

Summary of Discussion for Marin City Councils

Updating Their Smoke-Free Ordinance

(Prepared by the Smoke-Free Marin Coalition)

Background: Since 1990, the Smoke-Free Marin Coalition (American Cancer Society, American Lung Association, Bay Area Community Resources, Pharmacists Association, Marin Link, Marin County Tobacco Related Disease Control Program, Marin County Office of Education and other organizations) has served as a resource to local city councils on tobacco control. Between 1990-1995, Marin jurisdictions uniformly enacted the Smoke-Free Marin Coalition model ordinance for regulating smoking in indoor workplaces. This experience showed that uniform measures make it much easier for the public to understand the laws and for county inspectors and municipal law and code officers to enforce.

Over the past three years, the Smoke-Free Marin Coalition has asked local city councils to update their 16 year old smoking ordinances to reflect new scientific studies showing that secondhand smoke is hazardous and unhealthy to allow in building “buffer zones” (doors, open windows, balconies), and outdoor areas where non-smokers are in proximity to smokers. Other studies have demonstrated that third hand smoke (off-gassing from carpets and drapes) also causes short term and long term damage, particularly to infants and children. Studies on multi-unit housing fires shows that smoking related fires are the leading cause of fire fatalities. Recently in San Rafael there were two smoking related fires in an 11 month period which damaged the smokers unit as well as neighboring units. Non-smokers living in multi-unit housing filed many complaints with the County tobacco control program about the constant flow of second-hand smoke coming from neighboring units through vents, floors, and windows while being exposed to the risk of smoking related fires.

The County Tobacco Related Disease Control Program has presented the scientific basis for expanding protections for non-smokers to the Marin City Managers meeting and the Monthly Meeting of Mayors and Council members. These meetings generated discussions about local jurisdictions once again enacting uniform county-wide ordinances to expand protections from secondhand smoke in addition to preventing youth access to tobacco at local retail stores.

Dozens of California communities have updated their tobacco control ordinances. During the past three years, the City of Novato, County Unincorporated, Ross, and San Anselmo have updated their smoke-free ordinances. Tiburon, Mill Valley, and Fairfax have had discussions during city council meetings about their plans to update their smoking ordinances. Larkspur (where close to 60% of residents live in some type of multi-unit housing) held a Public Information Forum and a Study Session in the fall of 2010 to discuss the Smoke-Free Marin Coalition model ordinance. During their January 19, 2011 meeting the Larkspur City Council directed staff to draft an ordinance that would apply to any two units sharing a wall, including apartments, townhouses and condominiums. The Larkspur City Council voted not to “grandfather” current smokers who won’t have to move but will have to change their smoking locations unless they choose to quit smoking. The Larkspur City Council also voted to declare secondhand smoke a public nuisance. The City Council directed staff to work on a draft ordinance with the key provisions including outdoor areas such as cafés, bus shelters, and construction sites as well as protection of 100% units of all multi-unit housing.

Prepared by Smoke-free Marin Coalition. For scientific reports and local ordinance data base, visit www.smokefreemarin.com. For more information contact Bob Curry, Director of Marin County's Tobacco Related Disease Control Program at rcurry@co.marin.ca.us or (415) 507-2559.

AGENDA ITEM # 10

Summary of Key Changes to Marin Tobacco Control Ordinances: Check List Tool for Council Discussions

Smoke-free Enclosed Areas

1. Y N Public transportation vehicles (buses, taxis) under the authority of the town
2. Y N Public transit waiting areas (bus stops and shelters)
3. Y N Theaters, sports facilities and convention areas

Smoke-free Outdoor Areas (20 ft. minimum distance required)

1. Y N Enclosed buildings' operable doors and windows
2. Y N Service lines (such as ATMs and ticket lines)
3. Y N Courtyards
4. Y N Outdoor employment including road crews and construction sites
5. Y N Recreation areas (such as parks and stadiums)
6. Y N Public Events (such as farmer's markets, sports and entertainment events)
7. Y N Public Places (includes outdoor areas of restaurants, bars, and cafés)
8. Y N Hotel and motel rooms

Smoke-free Multi-Unit Housing

1. Y N MUH is defined as any two units sharing a common wall (including duplexes, condominiums, PUDs, and townhouses)
2. Y N Indoor multi-unit common areas
3. Y N Outdoor multi-unit common areas (except for optional designated smoking areas located at least 20 ft from operable doors or windows)
4. Y N 100% smoke-free policy for new and existing units (includes balconies)
5. Y N If less than 100% of units are to be smoke-free, required disclose to current and prospective tenants about the location of smoking units.

Enforcement

1. Y N Violation of ordinance constitutes a nuisance and provides the public with a private right of action in small claims court.
2. Y N Fairfax Town Code Administrative Citation process
3. Y N Written warning from town staff regarding potential civil penalty

(Separate) Tobacco Retail Licensing Ordinance

1. Y N Annual licensing fee supports retailer education and compliance checks
2. Y N Prohibit private smokers' lounges and hookah bars
3. Y N Prohibit tobacco product sales in pharmacies