 – one year after the agency issued a proposed rule – and to close gaps in the rule by cracking down on marketing and flavors that appeal to kids. The FDA must also require child-resistant packaging for nicotine liquids.

The FDA first announced in early 2011 that it planned to regulate e-cigarettes, cigars and other unregulated tobacco products, so these important public health protections are long overdue. We cannot afford more delays that buy the tobacco industry time to continue targeting our kids with a new generation of products.

There is also good news in today's Monitoring the Future survey. Cigarette smoking has again dropped to record lows among all three grades surveyed, the seventh year in a row this has happened among 12<sup>th</sup> graders. Past-month smoking rates fell to 13.6 percent among 12<sup>th</sup> graders, 7.2 percent among 10<sup>th</sup> graders and 4 percent among 8<sup>th</sup> graders. Since peaking in the mid-1990s, smoking rates have fallen by 81 percent among 8<sup>th</sup> graders, 76 percent among 10<sup>th</sup> graders and 63 percent among 12<sup>th</sup> graders.

The big drops in cigarette smoking demonstrate that we know how to win the fight against tobacco by implementing scientifically proven strategies. These include higher tobacco taxes, strong smoke-free laws, well-funded tobacco prevention and cessation programs that include mass media campaigns, and effective FDA regulation of all tobacco products. The long-term decline is an indication that the latest decline is not related to the increase in use of e-cigarettes.

However, novel products such as e-cigarettes threaten to undermine these gains and lure kids into an addiction to nicotine. According to the CDC, nicotine use by youths in any form is unsafe and can harm adolescent brain development.

This increase in youth e-cigarette use comes as [e-cigarette makers have marketed their products with the same tactics long used to market regular cigarettes to kids](#), including celebrity endorsements, slick TV and magazine ads, and sponsorships of race cars and concerts. In addition, [many e-cigarettes come in sweet, colorful flavors](#) such as gummy bear and cotton candy, which helps explain both their appeal to youth and the increase in poisoning incidents.

Tobacco use is the number one cause of preventable death in our country, killing 480,000 people and costing about \$170 billion in health care expenses each year. It is within our reach to win this fight and make the next generation tobacco-free, but only if we have the political will to fully implement what we know works.

The Monitoring the Future survey has been conducted annually since 1975 by researchers at the University of Michigan and is funded by the National Institute on Drug Abuse.



## Electronic Smoking Devices and Secondhand Aerosol

Electronic smoking devices (or ESDs), which are often called **e-cigarettes**, heat and vaporize a solution that typically contains nicotine. The devices are metal or plastic tubes that contain a cartridge filled with a liquid that is vaporized by a battery-powered heating element. The aerosol is inhaled by the user when they draw on the device, as they would a regular tobacco cigarette, and the user exhales the aerosol into the environment.

*“If you are around somebody who is using e-cigarettes, you are breathing an aerosol of exhaled nicotine, ultra-fine particles, volatile organic compounds, and other toxins.”* Dr. Stanton Glantz, Director for the Center for Tobacco Control Research and Education at the University of California, San Francisco.

### Current Legislative Landscape

- As of October 1, 2014, [225 municipalities and three states include electronic smoking devices](#) as products that are prohibited from use in smokefree environments.

### Constituents of Secondhand Aerosol

Electronic smoking devices (ESDs) do not just emit “harmless water vapor.” **Secondhand aerosol (incorrectly called vapor by the industry) from ESDs contains nicotine, ultrafine particles and low levels of toxins** that are known to cause cancer.

- ESD aerosol is made up of a high concentration of ultrafine particles, and the particle concentration is higher than in conventional tobacco cigarette smoke.<sup>1</sup>
- Exposure to fine and ultrafine particles may exacerbate respiratory ailments like asthma, and constrict arteries which could trigger a heart attack.<sup>2</sup>
- At least 10 chemicals identified in ESD aerosol are on California’s Proposition 65 list of carcinogens and reproductive toxins, also known as the [Safe Drinking Water and Toxic Enforcement Act of 1986](#). The compounds that have already been identified in [mainstream](#) (MS) or [secondhand](#) (SS) ESD aerosol include: **Acetaldehyde (MS), Benzene (SS), Cadmium (MS), Formaldehyde (MS,SS), Isoprene (SS), Lead (MS), Nickel (MS), Nicotine (MS, SS), N-Nitrosornicotine (MS, SS), Toluene (MS, SS).**<sup>3,4</sup>
- **ESDs contain and emit propylene glycol**, a chemical that is used as a base in ESD solution and is one of the primary components in the aerosol emitted by ESDs.
  - Short term exposure causes eye, throat, and airway irritation.<sup>5</sup>
  - Long term inhalation exposure can result in children developing asthma.<sup>6</sup>
- Even though propylene glycol is FDA approved for use in some products, the inhalation of vaporized nicotine in propylene glycol is not. Some studies show that heating propylene glycol changes its chemical composition, producing small amounts of propylene oxide, a known carcinogen.<sup>7</sup>

- There are **metals in ESD aerosol, including chromium, nickel, and tin nanoparticles**.<sup>8</sup>
- FDA scientists found detectable levels of carcinogenic tobacco-specific nitrosamines in ESD aerosol.<sup>9</sup>
- People exposed to ESD aerosol absorb nicotine (measured as cotinine), with one study showing levels comparable to passive smokers.<sup>10</sup>
- **Diethylene Glycol**, a poisonous organic compound, was also detected in ESD aerosol.<sup>11</sup>
- **Exhaled ESD aerosol contained propylene glycol, glycerol, flavorings, and nicotine, along with acetone, formaldehyde, acetaldehyde, propanal, diacetyl, and triacetyl**.<sup>12</sup>
- Many of the elements identified in the aerosol are known to **cause respiratory distress and disease**. The aerosol contained particles >1 µm comprised of tin, silver, iron, nickel, aluminum, and silicate and nanoparticles (<100 nm) of tin, chromium and nickel. The concentrations of nine of eleven elements in ESD aerosol were higher than or equal to the corresponding concentrations in conventional cigarette smoke.<sup>13</sup>
- ESDs cause exposure to different chemicals than found in conventional cigarettes and there is a need for risk evaluation for both primary and passive exposure to the aerosol in smokers and nonsmokers.<sup>14</sup>
- Short term use of ESD has been shown to increase respiratory resistance and impair lung function, which may result in difficulty breathing.<sup>15</sup>
- The first study to look at exposure to aerosol from ESDs in real-use conditions found that non-smokers who were exposed to conventional cigarette smoke and ESD aerosol absorbed similar levels of nicotine.<sup>16</sup>
- The “E-cigarettes do not produce a vapor (gas), but rather a dense visible aerosol of liquid sub-micron droplets consisting of glycols, nicotine, and other chemicals, some of which are carcinogenic (e.g., formaldehyde, metals like cadmium, lead, & nickel, and nitrosamines).” ASHRAE concluded that ESDs emit harmful chemicals into the air and need to be regulated in the same manner as tobacco smoking.<sup>17</sup>
- Some chemicals used as flavorings in ESD liquid, which are approved by the FDA for food use (ingestion), are not approved for inhalation and are associated with respiratory disease when inhaled.<sup>18</sup>
- There is a risk of thirdhand exposure to nicotine released from ESD aerosol that deposits on indoor surfaces.<sup>19</sup>
- Overall, ESDs are a new source of **Volatile Organic Compounds (VOCs) and ultrafine/fine particles in the indoor environment**, thus resulting in “passive vaping.”<sup>20</sup>
- The World Health Organization (WHO) recommends that ESDs not be used indoors, especially in smokefree environments, in order to minimize the risk to bystanders of breathing in the aerosol emitted by the devices and to avoid undermining the enforcement of smokefree laws.<sup>21</sup>
- The American Industrial Hygiene Association (AIHA) also recommends that ESDs be included in smokefree laws: **“Because e-cigarettes are a potential source of pollutants (such as airborne nicotine, flavorings, and thermal degradation products), their use in the indoor**

**environment should be restricted, consistent with current smoking bans, until and unless research documents that they will not significantly increase the risk of adverse health effects to room occupants."**<sup>22</sup>

ESD aerosol is a new source of pollution and toxins being emitted into the environment. We do not know the long-term health effects of ESD use and although the industry marketing of the product implies that these products are harmless, the aerosol that ESD emit is not purely water vapor.

**May be reprinted with appropriate attribution to Americans for Nonsmokers' Rights, © 2014**

1402 [FS-39]

## REFERENCES

- <sup>1</sup> Fuoco, F.C.; Buonanno, G.; Stabile, L.; Vigo, P., "[Influential parameters on particle concentration and size distribution in the mainstream of e-cigarettes](#)," *Environmental Pollution* 184: 523-529, January 2014.
- <sup>2</sup> Grana, R.; Benowitz, N.; Glantz, S., "[Background Paper on E-cigarettes](#)," Center for Tobacco Control Research and Education, University of California, San Francisco and WHO Collaborating Center on Tobacco Control. December 2013.
- <sup>3</sup> Goniewicz, M.L.; Knysak, J.; Gawron, M.; Kosmider, L.; Sobczak, A.; Kurek, J.; Prokopowicz, A.; Jablonska-Czapla, M.; Rosik-Dulewska, C.; Havel, C.; Jacob, P.; Benowitz, N., "[Levels of selected carcinogens and toxicants in vapour from electronic cigarettes](#)," *Tobacco Control* [Epub ahead of print], March 6, 2013.
- <sup>4</sup> Williams, M.; Villarreal, A.; Bozhilov, K.; Lin, S.; Talbot, P., "[Metal and silicate particles including nanoparticles are present in electronic cigarette cartomizer fluid and aerosol](#)," *PLoS ONE* 8(3): e57987, March 20, 2013.
- <sup>5</sup> Wieslander, G.; Norbäck, D.; Lindgren, T., "[Experimental exposure to propylene glycol mist in aviation emergency training: acute ocular and respiratory effects](#)," *Occupational and Environmental Medicine* 58:10 649-655, 2001.
- <sup>6</sup> Choi, H.; Schmidbauer, N.; Spengler, J.; Bornehag, C., "[Sources of Propylene Glycol and Glycol Ethers in Air at Home](#)," *International Journal of Environmental Research and Public Health* 7(12): 4213-4237, December 2010.
- <sup>7</sup> Henderson, TR; Clark, CR; Marshall, TC; Hanson, RL; & Hobbs, CH. "[Heat degradation studies of solar heat transfer fluids](#)," *Solar Energy*, 27, 121-128. 1981.
- <sup>8</sup> Williams, M.; Villarreal, A.; Bozhilov, K.; Lin, S.; Talbot, P., "[Metal and silicate particles including nanoparticles are present in electronic cigarette cartomizer fluid and aerosol](#)," *PLoS ONE* 8(3): e57987, March 20, 2013.
- <sup>9</sup> Westenberger, B.J., "[Evaluation of e-cigarettes](#)," St. Louis, MO: U.S. Department of Health and Human Services (DHHS), Food and Drug Administration (FDA), Center for Drug Evaluation and Research, Division of Pharmaceutical Analysis, May 4, 2009.
- <sup>10</sup> Flouris, A.D.; Chorti, M.S.; Poulianiti, K.P.; Jamurtas, A.Z.; Kostikas, K.; Tzatzarakis, M.N.; Wallace, H.A.; Tsatsaki, A.M.; Koutedakis, Y., "[Acute impact of active and passive electronic cigarette smoking on serum cotinine and lung function](#)," *Inhalation Toxicology* 25(2): 91-101, February 2013.
- <sup>11</sup> Westenberger, B.J., "[Evaluation of e-cigarettes](#)," St. Louis, MO: U.S. Department of Health and Human Services (DHHS), Food and Drug Administration (FDA), Center for Drug Evaluation and Research, Division of Pharmaceutical Analysis, May 4, 2009.
- <sup>12</sup> Schripp, T.; Markewitz, D.; Uhde, E.; Salthammer, T., "[Does e-cigarette consumption cause passive vaping?](#)" *Indoor Air* 23(1): 25-31, February 2013.
- <sup>13</sup> Williams, M.; Villarreal, A.; Bozhilov, K.; Lin, S.; Talbot, P., "[Metal and silicate particles including nanoparticles are present in electronic cigarette cartomizer fluid and aerosol](#)," *PLoS ONE* 8(3): e57987, March 20, 2013.
- <sup>14</sup> Pellegrino, R.M.; Tinghino, B.; Mangiaracina, G.; Marani, A.; Vitali, M.; Protano, C.; Osborn, J.F.; Cattaruzza, M.S., "[Electronic cigarettes: an evaluation of exposure to chemicals and fine particulate matter \(PM\)](#)," *Annali Di Igiene* 24(4):279-88, July-August 2012.
- <sup>15</sup> Vardavas, C.I.; Anagnostopoulos, N.; Kougias, M.; Evangelopoulou, V.; Connolly, G.N.; Behrakis, P.K., "[Short-term pulmonary effects of using an electronic cigarette: impact on respiratory flow resistance, impedance, and exhaled nitric oxide](#)," *Chest* 141(6): 1400-1406, June 2012.



---

<sup>16</sup> "Cigarettes vs. e-cigarettes: Passive exposure at home measured by means of airborne marker and biomarkers." *Environmental Research*, Volume 135, November 2014.

<http://www.sciencedirect.com/science/article/pii/S0013935114003089>

<sup>17</sup> Offermann, Bud. "The Hazards of E-Cigarettes." *ASHRAE Journal*, June 2014.

[http://bookstore.ashrae.biz/journal/download.php?file=2014June\\_038-047\\_IAQ\\_Offerman\\_rev.pdf](http://bookstore.ashrae.biz/journal/download.php?file=2014June_038-047_IAQ_Offerman_rev.pdf)

<sup>18</sup> Konstantinos E. Farsalinos, KE; Kistler, KA; Gilman, G; Voudris, V. "Evaluation of Electronic Cigarette Liquids and Aerosol for the Presence of Selected Inhalation Toxins." *Nicotine and Tobacco Research* [Epub ahead of print], September 1, 2014.

<sup>19</sup> Goniewicz, M.L.; Lee, L., "[Electronic cigarettes are a source of thirdhand exposure to nicotine](#)," *Nicotine and Tobacco Research* [Epub ahead of print], August 30, 2014.

<http://ntr.oxfordjournals.org/content/early/2014/08/28/ntr.ntu152.abstract>

<sup>20</sup> Schripp, T.; Markewitz, D.; Uhde, E.; Salthammer, T., "[Does e-cigarette consumption cause passive vaping?](#)," *Indoor Air* 23(1): 25-31, February 2013.

<sup>21</sup> World Health Organization (WHO), "Electronic nicotine delivery systems," *World Health Organization (WHO)*, 2014.

[http://apps.who.int/gb/fctc/PDF/cop6/FCTC\\_COP6\\_10-en.pdf](http://apps.who.int/gb/fctc/PDF/cop6/FCTC_COP6_10-en.pdf)

<sup>22</sup> White Paper: *Electronic Cigarettes in the Indoor Environment*, American Industrial Hygiene Association, October 19, 2014.

[https://www.aiha.org/government-affairs/Documents/Electronic%20Cig%20Document\\_Final.pdf](https://www.aiha.org/government-affairs/Documents/Electronic%20Cig%20Document_Final.pdf)



## Regulating Smoking in Multi-Unit Housing

The Tobacco Control Legal Consortium has created this series of legal technical assistance guides to serve as a starting point for organizations interested in implementing certain tobacco control measures. We encourage you to consult with local legal counsel before attempting to implement these measures.<sup>1</sup> For more details about these policy considerations, please contact the Consortium.

### Secondhand Smoke in the Home

Exposure to secondhand smoke is not just a discomfort and an annoyance, but a serious health hazard.<sup>2</sup> For tenants and owners of multi-unit housing, such as apartments and condominiums, tobacco smoke from a neighboring unit that infiltrates their homes can pose a daily problem. As a result, many local governments, housing authorities, and property owners of multi-unit housing are taking proactive steps to prevent or eliminate secondhand smoke from infiltrating living space and to provide housing that is 100 percent smoke-free. This guide provides basic guidelines to communities about policies that address secondhand smoke infiltration in multi-unit housing.<sup>3</sup>



### Policy Benefits

A smoke-free policy for a multi-unit housing development, such as an apartment building or condominium complex, can benefit all parties concerned – tenants and residents, as well as landlords and property owners.

- **Protection from Secondhand Smoke:** Secondhand smoke travels through lighting fixtures, cracks in walls, around plumbing, under doors, and in shared heating/ventilation. Medical studies have shown that tobacco smoke in any form exposes users and bystanders to serious health risks, and can cause lung cancer and cardiac disease in nonsmokers, as well as severe asthma attacks, respiratory infections, sinus infections, sudden infant death syndrome, and other cardiovascular and pulmonary diseases.<sup>4</sup> Not only the Surgeon General, but air quality experts such as the American Society of Heating, Refrigerating and Air Conditioning Engineers have concluded that “the only means of eliminating health risks associated with

indoor exposure is to ban all smoking activity.”<sup>5</sup> The most important benefit of a smoke-free housing policy is that it enables tenants, employees, and other visitors to breathe air free of hazardous secondhand smoke.

- **Market Advantage:** Resident surveys show that a growing number of tenants and owners are seeking smoke-free housing, and are willing to pay more to ensure their home environments are smoke-free.<sup>6</sup> Apartments and condominiums and townhouses that smell of tobacco smoke are harder to rent and sell.
- **Reduced Costs:** Smoke-free housing policies can save landlords and property owners excess building maintenance costs, because cleaning and replacement expenses are significantly higher in units with smoking tenants. Depending on the length of residency and amount of smoking in a unit, the costs for cleaning or repainting walls; cleaning or replacing carpets, drapes, appliances and fixtures exposed to smoke; or replacing floors and countertops burned by cigarettes, can add hundreds, even thousands of dollars to unit turnover costs.<sup>7</sup>
- **Reduced Fire Risk:** The use of cigarettes and other combustible tobacco products is a leading cause of residential building fires.<sup>8</sup> A smoke-free policy reduces the risk of fire and provides increased safeguards to tenants and their property. Moreover, some insurance companies offer owners of smoke-free multi-unit buildings discounts or credits on fire, life and property insurance.<sup>9</sup>
- **Positive Modeling:** Multi-unit housing developments are often highly visible within a community. Thus, when a development adopts a smoke-free policy, the public, local government and organizations learn of the advisability of such a policy, and may be encouraged to adopt similar measures in other settings. Moreover, since children and youth often reside in multi-unit housing developments, a smoke-free policy can help reduce youth initiation through positive modeling behavior.
- **Legal Liability:** With the rise of smoke-free housing policies has come an increased awareness of the legal liability of landlords, management companies, condo associations, co-op owners and smokers to tenant and resident claims brought to prevent the infiltration of smoke.<sup>10</sup> Lawsuits related to secondhand smoke exposure in housing include claims based on legal theories such as nuisance, warrant of habitability, and quiet enjoyment.<sup>11</sup> In addition, tenants with pre-existing physical conditions aggravated by secondhand smoke may file complaints under disability laws, such as the Fair Housing Act.<sup>12</sup> A smoke-free policy can thus benefit property owners who might otherwise be subject to legal claims from tenants about secondhand smoke exposure.

## Policy Elements

An effective smoke-free housing policy typically includes the following elements:

- An introduction that explains the policy’s purpose.
- Clear, consistent definitions of important terms, such as “smoking,” “premises,” and “common area,” to help ensure that the policy is interpreted, implemented, and enforced in ways that effectively protect the entire housing community.
- Description of who must comply, such as residents, guests and business visitors.

- Disclaimers that the landlord is not acting as a guarantor of the policy. This provision helps protect landlords of smoke-free buildings from claims brought by residents injured as a result of policy violations unknown to the landlord.
- A provision allowing one resident to bring a claim directly against another resident based on secondhand smoke intrusion. The non-smoking resident could get a court order requiring the smoking resident to take action to stop the smoke infiltration.
- Information on enforcement:
  - Where the policy will be enforced (common areas, units, outdoor areas, setbacks from entrances)
  - How it will be enforced (verbal warnings, warning letters, fines, eviction)
  - Responsibility of landlords (post warning signs, consistently enforce the policy)
  - Responsibility of residents (notify guests and visitors, report violations)
  - Smoke-free leases and agreements are often signed by both parties (e.g., the tenant and the landlord)

### Policy Considerations

Several government programs encourage property owners to adopt smoke-free policies in multi-unit dwellings.

**Low Income Housing Tax Credit.** The [Low Income Housing Tax Credit](#) program provides federal tax credits to states and local government units to stimulate the development of affordable housing.<sup>13</sup> Local governments can develop criteria for the type of housing they want in their communities. States such as California, Maine, Minnesota and New Hampshire, as well as cities, such as Minneapolis and St. Paul, have included the adoption of smoke-free policies for proposed building projects as a criterion considered in the awarding of tax credits. Developers do not have to include a smoke-free policy in their development, but their chances in the competitive process are improved if they do. An excellent resource on the low income housing tax credit program is on the [website of the Department of Housing and Urban Development](#).<sup>14</sup>

**Smoke-free Affordable Housing.** The trend toward smoke-free affordable housing is accelerating. In June of 2009, Housing and Urban Development (“HUD”) released a Healthy Homes Strategic Plan targeting, among other measures, the elimination of secondhand smoke in homes “to protect the health of children and other sensitive populations in low-income households.”<sup>15</sup> In addition, the Surgeon General issued a “Call to Action to Promote Healthy Homes” in 2009, also recommending the elimination of secondhand smoke to protect residents from health hazards in the home.<sup>16</sup>

On July 17, 2009, HUD issued a notice strongly encouraging public housing authorities to adopt smoke-free policies in their multi-unit housing units, including common areas.<sup>17</sup> The notice described health problems associated with secondhand smoke and pointed out the additional costs to public housing authorities of rehabbing units in which smokers have lived. According to HUD, apartment owners are free under federal law to make their buildings totally smoke-free, as long as they grandfather current residents who are smokers.<sup>18</sup>

In September of 2010, HUD issued another notice “encouraging” owners of project-based Section 8 and other federally subsidized housing to adopt smoke-free policies. Similar to the earlier notice directed at public housing, this notice emphasized the health risks of exposure to secondhand smoke and the fire risks posed by allowing smoking in multi-unit properties.<sup>19</sup>

**Disclosing Smoking Policies for Multi-Unit Buildings.** A growing number of communities are requiring that multi-unit rental apartment buildings and multi-unit condominiums disclose their smoking policies to prospective tenants and buyers. For example, the cities of Oakland, California;<sup>20</sup> Buffalo, New York; and Duluth, Minnesota; and the State of Oregon<sup>21</sup> have passed laws that require the owners of rental apartment buildings to disclose the smoking policies for their buildings, whether the policies are smoking permitted, smoking restricted or smoke-free. The laws do not mandate that units be smoke-free; they simply require that prospective tenants be notified of the smoking policies and location of smoking and non-smoking units. The Oakland ordinance also requires that sellers of condominiums disclose the smoking policy for the unit and the complex.<sup>22</sup>

When a smoke-free or smoking permitted disclosure statement is included in a standard lease for multi-unit dwellings, tenants are alerted to living environments that may be hazardous to their health. Such statements also make it less likely that landlords and property owners will face claims based on failure to disclose or properly abate secondhand smoke issues if an uninformed tenant subsequently becomes ill from exposure to secondhand smoke.<sup>23</sup>

### Examples of Select Policies

Below are examples of smoke-free policies in select multi-unit housing locations. If you consider adapting any language from these policies, take care to ensure the provision in question is practical and legal in your jurisdiction. Please note that the Tobacco Control Legal Consortium does not endorse or recommend any of the following policies. These examples are included simply to illustrate how different multi-unit housing developments have approached the smoke-free issue.

| Name                          | Location   | Sample Policy                                                                                                                                                                                                              |
|-------------------------------|------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Smoke-Free Apartment Registry | California | <b>Sample Smoke-free Lease Addendum</b><br><a href="http://www.smokefreeapartments.org/Registry_Pix/Smokefree%20Lease%20Addendum.pdf">http://www.smokefreeapartments.org/Registry_Pix/Smokefree%20Lease%20Addendum.pdf</a> |
| Smoke-Free Apartments         | Michigan   | <b>Model Smoke-free Lease Addendum for Multi-Unit Dwellings</b><br><a href="http://www.mismokefreeapartment.org/modeledlease.pdf">http://www.mismokefreeapartment.org/modeledlease.pdf</a>                                 |
| Live Smoke Free               | Minnesota  | <b>Model Smoke-free Lease Addendum for Apartment Building</b><br><a href="http://mnsmokefreehousing.org/documents/Smoke_free_addendum.pdf">http://mnsmokefreehousing.org/documents/Smoke_free_addendum.pdf</a>             |



|                            |        |                                                                                                                                                                                                                                      |
|----------------------------|--------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Smoke-free Housing Project | Oregon | <b>Sample Smoking Disclosure Law for Multi-Unit Dwellings</b><br><a href="http://www.smokefreehousinginfo.com/pages/Landlord%20disclosure%20law.html">http://www.smokefreehousinginfo.com/pages/Landlord%20disclosure%20law.html</a> |
| Pacifica Gardens           | Utah   | <b>No Smoking Policy – Multi-Unit Dwelling</b><br><a href="http://www.tobaccofreeutah.org/nosmokingpolicy-example.pdf">http://www.tobaccofreeutah.org/nosmokingpolicy-example.pdf</a>                                                |

## Other Helpful Resources

The Consortium, and its parent organization, the [Public Health Law Center](#), have a [web page](#) containing several publications and resources on smoke-free housing. Included are resources that discuss concepts related to [condominiums, apartments and other multi-unit dwellings](#), [multi-unit affordable housing](#), and [smoke-free housing disclosure policies](#). The Smoke-free Environments Law Project also has many smoke-free housing policy resources and links on its website at <http://www.tcsg.org/sfelp/home.htm>, including helpful resources for both tenants and landlords, such as the National Apartment Association's Guidelines for [No-Smoking Policies in Apartments](#). Other organizations, such as [Americans for Nonsmokers' Rights](#), have [web pages](#) containing the latest news and resources on smoke-free housing initiatives.

## Contact Us

Please feel free to contact the Tobacco Control Legal Consortium at [publichealthlaw@wmitchell.edu](mailto:publichealthlaw@wmitchell.edu) with any questions about the information included in this guide or to discuss local concerns you may have about implementing such a policy.

<sup>1</sup> The information contained in this document is not intended to constitute or replace legal advice.

<sup>2</sup> U.S. DEP'T OF HEALTH & HUMAN SERVS., HOW TOBACCO SMOKE CAUSES DISEASE: THE BIOLOGY AND BEHAVIORAL BASIS FOR SMOKING - ATTRIBUTABLE DISEASE: A REPORT OF THE SURGEON GENERAL (2010), *available at* <http://www.surgeongeneral.gov/library/tobaccosmoke/report/full-report.pdf>; *see also* U.S. DEP'T OF HEALTH & HUMAN SERVS., THE HEALTH CONSEQUENCES OF INVOLUNTARY EXPOSURE TO TOBACCO SMOKE: A REPORT OF THE SURGEON GENERAL (2006), *available at* <http://www.surgeongeneral.gov/library/secondhandsmoke/report/fullreport.pdf>.

<sup>3</sup> This publication contains general guidelines on smoke-free housing that could apply to all housing authorities, including condominium associations, as well as tenant and residents.

<sup>4</sup> *See* U.S. DEP'T OF HEALTH & HUMAN SERVS., HOW TOBACCO SMOKE CAUSES DISEASE: THE BIOLOGY AND BEHAVIORAL BASIS FOR SMOKING - ATTRIBUTABLE DISEASE: A REPORT OF THE SURGEON GENERAL, FACT SHEET (2010), *available at* <http://www.surgeongeneral.gov/library/tobaccosmoke/factsheet.html>.

<sup>5</sup> AM. SOCIETY OF HEATING, REFRIGERATING AND AIR-CONDITIONING ENGINEERS, INC., ENVIRONMENTAL TOBACCO SMOKE: POSITION DOCUMENT 6 (2005), available at [http://oehha.ca.gov/air/environmental\\_tobacco/pdf/app3partb2005.pdf](http://oehha.ca.gov/air/environmental_tobacco/pdf/app3partb2005.pdf).

<sup>6</sup> See SMOKE-FREEHOUSINGINFO.COM, <http://www.smokefreehousinginfo.com/pages/Resident%20Survey.html> (last visited February 25, 2011); see also National Apartment Association, *No-Smoking Policies in Apartments*, National Apartment Association (2008), available at <http://www.tcsg.org/sfelp/NAA-SFMemo.pdf>.

<sup>7</sup> NATIONAL APT. ASS'N, UNITS, CLEARING THE AIR: INDUSTRY DISCUSSES TREND TOWARD SMOKE-FREE HOUSING (2007), available at

<http://www.smokefreehome.org/documents/UNITSR reprint.pdf>

<sup>8</sup> JOHN R. HALL, JR. NAT'L FIRE PROT. ASS'N, THE SMOKING-MATERIAL FIRE PROBLEM 1 (2007), available at <http://www.nfpa.org/assets/files/PDF/OS.SmokingMaterials.pdf>.

<sup>9</sup> See, e.g., SMOKEFREEWASHINGTON.COM, *Protect Your Investment*, <http://www.smokefreewashington.com/> (last visited 2/27/2011).

<sup>10</sup> See, e.g., Susan Schoenmarklin, Tobacco Control Legal Consortium, *Infiltration of Secondhand Smoke into Condominiums, Apartments and Other Multi-Unit Dwellings: 2009* (2009), available at [http://www.publichealthlawcenter.org/sites/default/files/resources/tclc-syn-condos-2009\\_0.pdf](http://www.publichealthlawcenter.org/sites/default/files/resources/tclc-syn-condos-2009_0.pdf).

<sup>11</sup> *Id.* at 4-10.

<sup>12</sup> Fair Housing Act, 42 U.S.C. §§ 3601–3631 (2007). The Fair Housing Act prohibits discrimination against people with disabilities, including those with severe breathing problems. It applies to owners and operators of most housing, including apartments and Section 8 and other HUD-assisted housing.

<sup>13</sup> U.S. Dep't of Housing & Urban Dev., *Low Income Housing Tax Credit*, available at <http://www.hud.gov/offices/fheo/lihtcmou.cfm>.

<sup>14</sup> U.S. Dep't of Housing & Urban Dev., *Low Income Housing Tax Credits Basics*, available at <http://www.hud.gov/offices/cpd/affordablehousing/training/web/lihtc/basics/>

<sup>15</sup> U.S. DEP'T OF HOUSING & URBAN DEV., LEADING OUR NATION TO HEALTHIER HOMES: THE HEALTHY HOMES STRATEGIC PLAN 7 (2009), available at [http://www.hud.gov/offices/lead/library/hhi/hh\\_strategic\\_plan.pdf](http://www.hud.gov/offices/lead/library/hhi/hh_strategic_plan.pdf).

<sup>16</sup> U.S. Surgeon General, *The Surgeon General's Call to Action to Promote Healthy Homes* (2009), available at <http://www.surgeongeneral.gov/topics/healthyhomes/actions.pdf>.

<sup>17</sup> U.S. Dep't of Housing & Urban Dev., *Non-Smoking Policies in Public Housing*, Notice: PIH-2009-21 (HA) (July 17, 2009), available at <http://www.hud.gov/offices/pih/publications/notices/09/pih2009-21.pdf>. For more information on this topic, see Susan Schoenmarklin, Tobacco Control Legal Consortium, *Secondhand Smoke Seepage into Multi-Unit Affordable Housing* (2010), available at [http://www.publichealthlawcenter.org/sites/default/files/resources/tclc-syn-secondhand-2010\\_0.pdf](http://www.publichealthlawcenter.org/sites/default/files/resources/tclc-syn-secondhand-2010_0.pdf).

<sup>18</sup> U.S. Surgeon General, *The Surgeon General's Call to Action to Promote Healthy Homes* (2009), available at <http://www.surgeongeneral.gov/topics/healthyhomes/actions.pdf>.

<sup>19</sup> U.S. Dep't of Housing & Urban Dev., *Optional Smoke-free Housing Policy Implementation*, Notice: H-2010-21 (Sept. 15, 2010), available at <http://www.tcsg.org/sfelp/HUD-SFHsgImplemt091510.pdf>.

---

<sup>20</sup> OAKLAND, CA., MUNICIPAL CODE § 830.050 (2008).

<sup>21</sup> OR. REV. STAT. § 90.220 (2009).

<sup>22</sup> OAKLAND, CA., MUNICIPAL CODE § 830.050 (2008).

<sup>23</sup> Warren Ortland, *A Warning Label for Your Apartment Building: Disclosing Smoking Policies for Multi-Unit Buildings*, THE HENNEPIN LAWYER (Feb. 23, 2009).

*Last updated March 2011.*