

Paid for by the University of Minnesota's Community Health Initiative in partnership with the Association for Nonsmokers - Minnesota

Prepared by Brynna Bargfield, MPP/MPH candidate 2021

Project Supervised by Jackie Siewert

June 11, 2020

Smoke-Free Multi-Unit Housing Ordinances: Lessons from California



Photo by [Raul Petri](#) on [Unsplash](#)

Introduction	2
Research Strategy & Methodology:	2
Research Questions:	2
Data-Collection Strategy:	2
Sampling Criteria:	3
Analysis:	5
Study Limitations:	5
Results & Discussion:	6
Differences Across Communities:	6
Differences Across Policies:	6
Answering the Research Question:	10
Policy Recommendations:	13
Next Steps:	18
Appendix I: Interview Guide	19
Appendix II: Sample Resource From ChangeLab Solutions. Used with permission.	21
Appendix III: Sample Tobacco Information Flyer, With CHD Hotline	22

Introduction

Although there have been many policies aimed at reducing smoking in public places, private residences are often not covered by smoke-free ordinances. Smoke-free housing (SFH) has the potential of obvious health benefits by reducing secondhand smoke exposure. Less well-known are the effects of third-hand smoke, which is released from surfaces that have been exposed to smoke and can impact residents even when nobody is currently smoking. Smoking increases turnover costs by increasing the expense to clean a unit between tenants and is also the top cause of fatal residential fires. Given these benefits, some property managers include SFH language in their leases.

Governments can also issue SFH rules. In Minnesota, the public housing smoking ban in Minneapolis preceded the Department of Housing and Urban Development rule requiring it nationwide. Apartment managers are also legally allowed to include non-smoking language in their leases, which ANSR-MN has been working on expanding voluntarily. Over the last decade, communities in California have gone further and included SFH policies at the city/county level. Currently, a city in Minnesota is interested in pursuing a similar ordinance, which would make it among the first communities outside of California to do so. The results of this study are intended to help this and future cities in implementing SFH outside of California.

Research Strategy & Methodology:

Research Questions:

The primary goal of this study was to learn from other cities in order to improve the process of enacting similar legislation in Minnesota cities, and thus the underlying question was:

What are the opportunities and challenges for other cities enacting similar legislation to consider, and how were those challenges overcome in California?

Within this question comes a need to look at the process of gathering support, informing the community, passing the ordinance, and enforcement in later years. In order to identify best practices, challenges, etc., interviews asked for details of the policies and enforcement in addition to any known outcomes or challenges that were overcome.

Data-Collection Strategy:

Information was collected via semi-structured interviews (see guide in appendix) that focused on content areas of implementation and enforcement, evaluation of the current policy, and equity/unintended consequences. Interviewees were identified through the sampling criteria outlined below, and then first contacted via email if available. Follow-up contact methods

involved a second email if no response was received from the first one, then phone calls were made if needed. If these three attempts received no response, an alternate contact was identified within the same sector of the sampling matrix (also below). Some communities were unable to accommodate an interview, but sent over information via documents that could answer most of the questions. Others were not able to complete an interview, but identified a peer organization that could answer on their behalf. Both of these responses were accepted as answers, given the extra burdens communities may have been facing due to COVID-19.

Sampling Criteria:

Inclusion Criteria	Exclusion Criteria
<ul style="list-style-type: none"> ● Locality (city or county-level) ● Non-voluntary smoke free housing ordinance ● Ordinance applies to multi-unit residential buildings ● Ordinance applies to all units within a building (following end of grace period, if applicable) 	<ul style="list-style-type: none"> ● Ordinance only applied to certain units within buildings ● Ordinance only applies to common areas of buildings ● Ordinance 100% effective date after 12/31/2019 ● Ordinance 100% effective date before 01/01/2015

Based on the localities that fit these inclusion and exclusion criteria, a sampling matrix was created in order to ensure a mix of localities based on the length of time the ordinance had been in effect and whether or not condos were included in the ordinance. Condo inclusion was important to consider because historically, smoke-free housing applied only to tenants of rental units who are beholden to lease agreements with a landlord or other authority who can remove them if the terms are violated. Like apartments, condos are a form of multi-family housing stock and the same issues of secondhand and thirdhand smoke exist, but they often lack the lease agreements that property managers can use to voluntarily create smoke-free units. In many cases, the resident of a condo is also the owner, so without a higher-level rule, there are few options for residents experiencing drifting smoke in a condo. Because many people who live in condos are owners rather than tenants, there may be (and has been) pushback¹ from these residents as they would be prohibited from smoking in their dwelling despite owning the unit.

¹ Nelson, E. (2018, July 11). Condo building in St. Paul voted to go smoke-free. Then smokers got on the board. Retrieved May 24, 2020, from <https://www.startribune.com/condo-building-in-st-paul-voted-to-go-smoke-free-then-smokers-got-on-the-board/487780761/?refresh=true>

Attempts were made to contact at least one city per sector of the sampling matrix, and to contact multiple stakeholders within each community. The sampling matrix is shown below:

	Length of Time at 100% Implementation		
Condos Included?	Less than 1 year	1-2 years	More than 2 years
Yes	6 cities	5 cities	19 cities, 1 county
No	1 city	1 city	1 city

After identifying different categories of locality to include, stakeholders were identified for 2-4 cities in each sector of the matrix where possible (for the cities in the lower row, more stakeholders were identified in order to increase the chance of successfully contacting at least one group). These stakeholders included:

- Advocate groups (county and local health departments², tobacco free coalitions, etc)
- Policymakers (city council, mayors)
- Enforcement (groups handling complaints or inspecting properties)
- Administration (groups facilitating the program being implemented)
- Property Owners (landlord organizations, homeowners associations)
- Tenants' Rights Organizations

In some cases, such as for advocate groups and property owners, the most available organizations to contact were broader and structured at the county or state level. If an advocate group had worked specifically at the local level, it was considered for the city even though it serves a broader area overall.

Because there was an expected total of 8-12 interviews, attempts were made to interview 1-2 stakeholders in each of the matrix sectors. While many of the above stakeholders were identified and contacted, the breakdown of respondents who were able to give an interview was as follows:

Position Type	# of Respondents
City: Policymaker	2
City: Administration & Enforcement	4
County: Public Health Department	2
Other	1

² Health departments may also be categorized under administration/enforcement, depending on their relationship to the specific ordinance--California also reorganized their public health administration a few years ago, so the role of the counties is more similar to most state health departments.

In a few cases, the identified contact person was unavailable or felt that a colleague of theirs would be better able to answer the questions, which likely improved the accuracy of information shared but indicates that the initial selection strategy may have been flawed--future studies should make sure to consider code enforcement, city attorneys, city managers and their staff, and county health department/tobacco hotline staff as initial contacts, as these job titles represent most of the completed interviews. One community was unavailable for an interview, but city staff passed on publicly-available documents for review.

Analysis:

Contact notes were written within 24 hours following each interview. These included information on locality characteristics (size, housing stock) as well as responses to the major questions and any follow-up or probing questions asked, as well as any extra information interviewees felt was important to share or resources they referenced. Based on the goals of the client organization, there were well-defined content areas pre-specified, so work with the data was rooted in content analysis to identify the most common responses to questions about the policies, implementation, and outcomes. These most common responses were grouped and compiled, then exceptions were noted. When possible, probes during interviews were used to question rationale behind policy choices or the base of evidence for claims, and this was often sufficient to explain differences from the most common response.

Study Limitations:

The timing of this study, in early 2020, led to some unexpected challenges due to the COVID-19 pandemic. Some of the initial contacts responded by forwarding the interview request on to staff in a different office or suggested contacting someone from another organization who helped with the policy implementation. One of the key communities on the bottom row of the sampling matrix was not able to schedule a call, but *did* forward documents including past city council minutes that addressed the decision process in question, so the information on that community is drawn from publicly available data to address the other question areas and may not be as complete as the information on other communities. However, the total number of communities covered via interview is greater than 10, as two of the respondents were public health employees who have worked with multiple communities and shared insights comparing the specific community the call was focused around with their experiences elsewhere.

Participants were also selected based on their visibility in search results, which may exclude cities with poorer outreach efforts or that fail to attract the attention of media outlets. Specific informants were identified in a similar way, which also makes it harder to identify people or groups that may have experience with the policy but are not publicly listed as such--based on the number of identified contacts who referred the interviewer to a colleague of theirs, this is likely to be an issue that future studies may also run into.

After the first few communities implemented SFH, many other policies were based on the model in Belmont, as well as sample ordinances and checklists created by ChangeLab Solutions (see

Appendix II). While broad policy similarity helps reduce confusion among residents and may make it easier to pass an ordinance, it may not be possible to tell which aspects of communities' ordinances improved the outcomes because there is not sufficient variation for comparison on issues like graduated enforcement or the use of citations/fines in enforcement.

As a note on reflexivity, the interviewer, client, and respondents involved all support increased access to smoke-free spaces. While not a fringe opinion, this does not encompass the full range of opinions, and it is possible that there may be some issues that residents faced that were not reported to or considered as an issue by the people involved in this process due to their different views on the topic. The interviewer has spent time with family in the Bay Area, and disclosing this while building rapport may have led interviewees to make assumptions about knowledge of local politics/issues. It also means that the interviewer's lack of experience in the Central Valley or in Southern California may have led to missed probes resulting from lack of context.

Results & Discussion:

Differences Across Communities:

Different localities implemented their smoke-free housing policies in different ways. Of note were their systems of enforcement, the costs associated, the timeline of implementation, and the level of community outreach in the planning process. In general, but not exclusively, wealthy suburbs had smoke-free ordinances throughout the community, which further reduced the ease of smoking by reducing the number of shops selling tobacco products and restricting smoking in public areas like parks and sidewalks.

Of the respondents, there was a mix of community sizes, location within the state, housing stock, politics, and demographic distributions including race, income, and education. While the communities on average were wealthier, more suburban, and whiter than the state overall, this was not true of all communities included in this study. A handful of these communities spontaneously and explicitly discussed their local politics, which they self-described as "progressive" when talking about community level of support for their public health initiatives. Three communities chose to exclude condos from their ordinance, and these communities tended to be smaller and did so because of concerns about enforcement and property owners' rights in their own residence or because their community had few, if any condos.

Differences Across Policies:

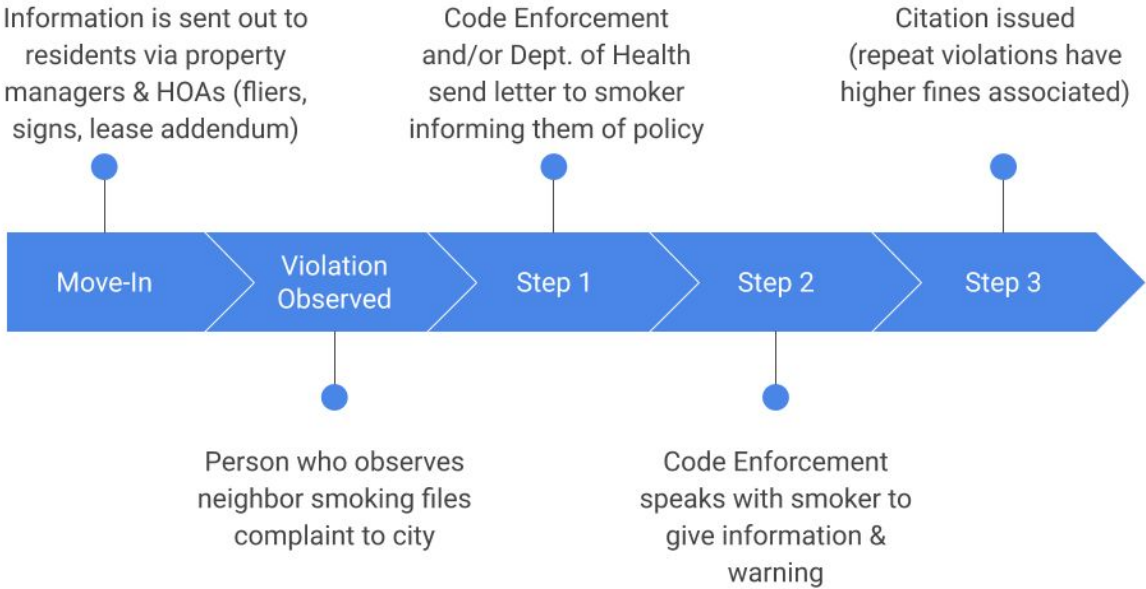
Despite varying on demographic factors, there were still broad similarities in their policies. The table on the following page shows a summary of responses for the questions relating to policy details and outcomes, and is the result of content-driven analysis of the interview responses, which identified the most common responses as well as any responses that stood out as unusual. When possible, "why" style questions were asked as probes if the reasoning on a policy choice was not made clear at first.

Aspect of Policy	Most Common Variation	Notable Exceptions
Resources Needed	Fliers for property managers to give to tenants, signage, notices issued. Existing city staff used for enforcement, with support from their county health department. Sample ordinance language provided from the county health department or other sources such as ChangeLab Solutions.	Some communities wanted to create unique signage, which cost more to design/print. One community uses police officers for enforcement, because they do not have a dedicated code enforcement officer.
City staff time needed	Responses varied, but overall less than one total FTE across city attorney, policy interns, code enforcement, city manager's office, etc.	None reported more than one FTE of city staff time.
Funding source	Enforcement paid for through the general revenue fund, no specific funding allocations. County health departments helped by providing materials, and received funding through state grants, and tobacco settlement funds.	A couple communities used grants in conjunction with their county health department for printing materials or expanded advertising in local media. Some with broader smoke-free ordinances had tobacco tax that went to city funds.
Policy Rollout (informing, phases, timing)	Property managers and community residents were spoken with to gauge support, open city council meetings, information about policy posted as other ordinances are (newspaper, city website, local media), effective within one year, generally aligned with lease turnover, no exemptions.	Some of the earliest communities aimed for 75-80% of units covered at first, but changed ordinance to 100% in later years. One community had policy fully effective all at once, without waiting for leases to turn over. Some explicitly recommended that landlords use lease addendums to inform residents.
Time from adoption to effective date	30 days (California law specifies this length of time); about 1 year to 100% effective.	Up to 60 days for first effective to coincide with the first of the month; early cities only targeted 80% of units and later increased to 100%
Enforcement--complaint	Residents in SFH call/email/file digital complaints to the city, which begins the process of enforcement.	Some residents were routed first to the health department, and some places encouraged talking to property managers first.

Aspect of Policy	Most Common Variation	Notable Exceptions
Enforcement--follow-up	All were graduated, with the first step being to send a letter or have a code enforcement officer visit the person in violation to explain about policy. 90% of cases resolved at this stage.	A couple communities include the tobacco quitline or other cessation support information in the initial letter.
Enforcement--consequences	Fine just like other citations for ordinance violation, with higher fees for repeated violations; may end in eviction as determined by the property manager.	No major exceptions aside from specific fine cost tiers.
Legally Responsible	Residents are ultimately responsible (about half of responses).	Both residents and property owners may be held ultimately responsible. Property owners are often expected to maintain signage, update lease language, and go over SFH with new residents.
Education	Mandated ordinance informing process (newspaper, newsletter, city website), letters/fliers sent to property owners to share with tenants.	Recommended use of California law on lease addendums that must be reviewed with the tenant upon new lease or lease renewal.
Complaint Levels	Higher initially, tapered off within 18 months.	Higher due to stay-home orders in recent months.
Citations & Resolution	Very few reached the level of actually getting a citation--most complaints resolved with education & warnings.	Some respondents questioned if residents simply did not follow up on/re-report unresolved cases.
Unintended Consequences	Unknown/none to tenants, but many communities had residents of single-family units asking for protection from neighbors & drifting smoke. No known cases of discriminatory or retaliatory reports of violations to the city.	Designated areas for cannabis may create nuisances, city-wide ban leads smokers to violate ordinance anywhere.
Barriers to Residents	Unknown, suspected few.	Possible that people moved out of town, possible that seniors or people with disabilities are unable and/or unwilling to smoke outside.
Evictions/Arrests	Unknown, suspected none.	One likely eviction, unsure if smoking was the main reason.

Aspect of Policy	Most Common Variation	Notable Exceptions
Cross-Cultural/Language Barriers	Unknown, many respondents felt that having multiple languages on signs was sufficient.	Migrant worker camps in a grey area of enforcement given concerns of deportation if interacting with law enforcement. Possible issues with international students needing more frequent education on policy due to higher smoking rates/different cultural norms and moving frequently. City council meetings may need translator available to get most community input.

All of the communities used graduated enforcement similar to the roadmap shown below. Most described this approach as focusing on compliance through education, and saw citations or other consequences like evictions as things to be avoided if possible. However, there was not always an explicit step mentioned between code enforcement speaking with the smoker and a citation being issued. Because no communities mentioned using active observation as an enforcement tool for smoke-free housing, it is likely that repeat violations were missed as a result of not being reported, or because the person sending in the complaint could not identify the specific resident in violation of the ordinance.



Overall, communities expressed that SFH was relatively issue-free and easy to administer, but there were lots of comments that could not be substantiated with data or specific examples. The

communities that also held property managers liable appeared to have better buy-in and fewer issues with enforcement, possibly because evictions are harsher than fines, and landlords had more incentive to help enforce the policies proactively if they could potentially be held liable. This may also be related to the problems mentioned of tenants needing to identify individual smokers in order for individually-targeted responses to take place.

Answering the Research Question:

Major Challenges

Stakeholder Turnover: One of the respondents had worked with a couple different cities in their county to pass this kind of ordinance, and recounted a frustrating situation where after building support for SFH in the city council **the champion they had worked with was voted out**. Communities that worked with Youth Councils mentioned similar issues, and **staff changes at a property management firm led to confusion and reduced support** for the policy in at least one case. While the process of working with stakeholders takes time, it is important to consider the length of time each individual may be in that position and prepare for possible turnover by engaging multiple groups and building broad support for the policy.

Lack of Data: Although most interviewees had a general sense of community support for the policy and the trend in complaints following the ordinance going into effect, there was uncertainty around other important factors, because they were not being measured. For many of the questions asked regarding citations issued or evictions related to the policy, interviewees had to respond via anecdotes or their gut feeling, as these just had not been tracked, or the data was not readily available. This made it hard to triangulate many findings.

Beyond administrative data, there also was **little concrete information on if the program had actually reduced the amount of smoke residents in multi-unit buildings were exposed to, or if smokers living in SFH were increasing their attempts to quit**. An issue with this lack of data is that it was hard to track individuals who smoked to assess their outcomes. This includes quit attempts, changing where they smoked, and moving to another city. Due to the low vacancy rate and competitive housing market in the communities interviewed, respondents were not overly concerned with people moving to areas without SFH ordinances, but could not say it never happened. There may be equity issues with people moving to another city, as low-income people are more likely to smoke and more likely to rent. On a large enough scale, this may increase the exposure to second and thirdhand smoke among renters in neighboring communities. However, none of the communities mentioned anything like this in their reasoning to pursue SFH and doubted that it would be an issue due to the small number of complaints.

One community had surveyed their property managers on compliance via signage and the number of complaints directed to them by tenants, but this was unique among the communities interviewed. Preliminary results of this survey were shared, and indicated that **the majority of property managers were in compliance** with the policy. Observing properties for artifacts like cigarette butts was also mentioned, again only once.

Enforcement: There were almost no issues mentioned with enforcement directly, but it was noted that there would be an increase in complaints following the ordinance going into place and residents becoming aware of ways to report violations. However, communities with the policy in place for multiple years said that these **complaints tapered off after the initial wave**. That being said, it is unknown if the complaint decrease is because violations themselves decreased or if the complaints are no longer being reported.

Another issue with ordinance enforcement was mentioned by an interviewee whose community had very broad smoke-free laws that covered city-owned parks and sidewalks, and the ordinance did not allow for a designated smoking area. Residents who smoked told this person that they could not go anywhere, and **though they wanted to comply with the ordinance that they needed somewhere to be able to do so**. In this case, the city official decided that the SFH ordinance should take precedence, so residents should do the best they can to comply with that provision even if it meant violating another ordinance in the process.

Many communities placed the legal responsibility on individuals to comply with the ordinance, but as a result code enforcement officers could not always act unless they knew exactly which unit was in violation or they observed a violation in progress. Most communities also only had one or two employees doing code enforcement, so observing properties for violations was not a high priority. The combination of these somewhat decreased the ability to enforce the policy by the city, but they were still able to distribute information to the building via property managers and to encourage the resident who filed the complaint to talk directly with the person in violation³ of the policy. There appeared to be less need for the city to enforce the policy where property managers could also be held responsible, but the extent to which this may be the case due to that factor alone is unclear.

Key Stakeholders

Most communities mentioned stakeholder involvement as part of the policy-making process, particularly **property managers and homeowner's associations**. Although most of the communities mentioned that more than half of their rental units were already covered by smoke-free language in leases, the perception that property managers might be opposed was brought up as a concern by city officials, but largely fell away after outreach efforts amplified the voices of property managers in favor of an ordinance. In at least one case, hearing support from owners/managers was decisive in convincing reluctant policymakers to approve the ordinance--even a mayor who smoked at the time.

The level of support by property managers and homeowner's associations may not be as clear in Minnesota at first--the earliest communities interviewed said that at first the apartment association was either hesitant or against having compulsory SFH. It took time and evidence

³ Some county health departments played this intermediary role and suggested that residents talk with their neighbors as a first step, although grant restrictions often barred them from enforcing the policy directly by issuing citations, etc.

that owners were not largely inconvenienced/harmed for them to change their mind. For the communities that came later, the apartment association was barely mentioned as an actor, and instead only local property managers were discussed in depth. Many interviewees said it seems like the apartment association realized that SFH would eventually be reality throughout California, and it didn't make sense to fight it.

While residents are also stakeholders given that policies impact their lives, most of the outreach done with them was focused on educating them about what the upcoming ordinance would entail, as well as how to report violations. Most communities had at least one listening session during a city council meeting, but not everyone is able to get to these meetings. One interviewee who was working on implementing a policy in a city neighboring the one the interview focused on mentioned that many community members did not speak English fluently enough to participate in city council meetings, so even though all posters and materials were printed in both English and Spanish, there was still a need for a translator at city council. She also talked about a **need to find ways to reach residents who may work late or otherwise miss out on city council meetings**. While she could not identify any immediate issues with disparate enforcement due to this language barrier, she also could not rule them out. Of the interviewees, this person was the most vocal advocate of making sure parents who live in multi-unit housing are involved as supporters of SFH.

Use of Outside Resources

As mentioned above, a few communities mentioned using resources prepared by Changelab Solutions in crafting their ordinances. All communities mentioned working with their county health department (CHD), often to help with the initial contact and education effort for people in violation of the ordinance. The CHDs were also mentioned for doing work with educating local policymakers, providing sample ordinance language, and passing out fliers. Some CHDs have a dedicated tobacco prevention hotline that residents could call to file a complaint, with this information being passed on to the relevant city department if not successfully resolved. These hotlines may also be used by residents of areas without an SFH ordinance, and may recommend that residents reach out about this policy to their city council if they are having issues (see Appendix III). The CHDs with tobacco hotlines also were likely to offer cessation support and resources.

Things Not Mentioned

Given the California-specific context of the existing policies that the interviews focused on, it is also important to identify possible issues in directly applying these results to a Minnesota context. The biggest unaddressed difference between the states was weather. While California has extreme weather with storms and heat, **most communities rarely see the cold weather and snow that Minnesota winters are known for**. This may change the effectiveness of SFH by making it more inconvenient to smoke during the winter in Minnesota as opposed to in California. The communities spoken with did not identify any seasonal trends in the complaints they received, but communities in **Minnesota may see higher levels of complaints in colder**

months as people stay inside to avoid the cold. As a few communities mentioned recent increases in complaints related to stay-home orders, it seems plausible that situations keeping people inside their homes would increase non-compliance with the ordinance and also increase complaints.

Another unaddressed topic related to tobacco control in these interviews was racial/ethnic disparities in commercial tobacco use rates. In Minnesota, there are some American Indian organizations that advocate for a return to traditional uses of tobacco⁴ that had been illegal prior to 1978⁵. In this context, tobacco is used in ways different from smoking a cigarette, and has an important meaning by connecting people to their culture and being a healing practice. Minnesota's Department of Health (MDH) recognizes the value of these traditional practices by incorporating them into health improvement and tobacco prevention grants to tribes⁶. **When respondents in California discussed SFH and language/culture or other barriers associated with their SFH policy, most of the focus was on ensuring materials were available in both English and Spanish**, as well as being able to translate materials into any other languages that may arise. Other respondents talked about the need for translators at city council meetings discussing the policy, or that specific groups in their communities had higher smoking rates than the rest of the community, but none explicitly noted traditional use of tobacco or other substances as part of their considerations.

Policy Recommendations:

Graduated & Educational Enforcement: All communities used graduated enforcement due to wanting citizens to comply via education rather than punishment. Acknowledging that access to information may not be consistent due to differences in interacting with local government or the way property managers communicate with tenants, all communities surveyed used graduated enforcement as described earlier in this report. Multiple interviewees mentioned their goal being **“education, not punishment”** when managing people in violation. Respondents said this approach resolved 90% or more of the complaints, and when asked what could be improved, **no respondents suggested changing to a more aggressive stance.**

Given recent calls for reimagining policing and public safety following the murder of George Floyd by a Minneapolis Police Officer, reflecting on the enforcement strategies in California, recognizing that black, indigenous, and people of color in Minnesota and across the United

⁴ And other plants that may be burned, such as red willow bark (kinnikinick/cansasa) or sage.

⁵ Smith, K. (2018, January 02). American Indians in Minnesota reclaiming traditional tobacco. Retrieved May 24, 2020, from

<https://www.startribune.com/in-minnesota-american-indians-are-reclaiming-traditional-tobacco-to-revive-traditions-and-eliminate-commercial-products/467588403/>

⁶ Minnesota Department of Health. (2019, May 8). Traditional tobacco use connects Native youth to culture, community, and health. Retrieved May 24, 2020, from

<https://www.health.state.mn.us/communities/tobacco/initiatives/tfc/stories/201905/index.html>

States face disparities in smoking rates⁷, and based on feedback for initial findings from this report, **it is imperative to avoid using the police as an enforcement tool for SFH**. Most communities studied used code enforcement or health department staff, which shows that it is possible to encourage compliance without using police officers. In addition, a couple communities mentioned that their police department would rather focus its resources on other issues besides SFH.

Get Property Managers on Board: Overwhelmingly, property managers were noted as the most important stakeholder in convincing reluctant policymakers to vote yes on SFH. Often, communities with success getting SFH passed already had a number of property managers that voluntarily had SFH language in their leases, and few property managers that were in opposition. Property managers are also an important way to enforce the SFH policies. In line with current efforts by ANSR-MN, communities seeking multi-unit SFH should:

- Identify how many of their current units are currently covered by SFH language in their leases
- Note which property managers do not have SFH language in their leases and reach out
- Educate property managers on the benefits of smoke-free housing, including financial incentives on their behalf as well as evidence that there is demand for SFH by potential tenants
- Provide sample SFH lease language for property managers
- Reach out to apartment and homeowner associations while crafting the SFH policy to address concerns and set expectations for what enforcement will look like

Apartments are not the only kind of multi-unit housing, so communities should also work with HOAs if they decide to include non-rental properties in their SFH ordinance. This will likely fall in parallel to the steps outlined above, but it is important to note the ways in which HOAs can help with enforcement, given that their residents are often property owners and there is not the threat of eviction to urge compliance. There may also be more issues with stakeholder turnover for HOAs compared to property managers, as seen in Saint Paul in 2018 when residents who smoke responded to an HOA's vote for SFH by replacing those board members⁸.

A couple communities also said that anecdotally, property managers or HOAs may benefit from having a community-wide ordinance as a way to “blame the city” if residents have problems with SFH. These respondents said that property managers were then able to focus on enforcing the policy and running their business rather than having to justify the policy to residents, and that the city was happy to take the blame if it meant better compliance.

⁷ Kaiser Family Foundation. (2020, January 03). Adults Who Report Smoking by Race/Ethnicity. Retrieved June 10, 2020, from

<https://www.kff.org/other/state-indicator/smoking-adults-by-raceethnicity/?currentTimeframe=0>

⁸ Nelson, E. (2018, July 11). Condo building in St. Paul voted to go smoke-free. Then smokers got on the board. Retrieved May 26, 2020, from

<https://www.startribune.com/condo-building-in-st-paul-voted-to-go-smoke-free-then-smokers-got-on-the-board/487780761/?refresh=true>

Inform Residents: Communities often employed at least one method to inform residents, such as including **SFH on the lease**, **sending a flier** to the property manager to distribute to tenants, and **creating signage** for properties. In most cases, these worked well enough, at least based on the level of complaints referred to the city, but some felt that they should go further. One specific way to improve was the suggested use of **fridge magnets in move-in packets** with information on the policy and how to file a complaint, as this would reduce some of the burden of having to find that information again. Although few communities included it, most were also favorable towards including **resources about smoking cessation** or the quitline on these materials. MDH has information on many different kinds of free cessation resources⁹, and it would be relatively low-cost to the city/county to route people to these resources as part of their policy education process.

Providing information on cessation may help overcome an issue with the rollout of SFH in public housing in some MN communities. A 2017 study by MDH¹⁰ found that following the rule change, the number of quit attempts by residents was only slightly higher than would be expected and was not statistically significant. **When asked if their educational material included information on accessing cessation support resources, only a couple communities explicitly said that it did, and most responded to the question by saying it would be something they should implement in the future.** The MDH study found that there were many quit attempts in the 6 months immediately preceding SFH, but over time people move in and out of different buildings and communities. Given some concerns expressed by respondents over enforcement with groups like students or workers who are highly mobile, access to cessation resources may help with quit attempts after the policy is already in place.

Acknowledge Traditional and Cultural Tobacco Use: In line with actions taken by Anishinaabe and Dakota communities in Minnesota, smoke-free policies should acknowledge both health equity and the cultural use of tobacco by some American Indians by **focusing tobacco restrictions on the smoking of commercial tobacco**. This should fall in alignment with providing access to cessation resources, to ensure people of all backgrounds can be connected to culturally appropriate programs. The **community outreach process should try to identify and work with local tobacco control groups**, including those that represent cultural groups in the community. This can improve community buy-in and support for municipal SFH while also recognizing that no community is a monolith.

⁹ MDH's cessation resources include the free quitline, as well as special programs for teens, veterans, women, senior citizens, and racial/ethnic minorities: Quitting - Tobacco Prevention and Control - Minnesota Department of Health. (2020, March 30). Retrieved May 22, 2020, from <https://www.health.state.mn.us/communities/tobacco/quitting/index.html>

¹⁰ United States of America, Minnesota Department of Health, Office of Statewide Health Improvement. (2016, July). *Smoke-Free Housing Policies, Smoking and Secondhand Smoke Exposure Among Public Housing Residents*. Retrieved May 15, 2020, from <https://www.leg.state.mn.us/docs/2017/other/171220.pdf>

Prepare to Expand to Cover Recreational Cannabis: While Minnesota’s medical marijuana laws do not include provisions for smoking the substance, California has a recreational market that does allow for smoking of marijuana. In April 2020, Minnesota’s House Majority Leader Ryan Winkler introduced legislation for a recreational cannabis market in the state. While COVID-19 disrupted the legislative session, his announcement of the bill indicated that this remains a priority of his and the effort will continue in future legislative sessions. A poll from earlier this year also shows that **a majority of Minnesota voters are in favor of legalizing cannabis for recreational use**, with support higher now than in 2014¹¹.

When asked about any precipitating events that started the process for a SFH ordinance, a couple communities mentioned the legalization of recreational cannabis in California, because it increased the number of complaints to the city¹². **Other communities that had SFH prior to legalization noted that they had to update language in the policy and/or do some outreach** making it clear that the ban did not only apply to tobacco products, as this was unclear immediately following legalization.

Preparing for this possibility includes making sure ordinances are worded to make it clear that the smoking ban applies to all smoked substances¹³, having signage that includes products other than cigarettes alone¹⁴, and including non-cigarette examples in educational materials. One respondent speculated that due to the different nature of use (where people tend to smoke over a long period of time rather than in short intervals throughout the day) recreational marijuana may exacerbate the nuisance of designated smoking areas, but did not cite any specific complaints made to the city on this issue.

Keep track of complaints and outcomes: A major limitation with this study was that most of the information on outcomes was anecdotal and that **respondents could rarely give actual numbers for outcomes** like citations issued, evictions, arrests, increased quit attempts, or reduced smoke exposure. The 2017 study in Minnesota similarly could have improved data collection early on--the authors note that the number of quit attempts may have been artificially deflated, as there were a higher-than-average number of quit attempts in the six months leading up to SFH going into place as news of the upcoming policy spread to residents. The authors also note that **a better indicator of the policies impact would be to do continued surveys of**

¹¹ Van Berkel, J. (2020, February 24). Star Tribune/MPR News Minnesota Poll: 51% support legalizing recreational pot. Retrieved May 23, 2020, from

<https://www.startribune.com/minnesota-poll-51-support-legalized-pot/568158682/?refresh=true>

¹² The other commonly-mentioned event that started the process of SFH policy was the release of report cards by the American Lung Association that graded communities based on tobacco control policies. Communities mentioned grades ranging from A- to F as important factors in triggering policy change.

¹³ MDH clean air language reflects this: Minnesota Department of Health. (2019). Rental Apartment Buildings - EH: Minnesota Department of Health. Retrieved May 24, 2020, from <https://www.health.state.mn.us/communities/environment/air/mciaa/rental.html>

¹⁴An example of this kind of sign can be found at: Tobacco Education Clearinghouse of California. (2017). No Smoking No Vaping / Sign. Retrieved May 23, 2020, from <https://www.tecc.org/product/no-smoking-no-vaping/>

residents beyond 6 months, given that the overall amount that residents smoked decreased, with a plurality saying they had decreased their smoking due to SFH-related inconvenience. In order **to help track possible disparate impacts of eviction related to the policy, communities should also work with legal aid organizations** both to collect more information and help support people who may be disproportionately targeted for eviction and enforcement. In addition, **there are currently gaps in data tracking for evictions and lease non-renewals**, which makes it hard to identify who is being impacted negatively by the enforcement of this kind of policy. As an eviction on record can follow someone for many years and make it harder to find future housing even if they are not actually removed from their unit, and because groups of people with higher smoking rates are also at higher risk of eviction, there needs to be focus on not harming impacted residents.

As the first community in Minnesota and among the first outside of California to adopt a smoke-free housing ordinance, it is important to keep track of relevant data to be able to inform future efforts given the unknowns of applying the policy in a new context, which will build off of the findings in this report and continue to improve people's housing conditions.

Next Steps:

- ❑ Continue working with apartment managers to increase knowledge of and support for multi-unit smoke-free housing policies; contact HOAs as well
- ❑ Identify ways to partner with local health organizations or build capacity to offer education and resources to help with smoking cessation
- ❑ Begin collecting data to use for evaluation purposes, such as:
 - ❑ % of current units covered by SFH
 - ❑ Current number of complaints received by property managers or city staff about residents smoking
 - ❑ Apartment residents attempting to quit smoking prior to policy
 - ❑ Number of smokers calling the Minnesota QuitLine for cessation support related to not being able to smoke inside their buildings
- ❑ Prepare to collect additional information on how future complaints are resolved
 - ❑ Identify missing data and ways to collect
 - ❑ Consider issuing a parallel ordinance for mandatory reporting of specific outcomes like evictions or lease non-renewals
- ❑ Reach out to local smoking prevention organizations such as the American Indian Cancer Foundation, Quit Partner, Comunidades Latinas Unidas en Servicio, the Minnesota Department of Health, and WellShare International to ensure policies are in line with community needs and for referral to culturally relevant cessation resources as applicable
- ❑ Organize community listening sessions to gain input from residents and property owners/managers likely to be affected by the policy
 - ❑ Find multiple ways to include residents, including remote participation in line with social distancing guidelines and access to translators
 - ❑ Send letters/postcards to reach residents that may not follow local government online

Appendix I: Interview Guide Implementation and Enforcement

1. Walk me through the process of implementing the smoke-free housing policy.
 - a. Was there a precipitating event that put this policy on the radar?¹⁵
 - b. Who were the stakeholders involved in policy enactment?
 - c. Was there anyone you wanted involved but weren't able to include?
 - d. were there specific groups you made sure to include/exclude?
2. Which resources were needed?
 - a. Funding: from where?
 - b. Staff/personnel: who, from where, how paid?
 - c. Physical items: which kinds & how distributed?
3. How was the policy rolled out?
 - a. How were property managers and residents made aware of the policy?
 - b. What was the timing/phases?
 - c. Was there a grace period/exemptions made for current smokers?
4. How much time was there from the council adopting to the effective date?
5. How much city staff time was needed, from the first time it came on the radar of the city to when it was fully in place?¹⁶
6. How is the ordinance enforced?
 - a. Is the process started by tenant complaints, landlords, etc?
 - b. Does the city/county use graduated enforcement? If so, which steps?
 - c. Which mechanisms exist to file a complaint?
 - d. Who follows up on complaints?
 - e. What do consequences look like?
7. Who is legally responsible for keeping buildings smoke free? (tenants vs landlords)
8. How is the ordinance (inspections, admin, etc) paid for?
9. How has the city/county promoted compliance and educated residents and managers about the policy?

¹⁵ This item was added after the first two interviews mentioned it spontaneously

¹⁶ This item was clarified after the first couple interviewees asked for more specific timelines

-
10. From your perspective, are there any aspects of ordinance enforcement that could be improved?

Evaluation

11. Have complaints to the city regarding drifting smoke decreased or increased post-implementation?
- a. How do you know/how is this measured)?
13. How many residents have been cited for violations?
- a. How were these citations ultimately resolved?
 - b. Are there many unresolved citations?

Equity

15. Are you aware of any unintended consequences of the smoke-free housing ordinance?
16. Do residents face any new barriers as a result of ordinance adoption?¹⁷
17. Has the ordinance resulted in an increase of evictions or arrests?
- a. Do you know of a resource that tracks these we could reference?
18. Are there any known cross cultural or language barriers that have occurred with enforcement of the policy?
- a. If yes, how have they been handled?
 - b. If no, what have you done to reduce that chance?
 - c. Is there anyone who might know more about barriers we could reference?

¹⁷ This was left vague to allow for open interpretation of what a possible barrier related to the ordinance could be

Appendix II: Sample Resource From ChangeLab Solutions. Used with permission.



www.changelabsolutions.org/tobacco-control

Smokefree Housing Ordinance Checklist

The provisions listed below are part of ChangeLab Solutions' *Smokefree Housing Model Ordinance*. By creating nonsmoking living environments in multiunit residences, communities can provide an opportunity for everyone to live smokefree, regardless of economic means, race, or ethnicity. [Contact us](#) for help drafting an ordinance for your community.

POLICY OPTIONS

What Types of Multiunit Residences are Smokefree?

(See Model Ordinance Section 1: Definitions of "Multiunit Residence" and "Unit")

All types of property containing two or more units, including the following:

- Apartments
- Condominiums
- Senior housing and assisted living facilities
- Single-resident occupancy hotels and homeless shelters
- Long-term health care facilities
- Dormitories

Optional Exceptions: The definition of "Unit" in the Model Ordinance is broad. A community can exclude some types of dwelling places:

- Hotels and Motels
- Mobile Home Parks
- Single-family homes, except if used as child care or health care facilities
- Single-family homes with in-law or auxiliary dwelling units
- Campgrounds
- Marinas

What Types of Smoking are Regulated? (See Model Ordinance Section 1: Definitions of "Smoke" and "Smoking")

- Tobacco products, including cigars, cigarettes, and electronic smoking devices
- Cannabis, medicinal and/or adult-use

What Areas of Multiunit Residences are Smokefree?

(See Model Ordinance Section 2: Smoking Restrictions in New and Existing Units of Multiunit Residences)

- 100% of units covered by the ordinance (see above)
 - New units – units constructed after the ordinance is passed
 - Existing units – units that are already built and occupied when the ordinance is adopted
 - Recommended: A phase-in period (up to one year) for existing units to become smokefree
- Patios, decks, balconies, and porches associated with all individual units
- Outdoor buffer zones within 25 feet of multiunit residence doorways and windows
(See Model Ordinance Section 4: Nonsmoking Buffer Zones)
- Indoor common areas, such as hallways, stairwells, lobbies, etc. (Note: California Labor Code section 6404.5 already prohibits smoking in indoor common areas if the multiunit residence has employees, such as maintenance workers, property managers, or others, who work in those areas.)
- Outdoor common areas, such as courtyards, parking areas, pools, etc.
 - Optional:* Create designated outdoor smoking areas meeting specific criteria (See Model Ordinance Section 3: No Smoking Permitted in Common Areas Except in Designated Smoking Areas)

Additional Provisions

- Require landlords to include no-smoking lease terms in rental agreements
(See Model Ordinance Section 5: Required and Implied Lease Terms)
 - A "third-party beneficiary" provision enables other residents to enforce a lease's smoking restrictions
- Require landlords to alert tenants to the new smokefree requirements (required by law)
(See Model Ordinance Section 6: Notice and Signage Requirements)
- Declare drifting secondhand smoke a nuisance – everywhere or just in residential settings
(See Model Ordinance Section 7: Nuisance; Other)

Enforcement Options (See Model Ordinance Section 8: Penalties and Enforcement)

- Make violations of the ordinance an infraction with a fixed fine amount (cannot exceed \$100 for first violation)
- Authorize the city/county to bring lawsuits to collect civil fines for violations of the ordinance
- Declare that violations of the ordinance constitute a nuisance
- Allow private citizens to seek an injunction (an order to stop violations) and/or money damages against individuals who violate the ordinance

This material was made possible by funds received from Grant Number 14-10214 with the California Department of Public Health, California Tobacco Control Program.

June 2018

Appendix III: Sample Tobacco Information Flyer, With CHD Hotline

Did you know that smoking in multi-unit housing in [REDACTED] is now against the law?

Smoke can easily drift between units, exposing tenants to dangerous chemicals and carcinogens. Secondhand smoke poses a significant health risk to everyone - but especially to the most vulnerable, like children and the elderly.

If you share a wall, you might be sharing smoke.

- ✓ No smoking or vaping of any substance
- ✓ Applies indoors, on patios and balconies, and in other shared spaces
- ✓ Whether you rent or own

For more information, or to learn about how this law can protect you against the effects of secondhand smoke, visit the [REDACTED] website at: [REDACTED]

Call the Anonymous Smoke-Free Hotline.

If the issue isn't resolved, the City may cite for an infraction (\$100 fine), impose an administrative fine (starting at \$100), or civil fines (starting at \$250).

Report Drifting Smoke
Smoke-Free Hotline:
[REDACTED]

On the website for the CHD, the following text accompanies this image:

Are you experiencing drifting smoke in your home from another apartment or condo? If you have struggled to resolve this issue and to protect the health of your family, we are here to help. We believe everyone has a right to breathe fresh air at home, and we can help mediate the problem.

There are generally several steps that we recommend tenants take. It is always best to resolve the problem in the simplest way possible, so we ask that anyone who is struggling with a neighbor's smoke try the following possible solutions. You may be surprised how a simple solution can successfully protect you and your family:

1. **Talk to the smoker.** If you can identify who is creating the smoke, let them know that it is drifting into your apartment or condo, that you are concerned about the possible health

effects, and gently request that they take their smoking outdoors to a designated place away from the building.

2. **Talk to your landlord and/or write a letter.** We recommend discussing the issue with your landlord. They don't live in your apartment or condo and will not know about the problem unless you mention it to them. Ask them about any smoking policies in your building and request that they speak to your neighbor about the issue. Tell the landlord details about how the smoke affects you and is harmful to your health. Ask him or her for a specific solution, such as having the smoker go outside.
3. **Document the smoking.** Write down what a typical day in your apartment or condo is like regarding the secondhand smoke exposure. Many people state "the smoking is happening around the clock" or something similar, but it's helpful to be more specific. How many times a day does your neighbor smoke? What does this specifically look, feel, and smell like? Where do you think the smoke is coming from? What time of day do you notice it? What does it smell like? What physical reactions do you or your family have to the smoke?
4. **Contact ***** County Health.** We are here to promote the health and well-being of the community. We will work with you to mediate the secondhand smoke problem.
5. **Contact your City Council.** In some cases, tenants suffer secondhand smoke exposure and are unable to find a resolution with their landlord and neighbor. Cities can adopt smoke-free multi-unit housing ordinances to protect all residents living in multi-unit housing from experiencing secondhand smoke.
6. **Consider legal action.** Legal action is a last resort. The Tobacco Prevention Program cannot provide legal advice or support for legal action. As you can imagine, legal action is costly and very time-consuming, and generally, we can find a better solution. That said, documenting each step of the process you take to resolve a secondhand smoke issue will benefit you no matter what course of action you take.

If you have questions or need some help getting started, contact the Tobacco Prevention Program: *****