

Smoke-Free Multi-Unit Housing & Outdoor Smoking Forum for Sausalito Apartment Owners, Managers, Tenants and Business Owners

May 30, 2012



Smoke-Free Marin Coalition



Welcome and Introduction

Background

Overview of County Ordinance

Implementation

Enforcement and Cessation

Questions and Feedback



[Ordinance Database of Protected Communities](#)

[News & Updates!](#)

[Green and Tobacco-Free Cities Blog Spot](#)

[Marin County Un-Incorporated Ordinance](#)

[Marin Has Lowest Smoking Rates in Ca!](#)

[Cessation Classes & Help For Quitting The Habit](#)

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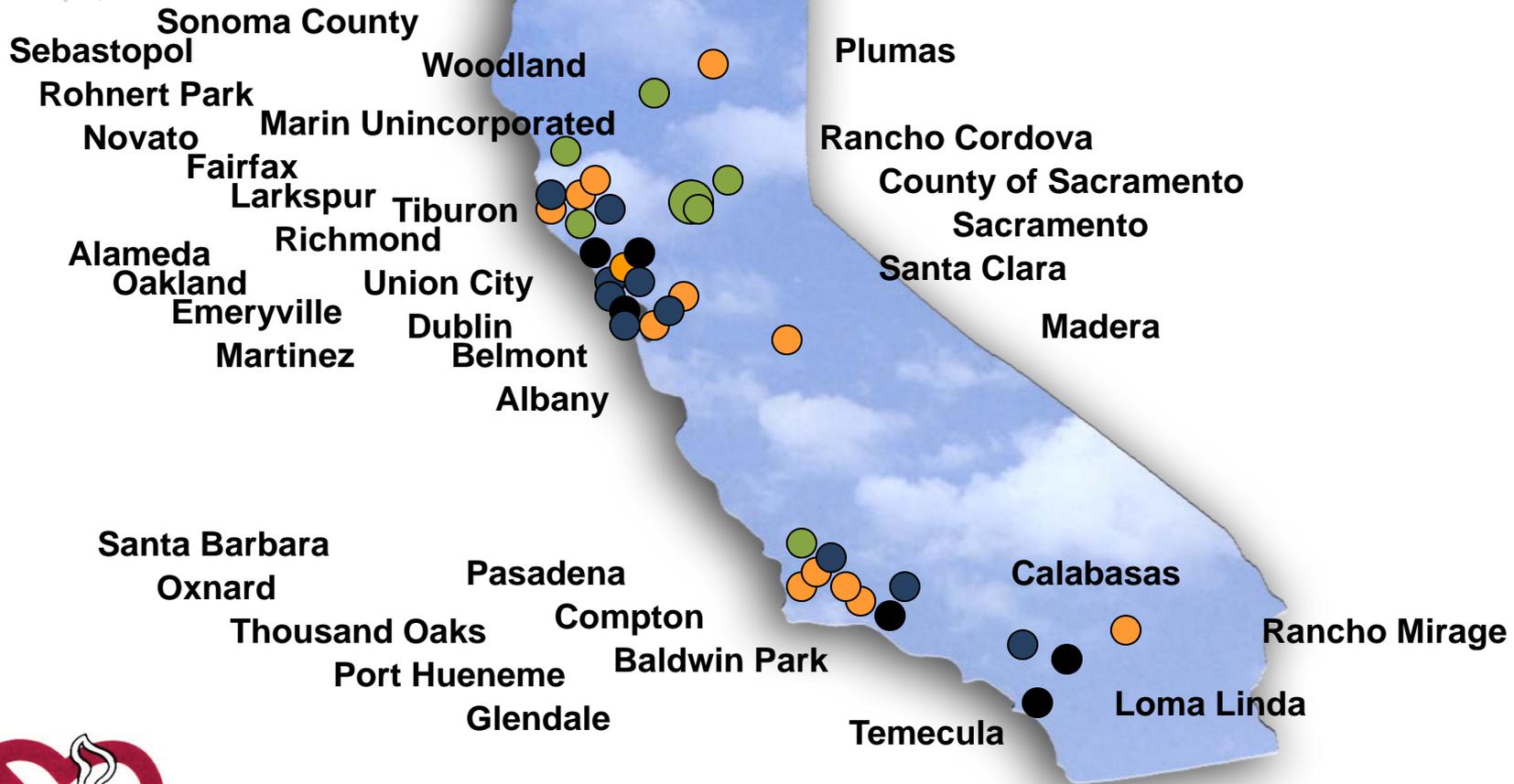
[E-Cigarettes](#)

[Surgeon General Report](#)

[Tobacco Related Disease Control Program](#)

(415) 473-3020 [Email Us!](#)

Smoke-free Housing Policies



SMOKE-FREE MARIN COALITION

WWW.SMOKEFREEMARIN.COM

c/o 750 LINDARO STREET, SUITE 120, SAN RAFAEL, CA 94901

City/County	Pop. (2008 est)	When adopted	Indoor Areas	Outdoor Areas	SHS Nuisance Designation	Existing MUH	New MUH	Effective Date
Belmont (San Mateo)	26,078	10/2007	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	100%	100%	Multi-story, incl condos, 1/9/09
Novato (Marin)	52,737	4/2008	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	50%	75%	10+units, 7/22/08
Calabasas (Los Angeles)	23,725	1/2008	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	80%	80%	1/1/2012
Loma Linda (San Bernadino)	20,136	6/2008	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	70%	70%	2+ units, 1/1/2012
Oakland (Alameda)	420,183	12/2007	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		Disclosure		12/2007
Albany (Alameda)	16,877	6/2008	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		Disclosure		6/2008
Dublin (Alameda)	46,934	12/2008	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> 9/06	50%/70%	50%/70%	16 units 2010/2012
Richmond	102,285	7/2009	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	100%	100%	1/1/2011
Rohnert Park	40,496	4/2009	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Limited	50%	75%	2 Units 6/1/2011
Sebastopol	7,600	9/2010	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	100%	100%	2 Units 11/2011



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Third-hand Smoke is Harmful

- Third-hand smoke is [tobacco smoke](#) contamination that remains after the cigarette has been extinguished
- Toxins that linger in carpets, sofas, clothes and other materials hours or even days after a cigarette is put out
- Health hazard for infants and children
- Smokers emit toxins [from clothing and hair]

Background

SHS - Is it really a big deal?

Why is there so much concern about secondhand smoke in work places public places and living spaces?



Secondhand Smoke is Deadly

- Surgeon General - NO “risk-free” level of exposure
- Class A carcinogen- a substance known to cause cancer in humans for which there is no safe level of exposure
- No ventilation system is effective in removal of toxins
- Up to 65% air exchange between units



Secondhand Smoke is Deadly

- Secondhand smoke cannot be controlled by ventilation or air cleaning:

On June 30, 2005, the American Society of Heating, Refrigeration and Air-Conditioning Engineers (ASHRAE) issued their latest position document of secondhand smoke. It states: “At present, the only means of effectively eliminating health risk associated with indoor exposure is to ban smoking activity.”

Secondhand Smoke is Deadly

- SHS is the 6th leading cause of preventable death in this country, killing 55,000 nonsmokers in the U.S. each year
- For every eight smokers the tobacco industry kills, it takes one nonsmoker with them
- Tobacco smoke is MORE deadly than vehicle exhaust, arsenic, lead, asbestos and a host of other toxins

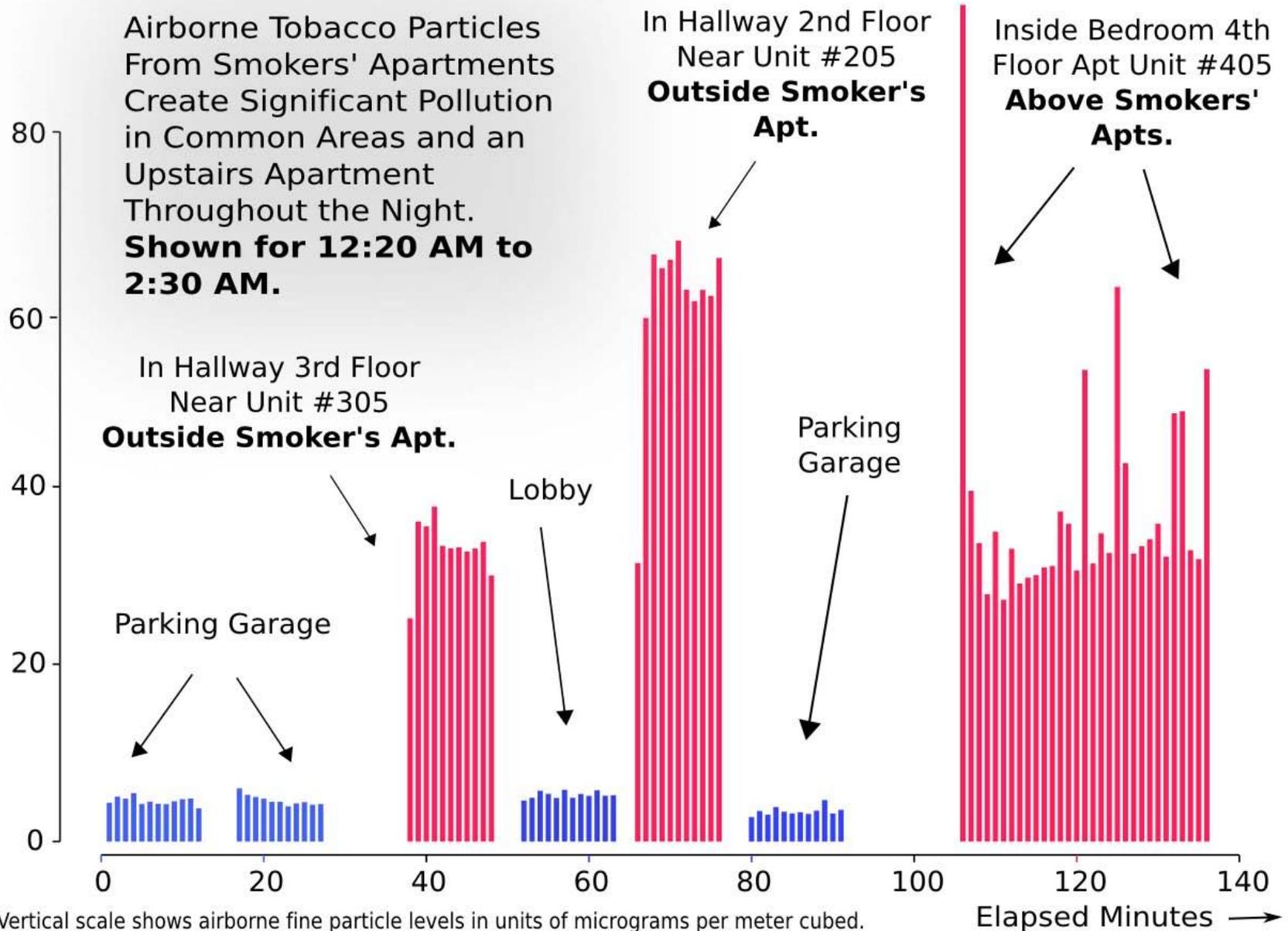
Glantz, S.A. & Parmley, W., "Passive Smoking and Heart Disease: Epidemiology, Physiology, and Biochemistry," *Circulation*, U.S. Surgeon General report issued June 2006.

Secondhand Smoke is Deadly

- Infants, children, and the elderly are extremely vulnerable to the negative effects of SHS
- Children exposed to SHS in the home are 44% more likely to suffer from asthma
- Only 7.3% of persons 65 and older smoke, and 70% report a desire to quit

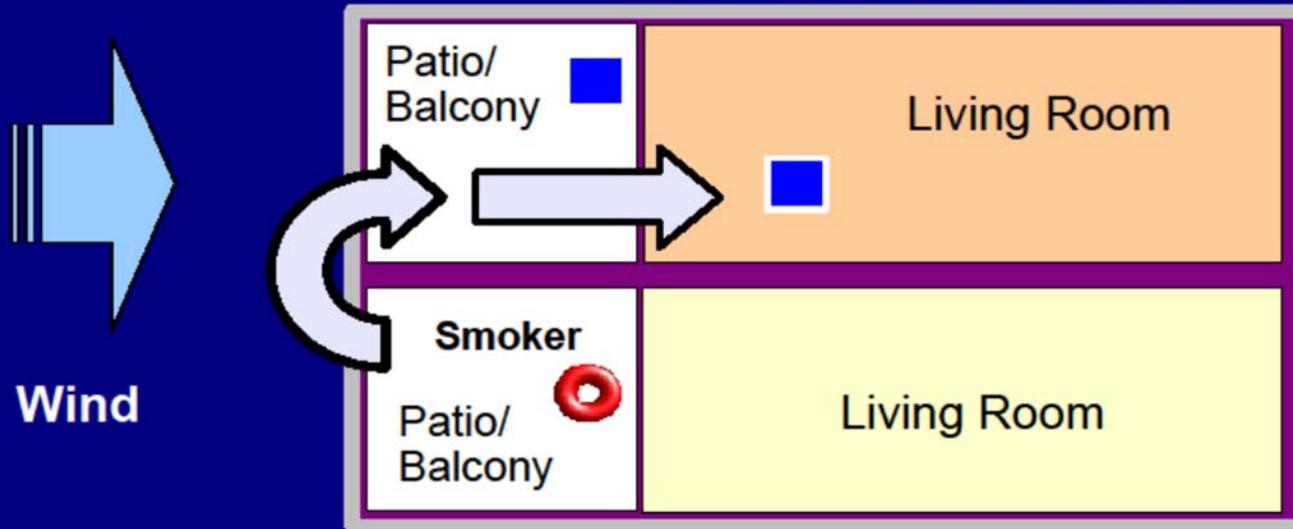
Tobacco Smoke Seeping Out of Smokers' Apartments

Airborne Tobacco Particles From Smokers' Apartments Create Significant Pollution in Common Areas and an Upstairs Apartment Throughout the Night. **Shown for 12:20 AM to 2:30 AM.**



How neighbor's smoking affects daily life in condos and apartments

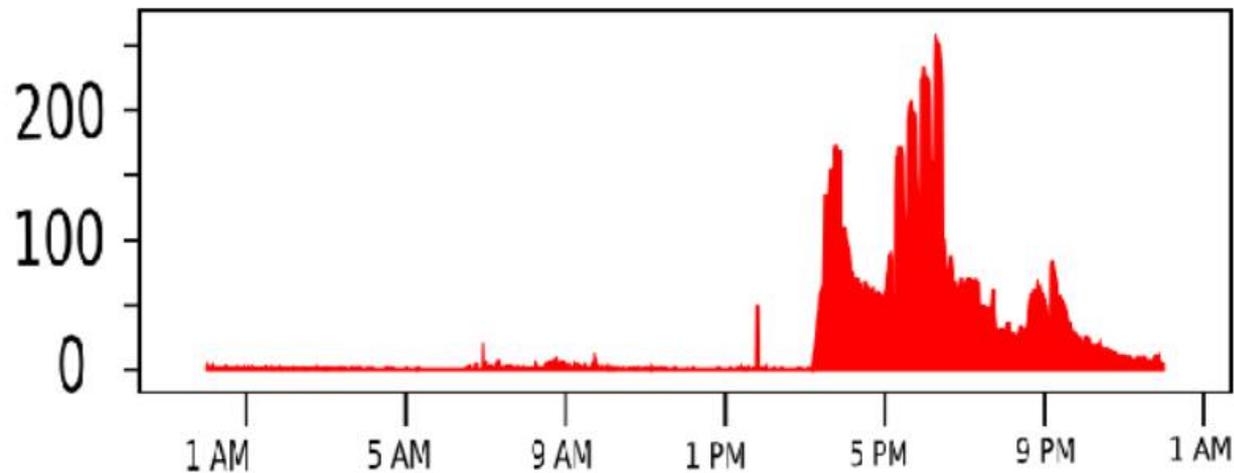
Patio-to-Patio Transfer of Tobacco Smoke



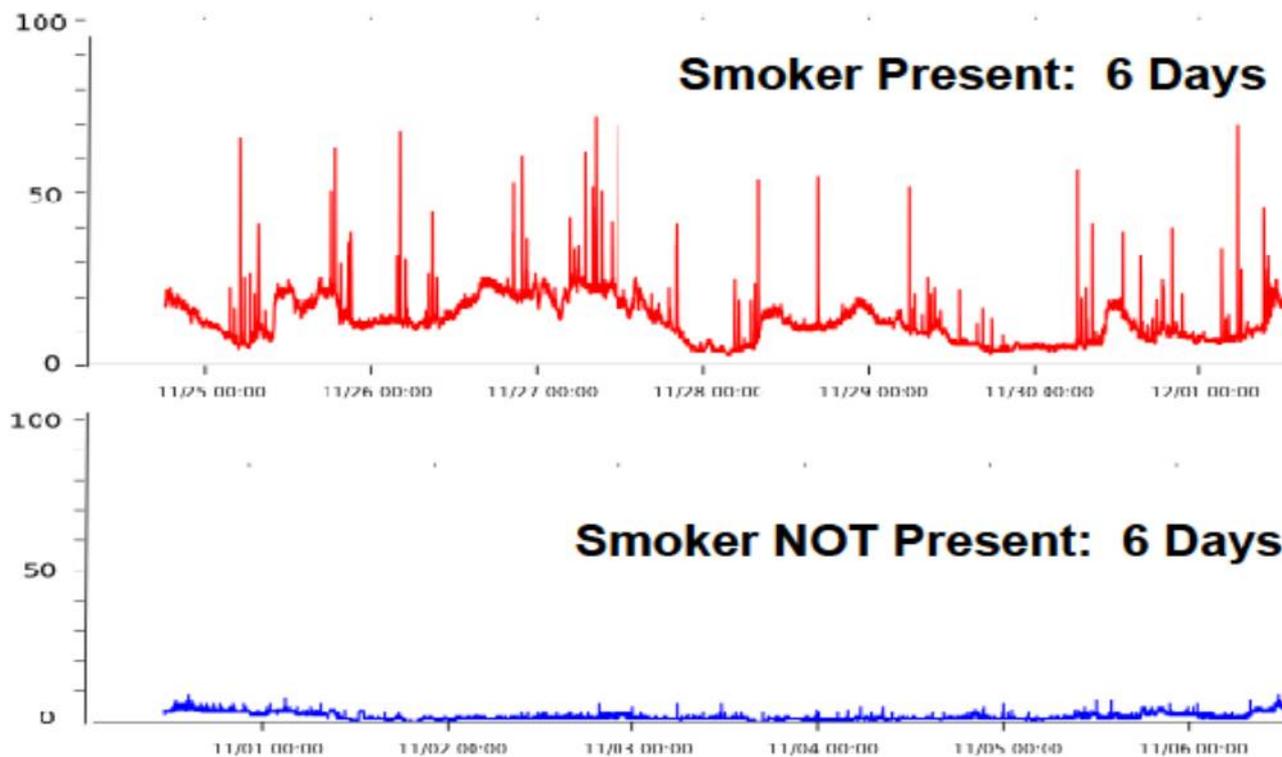
Smoke also travels to upstairs units

Smoke Travels to Upstairs Unit

Particle Concentrations Exceed 250 Micrograms



Smoke Travels to Upstairs Balcony: 6 Days of Monitoring in a Condo





Why Should We Care?

Smoking damages residential property

- **Poses fire hazard – (leading cause of residential fire deaths in US)**
- **Causes cigarette burn damage to carpets, counters, etc.**
- **Leaves smoke residue on walls and curtains**

Smoking Related Fires-5 units burned. Total of 49 firefighters and 12 police officers involved in one fire. The second fire in 11 months in Marin resulted in several injuries and hospitalizations. (Marin IJ photos)



Why Should We Care?

- Possibly save on property-casualty insurance
- Larger share of the market want smoke-free housing
- Capital Insurance Group (CIG) has implemented a 10 percent premium credit to property owners and condominium associations for smoke-free buildings.

(CIG is in CA, WA,OR, NV, AZ)



Why Should We Care?

The Monetary Impact

Cost to Rehabilitate a Unit Where Smoking is Prohibited vs. a Unit Where Smoking is Allowed

	Non-Smoking	Light Smoking	Heavy Smoking
General Cleaning	\$240	\$500	\$720
Paint	\$170	\$225	\$480
Flooring	\$50	\$950	\$1,425
Appliances	\$60	\$75	\$490
Bathroom	\$40	\$60	\$400
Total	\$560	\$1,810	\$3,515

Data reflects surveys from housing authorities and subsidized housing facilities in New England.



The Proposed Ordinance

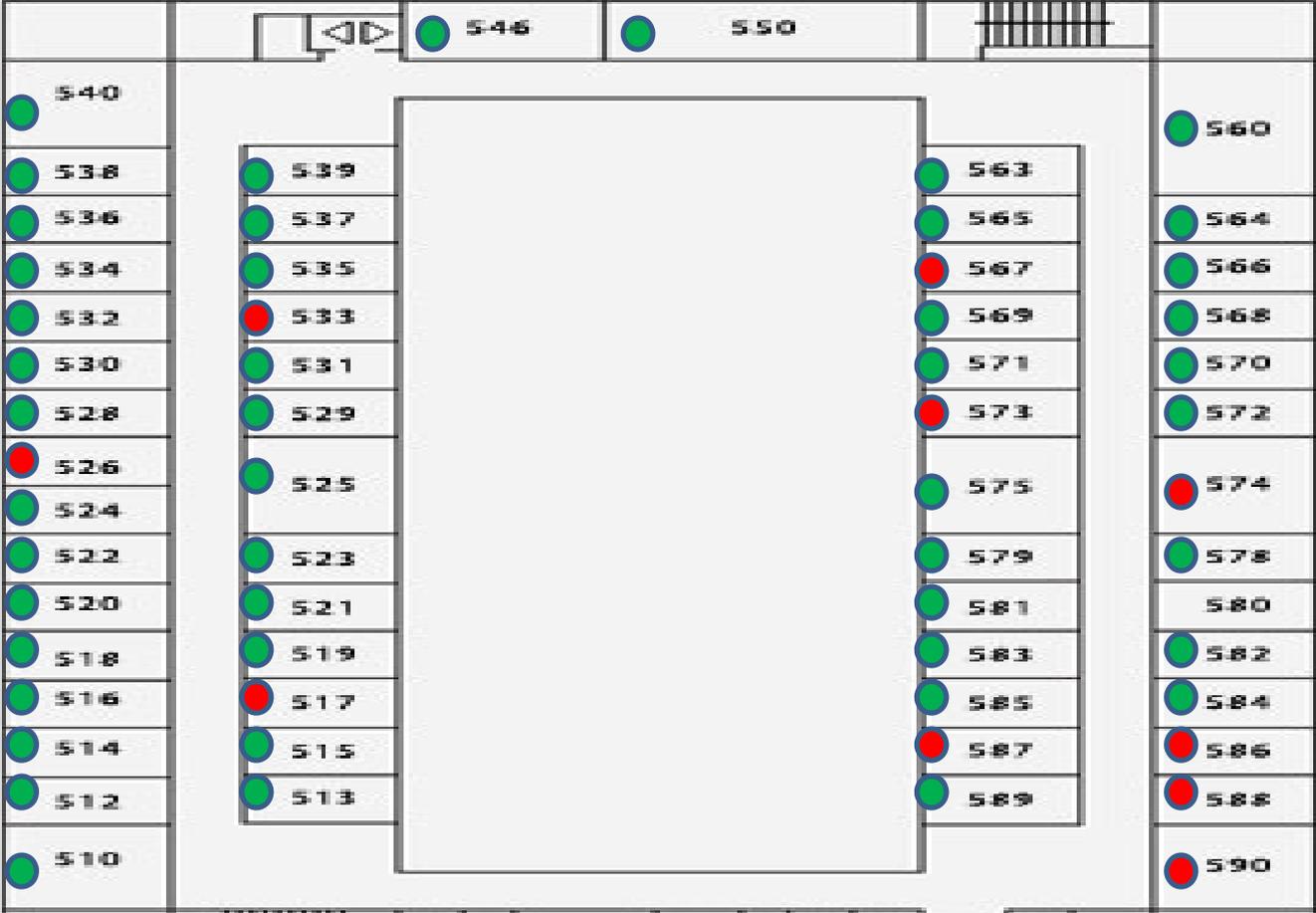
Indoor and outdoor common areas - signage

- Disclosure – map
- 100% new MUH units smoke-free
- Minimum 80% existing MUH units smoke-free

Steps To Convert

- Train employees
- Post signage
- Notify tenants
- Designate a smoking area
- Survey tenants
- Map units and make a transition plan
- Establish procedure for handling complaints
- Amend new leases (Lease addendums or new language)

Map Units



 Non-smoking units

 Smoking units

Communicate Policy Change

- **Meetings** - Scheduling group meetings, especially at large developments is effective
- **Letters** – Notification should always be in writing so that both you and the tenant have a record of communication about policy
- **Signage** – Tenants and especially their guests, will need to be reminded that there is no smoking in your building common areas and designated smoke-free units

Lease Addendum

RENTAL/LEASE AGREEMENT ADDENDUM FOR TOBACCO SMOKE-FREE AREAS

Page _____
of agreement

THIS AGREEMENT made and entered into between _____, "Owner/Agent"
and _____, "Resident".

Resident is renting from Owner/Agent the premises located at:

_____, Unit # (if applicable) _____
(Street Address)
_____, CA _____
(City) (Zip)

- Purpose:** The parties desire to mitigate (i) the irritation and known health effects of secondhand smoke; (ii) the increased maintenance, cleaning, and redecorating costs from smoking; (iii) the increased risk of fire from smoking; and (iv) the high costs of fire insurance for properties where smoking is permitted.
- Smoke Free Areas:** Resident agrees and acknowledges that each of the following areas of the property has been designated as a smoke-free living environment and members of Resident's household shall not smoke tobacco products in these areas, nor shall Resident permit any guest or visitor under the control of Resident to do so.

Check one:

Smoking of tobacco products is prohibited on the entire property, including individual units, common areas, every building and adjoining grounds.

Smoking of tobacco products is prohibited on the entire property except the following areas:

- Promotion of No Smoking Policy:** Resident shall inform his or her guest of the Smoke-Free Areas. Resident shall promptly notify Owner/Agent in writing of any incident where tobacco smoke is migrating into Resident's unit from sources outside of Resident's Unit.
- Owner/Agent Not Guarantor of Smoke-Free Environment:** Resident acknowledges that Owner/Agent's adoption of Smoke-Free Areas, does not make the Owner/Agent the guarantor of the Resident's health or of the smoke-free condition of the areas listed in Section 3 above. However, Owner/agent shall take reasonable steps to enforce this addendum. Owner/Agent shall not be required to take steps in response to smoking unless Owner/Agent has actual knowledge or has been provided written notice.
- Other Residents Are Third Party Beneficiaries of this Addendum:** Owner/Agent and Resident agree that the other Residents of the property are the third party beneficiaries of this Addendum. A Resident may sue another Resident to enforce this Addendum but does not have the right to evict another Resident. Any lawsuit between Residents regarding this Addendum shall not create a presumption that the Owner/Agent has breached this Addendum.
- Effect of Breach:** A breach of this Addendum by the Resident shall be deemed a material breach of the Lease/Rental Agreement and grounds for immediate termination of the Lease/Rental Agreement by the Owner/Agent.

- Disclaimer:** Resident acknowledges that this Addendum and Owner/Agent's efforts to designate Smoke-Free Areas do not in any way change the standard of care that the Owner/Agent would have to any Resident household to render buildings and premises designated as smoke free any safer, more habitable, or improved in terms of air quality than any other rental premises. Owner/Agent specifically disclaims any implied or express warranties that the building common areas or Resident's premises will have any higher or improved air quality standards than any other rental property. Owner/Agent cannot and does not warrant or promise that the Rental Premises or any other portion of the property including common areas will be free from secondhand smoke. Resident acknowledges that Owner/Agent's ability to police, monitor or enforce this Addendum is dependent in significant part on voluntary compliance by Resident and Resident's guests.
- Effect on Current Tenants:** Resident acknowledges that current Residents of the rental community under a prior Lease/Rental Agreement will not be immediately subject to the terms of this Addendum. As Residents move out, or enter into new Leases/Rental Agreements, this Addendum will become effective for their unit or new agreement.
- This Addendum is incorporated into and is a part of the Rental Agreement/Lease to which it is attached.

The undersigned Resident(s) acknowledge(s) having read and understood the foregoing, and receipt of a duplicate original.

Date

Resident

Date

Resident

Date

Owner/Agent



California Apartment Association Approved Form
www.caanet.org
Form 34.0—Created 1/05—© 2005—All Rights Reserved
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Support From HUD

July 17, 2009



U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
Office of Healthy Homes and Lead

SPECIAL ATTENTION OF:
Regional Directors; State and Area
Coordinators; Public Housing Hub
Directors; Program Center Coordinators;
Troubled Agency Recovery Center Directors;
Special Applications Center Director;
Public Housing Agencies;
Resident Management Corporations;
Healthy Homes Representatives

NOTICE
Issued:
Expires:
Cross Ref:
24 CFR 90
24 CFR 90

Subject: Non-Smoking Policies in Public Housing

Subject: Non-Smoking Policies in Public Housing

1. **Purpose.** This notice strongly encourages Public Housing Authorities (PHAs) to implement non-smoking policies in some or all of their public housing units. According to the American Lung Association, cigarette smoking is the number one cause of preventable disease in the United States. The elderly and young populations, as well as people with especially vulnerable to the adverse effects of smoking. This concern was the Family Smoking Prevention and Tobacco Control Act, P.L. 111-31, signed on June 22, 2009. Because Environmental Tobacco Smoke (ETS) can migrate into multifamily housing, causing respiratory illness, heart disease, cancer, and other adverse health effects in neighboring families, the Department is encouraging PHAs to adopt non-smoking policies. By reducing the public health risks associated with tobacco use, this notice will enhance the effectiveness of the Department's efforts to provide increased public health protection for residents of public housing. Smoking is also an important source of fires and fire-related deaths and injuries. Currently, there is no Departmental guidance on smoking in public housing.

2. **Applicability.** This notice applies to Public Housing.

3. **Background.** Secondhand smoke, which is also known as environmental tobacco smoke (ETS), is the smoke that comes from the burning end of a cigarette, pipe or cigar, and the smoke exhaled from the lungs of smokers. ETS is involuntarily inhaled by nonsmokers, and can cause or worsen adverse health effects, including cancer, respiratory infections and asthma. The 2006 Surgeon General's report on secondhand smoke identifies hundreds of chemicals in it that are known to be toxic. The report (*The Health Consequences of Involuntary Exposure to Secondhand Smoke*) is located at www.cdc.gov/tobacco/data_statistics/sgr/index.htm. Secondhand smoke causes almost 50,000 deaths in adult non-smokers in the United States each year, including approximately 3,400 from lung cancer and another 22,000 to 69,000 from heart disease.

Secondhand smoke exposure causes disease and premature death in children and adults who do not smoke according to the U.S. Environmental Protection Agency (EPA) www.epa.gov/smokefree/healtheffects.html.

1. **Purpose.** This notice strongly encourages Public Housing Authorities (PHAs) to implement non-smoking policies in some or all of their public housing units. According to the American Lung Association, cigarette smoking is the number one cause of preventable disease in the United States. The elderly and young populations, as well as people with chronic illnesses, are especially vulnerable to the adverse effects of smoking. This concern was recently addressed by

smoking policies. PHAs should consult with their resident boards before adopting non-smoking policies at their projects.

5. **PHA Plans.** PHAs opting to implement a non-smoking policy should update their PHA plans. According to 24 CFR 903.7(e), their plan must include their statement of operation and management and the rules and standards that will apply to their projects when the PHA implements their non-smoking policy. PHAs are encouraged to revise their lease agreements to include the non-smoking provisions. If PHAs institute non-smoking policies, they should ensure that there is consistent application among all projects and buildings in their housing inventory in which non-smoking policies are being implemented.

6. **Indoor Air Quality (IAQ).** According to the U.S. Green Building Council (USGBC), toxin-free building materials used in green buildings help combat indoor air pollution. Good IAQ includes minimizing indoor pollutants. As discussed above, ETS is known to be an indoor air pollutant; as a result it would be difficult for a PHA to achieve good IAQ in its buildings if residents are allowed to smoke, especially indoors. During construction or renovation of projects, PHAs should consider actions such as installing direct vent combustion equipment and fireplaces; providing for optimal, controlled, filtered ventilation and air sealing between living areas and garage or mechanical areas, and the use of paints and other materials that emit no or low levels of volatile chemicals (volatile organic compounds or VOCs). Since 65 percent of the public housing inventory was built prior to 1970, it would be hard for a PHA to implement retrofits that could improve IAQ significantly, unless renovation was scheduled. Also, if a PHA does conduct renovations to improve IAQ without also implementing a non-smoking policy, the IAQ benefits of the renovation would not be fully realized. A non-smoking policy is an excellent approach for those PHAs that are trying to achieve improved IAQ without the retrofit costs.

Subsidized Housing

To adopt a smoke-free policy in subsidized housing:

- Add a smoke-free clause to house rules. As long as the smoke-free policy meets the standard HUD criteria for house rules, this policy change does not require HUD approval – OR
- Make a smoke-free policy a condition of the lease. Those using HUD's model lease are required to seek HUD approval before any lease changes can be made.

HUD requires at least 30 days notice of lease change or adoption of a house rule.

A tenant's lease may not be changed without their consent before the date of lease renewal.

Marketing No-Smoking

How do I market my no-smoking units?

- Non-smoking housing is in high demand
- Change all your ads to include – “non-smoking units”
- A no-smoking rule will make your properties stand out when tenants are seeking homes
- Wherever you list vacancies, make sure to include "no-smoking" in the amenities
- Put signs on the front door, hallways, common areas, and outdoor areas to let prospective tenants know about your policy

“It’s not hard. You just change the ad to say ‘non-smoking.’”

SmokeFreeOregon.com

Converting Condominiums

Amending CC&Rs

(Covenants, Conditions and Restrictions)

- Vote of condo owners
- Ordinance minimum is required
- Up to 100% of units can be smoke-free

Liability Considerations

Legal risks come from non-smokers aggravated by secondhand smoke not from smokers prohibited from smoking.

- Legal claims: Nuisance, Trespass, Covenant of Quiet Enjoyment, Warranty of Habitability, Harassment.
- Fair Housing Act/Americans with Disabilities Act

Rental Enforcement Procedure

How do you currently handle complaints
(no pets/loud noise)?

- Have complaints submitted in writing
- Use progressive warning letters stating the specific date/time smoke was detected.
- Let them know you're not bluffing: If they can't uphold the lease and law, they'll be evicted.

Condominium Enforcement Procedure

Enforce smoke-free rules like other CC&R regulations.

- Keep a record of complaints
- Fining
- Restricting rights to use common areas
- Suing

County Support

- Provide landlords/HOAs with assistance in strategizing to solve the problem.
- Complaint letter mailed to violator(s)
 - Accountability
 - Education
 - Legal responsibilities
- Follow-up call to see if letter has been received and provide tips for compliance.

Cessation Resources



*A Program of
Bay Area Community Resources*

Bay Area Community Resources

415-755-2399

- Ongoing quit smoking classes
- Available to all Marin residents
- Low-cost patches
- On-site classes may be available if there are five or more participants at your complex.

California Smokers' Helpline:

1-800-NO-BUTTS



Q & A

Evaluation

Conclusion

**Thank You
For Attending**

