

County of Santa Clara
Board of Supervisors
Supervisory District Four
Supervisor Ken Yeager



BOSD4-030210-07

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Reviewed by: John Mills
Chief of Staff

DATE: March 2, 2010

TO: Board of Supervisors

FROM:

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Ken Yeager
Supervisor, District 4

SUBJECT: Reinforcing Santa Clara County's current anti-smoking ordinances in unincorporated areas

RECOMMENDED ACTION

Refer to the Administration a request to report back through the Health and Hospital Committee on the feasibility and timeline for implementing more comprehensive anti-smoking ordinances for the unincorporated areas.

REASONS FOR RECOMMENDATION

To improve the health of Santa Clara County residents and decrease tobacco related deaths Santa Clara County's tobacco control ordinances must be expanded and reinforced in order to decrease smoking prevalence, prevent youth access to tobacco products and decrease exposure to second- and third-hand smoke.

These ordinances will build upon the work that has been done in this County and leverage community efforts and support.

The proposed ordinances would allow the County to serve as a role model for the public as well as other city and county agencies in becoming smoke-free communities.

Before reporting back to the Health and Hospital Committee, staff should hold meetings with stakeholders, including, but not limited to, the California Apartment Association-Tri County Division, business and neighborhood associations in the unincorporated areas, and community health partners. Staff should also report back on the manner by which these ordinances will be publicized to residents and the methods by which they will be enforced in the unincorporated areas.

In addition, County Counsel should do a comprehensive review of any legal ramifications associated with establishing ordinances that consider the actions mentioned below. Furthermore, where appropriate, fine and fee structure information should also be included. Finally, staff should also bring back any potential opportunities for advocacy in favor of a statewide tobacco tax increase.

Any proposed ordinances should consider the following options:

1. Create the following:
 - a. County annual tobacco retail permit that would be required to sell or buy tobacco products in current and future retail establishments; and
 - b. A 30-foot smoke-free perimeter around all buildings, with the exception of private single-family residences when not in use as a family day care facility; and
 - c. A broad definition of tobacco products to include any product that includes nicotine, excluding cessation products specifically approved by the U.S. Food and Drug Administration (FDA).
2. Limit the following:
 - a. Quantity and placement of outdoor advertising (i.e., poles, portable signs, banners); and
 - b. Density of tobacco retailers by limiting approved permits, particularly around schools; and
 - c. Percentage of window coverage by advertisements to 15%; and
 - d. Advertisement and sale of tobacco products within 1,000 feet of schools.
3. Shall not permit the following:
 - a. Smoking in the County Fairgrounds, county parks, including tot lots and playgrounds, and on county trails; and
 - b. Smoking in multi-unit residences, including but not limited to apartment buildings, condominiums, and senior citizen residences; and
 - c. Smoking in licensed health care and or assisted living facilities; and
 - d. Smoking in all places of employment; and
 - e. Smoking in outdoor dining facilities; and

- f. Smoking in outdoor service lines; and
- g. Selling tobacco in retail establishments in which the profession of pharmacy by a licensed pharmacist is practiced and where prescriptions are offered for sale; and
- h. Tobacco advertising placement below the height of 4 feet or within 3 feet of candy at all retail establishments; and
- i. Sale of flavored tobacco products.

BACKGROUND

In 1994 the Santa Clara County Board of Supervisors passed an ordinance that prohibited smoking in any enclosed structure owned or leased by Santa Clara County, wherever located, and in all enclosed spaces within the unincorporated areas of Santa Clara County, including service lines, lobbies, hallways and other common areas in apartment buildings, condominiums, etc.

On June 22, 2009, the Family Smoking Prevention and Tobacco Control Act was signed into law allowing the U.S. Food and Drug Administration the authority to regulate the manufacturing, marketing and sale of tobacco products. As different measures within this Act come into effect, they will help to strengthen Santa Clara County's policies, particularly in the areas of restricting tobacco advertising in proximity to schools and banning tobacco-flavored products.

According to the Centers for Disease Control and Prevention, cigarette smoking is the single most preventable cause of premature death in the United States.¹ The U.S. Department of Health and Human Services (HHS) reports that there is no risk-free level of second-hand smoke exposure. Even brief exposure can be dangerous. HHS research also indicates that nonsmokers who are exposed to second-hand smoke at home or work increase their heart disease risk by 25–30% and their lung cancer risk by 20–30%.²

According to the United States Environmental Protection Agency (EPA), children are particularly vulnerable to the effects of second-hand smoke because they are still developing physically, have higher breathing rates than adults, and have little control over their indoor environment. Exposure to second-hand smoke can cause asthma in children as well as sudden infant death syndrome.

Additionally, research by the National Toxicology Program indicates that second-hand smoke contains at least 250 chemicals known to be toxic, including more than 50 that can cause cancer.³

The EPA has also determined that second-hand smoke can enter an apartment in multiple ways. Second-hand smoke does not respect boundaries, seeping through light fixtures, wall electric outlets, ceiling crawl spaces, and doorways into all areas of a building with smokers. Second-hand smoke cannot be controlled by ventilation, air cleaning, or the separation of smokers from nonsmokers.

A recent study published in the Proceedings of the National Academy of Sciences reports that residual nicotine reacts with ambient nitrous acid to form carcinogenic tobacco-specific nitrosamines (TSNAs). In other words, residual nicotine that lingers on surfaces from second-hand smoke can react with another chemical in the air to form potent carcinogens or "third-hand smoke." According to scientists, individuals are most likely exposed to TSNAs through inhalation of dust or the contact of skin with carpet or clothes, suggesting third-hand smoke might pose health risks to infants and toddlers.

The California Department of Public Health's Tobacco Control Program reports that, although California has the second lowest adult smoking rate in the nation (second to Utah), more than 43,000 people in our State will die prematurely from a tobacco-related disease in 2008 alone. In the United States, nearly 53,000 nonsmokers die every year from exposure to

second-hand smoke.

Additionally, the cost of smoking in California is nearly \$16 billion annually, or \$3,331 per smoker every year, according to a report by the Institute for Health & Aging at the University of California, San Francisco.

REFERENCES

1. Centers for Disease Control and Prevention. **Cigarette Smoking-Attributable Mortality and Years of Potential Life Lost—United States, 1990**. Morbidity and Mortality Weekly Report [serial online]. 1993;42(33):645–649 [cited 2006 Sep 23]. Available from: <http://www.cdc.gov/mmwr/preview/mmwrhtml/00021441.htm>.
2. U.S. Department of Health and Human Services. **The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General**. Atlanta, Georgia: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Coordinating Center for Health Promotion, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health.
3. National Toxicology Program. **11th Report on Carcinogens, 2005**. (PDF–219KB) Research Triangle Park, NC: U.S. Department of Health and Human Sciences, National Institute of Environmental Health Sciences, 2000 [cited 2006 Sep 27]. Available from: <http://ntp.niehs.nih.gov/ntp/roc/eleventh/profiles/s176toba.pdf>.