

# County of Santa Clara

## Public Health Department



Health Officer  
976 Lenzen Avenue, 2<sup>nd</sup> Floor  
San José, CA 95126  
408.792.5040

### **RE: 12/9 – Neighborhood Services & Education (NSE) Committee –Smoke-Free Housing**

Dear NSE Committee Councilmembers,

On behalf of the Santa Clara County Public Health Department (SCC PHD), I am writing in support of updating current regulations to prohibit smoking within multi-unit housing communities. SCC PHD's mission is to protect the health of our entire community. By considering such policies, we can create healthier environments and improve overall health outcomes.

Tobacco smoke contains more than 7,000 chemicals, including hundreds that are toxic and about 70 that can cause cancer. Secondhand marijuana smoke contains many of the same toxic and cancer-causing chemicals found in tobacco smoke and contains some of those chemicals in higher amounts. There is no risk-free level of exposure to secondhand smoke. Exposure to secondhand smoke and aerosol weakens the body's ability to respond to infection, putting non-smokers at risk. This exposure is especially detrimental during the COVID-19 pandemic due to increased risks for people with underlying health conditions.

The home is a significant source of secondhand smoke exposure for both adults and children. Children, older adults and people with disabilities and chronic health conditions are especially vulnerable to the exposure to secondhand smoke, yet they are often the least able to avoid it. More than 1 in 2 Santa Clara County residents in multi-unit housing report exposure to secondhand smoke in their homes. The highest rates of home exposure occur among Latinx households and households with an income level below \$34,999. In Santa Clara County, residents living in attached housing are twice as likely to be exposed to secondhand smoke drifting into their homes (52%) compared to those living in non-attached housing (26%). A comprehensive smoke-free housing ordinance should apply to all types of multi-unit housing, which includes: two or more attached units, duplexes, townhomes, and condominiums.

In closing, we strongly urge you to move forward with a comprehensive smoke-free housing ordinance without exemptions. We are encouraged by the current partnership between the City of San Jose and SCC PHD's Tobacco-Free Communities Program through the Healthy Cities Grant and look forward to our continued collaboration. I applaud city leadership for their consideration to update the regulation of smoking to prohibit smoking inside multifamily housing units and reduce exposure to secondhand smoke.

Sincerely,

A handwritten signature in blue ink, appearing to read "Sara H. Cody, MD".

Sara H. Cody, MD  
Health Officer and Public Health Director

**From:** Krantz, Ruth  
**To:** [Espejo, Gina](#)  
**Subject:** Fw: It is wrong to ban smoking and vaping cannabis at home  
**Date:** Thursday, December 9, 2021 8:07:06 AM

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RUTH KRANTZ CMC / DEPUTY CITY CLERK  
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200 EAST SANTA CLARA ST | SAN JOSE, CA 95113  
[RUTH.KRANTZ@SANJOSECA.GOV](mailto:RUTH.KRANTZ@SANJOSECA.GOV)

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**From:** brando duong <myvoice@oneclickpolitics.com>  
**Sent:** Wednesday, December 8, 2021 5:55 PM  
**To:** Krantz, Ruth <ruth.krantz@sanjoseca.gov>  
**Subject:** It is wrong to ban smoking and vaping cannabis at home

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Re: It is wrong to ban smoking and vaping cannabis at home

Dear Councilmember Krantz,

I was shocked to learn San Jose is considering banning tenants from vaping or smoking cannabis in their own homes.

This, despite the fact that a rigorous UCLA study found cannabis isn't linked to lung cancer even in firsthand users. This seems to be driven by misrepresentations of the risks. Cannabis smoke is not a serious health risk to people in completely different residences.

What's next, banning tenants from cooking foods their neighbors don't like the smell of? Fifty-seven percent of San Jose voters opted to legalize cannabis in 2016, and support has surely grown since then.


This ordinance would maintain legalization, but only for those wealthy enough to live in single-family homes. For renters, we can anticipate the same racially biased enforcement that was hallmark of cannabis prohibition. One of the enforcement provisions under consideration would result in the eviction of renters. It is shocking that the city would put people out of their homes for using a legal substance that is safer than alcohol.

Will the city also evict people for using any of the myriad of products listed on the Prop 65 warning list? Charcoal grills? Burnt toast? French fries?

Will you please vote "no" on this overly broad proposal, or remove cannabis from it?

Sincerely,

brando duong



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sources.

**From:** Krantz, Ruth  
**To:** [Espejo, Gina](#)  
**Subject:** Fw: It is wrong to ban smoking and vaping cannabis, but especially wrong to ban in some homes and not others.  
**Date:** Thursday, December 9, 2021 8:07:15 AM

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**From:** Michael Brown <myvoice@oneclickpolitics.com>  
**Sent:** Wednesday, December 8, 2021 5:05 PM  
**To:** Krantz, Ruth <ruth.krantz@sanjoseca.gov>  
**Subject:** It is wrong to ban smoking and vaping cannabis, but especially wrong to ban in some homes and not others.

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Re: It is wrong to ban smoking and vaping cannabis, but especially wrong to ban in some homes and not others.

Dear Councilmember Krantz,

I was shocked to learn San Jose is considering selectively banning residents from vaping or smoking cannabis in their own homes. This is an unnecessary criminalization that threatens to persecute cannabis users and put them out on the streets.

This, despite the fact that a rigorous UCLA study found cannabis isn't linked to lung cancer even in firsthand users. This seems to be driven by misrepresentations of the risks. Cannabis smoke is not a serious health risk to people in completely different residences.

What's next, banning tenants from cooking foods their neighbors don't like the smell of? Fifty-seven percent of San Jose voters opted to legalize cannabis in 2016, and support has surely grown since then.

This ordinance would maintain legalization, but only for those wealthy enough to live in single-family homes, which is wildly discriminating. For renters, who are disproportionately poorer people of color, we can anticipate the same racially biased enforcement that is hallmark of cannabis prohibition. One of the enforcement provisions under consideration would result in the eviction of renters. It is shocking that anyone in this city would put people out of their homes for using a legal substance that is safer than alcohol.

Will the city also evict people for using any of the myriad of products listed on the Prop 65 warning list? Alcohol? Charcoal grills? Burnt toast? French fries? Why is this proposal selectively targeting poorer people of color?

Will you please vote "no" on this overly broad and biased proposal, or remove cannabis from it?

Sincerely,  
Michael Brown



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**From:** Krantz, Ruth  
**To:** [Espejo, Gina](#)  
**Subject:** Fw: It is wrong to ban smoking and vaping cannabis at home  
**Date:** Thursday, December 9, 2021 8:07:59 AM

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RUTH KRANTZ CMC / DEPUTY CITY CLERK  
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**From:** Russell Stone <[myvoice@oneclickpolitics.com](mailto:myvoice@oneclickpolitics.com)>  
**Sent:** Wednesday, December 8, 2021 4:49 PM  
**To:** Krantz, Ruth <[ruth.krantz@sanjoseca.gov](mailto:ruth.krantz@sanjoseca.gov)>  
**Subject:** It is wrong to ban smoking and vaping cannabis at home

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Re: It is wrong to ban smoking and vaping cannabis at home

Dear Councilmember Krantz,

I am a non-smoker who has, throughout my adult life, advocated for and supported bans on smoking in public places, due to concerns about the ill effects of second hand tobacco smoke. I was shocked, however, to learn that San Jose is considering banning tenants from smoking, and especially from vaping or smoking cannabis, in their own homes.

This, despite the fact that a rigorous UCLA study found cannabis isn't linked to lung cancer even in firsthand users. This proposal seems to be driven by misrepresentations of the risks. Cannabis smoke is not a serious health risk to people, especially in completely different residences.

What's next, banning tenants from cooking foods, the smell of which their neighbors don't approve? Perhaps the city should consider banning tenants from having babies, because their baby's crying is bothersome and deprives other tenants of their needed sleep.

That, of course, would be absurd, and so is the current proposal to ban smoking in one's own home. Surely, there are better solutions for protecting renters from the ill effects of tobacco use, other than to discriminate against renters by prohibiting them from engaging in legal behavior within the confines of their own homes.

Why doesn't the city simply ban the sale and use of tobacco products entirely, as it did, until recently, with cannabis? At least that would not discriminate against folks who lack the resources (or who simply choose not) to purchase a single family dwelling. I hope and believe that the city would never even consider such a proposal to restrict citizen's rights, yet it is now considering this proposal to restrict the rights of a certain segment of the city's residents. Frankly, I find it rather shameful.

Regarding cannabis, specifically, fifty-seven percent of San Jose voters opted to legalize it in 2016, and support has surely grown since then. This ordinance would maintain legalization,

but only for those wealthy enough to live in single-family homes. For renters, we can anticipate the same racially biased enforcement that was hallmark of cannabis prohibition. One of the enforcement provisions under consideration would result in the eviction of renters. It is shocking that the city would put people out of their homes for using a legal substance that is safer than alcohol.

Will the city also evict people for using any of the myriad of products listed on the Prop 65 warning list? Charcoal grills? Burnt toast? French fries?

Please don't discriminate against and punish those who, for what ever reason, can not or choose not to own single family housing. I respectfully ask that you please vote "no" on this overly broad, draconian proposal, or at the very least, remove cannabis from it?

Sincerely,

Russell Stone

[Redacted signature block]

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**From:** [Espejo, Gina](#)  
**To:** [Espejo, Gina](#)  
**Date:** Thursday, December 9, 2021 9:57:27 AM

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**From:** Valerie Cincepcion <[myvoice@oneclickpolitics.com](mailto:myvoice@oneclickpolitics.com)>  
**Sent:** Wednesday, December 8, 2021 8:06 PM  
**To:** Krantz, Ruth <[ruth.krantz@sanjoseca.gov](mailto:ruth.krantz@sanjoseca.gov)>  
**Subject:** Cannabis smoking and vaping should not be banned in private homes

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Re: Cannabis smoking and vaping should not be banned in private homes

Dear Councilmember Krantz,

Please work to exclude cannabis smoking and vaping from San Jose's proposed ban on smoking and vaping tobacco in apartments and condos.

While tobacco causes 480,000 deaths per year in the U.S., cannabis use hasn't been shown to cause increased mortality, lung cancer, or COPD even in firsthand users. The claims that thirdhand cannabis smoke and vaping pose a serious danger to individuals in other residences is not supported by the evidence.

Because cannabis use is forbidden in public, this ban would make it impossible for renters to smoke or vaporize cannabis anywhere.

Some may claim edibles are an adequate alternative. But many cannabis consumers are uncomfortable with edibles, which are slow acting and can be too intoxicating. And for those in the midst of a spasm, stricken by nausea, needing immediate pain relief, or who have an aura of a seizure, edibles' relief often comes too late. And, unlike inhaled cannabis, edibles' dosage cannot be precisely titrated.

West Hollywood rightly exempted cannabis from a similar smoking ban, and San Francisco defeated a proposed ban on smoking at one's own apartment or condo due to the disproportionate impact on low-income individuals and minorities.

Can I count on you to work to exempt cannabis from this ordinance?

Sincerely,  
Valerie Cincepcion

[Redacted Signature]

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**Gina Espejo, Staff Specialist**

City Manager's Office

Office: 408.535.8160



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San Jose City Council  
200 E. Santa Clara St.  
San José, CA 95113

December 8, 2021

*Re: December 9, NSE Committee Meeting, Agenda Item 3, Council Policy Priority #18: Smoke-Free Housing*

Dear Neighborhood Services and Education Committee Members - Council Member Arenas, Council Member Carrasco, Council Member Esparza, Council Member Cohen and Council Member Jimenez,

On behalf of the organizations signed on to this letter, we are writing to support a strong ordinance to protect San Jose residents of multi-unit housing from drifting secondhand smoke.

This issue has been prioritized and under consideration by the Council since Fall 2017, and we urge you to move forward to protect residents.

**Protect ALL Low Income Residents**

Across Santa Clara County more than 1 in 2 residents living in multi-unit housing are exposed to secondhand smoke in their home. Higher exposure rates are also correlated with different racial groups, lower income levels and educational attainment.

While wealthier homeowners are able to protect themselves and their families from drifting secondhand smoke in their own homes, multi-unit housing families are not so fortunate. Secondhand smoke not only can drift in from other units through open windows and doorways, but also through cracks, electrical outlets, ventilation systems and plumbing.

Secondhand smoke exposure is harmful and potentially deadly. The U.S. Surgeon General has stated that there is no risk-free level of exposure to secondhand smoke. Those living in our multi-unit housing, children, the elderly, the disabled, and communities of color — our most vulnerable citizens — are also the most vulnerable to the harms of secondhand smoke.

It is important to note that housing for our lowest income residents, HUD housing has been smoke-free since 2016, including here in Santa Clara County. At the time U.S. Housing and Urban Development (HUD) Secretary Julián Castro said that *“HUD’s smoke-free rule is a reflection of our commitment to using housing as a platform to create healthy communities.”* As part of this regulation, HUD supports a process of escalating penalties, culminating in an eviction for a violation of the lease.

### **Include All Types of Smoke**

The policy in San Jose should continue to include all types of smoke. All other cities in Santa Clara County that have a smoke-free multi-unit housing policy include all types of smoke - tobacco, vape, & cannabis.

- All types of secondhand smoke are harmful.
- This would align local and state law; the California Department of Cannabis Control states that you cannot smoke cannabis where it is illegal to smoke tobacco.

### **Include All Types of Multi-Unit Housing**

We are disappointed that the draft ordinance that the city is considering will NOT cover all residents of multi-unit housing, meaning some residents may continue to be exposed to secondhand smoke in their homes.

A strong ordinance would include:

- Any building with 2 or more units - residents of duplexes share a common wall and need to be protected.
- Condominiums and townhomes - these are multi-unit housing and residents should be protected (in fact, many of them are renters).

### **Common Sense Policy**

This policy is common sense. In fact, more than half of the jurisdictions in Santa Clara County — 9 out of 16 — have already passed smoke-free housing policies that restrict smoking in multi-unit housing with provisions that include condominiums, duplexes and cannabis. The jurisdictions are Cupertino, Los Gatos, Milpitas, Mountain View, Palo Alto, Monte Sereno, Santa Clara, Sunnyvale and Santa Clara County.

We urge you to move forward with a stronger policy to protect ALL residents from dangerous secondhand smoke in their homes.

Sincerely,

Americans for Nonsmokers’ Rights  
Breathe California  
Cancer Action Network - American Cancer Society  
Santa Clara Family Health Plan  
Santa Clara County Public Health  
Tobacco-Free Coalition of Santa Clara County

**From:** elena nelson  
**To:** [Espejo, Gina](#)  
**Subject:** Please Do Not Ban Cannabis Smoking and Vaping in San Jose Apartments  
**Date:** Thursday, December 9, 2021 7:40:33 AM

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San Jose City Council ,

Dear San Jose City Council NSE Committee,

I am writing to urge that cannabis smoking and vaping not be prohibited in private apartments and multi-unit dwellings.

The proposed smoke-free housing ordinance would constitute a de facto ban on cannabis use for low-income residents who can't afford their own homes. Unlike tobacco, which can be legally smoked outside on public streets, cannabis consumption is unlawful in all public places under state law. The proposed ordinance would thus leave apartment dwellers with no legal place to use marijuana. This violates the intent of the California Compassionate Use Act of 1996 (Prop 215), to protect medical marijuana use from legal sanction.

Cannabis does not present a secondhand smoke hazard like tobacco. Unlike tobacco, first-hand cannabis smoking has been shown not to cause lung cancer or cardiovascular disease in numerous human studies. Second-hand exposure is therefore all the less likely to be harmful. Anti-smoking alarmists, funded by the state's tobacco tax, are trying to scare the public with junk science studies alleging traces of toxins in marijuana smoke, without mentioning that the amounts are so minuscule as to have no adverse impact on human health. In general, cannabis users tend to smoke much smaller quantities than tobacco smokers. In addition, cannabis smoke does not leave behind prolonged, residual "third-hand" odors like nicotine.

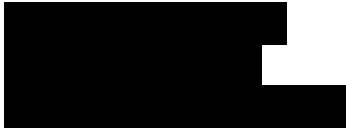
Including vapes in a secondhand smoking ban is even more unjustified. Vaporization has been shown to eliminate 95%-99.99% of all smoke toxins, both in marijuana and tobacco. In addition, vaporizers drastically reduce secondhand side-stream emissions and don't involve lighters, matches, fire, smoke and ashes. Not a single human study has demonstrated harm from vape exposure. Vaporizers are a valuable harm-reduction tool for users trying to quit smoking. There is no justification for banning vaporization in private dwellings.

The proposed policy inordinately impacts lower-income and minority residents who can't afford their own homes. Evicting tenants for smoking will scarcely improve the city's

homelessness crisis. San Jose is large enough to provide 100% odor-free apartments for those who are smoke-sensitive, while allowing freedom for others to enjoy marijuana within different units.

The cities of San Francisco and West Hollywood recently rejected proposed bans on cannabis smoking in multi-unit dwellings. San Jose should follow their leads.

elena nelson



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Alliance



December 9, 2021

The Honorable Chair Sylvia Arenas, Vice-Chair Magdalena Carrasco, and Committee Members David Cohen, Maya Esparza, and Sergio Jimenez Neighborhood Services and Education Committee, San Jose City Council 200 E. Santa Clara St., San José, CA 95113

Via e-mail: [gina.espejo@sanjoseca.gov](mailto:gina.espejo@sanjoseca.gov); [city.clerk@sanjoseca.gov](mailto:city.clerk@sanjoseca.gov); [agendadesk@sanjoseca.gov](mailto:agendadesk@sanjoseca.gov)

**Re: Amendment to Chapter 9.44, Regulation of Smoking, of Title 9, Health and Safety, of the San José Municipal Code in Alignment with City Council Policy Priority #18: Smoke-Free Housing**

Dear NSE Committee Members:

Although we are part of a group letter regarding this ordinance, recently proposed changes require additional comment.

I am writing to express our agency's stringent opposition to the exemption of cannabis now being considered for the proposed ordinance that was originally meant to provide greater protection from secondhand smoke for San Jose's residents who live in multi-unit housing (MUH). Excluding cannabis, or any other smoking, from regulation would make the ordinance unenforceable and therefore meaningless.

As proposed, the ordinance is already flawed due to its failure to protect those who live in condominiums and duplexes, but at least it would be a step toward improvement of the current situation for SOME residents. If the proposed exemption of cannabis is included, it would not. There would be no way to easily prove which type of smoke was at issue, so no one would be held accountable for any secondhand smoke.

Breathe California's Secondhand Smoke Helpline, in operation for thirty years, gets as many or more calls recently about cannabis (or cannabis plus tobacco) than about tobacco smoke. It has become an even more critical issue since the pandemic, with so many people working from home. There is growing evidence that secondhand cannabis smoke is just as toxic as secondhand tobacco smoke.

<https://www.sciencedirect.com/science/article/pii/S2211335519300385>;  
<https://pubmed.ncbi.nlm.nih.gov/27464788/>

We would like to point out that your assertion that including cannabis "May disproportionately impact low income and people of color" is *unfounded*. I checked with two noted cannabis researchers from UCSF, and they both objected to this characterization, pointing out that the small differences found in some studies (2-4 % for varying age groups from the lowest

(<100% of poverty to the highest >200% of poverty level SES) do not justify exposing individuals to the serious health effects of secondhand cannabis smoke. They suggested changing the penalty steps to avoid unnecessary eviction rather than exempt cannabis. In fact, research reported by the National Institutes of Health says: “Young adults with the *highest* family background SES were most prone to alcohol and marijuana use.” ([www.ncbi.nlm.nih.gov](http://www.ncbi.nlm.nih.gov)) And another study showed that “identifying as Asian or Hispanic was associated with lower-frequency cannabis use after accounting for other baseline factors.” (<https://jamanetwork.com/journals/jamanetworkopen/article-abstract/2786687>)

Most of our Secondhand Smoke Helpline callers are low-income and people of color. They fear eviction if they “cause trouble” for their landlords by complaining, and they do not have the financial means to move. Some of them actually sleep in their cars to avoid secondhand smoke. Don’t they deserve to breathe healthful air in their own home? Perhaps those cannabis users who refuse to use the non-smoking forms of cannabis could smoke in their cars...

There are, no doubt, numerous ways to approach the issue of secondhand cannabis smoke without simply allowing it to injure innocent parties such as children, the elderly, and MUH residents with lung and heart disease. Please spend some time discussing other approaches—such as setting aside areas outdoors for cannabis smoking --- before exempting this dangerous substance from control. In addition, an education campaign to encourage using other forms of cannabis such as edibles in MUH residences would be a good idea.

Thanks for Your Consideration,



Margo Sidener, MS, CHES  
Chief Executive Officer



1775 Story Road, Suite 120  
San Jose, CA 95122

San Jose City Council  
200 E. Santa Clara St.  
San José, CA 95113

December 8, 2021

*Re: December 9, NSE Committee Meeting, Agenda Item 3, Council Policy Priority #18: Smoke-Free Housing*

Dear Neighborhood Services and Education Committee Members - Council Member Arenas, Council Member Carrasco, Council Member Esparza, Council Member Cohen and Council Member Jimenez,

The Tobacco-Free Coalition of Santa Clara County, which consists of organizations and individuals interested in promoting the health of our citizens, would like to thank the San Jose City Council for moving forward to protect San Jose residents from drifting secondhand smoke in multi-unit housing. We appreciate your focus on this important topic.

Across Santa Clara County more than 1 in 2 residents living in multi-unit housing are exposed to secondhand smoke in their home. Higher exposure rates are correlated with different racial groups, lower income levels and educational attainment.

**However, we are disappointed to see in the draft ordinance that the city is not considering the strongest ordinance which would protect all residents.** It is upsetting that some residents of multi-unit housing may continue to be exposed to secondhand smoke in their home.

A strong ordinance would protect all residents of multi-unit housing:

- Any building with 2 or more units - so that even duplex residents who share a wall are protected
- Condominiums and townhomes - so that residents who own their multi-unit home are protected

We are pleased to see that the draft policy **does include all types of smoke**, so that residents are also protected from exposure to secondhand vape and cannabis, not just traditional cigarette smoke. We are concerned that exempting cannabis smoking from the policy would make a law unenforceable, with every potential violator claiming to be smoking cannabis.



These provisions are common sense. In fact, more than half of the jurisdictions in Santa Clara County — 9 out of 16 — have already passed smokefree housing policies that restrict smoking in multi-unit housing with these provisions (Cupertino, Los Gatos, Milpitas, Mountain View, Palo Alto, Monte Sereno, Santa Clara, Sunnyvale and Santa Clara County).

Secondhand smoke exposure is harmful and potentially deadly. The U.S. Surgeon General has stated that there is no risk-free level of exposure to secondhand smoke. **Children, the elderly and the disabled — our most vulnerable citizens — are also the most vulnerable to secondhand smoke.**

Our coalition urges you to move forward with a stronger policy to protect ALL residents from dangerous secondhand smoke in their homes.

Sincerely,

Vanessa Marvin, Co-Chair



Carol Baker, Co-Chair

