

Lynn Garcia

From: Mayor and Council
Subject: FW: CAA Response Letter to item 2J
Attachments: Multifamily Smoking Feb 4_2019.pdf

From: Anil Babbar [<mailto:ABabbar@caanet.org>]
Sent: Monday, February 04, 2019 9:42 PM
To: Lisa Gillmor; Kathy Watanabe; Debi Davis; Teresa O'Neill; Patricia Mahan; Raj Chahal; Karen Hardy
Cc: Christine Jung
Subject: CAA Response Letter to item 2J

Mayor Gillmor and City Council,

Attached you will find CAA's response to item 2.J on the consent agenda. Please let me know if you have any questions.

[Anil Babbar](#) - Vice President of Public Affairs
California Apartment Association
1530 The Alameda, Suite 100, San Jose, CA 95126
ababbar@caanet.org O: (408) 342-3509 | C: (408) 348-8373



California Apartment Association

1530 The Alameda, Suite 100
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408.342.3500 • caanet.org

February 4, 2019

Mayor Lisa Gillmor and City Council
City of Santa Clara
1500 Warburton Ave,
Santa Clara, CA 95050

Dear Mayor Gillmor,

The California Apartment Association's Tri County Division (CAA Tri County) represents local owners and operators of multifamily residential housing. We appreciate the steps the Council is taking towards the overall health and well being of its citizens by addressing the issue of cigarette smoking. In fact, in the standard lease that we provide to property owners there is a section titled Smoking Policy which prohibits smoking on the premises and in units unless the owner has adopted a different policy. While CAA applauds your goal, we have concerns from a compliance perspective and would like to offer our recommendations on amending the proposed ordinance to help achieve your stated goals.

Our focus is to encourage compliance by both the property owner and the residents of the unit. CAA appreciates the City offering a phase in period for the ordinance to take effect, hosting several outreach events to educate the public and informational inserts with utility bills. In addition to this, we would suggest that the City put together a one-page document that summarizes the ordinance. We're concerned with the requirement that a copy of the ordinance be given to each tenant as a means of informing them of the change in the law. Creating this one page document so that it can be distributed by the property owner to each tenant will assist in compliance.

The other concern we had is the requirement in Section 8.35.120(f) which states that every lease 'shall include the following: (1) a true and correct copy of the full text of this chapter.' This requirement adds an additional 18 pages to the lease with the assumption that every resident will read and understand the ordinance as written. That's why we are recommending that the Council consider using our lease agreement which already contain language that bans smoking on the premises and inside units. In addition to our no-smoking language in our lease, we have the option to include a smoking addendum which could further clarify the requirements of this ordinance including a description of the designated smoking area.

It is our belief that the recommendations proposed will have a positive impact on this ordinance.

Sincerely,

Anil Babbar
Vice President of Public Affairs
California Apartment Association

Lynn Garcia

From: Mayor and Council
Subject: FW: Request to removed section 8.35.130 from smoke-free policy
Attachments: PUP laws dissent letter 10.12.18.pdf; Santa Clara SF w MUH, no PUP.pdf

From: Cassie Ray [<mailto:cassie.ray@cancer.org>]
Sent: Friday, February 01, 2019 11:20 AM
To: Mayor and Council
Subject: Request to removed section 8.35.130 from smoke-free policy

Dear Mayor Gillmor and Members of the Santa Clara City Council:

ACS CAN applauds the city's decision to create smoke-free outdoor areas and smoke-free multiunit housing. However, we oppose the ordinance as written, and ask that you remove the youth possession clause before passage. The tobacco industry has long argued that penalizing youth is the preferred approach, and yet research has shown that this is not an effective approach, and enforcement is disproportionately applied to youth of color. Penalizing youth detracts from the strategies, like tobacco retail licensing, that are proven to be effective in reducing youth access to tobacco products.

Youth possession was not part of the original discussions, and is not usually included in smoke-free policies. We are not aware of any stakeholder meetings where this was discussed, and would ask that you delay passage of section 8.35.130 until you have received input from the community.

The state has removed youth possession penalties from state law, and public health organizations agree that this is not a desired strategy. I have attached the letter I sent before the first reading, as well as the joint letter from the American Heart Association, American Lung Association and American Cancer Society Cancer Action Network. Once again, we ask that you pass the smoke-free ordinance without section 8.35.130.

Cassie Ray

Northern California Government Relations Director
707.290.0003 | m: 707.290.0003 | f: 916.447.6931

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Sacramento, CA 95814
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October 12, 2018

In California in 2016, The American Lung Association in California, the American Heart Association and the American Cancer Society Cancer Action Network made a huge impact on the public health of California residents by changing state law to raise the legal age of sale for tobacco products to 21. Included in that victory was the removal of the state's purchase, use, and/or possession (PUP) law which punished minors for possessing tobacco products. Our organizations did this because civil and criminal penalties for youth purchase, use and/or possession have not proven to be effective enforcement measures and detract from more effective tobacco control strategies. We believe that any penalty (if the law is broken) should be levied only on the retailer and not the underage purchaser.

Big Tobacco has a long history of attracting and addicting youth and young adults with highly-targeted marketing. However, PUP laws do not protect children from the misleading messaging and advertising by the tobacco industry. Getting rid of PUP laws shifts the responsibility back to the tobacco industry and retailers, and away from the vulnerable youth themselves.

PUP laws are also expensive and difficult to enforce. Newer tobacco products such as e-cigarettes and JUUL, which are popular among youth, are designed to be used discreetly. Punishment for their possession and/or use has not proven to reduce repeat violations. Studies also suggest that PUP laws are disproportionately applied to communities of color. This diverts law enforcement's time and money away from effective tobacco control measures.

To best protect youth from the harmful effects of tobacco, it is important that local jurisdictions do not pass new local youth possession laws. **The American Lung Association, American Cancer Society, and American Heart Association oppose any efforts by California localities to reinstate youth tobacco possession laws.** Instead, cities and counties should use proven strategies to prevent youth from obtaining tobacco products. Studies show that strong definitions of tobacco product that include electronic cigarettes, tobacco retail licensure requirements with penalties for store owners, increasing minimum price or pack size, and prohibiting the sale of flavored tobacco products including menthol can all effectively reduce youth access and tobacco use rates.

Together we must continue to work to stop Big Tobacco from attacking and addicting our vulnerable youth.

Sincerely,

American Lung Association in California
American Cancer Society Cancer Action Network
American Heart Association



January 15, 2019

The Honorable Lisa M. Gillmor
Members of the Santa Clara City Council
1500 Warburton Avenue
Santa Clara, CA 95050

The American Cancer Society Cancer Action Network (ACS CAN) is committed to protecting the health and well-being of the citizens of Santa Clara, and as such, supports the passage and implementation of comprehensive smoke-free protections for all public places and multi-unit housing (MUH) residences. However, we oppose this ordinance as written, and request that Section 8.35.130 "Possession of Tobacco by Persons Under 21 Years of Age," be removed from the ordinance being considered.

In 2016, at the urging of ACS CAN, along with the American Heart Association and the American Lung Association, the State of California saw fit to remove the youth purchase laws from state law. These laws have not been proven to be effective, are disproportionately applied to communities of color, and detract resources from proven tobacco control strategies, such as holding retailers responsible for selling to underage purchasers. We ask that the City of Santa Clara shifts the responsibility back to the retailers and the tobacco industry, and not include penalties for youth possession of tobacco in this ordinance.

ACS CAN appreciates the thoughtful effort that has gone into drafting a comprehensive ordinance that will help protect the residents of Santa Clara from the harmful effects of secondhand smoke. The negative health effects of secondhand smoke exposure are well documented; secondhand smoke contains at least 7,000 chemicals, including hundreds that are toxic. 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 the very young, the elderly, or those who are ill.

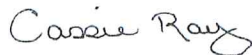
Comprehensive smoke-free laws eliminate smoking wherever people work or live, as well as in all public places, which include locations where people play or do business. ACS CAN supports eliminating smoking in all places of employment, multi-unit housing, recreational areas, dining and service areas—such as ticket windows, transit stops and ATM areas, and densely visited shopping or plaza areas. Eliminating smoking in these areas can reduce exposure to

secondhand smoke and reduce the incidence of cancer, heart disease, and other conditions caused by exposure to smoke, as well as prevent the worsening of symptoms among people who already suffer from those conditions.

Living in MUH requires different standards of behavior due to shared walls and common spaces. Prohibition of smoking in MUH improves the quality of life, and helps to protect the health of nonsmoking residents, by preventing the unintentional exposure that many receive as the result of smoking neighbors. This is especially true for the most vulnerable, as young children, as well as the very elderly and the very ill are more likely to spend the majority of their time in their homes. 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. Californians are making wiser choices for themselves and their families, and they should not have to endure being exposed to the smoke of others.

Everyone has the right to breathe clean air, especially in their own home. Passing a comprehensive smoke-free ordinance will help to protect all residents, as well as those who work or visit Santa Clara, from the harmful effects of secondhand smoke. ACS CAN supports passage of a comprehensive ordinance, without youth possession penalties, so we request removal of the youth possession clause before passage of the ordinance being considered.

Sincerely,



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

2/5/19

2.5

Tobacco Free Coalition of Santa Clara County
Sobrato Center for Nonprofits - San José
1400 Parkmoor Avenue, Suite 120-B
San José, CA 95126
(408) 793-2700



TOBACCO-FREE COALITION
of Santa Clara County

February 4, 2019

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FEB 05 2019

RE: 2/5 City Council Meeting - Smoking & Tobacco Regulations

City Clerk's Office
City of Santa Clara

Dear Honorable Mayor and City Council members,

At a meeting of the Tobacco Free Coalition of Santa Clara County, an information update report was given about the proposed smoking ordinance that is scheduled for a second reading on February 5th. Although the Coalition had wholeheartedly approved of the ordinance as originally written, the members present were concerned about the inclusion of the language that children and youth may be penalized for possession of tobacco products. A poll taken showed that none present were in favor of the addition of punishment for children, and the request was made to send a letter to you on behalf of all the members of the coalition.

We hope that you will consider removing the language that makes children as young as 13 years old responsible for being entrapped by tobacco companies aiming to create future addicts.

Thank you for your original comprehensive ordinance proposal. We appreciate your partnership and shared goals.

Sincerely,

Carol Baker

Carol Baker
Tobacco-Free Coalition Chair