



## Evaluating Smokefree Multi-Unit Housing Policies of Berkeley and Huntington Park, California

From Policy to Implementation of Smokefree Housing

## Background

Many Californian residents are exposed to secondhand smoke in their multi-unit dwellings. Cigarette and tobacco smoke can travel from one neighbor's home to another, the same way that noises and cooking odors can travel. Scientific studies show that toxic secondhand smoke can drift into and out of open windows and doors. It can even travel through shared air vents and ducts, cracks in walls, gaps around electrical wiring, lights and plumbing, and through floorboards. Non-smokers, and even smokers that do not smoke in their homes can be exposed to elevated pollution levels from breathing in smoke from neighboring apartments. Based on several studies, an estimated 44%-53% of multi-unit housing (MUH) residents that do not allow smoking in their home have experienced secondhand smoke infiltration in their home from elsewhere in or around the building.<sup>1</sup>



To help reduce exposure to toxic secondhand smoke, 101 communities in California have adopted smokefree housing policies.<sup>2</sup> These policies vary with a range of provisions to include the actual units, common areas, and condominiums. Passing city and county smokefree policies help ensure all residents are protected from secondhand smoke in their homes.

American Lung Association in California  
Center for Tobacco Policy and Organizing:  
Smokefree Multi-Unit Housing Resources

[center4tobaccopolicy.org/tobacco-policy/  
smokefree-multi-unit-housing/](https://center4tobaccopolicy.org/tobacco-policy/smokefree-multi-unit-housing/)



Implementing and enforcing a smokefree policy in your city or county can seem intimidating. The American Lung Association Center for Tobacco Policy & Organizing has tools to help communities and coalitions learn more about how various cities are implementing and enforcing smokefree MUH policies.

**Smokefree Federal Public Housing:** On July 30, 2018, the Department of Housing and Urban Development (HUD) ruled all public housing to be smokefree took effect. This rule provides important smokefree protections to approximately two million residents. The HUD rule was finalized on February 3, 2017, and authorities were given 18 months to implement the policy.

**More Info:** [https://www.hud.gov/program\\_offices/  
healthy\\_homes/smokefree](https://www.hud.gov/program_offices/healthy_homes/smokefree)

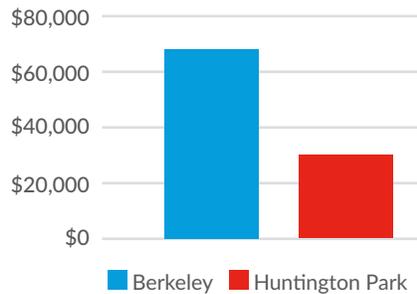
This case study will discuss the implementation of smokefree MUH policies in the cities of Huntington Park and Berkeley. Both communities are densely populated with several MUH dwellings. However, the two communities significantly vary when looking at other demographic factors like race, ethnicity, and average household income.<sup>3</sup> Despite their differences in demographics, both cities have passed smokefree policies that will protect residents from secondhand smoke.

## Demographic Differences – Huntington Park & Berkeley, CA

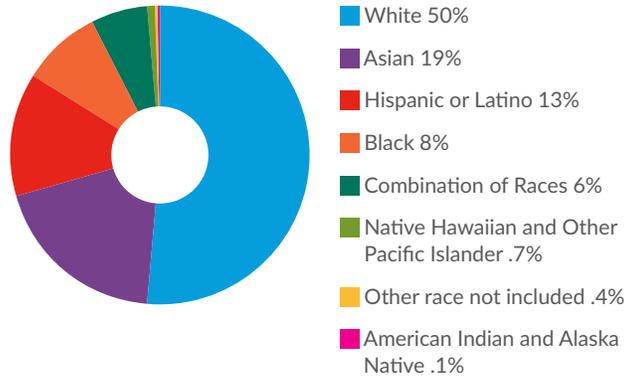
In California, large cities and rural communities typically have fewer strong tobacco control policies than suburban, affluent communities. Yet, the significant differences of socioeconomic status and race/ethnicity between Huntington Park and Berkeley, California, show that communities from all over California can pass smokefree MUH policies, regardless of the community makeup.

Passing smokefree policies in all communities will help address tobacco use and secondhand smoke exposure disparities. For example, African Americans are more likely than other racial groups to be exposed to secondhand smoke. Hispanic/Latinos are also disproportionately exposed to secondhand smoke at home. Smokefree MUH policies in Berkeley and Huntington Park are protecting residents who typically are not protected from harmful secondhand smoke exposure at home.<sup>4,5,6</sup>

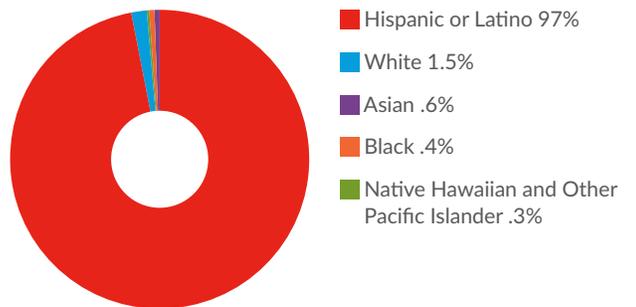
### Income Comparison Between Cities



### Population of Berkeley



### Population in Huntington Park



## Smokefree Multi-Unit Housing Implementation: Huntington Park, CA Policy Campaign Background

Many Los Angeles County residents live in MUH and are at risk of exposure to drifting secondhand smoke from neighboring units. Some cities in Los Angeles County, like Huntington Park, have prioritized protecting residents from secondhand smoke exposure.

On May 2, 2011, the Huntington Park City Council adopted a resolution to support the Los Angeles County’s Tobacco Control Coalition, known as Project TRUST (Tobacco Reduction Using Effective Strategies & Teamwork). The Council’s Health and Education Commission and staff worked with Project TRUST and ChangeLab Solutions to create a model ordinance addressing secondhand smoke exposure. From their research, the organizations determined that the best method to reach their goals was to create a smokefree

MUH ordinance with staggered implementation.<sup>7</sup> This helped Huntington Park to reduce risks associated with a new policy before moving onto full implementation.

### Stakeholder Engagement

Community members, from all occupations, such as tenants, apartment complex owners, and realtors were involved in the months leading up to the policy’s adoption. On January 17, 2012, a stakeholders meeting was held at City Hall to discuss the proposed smokefree MUH ordinance. Realtors, property managers, trade association groups, public interest groups, and Project TRUST representatives attended the meeting. Overall, the community stakeholders were supportive of the ordinance. Enforcement was the most commonly expressed concern, stakeholders wanted assurance that the burden of enforcement would not fall upon property owners and property management companies. They were also concerned that it might be difficult to provide designated smoking areas given the high density of buildings in the city.

## Policy Provision and Implementation

With a unanimous vote, Huntington Park adopted a smokefree MUH ordinance on February 21, 2012. The ordinance applied to apartments, a common interest complex where the tenants share the common areas, planned developments, and stock cooperatives where a corporation owns the building.

The ordinance outlined implementation in two phases. Effective July 1, 2012, smoking would be prohibited in newly built MUH units and existing units that are newly leased. Effective July 1, 2013 smoking would be prohibited in ALL MUH. The policy includes the following provisions:

- Smoking is prohibited in all MUH
- Smoking is prohibited within 25 feet of doorways, windows, vents, and other openings
- Smoking is prohibited in all common areas, except landlords may designate a portion of common areas as a dedicated smoking area
  - Designated smoking areas must be in an unenclosed area, at least 25 feet from any enclosed non-smoking area.
- Vapor from electronic cigarettes is included
- The public (neighbors bothered by smoke) could enforce the rule

- The police department issues tickets of \$100 for each offense<sup>8,9</sup>

Project TRUST provided a sample lease addendum, educational materials for residents and property owners, and “NO SMOKING” signage at no cost to the city.<sup>3,4</sup>

The city created a form for tenants and property owners to acknowledge they have received information on the new laws.<sup>9</sup> A checklist that outlines the provisions for the new ordinance was sent to residents and property owners as well as instructions on where and how to post “NO SMOKING” signs.<sup>9</sup>

Implementing Huntington Park’s smokefree multi-unit housing policy through community engagement created a path to address secondhand smoke in these housing areas. Residents were able to follow these new ordinances due to the staggered implementation method, which included education campaigns and a one-year policy phase period.

[City of Huntington Park  
Purchaser/Tenant Disclosure of  
Multi-Unit Housing Smoking Regulations  
hpcga.gov/DocumentCenter/View/4237/Multi-unit-Housing-Regulations-Compliance-Form?bidId](http://hpcga.gov/DocumentCenter/View/4237/Multi-unit-Housing-Regulations-Compliance-Form?bidId)

## Smokefree Multi-Unit Housing Implementation: Berkeley, CA

### Policy Campaign Background

Similar to Los Angeles, many Bay Area residents live in MUH and are at risk of exposure to drifting secondhand smoke from neighboring units. Some cities, like Berkeley, have strong rent control laws that can affect smokefree MUH policy enforcement and implementation. ChangeLab Solutions and the American Lung Association Center for Tobacco Policy & Organizing have tools to help communities understand the nuances between smokefree MUH policies in municipalities that have rent control laws and those that do not.

### Rent Control

On December 17, 2013, the city of Berkeley adopted an ordinance prohibiting smoking in all multi-unit residences and common areas. The ordinance protects all Berkeley residents, including residents that live in rent-controlled areas. Under Berkeley Municipal Code for evictions, the

code states that landlords may not evict tenants if they fail to adhere to a landlord’s change in terms of the tenancy. While all changes in terms of the tenancy are prohibited, this code makes clear that landlords are not allowed to evict tenants for refusing to agree or abide by a new prohibition on smoking in the rental unit imposed by the landlord. Landlords may also not unilaterally change the terms of tenancy and then evict the tenant for violation of the changed term unless the tenant has expressly agreed to it—therefore, an agreement must be in writing, signed by both the tenant and landlord, and the tenants must knowingly consent to the change. This means that although smoking is prohibited in all rent-controlled areas, tenants who moved into rent-controlled areas prior to the ordinance and did not agree to the new smoking prohibition, cannot be evicted for violating the new smoking prohibition. Although these particular individuals cannot be evicted for violating the ordinance, they are still subject to other consequences, like fines, listed in the policy provisions.<sup>10,11</sup>

## Policy Provisions and Implementation

Berkeley's smokefree multi-unit housing ordinance became effective on May 1, 2014, six months after adoption. Smoking is prohibited in 100% of MUH with two or more units, which includes: apartments, co-ops, condominiums, and common interest developments. The policy included the following provisions:

- Smoking is prohibited in all MUH
- Smoking is prohibited in all enclosed and unenclosed common areas
- Smoking is prohibited in private decks, balconies, and porches of units
- Using electronic cigarettes is prohibited
- The first infraction fine starts at \$100 and moves up to \$500 for a third offense
- The Health, Housing, and Community Services Department is the enforcing body responsible for citing smoking violations<sup>12,13</sup>

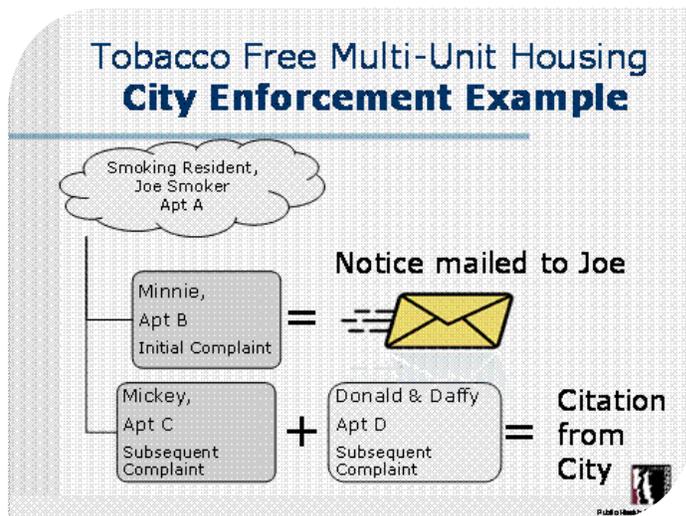
### City of Berkeley Public Health Division: Resources for Landlords & Tenants

[cityofberkeley.info/Health\\_Human\\_Services/Public\\_Health/Smoke\\_Free\\_MUH.aspx](http://cityofberkeley.info/Health_Human_Services/Public_Health/Smoke_Free_MUH.aspx)

Berkeley's smokefree MUH policy provides a clear path for enforcement and implementation. The policy states that all common areas of MUH dwellings shall have signage indicating that smoking is prohibited. The Berkeley Public Health Department equipped property owners and residents with resources to address those who continue to smoke in their complexes. The materials can be downloaded or mailed and include: a "NO SMOKING" sign, smoking complaint form and information sheet, overview of policy for property owners, ordinance brochure for new and existing tenants, notification letter to tenants for use by property owners, sample voluntary lease addendum for existing tenants, and a no smoking clause for new leases.<sup>14</sup>

## Enforcement: Handling Complaints

The City of Berkeley created an effective system for dealing with complaints of secondhand smoke in MUH buildings. Berkeley's smokefree MUH policy enforced by the Health, Housing, and Community Services Department as the enforcing body responsible for citing smoking violations.



Berkeley residents experiencing exposure to secondhand smoke in their MUH dwellings can submit a complaint form from the City of Berkeley website or from their property owner to the city. Upon the public health division receiving the complaint, a city staff member will send a notice through the mail to the resident violating the smoking prohibition. The notice alerts the resident about the complaint and provides information on smokefree rules. If within six months the city receives additional complaints from residents in two separate units about the same smoker, the city can issue a ticket or infraction.<sup>15</sup>

## Cessation Services

Berkeley's smokefree MUH policy also includes an outreach and education campaign with information about the law and information on smoking cessation services to help tenants quit smoking. These resources and more are all available through the City of Berkeley [website](#). The Department of Tobacco Prevention provides free tobacco cessation services to the community, including referrals to the Smokers' Helpline.<sup>16,17</sup>

Berkeley's early smokefree policies showed there was a clear path of implementation to follow the policy, but there was some discrepancy in how this new ordinance was going to be enforced. The City of Berkeley created a system on how to file complaints, which has helped maintain the smokefree MUH policy. By delegating the Health, Housing, and Community Services Department as the enforcers, community members are involved and participate in addressing smokefree issues.

## Conclusion

Multi-unit housing policies protect residents from the dangers of secondhand smoke. Throughout the planning stages of a multi-unit housing policy, it is important that communities prepare to ensure that the law can be enforced.

Engaging local stakeholders prior to policy adoption can provide unique insight into what policy provisions appear best suited for the community. Partnerships with local health departments can yield added resources, like sample “NO SMOKING” signs and smoking cessation services.

Creating a clear path for residents to report violations of smokefree MUH policies and designating an enforcement agency can help reduce the burden of enforcement on landlords and property managers.

The American Lung Association Center for Tobacco Policy & Organizing has tools online to help communities and coalitions learn more about how to pass a local smokefree MUH policy, including information on how various cities are implementing and enforcing smokefree MUH policies.<sup>15</sup> ChangeLab Solutions offers model ordinance language and information on implementing smokefree MUH in rent-controlled areas on their [website](#).<sup>18,19</sup>

1. Is Secondhand Smoke Infiltrating Your Apartment or Condominium?, American Lung Association, [www.lung.org/our-initiatives/tobacco/smokefree-environments/multi-unit-housing/secondhand-smoke.html](http://www.lung.org/our-initiatives/tobacco/smokefree-environments/multi-unit-housing/secondhand-smoke.html).
2. Smokefree Policies in Multi-Unit Housing. American Lung Association. Retrieved from <https://www.lung.org/our-initiatives/tobacco/smokefree-environments/multi-unit-housing/>
3. 2013-2017 American Community Survey (5-year estimates), California Department of Finance. [http://www.dof.ca.gov/Reports/Demographic\\_Reports/American\\_Community\\_Survey/](http://www.dof.ca.gov/Reports/Demographic_Reports/American_Community_Survey/)
4. State of Tobacco Control 2019, California Local Grades, American Lung Association in California <https://www.lung.org/local-content/california/documents/state-of-tobacco-control/2019/2019-sotc-california-full.pdf>
5. Baezconde-Garbanati LA et. al, Secondhand Smoke Exposure Among Hispanics/Latinos Living in Multiunit Housing: Exploring Barriers to New Policies, American Journal of Health Promotion, 2011.
6. Centers for Disease Control and Prevention, Vital Signs: Disparities in Nonsmokers' Exposure to Secondhand Smoke—United States 1999–2012. Morbidity and Mortality Weekly Report, 2015.
7. Adler, A. (2012, March 1). Huntington Park Bans Smoking inside Apartment Units. Smoke-Free Housing NY. Retrieved from [www.smokefreehousingny.org/2012/03/01/huntington-park-bans-smoking-inside-apartment-units/](http://www.smokefreehousingny.org/2012/03/01/huntington-park-bans-smoking-inside-apartment-units/)
8. Huntington Park, California, Municipal Code, Title 4 Section 12A (2012) <http://qcode.us/codes/huntingtonpark/view.php?topic=4-12a&showAll=1&frames=on>
9. City of Huntington Park. Purchaser/Tenant Disclosure of Multi-Unit Housing Smoking Regulations. Retrieved from <https://www.hpca.gov/Document-Center/View/4237/Multi-unit-Housing-Regulations-Compliance-Form?bidId>
10. Guide to Berkeley's Rent Stabilization Program Rent Control & Eviction Protection January 2015, Rent Stabilization Board, City of Berkeley. [https://www.cityofberkeley.info/Rent\\_Stabilization\\_Board/Home/Guide\\_to\\_Rent\\_Control\\_2015\\_-\\_Other\\_Laws.aspx](https://www.cityofberkeley.info/Rent_Stabilization_Board/Home/Guide_to_Rent_Control_2015_-_Other_Laws.aspx)
11. Chapter 13: Good Cause for Evictions, Rent Stabilization Board, City of Berkeley [https://www.cityofberkeley.info/Rent\\_Stabilization\\_Board/Home/Regulation\\_Chapter\\_13.aspx#1313](https://www.cityofberkeley.info/Rent_Stabilization_Board/Home/Regulation_Chapter_13.aspx#1313)
12. Smoking Law Affects All Berkeley Multi-Unit Housing Ordinance No. 7,321-N.S. (2013), City of Berkeley [https://www.cityofberkeley.info/uploaded-Files/Health\\_Human\\_Services/Level\\_3\\_-\\_Public\\_Health/TobaccoFreeMultiUnitOrdinance.pdf](https://www.cityofberkeley.info/uploaded-Files/Health_Human_Services/Level_3_-_Public_Health/TobaccoFreeMultiUnitOrdinance.pdf)
13. Berkeley, California, Municipal Code Chapter 12.70 (2013) <https://www.codepublishing.com/CA/Berkeley/>
14. Berkeley Smoke-Free Multi-Unit Housing, Public Health Division, City of Berkeley, [https://www.cityofberkeley.info/Health\\_Human\\_Services/Public\\_Health/Smoke\\_Free\\_MUH.aspx](https://www.cityofberkeley.info/Health_Human_Services/Public_Health/Smoke_Free_MUH.aspx)
15. Complaint Re: Prohibiting Smoking in Multi-Unit Residence, City of Berkeley, [https://www.cityofberkeley.info/uploadedFiles/Health\\_Human\\_Services/Level\\_3\\_-\\_Public\\_Health/SFMUH-ComplaintForm-02-28-18.pdf](https://www.cityofberkeley.info/uploadedFiles/Health_Human_Services/Level_3_-_Public_Health/SFMUH-ComplaintForm-02-28-18.pdf)
16. Berkeley Bans Tobacco Smoking in Apartments, Condos. Berkeleyside. Retrieved from [www.berkeleyside.com/2013/12/05/berkeley-bans-tobacco-smoking-in-apartments-condos](http://www.berkeleyside.com/2013/12/05/berkeley-bans-tobacco-smoking-in-apartments-condos).
17. Quit Smoking Class Schedule, Public Health Division, City of Berkeley, [https://www.cityofberkeley.info/Health\\_Human\\_Services/Public\\_Health/\\_Freedom\\_From\\_Tobacco\\_\\_Quit\\_Smoking\\_Classes.aspx](https://www.cityofberkeley.info/Health_Human_Services/Public_Health/_Freedom_From_Tobacco__Quit_Smoking_Classes.aspx)
18. Smokefree Multi-Unit Housing - Center for Tobacco Policy & Organization. The Center for Tobacco Policy and Organization, [www.center4tobaccopoly.org/tobacco-policy/smokefree-multi-unit-housing](http://www.center4tobaccopoly.org/tobacco-policy/smokefree-multi-unit-housing).
19. Creating Smokefree Housing, ChangeLab Solutions <https://www.changelabsolutions.org/publications/model-ord-smokefree-housing>