



SMOKE-FREE MARIN COALITION

American Cancer
Society

American Lung
Association

Marin County Tobacco
Related Disease
Control Program

Bay Area Community
Resources

Marin Pharmacists
Association

Marin County Office of
Education

Marin Link

Asian Advocacy/
Community Action
Marin

American Heart
Association

Public Health Institute

Parents4Safer Schools

Smoke-Free Marin
Website:

www.smokefreemarin.com

Date: September 9, 2016

To: Cathy Capriola, Novato Interim City Manager
From: Smoke-Free Marin Coalition

From: Smoke-free Marin Coalition

Re: Updating Novato's second-hand smoke ordinance (# 1533) and youth tobacco access ordinance (two separate ordinances).

The Marin County Tobacco Related Disease Control Program has been a resource for Marin communities since 1990, providing public education, handling and mediating complaints and other County- City collaboration activities. As the First Responder on smoking complaints from residents from all communities, the County has received the majority of complaints from Novato, due to the weaknesses of a once progressive, now outdated ordinance. The County program also writes warning letters and refers cases to Novato Code Enforcement officers who have shared with the County that Novato's ordinance is difficult to enforce because it is not as comprehensive as it could be.

Novato's Smoke-free ordinance was a national model in 2008 when Novato was on the cutting edge of proving progressive protections, addressing important public health issues. Since 2008 we have witnessed the great benefits but there is also a need to improve the 2008 model. The Smoke-free Marin's new model ordinance calls for stronger protections, similar to those recently adopted in San Rafael, Anselmo, Larkspur, Corte Madera, Mill Valley and other Bay Area and California communities whose ordinances have kept pace with science. These jurisdictions provide protection for all with 100% multi-unit housing prohibitions. The message is clear to the public and much easier to enforce.

Following are the Smoke-Free Marin Coalition's concerns about Novato's outdated smoke-free ordinance, and proposals to improve clarity, compliance and ease of enforcement:

1. **Inadequate protection:** currently, Novato's Ordinance # 1533 protects 50% of existing units and 75% of new units-- **and only in complexes with ten or more units**, compared with 100 % protection in other Marin communities.
2. **Grandfathering of smokers:** no other community in Marin permits a grandfathering in of smokers, since this forces neighbors of smokers to wait until the smoking neighbor quits smoking, moves or passes away before experiencing relief from fire hazards and drifting toxins. This exemption provides no assistance to the non-smoking community, the new model for Novato would be 100% multi-unit housing without the grandfathering exemption.
3. **Electronic cigarettes** have become a problem with younger generations and also pose public health hazards due to toxins in aerosols. Electronic smoking devices are also fire hazards due to their tendency to explode when overcharged, injuring those nearby while damaging properties. Novato's definition for e-cigarettes is unclear and needs to be updated for improved public awareness, compliance and ease of enforcement.

4. **Bar patios are exempted:** Novato's ordinance does protect residents, workers and visitors in unenclosed restaurant areas, but bars are exempted in Novato's old ordinance and protection needs to be extended to include both patrons and workers in outdoor areas of bars, as is included in most of the recent ordinances in other communities.
5. **Novato's C Grade on the American Lung Association Report Card:** Once Novato's Council updates the smoke-free ordinance to reflect more current public health standards, and enacts a tobacco retailer licensing ordinance to protect youth, Novato will receive an A grade.

Novato and Sonoma have the same City Attorneys who prepared a very progressive "Tobacco Retailer Licensing" ordinance that was enacted by the Sonoma City Council and became a state-wide model. This "TRL" prohibits candy flavored tobacco, cigarillos, and youth friendly products while requiring minimum pack size to help prevent youth nicotine addiction. Sonoma's ordinance is over one year old and has reduced youth tobacco access. Novato youth would be well served by a similar ordinance, particularly if it includes a Tobacco-Free Pharmacy component, similar to the one adopted by the Marin County Board of Supervisors.

For more information, contact Bob Curry, Director of the Marin County Tobacco Related Disease Control Program at (415) 473-2559 or rcurry@marincounty.org or visit our website at: www.smokefreemarin.com

See Comparison Table (next page) showing the areas of concern about the current language compared with the proposed language that would bring Novato's smoke-free ordinance up to today's standards.

Current health and safety protections from drifting smoke and fire hazards for Novato's residents

- 50% of units are protected
- Smokers are grandfathered in, which leaves no air quality or fire safety protection for all of the residents sharing walls with smokers who have to wait for the smoker to quit, move or pass away.
- Only units in complexes with 10 or more units are protected.
- Diners in restaurant patios are protected, but not in outdoor bars or places where alcohol is served.
- Secondhand smoke protection from tobacco is provided in many places, but clear language needs to be included concerning aerosols from electronic smoking devices. (language is vague).

Smoke-free Marin Coalition's Proposal for expanding health and safety protections from drifting smoke and fire hazards for Novato's residents

- SFM Coalition proposes 100% protections for any two units sharing a wall, similar to San Rafael, Mill Valley and San Anselmo, and that the 'grandfathering' provision be eliminated.
- SFM Coalition recommends that protection from drifting smoke and e-cigarette aerosol fumes from bar patios and sidewalks in downtown areas.
- SFM Coalition recommends that Novato's e-cigarette definition be updated to improve compliance and enforcement.
- In addition to provide protection from secondhand smoke to youth, SFM Coalition recommends that the Novato City Council also introduce a Tobacco Retailer Licensing ordinance to provide a comprehensive program to discourage youth nicotine addiction.