COMMUNITY WORKSHOP
SMOKING POLLUTION PROTECTION ORDINANCE

City of El Cerrito
Council Chambers
June 5, 2014
Goal E: Ensure the Public’s Health and Safety

Strategy: Explore innovative and best practices for promoting public health (e.g., smoking ordinances, nutrition, and obesity prevention).
Why Smoking Pollution Protection?

- Risk to Public Health
- Financial Drain
- Environmental Risk
- Safety
El Cerrito Trash Generation Map

- Highest concentration of trash is in commercial areas
- On Earth Day 2014, 4300 cigarette butts were collected along San Pablo Avenue
Current California State Regulations

- **Government Buildings**
  - Smoking is prohibited within 20 feet of entrance or operable window of a public building

- **Parks & Recreation Areas**
  - Smoking is prohibited within 25 feet of tot lots and playgrounds

- **Multi-Family Housing**
  - Smoking banned in indoor common areas where someone is employed (property manager, maintenance worker, etc.)
  - Landlords required to inform tenants about areas on site where smoking is prohibited

- **Tobacco Sales**
  - State law currently regulates access to and sales of tobacco products as well as the sampling of these products
El Cerrito’s Report Card

American Lung Association’s report examines 3 categories:

1. Outdoor smoking restrictions = F
2. Requirements for non-smoking units in multi-unit housing = F
3. Local licensing and sales restrictions for retailers = F

- 61% of California municipalities received F grades
- Only 18 cities/counties in California received A grades
  - Contra Costa County: Richmond, unincorporated Contra Costa (including Kensington)
  - Alameda County: Albany, Berkeley, Dublin, Union City
  - Marin County, San Rafael
Other Contra Costa & Alameda County Cities with SHS Protections

**Outdoor Protections**
- Martinez, Pinole, Pleasant Hill, Richmond, Lafayette, San Ramon
  - Walnut Creek
- Alameda, Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Oakland, San Leandro, Union City

**Multi-Family Housing Protections**
- Martinez, Pinole, Pleasant Hill, Richmond, Lafayette, San Ramon
- Albany, Dublin, Emeryville, Fremont, Oakland

**100% Smokefree MFH**
- Richmond, Walnut Creek
- Alameda, Berkeley, Union City
Community Engagement Process

- Research on what other communities are doing
- Community input on desired levels of restrictions
  - PRC (July 2013)
  - EQC (August 2013)
  - Online survey (Fall ‘13-Spring ‘14)
  - Community Meeting (Feb 2014)
- Outreach to landlords, tenants, Contra Costa Health Services, Chamber of Commerce, Save the Bay, California Apartment Association, etc
What types of smoke protection regulations would you like to see in El Cerrito?

- Outdoor dining areas and retail spaces
- Indoor common areas in apartment complexes and multi-family housing
- At bus stops and designated casual carpool areas
- Hillside Natural Area/Open Space
- City parks and playfields
- Ohlone Greenway
- Commercial Areas
- On sidewalks in commercial areas
- City facility outdoor areas including parking lots
- Inside units in apartment complexes and multi-family housing
- Outdoor common areas in apartment complexes and multi-family housing
- On all public sidewalks

Options:
- No changes to current regulations
- Limit smoking to designated areas
- Completely prohibit smoking
- Don't know
What is your opinion regarding the following statements as they relate to El Cerrito?

- **Second-hand smoke is a problem**
  - Strongly Agree
  - Agree
  - Disagree
  - Strongly Disagree
  - Don’t know

- **Cigarettes are dangerous because they can cause wildfires**
  - Strongly Agree
  - Agree
  - Disagree
  - Strongly Disagree
  - Don’t know

- **Cigarettes are a litter problem**
  - Strongly Agree
  - Agree
  - Disagree
  - Strongly Disagree
  - Don’t know

- **Cigarettes are dangerous because they can cause house fires**
  - Strongly Agree
  - Agree
  - Disagree
  - Strongly Disagree
  - Don’t know

- **Third-hand smoke is a problem**
  - Strongly Agree
  - Agree
  - Disagree
  - Strongly Disagree
  - Don’t know

- **The City should do more to regulate businesses that sell tobacco products**
  - Strongly Agree
  - Agree
  - Disagree
  - Strongly Disagree
  - Don’t know
Participants agreed that regulation was necessary
- Some suggested considering a complete ban within entire City limits

Litter, especially in commercial areas, perceived as a growing problem
- Regulations should deter litter in addition to use

Important for stormwater runoff: litter is polluting the Bay
- Impact on performance with stormwater Municipal Regional Permit

Culture change: enforcement may not end up being perfect, but the message that El Cerrito seeks to protect its citizens from a public health issue is important
Council Study Session 5/20/14

Develop a Smoking Pollution Protection Ordinance to regulate smoking within the City limits

- Parks, Open Space
- Commercial Areas
- Multi-Family Housing
- Public Sidewalks
- Other considerations
  - Medical Marijuana
  - E-Cigarettes
  - Tobacco Retailers License
Proposed 100% Smoke-free Parks

- Parks
- Recreation Areas
- Ohlone Greenway
- Hillside Natural Area
- Open Space
- Trails

(photo credit: Thinh D. Nguyen)
Proposed 100% Smoke-free Commercial Areas

- Shopping Centers
- Outdoor dining areas of bars and restaurants
- Sidewalks
- Transit stops
- Service areas and other outdoor locations where people congregate (ATM lines, taxi stands, etc.)
Proposed 100% Smoke-free Multi-Family Housing

- Ban in all new units built
- Ban in existing units; phase-in at time of lease change or 12 months, whichever is sooner
- Ban in all indoor and outdoor spaces on the property including common areas, patios, balconies, carports
- Multi-unit = 2 or more units
- Landlord to provide disclosure and signage
- Include Hotels/Motels
Additional Areas to Research

Proposed 100% Smoke-free Public Sidewalks

- Research banning smoking on public sidewalks throughout town.

Increase fines for littering

- Research fines that are significant enough to fund an enforcement officer, signage and education.

Sale of Tobacco

- Consider changing minimum age to purchase tobacco products to 21 years old.
Proposed Tobacco Retailers License

Separate ordinance regulating businesses:

- Require all retailers to obtain a special license to sell tobacco within City
- Restrict or prohibit sales near schools or parks
- Restrict or prohibit sales within pharmacies
- Prohibit tobacco sampling within the City
- Restrict outdoor advertising of tobacco
Current Zoning Regulations

ECMC19.20.210 Tobacco sales

Tobacco sales shall be located, developed, and operated in compliance with the following standards:

A. Location.
   1. Minimum distance from a residential district boundary: 500 feet.
   2. Minimum distance from other Tobacco Sales: 1,000 feet.
   3. Minimum distance from educational, religious, or cultural institutions and public parks: 500 feet.

B. Maximum Size. The maximum floor area that may be occupied by a Tobacco Sales use is 5,000 square feet. Additional floor area requires approval of a Conditional Use Permit.

C. Hours of Operation. 8:00 a.m. to 10:00 p.m., seven days a week.

D. Litter. One permanent, non-flammable trash receptacle shall be installed and monitored in a clean and orderly fashion in the parking area adjacent to the entrance/exit.

E. Exceptions. Exceptions to this Section shall require a Conditional Use Permit.

(Ord. 2008-2 Div. II (part), 2008.)
**Proposed Enforcement Program**

Use portion of revenue from Tobacco Retailers License to fund enforcement of sales restrictions

Modeled after ABC program to enforce alcohol sales

- Train law enforcement
- Educate business owners and employees
- Conduct periodic “sting” operations about selling to minors
ENDDs: “E-Cigarettes”

- Electronic Nicotine Delivery Devices (such as e-cigarettes) are being considered by a growing number of cities for regulation in the same way as tobacco products
  - Prohibit ENDD use where smoking is prohibited
  - Require a Tobacco Retailers License to sell these products
Marijuana

El Cerrito already has medical marijuana dispensary regulations

- Include marijuana in new regulations
- Prohibit smoking of marijuana where tobacco smoking is prohibited
Next Steps – El Cerrito

- Staff write draft ordinances
- Public review
- City Council Consideration: July/August/September
- Implementation