

Legislation Text

File #: #19-390, Version: 1

PREPARED BY: SANDRA MARQUEZ

DATE OF MEETING: 09/03/19

SUBJECT:

CITY COUNCIL POLICY DISCUSSION: CONSIDERATION OF POLICY OPTIONS FOR A PROPOSED SMOKING BAN ORDINANCE IN MULTI-FAMILY DWELLINGS

CITY MANAGER RECOMMENDATION

Receive presentation; provide direction to staff by majority vote.

COMPLIANCE STATEMENTS

FY 2019-2021 Council Priority Workplan Compliance Statement

Major Policy Goal: Build a Healthy Community is an adopted policy item under the FY 2019-21 City Council Priority Workplan, adopted March 1, 2019.

CEQA Compliance Statement

This presentation does not constitute a "project" within the meaning of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15378(b)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment

BACKGROUND

On June 17, 2019, following motion made by Councilmember Xavier, duly seconded, the City Council by majority vote directed City staff to develop and present policy options for a potential smoking ban ordinance in multi-family dwellings to address public health and safety concerns, with a recommendation from the Public Safety Standing Committee (Standing Committee). On July 17, 2019, the Standing Committee reviewed and recommended policy options for the potential development of a future draft ordinance to be presented to the City Council for formal consideration.

The purpose of this presentation is to provide policy options to establish smoke-free multi-unit housing (SFMU), protect the public health, safety and welfare against the health hazards, and harmful effects of the use of addictive tobacco products. The City of San Pablo and City of Hercules are the only cities in West Contra Costa that have yet to pass smoke-free multi-unit ordinances. Additionally, the City of San Pablo received an F for smoke-free outdoor air and for smoke-free housing from the 2018 State of Tobacco Control Report. San Pablo's grade for overall tobacco control increased from a letter grade F to a D after the City adopted a flavored tobacco ban on December 17, 2018.

Option for San Pablo

The policy recommendation for San Pablo is to pursue a 100% smoke free multi-unit ordinance similar to other cities in West Contra Costa, including all new and existing multi-unit housing. For the purpose of this proposed ordinance, the definition of Multi-unit ordinance is as follows:

Multi-unit housing means, except as specifically excluded below, any residential property containing two (2) or more units with one or more shared or abutting walls, floors, ceilings or shared ventilation systems, each with its own kitchen and bathroom facilities. Multi-unit housing does not include the following:

- *A detached single-family residence;*
- *A detached single-family home with detached or attached accessory dwelling unit (ADU);*
- *Property owned by the state or federal government;*
- *A mobile home park.*

Although some ordinances do not apply to multi-family units if the owner is also an occupant, such is not the case with the provisions of these smoke-free regulations as they pertain to all multi-family housing regardless of ownership.

Moreover, this policy option of 100% smoke free includes all types of smoke not only tobacco products. The term “smoke” includes, but is not limited to tobacco smoke (nicotine products including cigarettes, cigars, little cigars, etc.), electronic smoking device vapors, marijuana smoke, and smoke from any illegal substance. The ordinance would prohibit smoking in both indoor and outdoor common areas. A landlord may designate a portion of an outdoor common area as a smoking area. Outdoor smoking areas must be located at least 20 feet away from doors, windows, air ducts, and ventilation systems of multi-unit housing.

Additional suggested implementation points include the following:

- Require the proposed ordinance be implemented for existing units one year after adoption to allow for noticing and preparation.
- Make new units subject to the ordinance upon adoption.
- Require landlords to be responsible for enforcing the ordinance; failure to enforce would be punishable as an infraction by the City.

Policy Recommendation

The recommended approach for implementation of a new SFMU ordinance is to amend Title 8, Health and Safety, of the San Pablo Municipal Code, Ch. 8.36 No-Smoking Regulations, to add the following language:

- *Prohibit smoking in multi-unit housing in the unit.*
- *Prohibit smoking in both indoor and outdoor common areas in multi-unit housing, unless a designated smoking area is created.*

Following City Council deliberation, the City Manager recommends the City Council provide policy direction; and direct staff to draft an appropriate ordinance via majority vote for formal City Council consideration at a future regular meeting.

FISCAL IMPACT

None associated with this report.