

Notice of City of Santa Rosa SMOKING ORDINANCE

On July 7, 2015, the City of Santa Rosa adopted an ordinance prohibiting smoking and vaping in multifamily housing.

Under the City Code Section 9-20.030, smoking includes lighting, burning, vaping, or carrying any lighted cigarette, cigar, pipe, electronic smoking device, tobacco product, marijuana, or any other combustible substance.

Multifamily Residence means any residential property containing two or more units with one or more shared walls, floors, or ceilings, including, but not limited to, condominiums, duplexes, and any other attached housing (such as townhouses).

City Code Section 9-20.070

Effective October 6, 2015, smoking and vaping is prohibited in all Common Areas unless the Association has designated and marked a smoking area meeting all of the criteria set forth in the ordinance.

Effective August 7, 2016, smoking and vaping is prohibited in any existing unit of a multifamily residence.

The City of Santa Rosa and the Santa Rosa Police Department may enforce this ordinance. Residents wanting enforcement should contact the Santa Rosa Police Department.

Text of 9-20.070 Prohibition of smoking in multifamily residences

(A) Smoking is prohibited in any new unit of a multifamily residence.

(B) Except as otherwise expressly provided herein, beginning August 7, 2016, smoking is prohibited in any existing unit of a multifamily residence.

(C) Beginning on October 6, 2015, smoking is prohibited in all common areas, except that a person with legal control over a common area, such as a landlord or homeowners' association, may designate a portion of the common area as a designated smoking area provided that at all times the designated smoking area complies with subsection (D) below.

(D) A designated smoking area shall comply with the requirements of Section 9.20-030. In addition, designated smoking areas for multifamily residential properties shall be located at least 25 feet from all perimeter property lines abutting residential to minimize the impacts of outdoor smoking on adjacent property owners; and

(E) No person with legal control over a common area in which smoking is prohibited by this article or other law shall knowingly permit the presence of ash trays, ash cans, or other

receptacles designed for or primarily used for disposal of smoking waste within the area.

(F) Notwithstanding any other provision of this chapter, use of an electronic smoking device in a multifamily residence by a qualified medical cannabis patient as defined in California Health and Safety Code Section 11362.7 et. seq, as amended, is not prohibited by this ordinance.

(G) Notwithstanding any other provision of this chapter, use of electronic smoking devices is allowed in the outdoor common areas of attached multifamily residential developments provided that use of electronic smoking devices is prohibited (1) within a reasonable distance from enclosed areas where smoking is prohibited, such as residential buildings, (2) within 25 feet of unenclosed recreational areas that are primarily used by children, and (3) within 25 feet of unenclosed areas that have improvements that facilitate physical activity including playgrounds, tennis courts, swimming pools, and sports fields.

Text of 9-20.080 Landlord compliance with smoking prohibition in multifamily residences

(A) Every landlord of a multifamily residence, as defined in this chapter, in order to demonstrate compliance with the applicable provisions in this chapter, shall at a minimum include in every lease or rental agreement for a multifamily residence a provision prohibiting any smoking within any such unit, including any exclusive use areas such as patios, balconies and porches, as well as in common areas and on the property as a whole, except in a designated smoking area consistent with this chapter. Such provision, which may be incorporated by amendment to house rules applicable to the property, shall (1) state that any violation of the smoking prohibition by, through or under the control of tenant be construed as a material breach of the lease or rental agreement, and (2) be included in any rental or lease agreement at the soonest date possible, but in no event later than August 7, 2016 for those multi-family units already in existence and occupied pursuant to a lease other than a month-to-month lease as of the effective date of the ordinance. Multifamily residences rented or leased on a month-to-month basis, and owner-occupied multifamily residences, shall be converted to nonsmoking at the soonest date possible, and no later than 60 days from the effective date of this ordinance.

(B) Compliance with the requirement set forth in (A) above shall not excuse the landlord of a multi-family unit from taking appropriate steps to ensure tenant compliance with this chapter. Landlord shall be prepared to respond to and address complaints from other tenants on the property of violations of the smoking prohibitions.

(C) For purposes of this section, appropriate steps shall include the following:

(1) Posting signs in compliance with the requirements of this chapter.

(2) Sending every tenant written information on an annual basis for the first three years following the adoption of this ordinance about the requirements of this chapter, to include no smoking requirements and the location, if any, of a designated smoking area on the property.

(3) Notifying each tenant who is the subject of a smoking complaint of the requirements

of this chapter as well as the fact that a complaint was lodged against the tenant and encouraging compliance.

(D) So long as Landlord can demonstrate that it has implemented all of the appropriate steps towards compliance with this ordinance, Landlord shall not be found in violation of the ordinance.