

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
SUBJECT: SMOKING REGULATIONS UPDATE
STAFF PRESENTER: ERIN MORRIS, SENIOR PLANNER
COMMUNITY DEVELOPMENT

AGENDA ACTION: MOTION

ISSUE(S)

Shall the Council direct staff to update the City of Santa Rosa's regulations pertaining to smoking in public and private places to reduce the impacts of second hand smoke?



COUNCIL GOALS/STRATEGIES

City Council Goal 6 is to “Commit to Making Santa Rosa a Healthy Community Where People Feel Safe to Live, Work, and Play.” Strategic Objective #2 is to expand the City's smoking ordinance for public/private places.

BACKGROUND

1. In 2013, the Council established goals and strategic objectives for 2013 to 2015. Council Goal 6 states that the Council will “commit to making Santa Rosa a healthy community where people feel safe to live, work, and play.” Strategic Objective #2 is to expand the City's smoking ordinance for public/private places. The Community Development Department was tasked with bringing forward revised regulations for smoking in public and private places.
2. In July 2014, Community Development facilitated a meeting of City departments including Recreation and Parks, Transportation and Public Works (Transit Division), Economic Development and Housing, City Attorney, Fire, and Police. Departments identified various topic areas that could be addressed through a comprehensive update to the City's smoking regulations. The ideas generated by staff focused on reducing the impacts of second hand smoke because this is the focus of the current smoking ordinance.
3. To gain greater understanding of this issue, Community Development staff met with members of the Sonoma County Asthma Coalition, including representatives of the American Lung Association, Sonoma County Department of Health Services, Northern California Center for Well Being, and Kaiser Permanente. Following the meeting, Community Development staff researched

local smoking regulations and received technical studies and brochures from Sonoma County Department of Health covering topics including California law pertaining to smoking, the impacts of second hand smoke, electronic cigarettes, and tobacco retailer licensing.

4. Various cities in Sonoma County have updated local smoking-related regulations to address smoking within multifamily residences, including Petaluma, Rohnert Park, Sebastopol, and County of Sonoma. Other topic areas, including use and impacts of electronic cigarettes, have been addressed in several local ordinances.

5. Smoking Regulations Background

Since 1988, Santa Rosa's City Code has included Chapter 9-20 which addresses the impacts of second hand smoke. Many of the requirements followed or were followed by similar changes in State law. Initially, Chapter 9-20 prohibited smoking in enclosed public places and all businesses patronized by the public, while allowing designated, separated smoking areas within restaurants, waiting areas, and areas within work places not open to the public. All employers were required to develop, implement, and maintain a written smoking policy that addressed balancing the needs of nonsmokers and smokers. Bars, hotel rooms rented to guests, bowling alleys and pool halls, private enclosed smoking rooms, and retail stores that dealt exclusively in the sale of tobacco and associated smoking paraphernalia were not restricted from indoor smoking.

In 1993, Chapter 9-20 was updated to fully prohibit smoking in enclosed public places including malls, elevators, retail stores, hotels and motels, banks, theaters, grocery stores, restaurants, and all places of employment, and to regulate tobacco sales. Bars, retail tobacco stores, and hotel rooms rented by guests remained exempt from the prohibition. The 1993 update addressed tobacco sales by prohibiting self-serve displays and sales and vending machines that could be accessed by minors, and requiring signage about the legal age to purchase tobacco. In 1994 and 1995, Chapter 9-20 was amended to allow self-serve sales of pipe tobacco and cigars kept in a humidor.

6. Current Regulations

Chapter 9-20 (Prohibiting Smoking in or Around Workplaces and Public Places)

In 2006, Chapter 9-20 was updated and retitled "Prohibiting Smoking in or Around Workplaces and Public Places." Chapter 9-20 was revised to retain prohibitions on smoking within enclosed public places such as places of employment and all other enclosed public places. To further address the impacts of second hand smoke on nonsmokers, smoking was prohibited in outdoor dining areas, City-owned recreational land such as parks, the Transit Mall, and in other unenclosed places, and within a reasonable distance (minimum of 20 feet)

from any main entrance into an enclosed area where smoking is prohibited except while actively passing on the way to another destination.

Chapter 9-20 identifies places where smoking is allowed in Section 9-20.060. Smoking is allowed on private residential property, unless the property is used as a child care or health care facility, in up to 50% of guest rooms in any hotel or motel, and in any outdoor area in which no non-smoker is present and is not expected to arrive. The outdoor area exception was added in response to public concerns expressed to the City Council about the desire to allow smoking at the Bennett Valley Golf Course and in other City parks to allow single smokers or groups of smokers to smoke when nonsmokers are not present. The definition of “smoking” was updated to include “inhaling, exhaling, burning or carrying any lighted pipe, cigar or cigarette of any kind, or any other combustible substance.”

Chapter 20 (Zoning Code)

The Zoning Code includes regulations that affect new tobacco/smoke shops. Smoke shops were considered a general retail use until 2009 when the Zoning Code was amended to create a land use called “tobacco or smoke shop,” which is defined as “any store, stand, booth, or concession that devotes 30% or more of its display floor area to tobacco products, or to the display and sale of tobacco or drug paraphernalia to purchasers for consumption or use.” Medical cannabis dispensaries are not included because they are defined separately and regulated by Chapter 10-40.

New tobacco/smoke shops require a Minor Conditional Use Permit (CUP) in commercial zoning districts; the Minor CUP requirement allows public input regarding the proposed new smoke shop and consideration of how the smoke shop use will fit in the surrounding area. In 2013, in response to a proposal for an electronic cigarette store located in downtown Santa Rosa, it was determined by the Community Development Department that the sale of electronic cigarettes and associated products (where the store devotes 30% or more of the floor area to the sale of such products) fits into the definition of tobacco/smoke shop. Since 2009, Community Development has received five applications for tobacco/smoke shops.

ANALYSIS

1. Potential Changes

As noted, City staff met and evaluated various changes that could be made to Chapter 9-20 to further reduce impacts from second hand smoke. The following items are recommended for inclusion in an update to Chapter 9-20:

- A. Prohibit smoking in attached multifamily housing, including duplexes, apartments, townhouses, and condominiums and any building that contains two or more attached residential units.

- B. Eliminate any allowance for smoking in “recreational areas.” As defined by Chapter 9-20, these include areas owned or operated by the City and open to the general public for recreational purposes, including gardens, playgrounds, and picnic and barbeque areas, sporting facilities, including any bleachers, dugouts, ball fields, tennis courts, swimming pools and surrounding areas, walking, running, biking and nature trails. Smoking would be explicitly prohibited entirely on City-owned recreational properties including parks.
- C. Prohibit smoking at all City-owned properties including (but not limited to) office buildings, recreation centers, public safety facilities, parking garages, and parking lots.
- D. Prohibit smoking at bus stops and within bus shelters.
- E. Revise definition of “smoking” in Chapter 9-20 to include use of electronic cigarettes. Evaluate the Zoning Code to determine if revisions are needed related to electronic cigarettes.
- F. Evaluate increasing the percentage of guest rooms within hotels and motels that must be smoke-free from 50% to 75%.

2. Other Issues

Sonoma County Department of Public Health and the American Lung Association have suggested that the City consider establishing a licensing process and operational criteria for existing and future retail tobacco outlets. The American Lung Association has also suggested that the Zoning Code should be revised to provide specific criteria for evaluation of new smoke shops. It is recommended that these items be considered as part of a separate work program because they involve different issues than reducing the impacts of second hand smoke and would involve additional coordination with existing retail tobacco stores.

3. Public Outreach

A Community Meeting is planned in September 2014 to explain the proposed new regulations to interested members of the public and to provide an opportunity for initial public comments. The meeting notice will be sent to known community groups, residential property management associations, public health and nonprofit organizations, housing-related service providers, and others. In addition, the Community Development web page will include information about the update process to keep the public informed.

4. Next Steps

If the Council directs Community Development staff to proceed, revisions to Chapter 9-20 will be drafted and public outreach will proceed. The draft

regulations would be considered by the Board of Community Services in October/November 2014 and then brought to the City Council for action in December 2014.

RECOMMENDATION

It is recommended by the Community Development Department that the Council, by motion, direct staff to update the City's smoking regulations to: 1) Prohibit smoking in attached multifamily housing, including duplexes, apartments, and condominiums and any building that contain two or more attached residential units; 2) Eliminate any allowance for smoking in "recreational areas" and on City-owned recreational properties including parks; 3) Prohibit smoking at all City-owned properties including (but not limited to) office buildings, recreation centers, public safety facilities, parking garages, and parking lots; 4) Prohibit smoking at bus stops and within bus shelters; 5) Revise definition of "smoking" in Chapter 9-20 to explicitly include use of electronic cigarettes, and evaluate the Zoning Code to determine if revisions are needed related to electronic cigarettes; and 6) Evaluate increasing the percentage of guest rooms within hotels and motels that must be smoke-free from 50% to 75%.

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Attachments:

Santa Rosa City Code Chapter 9-20