



**DATE:** [September 18, 2025](#)

**TO:** Housing Policy & Resource Committee

**FROM:** Deputy Director of Development Services

**SUBJECT:** Work Session Regarding Development of an Ordinance Prohibiting Smoking in Multi-Family Attached Housing

## **RECOMMENDATION**

That the Housing Policy & Resource Committee (HPRC) provide feedback and guidance related to adoption of a Smoke Free Multi-Family Ordinance to prohibit smoking within attached multi-family rental and ownership housing, hotels and motels and related enforcement.

## **SUMMARY**

In 2022, the City of Hayward kicked off the update to the Housing Element, Climate Action Plan, Hazards Element and preparation of a new Environmental Justice Element. Outreach for all of these elements was conducted between 2021 and 2023 to ensure comprehensive and consistent messaging and policy development around the topics of housing, environmental justice and community health, safety and hazard planning and climate change. The resulting Environmental Justice Element contained Policy EJ-1.19, to adopt regulations prohibiting smoking in multi-family housing. On June 4, 2024, the City Council approved a Strategic Roadmap (FY 2024-2025+) including Project CP8, "Prepare an ordinance to create smoke-free multifamily housing" under the Confront Climate Crisis & Champion Environmental Justice Strategic Priority.

In January 2025, the Development Services Department entered into a contract with M-Group, to assist in developing an ordinance prohibiting smoking tobacco, cannabis and electronic smoking devices in multi-family housing defined as lots with two or more attached units that share walls and/or ventilation systems; to coordinate with community organizations; conduct outreach; and to develop an implementation plan with quantifiable metrics following adoption of an Ordinance.

This staff report contains various policy questions related to applicability, enforcement and Alameda County Health Department involvement and that will guide staff in the expansion

of the Smoking Pollution Control Ordinance to include a prohibition of smoking in multi-family residential developments and related enforcement.

## **BACKGROUND**

Hayward Municipal Code Chapter 5, Article 6, Smoking Pollution Control<sup>1</sup>, adopted July 1, 2014, currently prohibits smoking in a variety of enclosed and unenclosed public places and currently exempts private residences except when being used as a home-based childcare or health care facility, and in a certain percentage of hotel/motel rooms.

On February 7, 2023<sup>2</sup>, the City Council adopted Resolution 23-033 approving the 6<sup>th</sup> Cycle Housing Element (2023-2031), and on January 30, 2024<sup>3</sup>, the City Council adopted Resolution No. 24-023 approving an update to the Hazard Element and a new Environmental Justice Element. During the outreach for these General Plan Amendments, there was significant community input related to adoption of smoke-free multi-family housing regulations to support public health. As a result of this community input, the Environmental Justice Element contained Policy EJ-1.19, Smoke-Free Multi-Family Housing Regulations to “Support community health by adopting smoke-free housing regulations.”

On June 4, 2024<sup>4</sup>, Hayward City Council adopted the 2024-2025+ Strategic Roadmap outlining City priorities and projects through 2025. During the Strategic Roadmap deliberation process, the City Council continued to receive public input in support of prohibiting smoking in multi-unit housing. As a result, the City Council adopted Strategic Roadmap Project CP8, “Prepare an ordinance to create smoke-free multifamily housing” was included to further the Confront Climate Crisis & Champion Environmental Justice Strategic Priority.

In early 2025, the City entered into an agreement with M-Group, a consulting firm, to develop a Smoke Free Multi-Family Housing Ordinance. As part of the agreement, M-Group initiated research and analysis into best practices and engaged with key stakeholders. Specifically, M-Group has met with and received feedback from Eden Youth, a local community-based organization, researchers at Mills College at Northeastern University who are studying tobacco control measures, and officials at Alameda County’s Tobacco Control Program (Alameda County Public Health Department).

On May 20, 2025, M-Group hosted a bilingual community outreach at the Eden Youth & Family Center during which approximately 20 residents spoke about their concerns about smoking in the buildings in which they lived, their fears about confronting smokers, and what punishments (e.g., fines or warnings) might be suitable for both individuals who are

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<sup>1</sup> Hayward Municipal Code Chapter 5, Article 6, Smoking Pollution Control.

<sup>2</sup> February 7, 2023 City Council Meeting. [https://library.municode.com/ca/hayward/codes/municipal\\_code?nodeId=HAYWARD\\_MUNICIPAL\\_CODE\\_CH5SAHE\\_ART6SMPOCO](https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH5SAHE_ART6SMPOCO)  
<sup>2</sup> February 7, 2023 City Council Meeting. <https://hayward.legistar.com/LegislationDetail.aspx?ID=6016046&GUID=4F497BC8-5C65-474C-8E6E-7447DA88EFEA&Options=&Search=>

<sup>3</sup> January 30, 2024 City Council Meeting. <https://hayward.legistar.com/LegislationDetail.aspx?ID=6497833&GUID=90E54932-8B3F-46FA-8B79-47F2DD47560D&Options=&Search=>

<sup>4</sup> June 4, 2024 City Council Meeting. <https://hayward.legistar.com/LegislationDetail.aspx?ID=6712541&GUID=FC1C8272-3788-4EEE-B855-19B21D44EFAE&Options=&Search=>

smoking and for property managers that tolerate smoking. An overview of these comments is provided in the Multi-Unit Housing Smoke-Free Ordinance Outreach Summary (Attachment II).

On June 26, 2025, M Group and City staff met with staff from Alameda County Health Department and Alameda County Code Enforcement to discuss implementation of such an ordinance. The Alameda County Health Department has offered to provide free support services to the City of Hayward similar to the services they provide in the cities of Alameda and Emeryville. Specifically, they would prepare and distribute educational materials and signage; designate a single point of contact at the County who will be the primary contact for inquiries and complaints related to the Ordinance; verify and screen initial complaints of violations; and provide an annual report of all calls and complaints received (see the Enforcement sub-section under Discussion for further information about County Health Department involvement). A sample Memorandum of Understanding and Letter of Agreement between the City and County Health Department outlining these services is included as Attachment III to this report. According to County staff, this program is funded through June 2027.

## **DISCUSSION**

In the discussion below, staff outlines a possible update to the Smoking Pollution Control Ordinance to include a prohibition on smoking in attached multi-family housing and a notification, education and enforcement process.

Staff is seeking input from the Housing Policy and Resource Committee (HPRC) on several questions, which are listed in the sub-sections below. At the highest level, staff is seeking feedback from the HEDC on the following options: 1) pursue a robust enforcement strategy, which would require additional staffing, 2) pursue a passive strategy, which would rely on private enforcement, or 3) keep the ordinance as is.

### **Applicability & Modifications to Current Regulations**

According to the Policy Evaluation Tracking System monitored by the American Nonsmokers Rights Foundation, 101 California municipalities have enacted ordinances that at a minimum regulate smoking in private multi-family housing units.<sup>5</sup> Such regulations are monitored and supported by the national Public Health Law Center<sup>6</sup> (PHLC), which is composed of attorneys and policy analysts that help local, state, national and tribal partners to develop, implement and defend laws and policies that reduce health disparities and improve public health. The PHLC recommends that communities prohibit smoking in multi-family housing to protect the most vulnerable members of the community from secondhand smoke. From the publication, *Regulating Smoking in Multi-Unit Housing*:

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<sup>5</sup> Matrix of Smokefree Multi-Unit Housing Policies in California, 2024.  
[https://pets.tcpspartners.org/files/Matrix%20of%20SFMUH%20Policies\\_October%202024.pdf](https://pets.tcpspartners.org/files/Matrix%20of%20SFMUH%20Policies_October%202024.pdf)

<sup>6</sup> Public Health Law Center. <https://www.publichealthlawcenter.org/>

Secondhand smoke travels through lighting fixtures, cracks in walls, around plumbing, under doors, and in shared heating/ventilation. Drifting smoke outdoors can travel into nearby windows, doors, and ventilation systems. Tobacco smoke exposes users and bystanders to serious health risks, such as lung cancer, cardiovascular disease, asthma attacks, respiratory infections, sudden infant death syndrome, and other conditions. Air quality experts have concluded that “the only means of avoiding health effects and eliminating indoor [environmental tobacco smoke] exposure is to ban all smoking activity inside and near buildings.”<sup>7</sup>

To support broader public health goals and City priorities and consistent with best practices in this field, the current Smoking Pollution Control Ordinance, which prohibits smoking in public places, should be expanded to include multi-family residential units defined as a lot with two or more attached units that share walls and/or ventilation systems including but not limited to apartment buildings, hotels/motels, attached townhomes and condominiums, senior and assisted living facilities, and long-term health care facilities. Additionally, smoking should be prohibited in common areas located within 25 feet of any doorway, window, opening or other vent leading to an enclosed and/or non-smoking area. Providing such an expansive definition of multi-family housing prioritizes public health and ensures the most protection for individuals exposed to secondhand smoke, as supported by studies and evidence of smoke intrusion in attached units.

Understanding the sensitivity of expanding these regulations into people’s homes, staff is seeking feedback from the HPRC on the following policy questions related to applicability of the proposed ordinance and modification of current smoking regulations to achieve the goals of an updated ordinance:

- 1.) Does the HPRC agree that these regulations should apply to all attached housing regardless of tenure (rental and ownership) including apartments, townhomes, condominiums and other housing with shared walls and/or ventilation systems?
- 2.) Smoking in public rights-of-way. The current Smoking Pollution Control Ordinance does not allow smoking in public rights-of-way however removal of that prohibition may be necessary to provide a place for people to smoke at least 25 feet away from multi-family housing and unenclosed/common areas. Is the HPRC supportive of removing that prohibition?
- 3.) Hotel/Motel rooms. The current Smoking Pollution Control Ordinance allows hotels/motels to allow smoking in up to 35% of rooms. Is the HPRC supportive of removing this allowance?

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<sup>7</sup> Public Health Law Center, Regulating Smoking in Multi-Unit Housing (2021).  
<https://www.publichealthlawcenter.org/sites/default/files/resources/Regulating-Smoking-in-MUH.pdf>

## **Alameda County Department of Health & Enforcement**

As described in the Background section above, the Alameda County Department of Health has offered to partner with the City of Hayward to provide free services related to education, preparation and distribution of signage pursuant to the ordinance, designation of County staff as the primary contact for inquiries related to the new ordinance, initial investigation of complaints and provision of warning letters and smoking cessation materials to people who violate the ordinance. The County would investigate and verify evidence of a violation. If sufficient evidence of a violation is found, County staff would provide up to three warning letters to the violator, which are intended to educate and achieve self-compliance. These warning letters would not include fines; however, if there are more than three violations within one year, the County would like to refer the matter to the City's Code Enforcement Division for administrative enforcement. Attachment IV contains the County's Complaint Process and sample warning letters.

While Alameda County Code Enforcement staff indicated that very few cases have escalated to Code Enforcement from the County Health Department since their Ordinance was adopted in 2022, Hayward must be prepared to implement the Ordinance if there are a high number of violations or if the County Health Department can no longer provide the initial screening/enforcement services. As a result, staff developed the following options for enforcement of this ordinance, which have trade-offs related to compliance, displacement, and a potential need for additional City staffing as detailed below:

Administrative Penalty & Active Code Enforcement Option: As recommended by the Alameda County Department of Health and the PHLC, in order to make the Ordinance as effective as possible, it should include an administrative penalty process by imposing civil fines on the violator if someone continues to smoke after receiving the initial warning letters from the Alameda County Department of Health. Staff believes that effective enforcement would require the addition of at least one additional full-time employee (FTE). Additionally, based on the City's current administrative penalties, enforcement of the ordinance would have nominal cost recovery.

Unlike other Code Enforcement fines and assessments, these penalties would be assessed on the violator with notification to the property owner (if different). At a minimum, taking this approach would require a Code Enforcement officer to conduct case intake; evaluation and investigation of the claim; documentation of evidence; development of a determination; assessment of penalties; and, if appealed, preparation of materials and assessment hearing, and send the case to collections if unpaid. Staff anticipates added complexity to investigating these cases because the violations would occur within homes and because evidence would require careful vetting to ensure that there is no retaliation involved in the case. The County indicated that they would carefully screen cases to ensure that only those which have evidence move forward however taking up and moving any referred cases forward would place additional burden on the already over-extended Code Enforcement Division who are responsible for implementation of a variety of other ordinances

(Community Preservation, Rental Housing Inspections, Sidewalk Vendor and fireworks enforcement among other activities).

Passive Ordinance: Alternatively, the City could adopt a passive ordinance that makes smoking illegal in multi-family units and rely on landlord or HOA enforcement through leases and civil enforcement of private agreements. Ideally, Alameda County Department of Health would still offer to provide outreach and notification of the ordinance, development of signage, and monitoring complaints and, if necessary, conflict resolution between tenants/landlords; however, the City's Code Enforcement Division would not issue notices of violation or levy fines on violators or landlords/HOAs. Such an approach is not anticipated to require additional Code Enforcement staff; however, it could result in selective enforcement of the ordinance, risk of displacement through evictions and ongoing public health risks due to uneven compliance.

With regard to enforcement and County Health Department involvement, staff is seeking feedback from the HPRC on the following questions:

- 1.) Does the HPRC support a more passive or robust enforcement strategy understanding that the more robust strategy would require additional staffing and have a general fund impact?
- 2.) Rental leases/eviction. Does the HPRC support the ability of the landlord to terminate tenancy of a unit if the tenant has multiple warnings and fines regarding their smoking?
- 3.) Fines on Landlords. Does the HPRC support including fines on landlords for violations of the ordinance understanding this strategy would also require additional staffing and have a general fund impact?
- 4.) Implementation Support. Does the HPRC support having Alameda County provide education and notifications free of charge to the City of Hayward though services may be discontinued at some point in the future?

## **ECONOMIC IMPACT**

There is no immediate economic impact with consideration of this report.

## **STRATEGIC ROADMAP**

This agenda item supports the Strategic Priority of Confront Climate Crisis & Champion Environmental Justice. Specifically, this item relates to the implementation of the following project(s):

Project CP8: Prepare an ordinance to create smoke-free multifamily housing.

## **FISCAL IMPACT**

This work session report does not propose any changes that would have a fiscal impact on the City's General Fund, however, as noted above, staff estimates that if the ordinance includes a robust enforcement component, its implementation will require one additional full-time employee (FTE).

## **PUBLIC CONTACT**

City staff partnered with M Group, the Eden Youth & Family Center and Alameda County Department of Health to conduct multi-lingual outreach efforts to notify and engage community around this topic:

- May 20, 2025, event at the Eden Youth & Family Center, which had approximately 20 attendees.
- May through August 2025: Alameda County Department of Health Tobacco Control Program surveyed 361 Hayward residents about the effects of secondhand smoke in multi-family housing and impressions about the proposed regulations. The findings from that survey are included in Attachment V to this report.
- February and May 2025: E-mails, phone calls, and text messages sent to 23 rental property managers and six home-owners associations in Hayward. Of these 29 total contacts, 10 responded to the project team stating that they would look to the City to help them enforce smoke-free policies and welcomed support in enforcing the ordinance. A few property managers stated that they had no smoke-free policies in place and felt unprepared and unable to regulate smoking in rental units.
- February 22, 2025: Placed door hangars at 245 units within Park Orchard, Legacy, The Mix and Gading Apartments and spoke to residents about the proposed regulations. Through this outreach, Eden Youth collected over 400 Statements of Concern related to smoking in multi-family units.

Following this meeting, outreach will continue with the creation of a project webpage with this report and draft ordinance; direct mailers to potentially impacted residents; and, future community meetings.

## **NEXT STEPS**

Following this meeting, City staff will update the draft Ordinance and continue to conduct outreach to educate tenants, rental property owners and owners of condominiums and townhomes. Following this additional outreach, staff will prepare an updated Ordinance and bring it to a public hearing with the City Council in the first quarter of 2026.

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