



## Policy Brief: Smokefree Multi-Unit Housing

May 2022

**Summary:** California is the only state where localities have adopted laws that regulate smoking in private units of multi-unit housing (MUH) properties. Forty-two of the 189 local laws that regulate smoking in MUH require all properties with two or more units to be 100% smokefree indoors; these 42 places represent 5.3% of the state population. Most of these laws (33) are in urban and suburban areas in the Bay Area of Northern California. Between 2020 and 2022, 11 of the strongest laws were adopted, including in larger municipalities, and several early adopters of MUH laws strengthened their laws to close gaps in protections.

California is home to 39.3 million people,<sup>i</sup> and 31.4% of California households<sup>ii</sup> live in MUH, which means that around 10 million MUH residents are left unprotected by a strong local smokefree MUH law and are at risk of breathing their neighbors' drifting smoke. Nationally, more than 1 in 3 nonsmokers who live in rental housing are exposed to secondhand smoke, and 2 out of every 5 children (including 7 out of 10 African American children) are exposed.<sup>iii</sup> In California, 44.7% of the population are renters.<sup>iv</sup> Eighty-eight percent of California adults don't use tobacco, and 85.3% of California multi-unit residents don't use tobacco.<sup>v</sup> Additionally, nearly 64% of Californians believe that apartment units should be smokefree and vape-free; slightly fewer, 62% of Californians, believe that apartment units should be smokefree including vaping and marijuana smoking/vaping.<sup>vi</sup> Despite tremendous progress in eliminating secondhand smoke in workplaces and public places, much progress remains to be achieved in protecting everyone's right to breathe smokefree air in MUH.

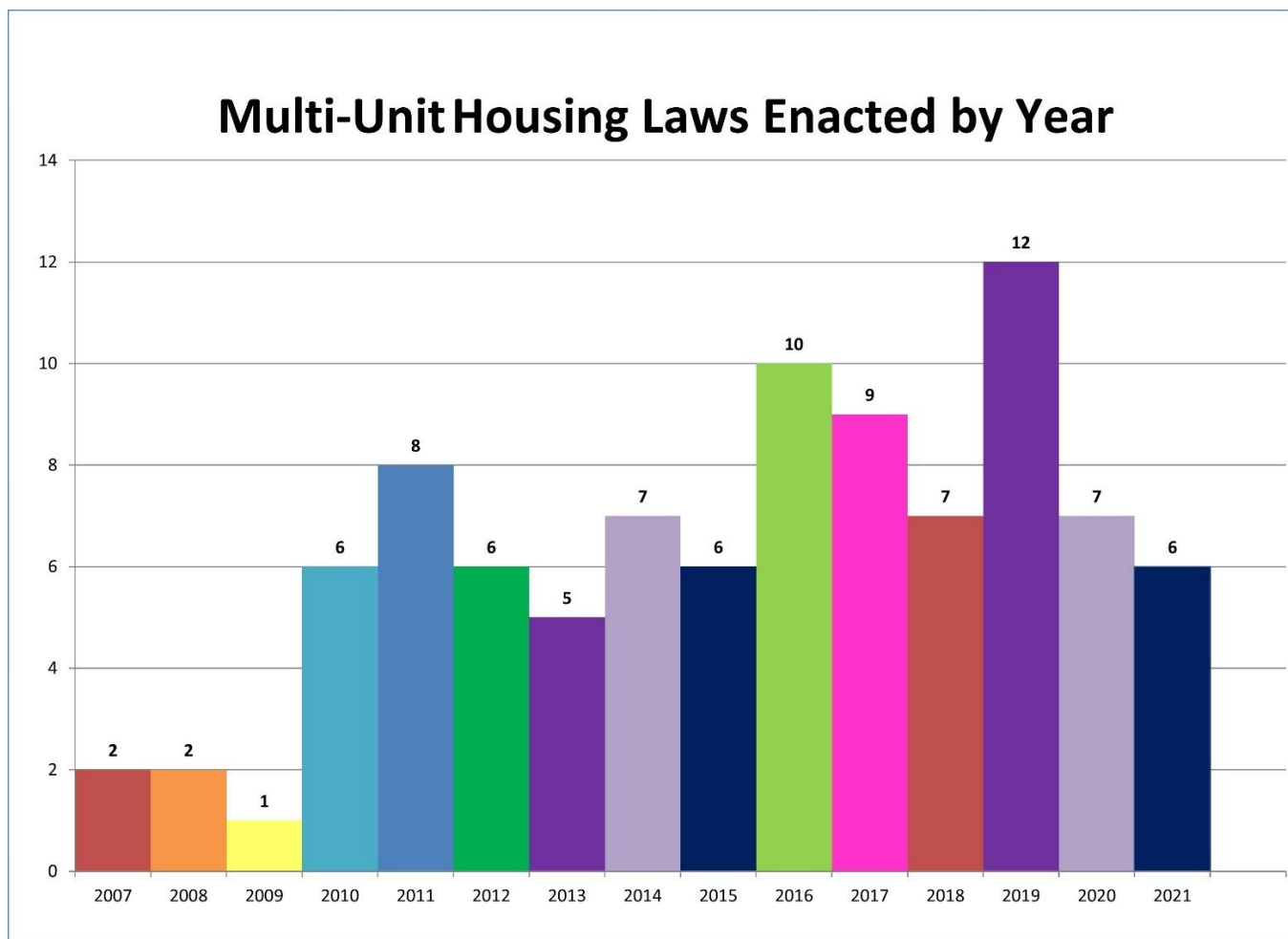
The policy data reflected in this overview is based on both data in the Policy and Evaluation Tracking System (PETS) database, which is current through the end of March 2021, and data in the ANR Foundation's [U.S. Tobacco Control Laws Database](#),<sup>©</sup> which contains additional California policy data based on analysis by policy surveillance staff that is current through May 15, 2022. PETS is the policy surveillance database of tobacco control policies in local jurisdictions in California. Smokefree MUH is one of the four local policy topic areas tracked in the PETS database. The population data in this brief is from the U.S. Census Bureau 2015-2019 American Community Survey 5-Year Estimates.

**Background:** California cities and counties have historically led the way on adopting innovative tobacco control policies to address longstanding and emergent public health needs to protect Californians from secondhand smoke exposure. In California, education and advocacy efforts at the local level led to the adoption of the first smokefree air laws for public places (Berkeley, 1977), 100% smokefree restaurants and bars (San Luis Obispo, 1990), and 100% smokefree multi-unit housing (MUH) (Belmont, 2007). Also, California has been an early adopter of smokefree air laws at the state level, which has helped create a supportive environment for local policy change. California adopted a law to require flights to be smokefree (1989) before there was a federal requirement (1990), and in 1998 California became the first state to require bars and state-regulated gaming facilities to be 100% smokefree, and the second state to require restaurants to be 100% smokefree.

Communities in California and around the United States have worked for several decades to expand the availability of smokefree MUH through a variety of educational and policy approaches. Currently, California is the only state where local laws have been adopted to restrict or prohibit smoking in private units of MUH.

### Current Status

Overall, 189 California municipalities regulate smoking in MUH to some extent. Nearly 50% of these municipalities (94) have enacted ordinances that, at a minimum, regulate smoking in private units of rental MUH properties, covering 5,672,440 Californians, or 14.4% of the state population. The enactment dates of these 94 municipalities' laws, broken down by year, can be seen in the chart below.



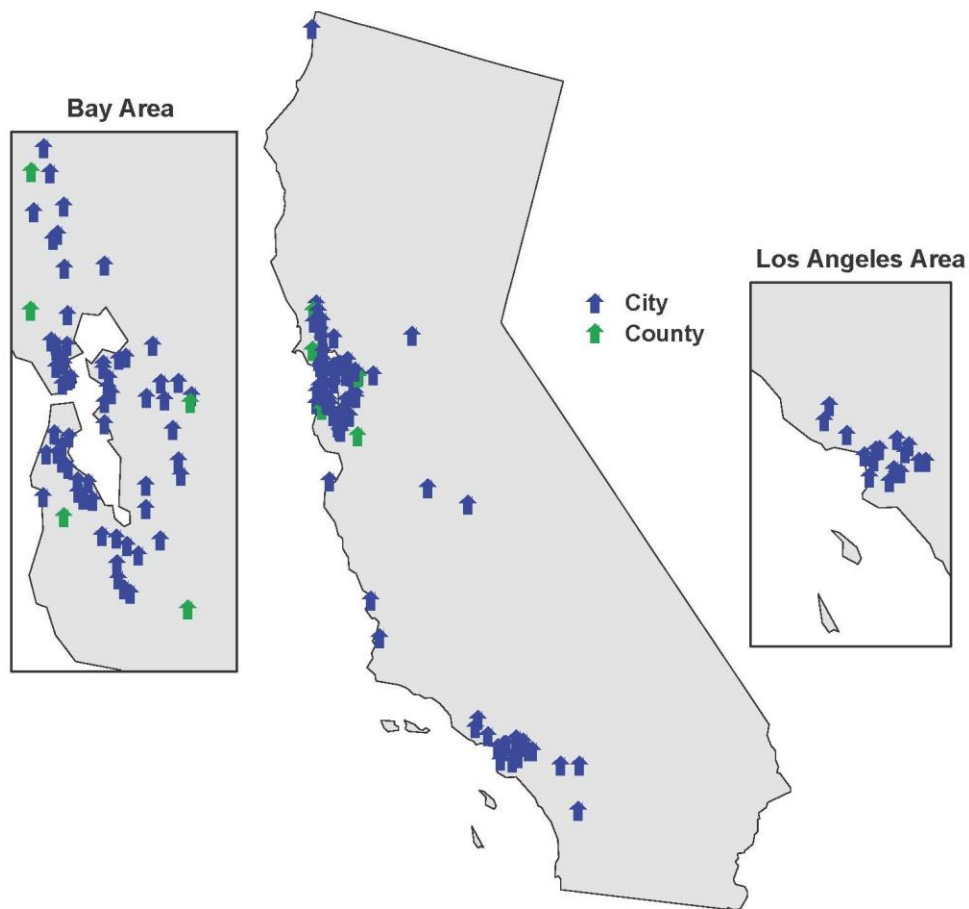
### Policy Provisions of the 94 MUH Laws that Regulate Smoking in Private Units

Overall, 94 municipalities have enacted ordinances that at minimum regulate smoking in private units of rental MUH. Taking a closer look, the levels of protections can be further broken down into several not mutually exclusive categories:

- **42** municipalities have the strongest laws, which require all MUH properties with 2 or more units to be 100% smokefree indoors—both rental units **and** condominium/owner-occupied units—and including the use of electronic smoking devices and marijuana smoking/vaping.

- **56** municipalities require all MUH properties with 2 or more units to be 100% smokefree indoors for tobacco—both rental units **and** condominium/owner-occupied units—but may not fully include the use of electronic smoking devices and/or marijuana smoking/vaping in the policy.
- **9** municipalities require all **rental** MUH properties with 2 or more units to be 100% smokefree indoors, **but** exempt some or all condominium/owner-occupied units.
- **19** municipalities have partial policies that require some, but not all, units or buildings to be smokefree, or contain other exemptions such as allowing existing residents to continue smoking in their unit.
- **69** municipalities (73%) prohibit smoking and vaping of marijuana wherever tobacco smoking is prohibited in MUH.

### Geographic Distribution of 94 Laws Regulating Smoking in Private Units of MUH



The other 95 municipalities regulate smoking in MUH to a lesser extent than in private units (e.g. indoor common areas, outdoor common areas, and/or outdoor private use areas like balconies and patios). Additionally, some municipalities (including Santa Monica and San Francisco) have adopted disclosure laws that require property owners/managers to track which units allow smoking and/or require units to be designated as smoking or non-smoking. Many of these weaker laws were among some of the first MUH laws adopted.

### Best Practice

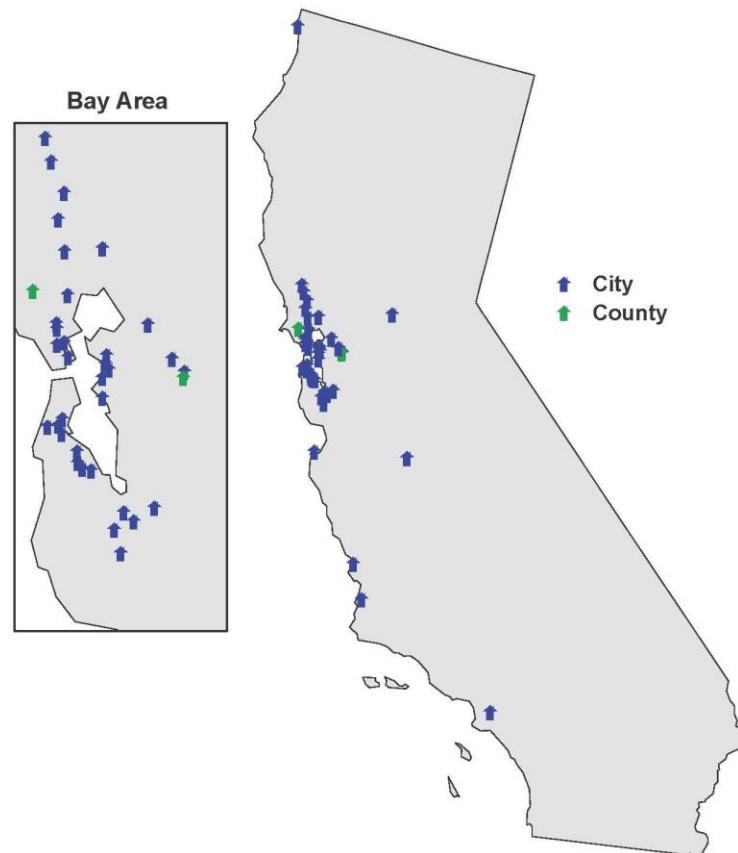
The current best practice is for jurisdictions to enact a law that prohibits all types of smoking and vaping in all units of all MUH properties in the community. These laws require all MUH properties with 2 or more units to be

100% smokefree indoors—both rental units and condominium/owner-occupied units—and prohibit the use of electronic smoking devices and marijuana smoking/vaping in addition to tobacco smoking.

The **42 municipalities** that have adopted laws that meet this best practice standard cover 2,091,584 Californians, or 5.3% of the state population.

**Geographic Characteristics and Trends** The 42 strongest smokefree MUH laws have been adopted in 14 counties: Alameda (4), Contra Costa (4), Del Norte (1), Fresno (1), Los Angeles (1), Marin (7), Monterey (1), Sacramento (1), San Luis Obispo (1), San Mateo (8), Santa Barbara (1), Santa Clara (5), Solano (1), Sonoma (6).

### Geographic Distribution of 42 Strongest Smokefree MUH Laws



These strongest laws can also be looked at across five regions:

**Northern:** Del Norte (1)

**Central:** Fresno (1), Sacramento (1)

**Bay Area:** Alameda (4), Contra Costa (4), Marin (7), San Mateo (8), Santa Clara (5), Solano (1), Sonoma (6)

**Central Coast:** Monterey (1), San Luis Obispo (1)

**Southern:** Los Angeles (1), Santa Barbara (1)

Most of these laws (33) are in urban and suburban areas in the Bay Area of Northern California; these communities represent 4.9% of California’s population.

Notably, jurisdictions in additional counties and regions have adopted smokefree MUH laws that do not qualify as the strongest type, for various reasons. In particular, Los Angeles County has 16 smokefree MUH laws but only 1

that is among the 42 strongest. Key reasons for those laws not qualifying as the strongest include exemptions for duplexes (i.e. applies to properties with 3 or more units), exempting or not addressing electronic smoking device use and/or marijuana smoking/vaping, and several early adopted laws that prohibit smoking only in a certain percentage of units.

**Urban/Suburban/Rural**

The classification of places by type of geographic area as urban, suburban, or rural is limited by several factors. The first limitation is that the county-level classification is based on Local Lead Agency self-identification of their county as urban/suburban/rural. The second limitation is that jurisdiction-level classification data from the U.S. Census Bureau 2016-2020 American Community Survey 5-Year Estimates is based on population density and does not always align with how a community is generally perceived. Likewise, individual communities in a county may have characteristics that differ from the county’s designation. For example, the community of Firebaugh has a strong MUH policy, and its small, agricultural features might lead one to categorize it as rural, though it is designated as suburban and is located in suburban-designated Fresno County. Despite these limitations, the data showing the geographic trends is still of interest and value.

There are more suburban counties (8) with strong policies than urban (5) and rural (1), and suburban counties also have the greatest number of local policies (22), followed closely by 19 policies enacted in the 5 urban counties. Rural counties lag behind, with only 1 rural county having adopted a strong policy.

**Urban** (5 counties with 19 policies): Alameda (4), Los Angeles (1), Sacramento (1), San Mateo (8), Santa Clara (5)

**Suburban** (8 counties with 22 policies): Contra Costa (4), Fresno (1), Marin (7), Monterey (1), San Luis Obispo (1), Santa Barbara (1), Solano (1), Sonoma (6)

**Rural** (1 county with 1 policy): Del Norte (1)

Municipality	County	Designation
1. Alameda	Alameda	Urban
2. Albany	Alameda	Urban
3. Belmont	San Mateo	Urban
4. Belvedere	Marin	Suburban
5. Benicia	Solano	Suburban
6. Berkeley	Alameda	Urban
7. Clayton	Contra Costa	Suburban
8. Concord	Contra Costa	Suburban
9. Contra Costa County	Contra Costa	Rural
10. Corte Madera	Marin	Suburban
11. Crescent City	Del Norte	Suburban
12. Cudahy	Los Angeles	Urban
13. Cupertino	Santa Clara	Urban
14. El Cerrito	Contra Costa	Urban
15. Emeryville	Alameda	Urban
16. Firebaugh	Fresno	Suburban
17. Guadalupe	Santa Barbara	Urban
18. Healdsburg	Sonoma	Suburban

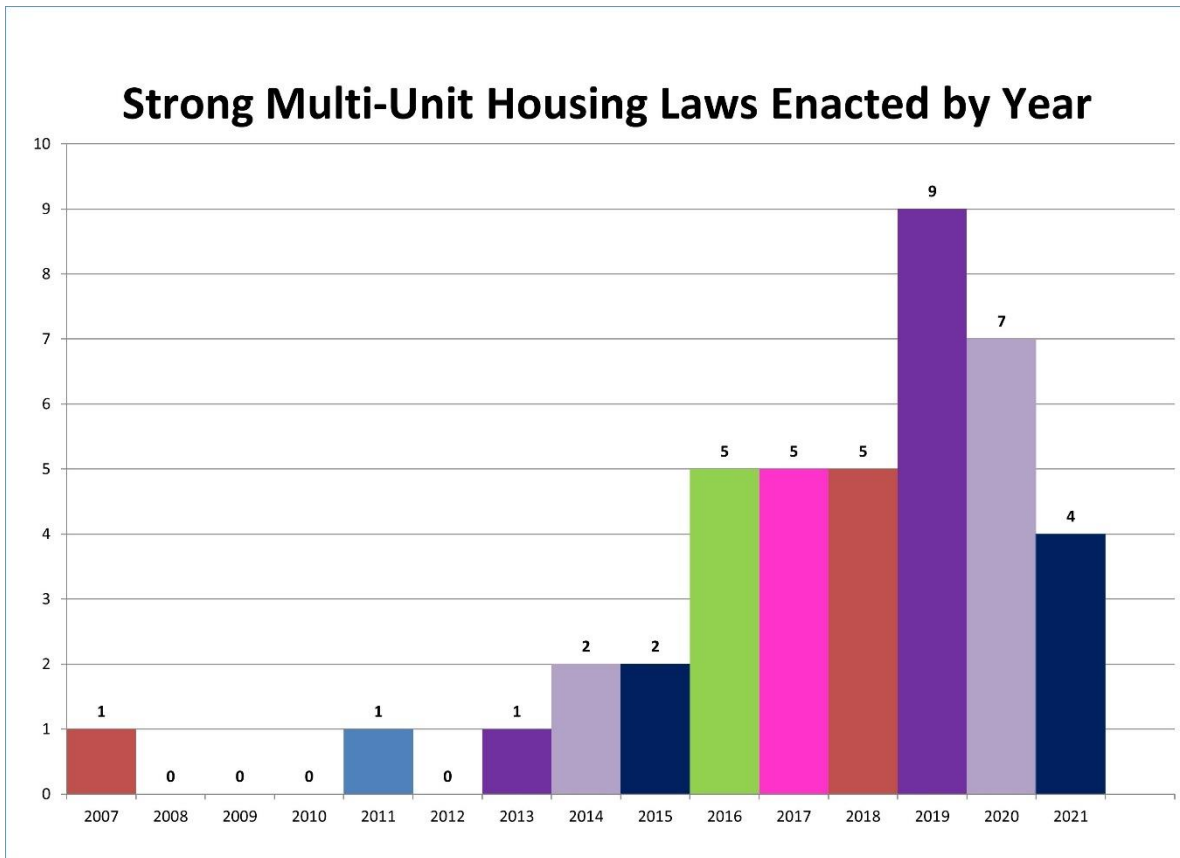
19. Marin County	Marin	Rural
20. Mill Valley	Marin	Suburban
21. Millbrae	San Mateo	Urban
22. Milpitas	Santa Clara	Urban
23. Monte Sereno	Santa Clara	Suburban
24. Morro Bay	San Luis Obispo	Suburban
25. Novato	Marin	Suburban
26. Pacific Grove	Monterey	Urban
27. Pacifica	San Mateo	Suburban
28. Petaluma	Sonoma	Suburban
29. Rancho Cordova	Sacramento	Suburban
30. Redwood City	San Mateo	Suburban
31. Rohnert Park	Sonoma	Urban
32. Ross	Marin	Suburban
33. San Anselmo	Marin	Suburban
34. San Bruno	San Mateo	Urban
35. San Carlos	San Mateo	Urban
36. San Mateo	San Mateo	Urban
37. Santa Clara	Santa Clara	Urban
38. Santa Rosa	Sonoma	Suburban
39. Sonoma	Sonoma	Suburban
40. South San Francisco	San Mateo	Urban
41. Sunnyvale	Santa Clara	Urban
42. Windsor	Sonoma	Suburban

### **When were the strongest laws adopted?**

The first-ever law restricting smoking in private units of MUH—as opposed to just indoor and/or outdoor common areas—was adopted by Belmont on October 9, 2007. It’s impressive that this very first law meets the current best practice standard for the strongest provisions. The next strong law was adopted four years later.

From 2011 to 2015, six of the strongest laws were adopted; 24 of the strongest laws (57% of total) were adopted between 2016 and 2019. More recently, 11 of the strongest laws were adopted between 2020 and 2022. Notably, three jurisdictions (Berkeley, Corte Madera, Marin County) had a prior smokefree MUH law that had exemptions that were removed in their most recent law. Corte Madera and Marin County went from requiring 80% of units in each MUH property to be smokefree to requiring that all units be smokefree, and all three jurisdictions removed a medical marijuana exemption.

The pandemic during 2020 to 2022 may have slowed the momentum on the passage of smokefree laws. ANRF is aware that additional jurisdictions have enacted laws in this timeframe that have not yet been analyzed and may qualify as the strongest category, in particular Alameda County, Fairfax, and Larkspur. Additional jurisdictions, including Fresno, have also enacted MUH laws during this timeframe that contain exemptions and do not qualify as one of the strongest laws.



#### Trend Toward 100% Smokefree MUH: Incremental vs. Comprehensive Approach

Historically, new tobacco-related policy development begins incrementally. While it would seem logical to translate the science and experiences from other smokefree indoor air workplace policies, venturing into housing required an incremental process to build evidence of the value of these laws, research the health and other impacts of this policy option, and develop public understanding and support for smokefree MUH laws.

Although Belmont made the bold move to adopt a strong 100% smokefree MUH law in 2007, most early adopters of these types of laws included language that provided partial protection. Examples of partial protections include requiring 80% of units in each property to be smokefree, requiring only newly occupied or constructed properties to be smokefree, or allowing residents currently living in a property to continue smoking. These weak provisions have fallen out of favor and have largely not been adopted in recent years. Several communities with partial provisions have strengthened their laws by removing exemptions to provide more comprehensive coverage.

Unfortunately, municipalities are still adopting laws that include exemptions that provide other types of partial coverage, including laws that apply only to rental properties and excluding condominiums and other owner-occupied properties, exempting duplexes (i.e. the policy applies to properties with 3 or more units), and exempting marijuana smoking and/or vaping for either medical or recreational purposes.

#### Demographics

The 42 strongest jurisdictions have a total population of 2,091,584 people, or 5.3% of the California population. The majority of these places are smaller cities, ranging in size from 21,000-50,000 residents. The smallest two jurisdictions are Belvedere (2,134) and Ross (2,290), and the largest two jurisdictions are unincorporated Contra Costa County (177,494) and Santa Rosa (179,701).

Most of the strongest laws are in jurisdictions that are smaller cities (16), with populations between 2,000 and 20,000 people. Therefore, it appears that there may be some advantage to being a smaller city.

<u>Number of Communities</u>	<u>Size of Population</u>
16	2,000 - 20,000
10	21,000 - 50,000
6	51,000 - 75,000
3	76,000 - 100,000
4	101,000 - 150,000
3	151,000 - 180,000

The 42 municipalities with the strongest MUH laws were compared for differences in race/ethnicity, education, and income. However, there were no statistically significant differences in these variables. Similarly, there were no statistically significant differences between the jurisdictions by political voting affiliation.

There remains a high demand for multi-unit housing in California. An estimated 44.7% of residents are renters.<sup>vii</sup> Renters in municipalities with strong MUH policies ranged from 8.3% (Clayton) to 53.7% (Berkeley). The rental vacancy rate for California is 3.5%. The rental vacancy rate among municipalities with strong MUH policies ranged from 0% (Clayton, Crescent City, Mill Valley) to 5.5% (Pacific Grove). However, there were no significant differences between municipalities with strong MUH policies. Furthermore, low vacancy rates are evident throughout many of California’s municipalities with no MUH policies (e.g. Bakersfield, Long Beach, Madera, Palm Desert).<sup>viii</sup>

**Looking Ahead**

**Marijuana/Cannabis:** The growing power and influence of the cannabis industry in California will continue to present a challenge to jurisdictions adopting strong smokefree MUH laws. The very politically powerful marijuana industry as well as vocal marijuana proponents apply pressure to policymakers and in some cases have succeeded in getting an exemption to allow marijuana smoking and/or vaping.

**Larger Jurisdictions:** Larger California jurisdictions have been building towards smokefree MUH laws, including some of the largest cities in the state, such as Los Angeles (1st), San Jose (3rd), San Francisco (4th), and Oakland (8th). Oakland and Los Angeles are in the process of educating their communities and building support towards the adoption of a future policy, while San Francisco and San Jose introduced ordinances for smokefree MUH in 2020 and 2021, respectively, but pulled back on their ordinances due to extensive opposition from the marijuana industry. The coalitions will regroup with the intention of enacting a law without an exemption for marijuana smoking/vaping.

**Health Equity:** As communities are considering and adopting laws to require MUH to be smokefree, there are important considerations to help these laws be effective at protecting the health, safety, and stability of all residents—both non-smokers and people who smoke.

Health departments, tobacco control coalitions, and community partners may want to consider the following information and messages to help inform discussions with residents, housing providers, policy makers, and the broader community.



- All residents, regardless of their financial situation, deserve to have a stable and healthy living environment, including the right to breathe smokefree air at home.
- Smokefree multi-unit buildings create a healthier living environment for all residents, including people who smoke and their families.
- The goal of smokefree policies for multi-unit housing is to reduce secondhand smoke exposure by fostering good compliance and to support, rather than punish, residents.
- Smokefree policies do not mean that people who smoke have to quit, and do not mean that people who smoke have to move out. People who smoke simply need to go outdoors to appropriate areas to do so.
- Residents should be involved in the policy planning, adopting, implementation, and enforcement process. Input from residents helps develop a policy that protects the health and safety of all residents.
- It is important to protect and involve lower-income residents who have more exposure to secondhand smoke, more health disparities related to secondhand smoke exposure, and who are significantly impacted by both the housing affordability crisis and by the COVID-19 pandemic.

## Conclusion/Discussion

California is an innovator and leader in tobacco-related policy protections. The 1988 tobacco tax initiative created an infrastructure across the state to implement a comprehensive tobacco control program based on best practices for education, media, policy development, and smoking cessation. As a result, the state led the nation in the development of local clean indoor air laws in the late 1980s through the 1990s and became the first state to adopt a comprehensive smokefree workplace law that covered workplaces, restaurants, bars, and gaming facilities. The state continues to be on the cutting edge of policy protections, including smokefree MUH. While there is much work to be done to protect MUH residents from exposure to secondhand tobacco and marijuana smoke and aerosol/vape, it is the first state to have local municipalities adopt smokefree MUH laws.

In addition to policy adoption, another approach used in California and around the country is to provide education and tools to property owners to implement a smokefree policy for the properties that they own or manage, including large property management companies, small landlords, affordable housing providers, and public housing agencies. Additionally, all public housing agencies in the U.S. were required to implement a smokefree policy for their public housing properties by July 2018, and many public housing agencies in California implemented their smokefree policy in the years prior to the mandate.

Policy development is fueled by science, experience, and public demand. There is much evidence on the health hazards of secondhand tobacco smoke exposure and a growing body of science on secondhand marijuana/cannabis smoke, which lays the foundation for the adoption of smokefree protections. There is also evidence that people are exposed to secondhand smoke and aerosol, and there is strong public support for stronger smokefree MUH laws. The Online California Adult Tobacco Survey (2019 report) found that secondhand marijuana smoke exposure among California adults nearly doubled from 21.5% in 2016 to 39.9% in 2018. The latest Online California Adult Tobacco Survey (2021 report) found that 56.6% of adults reported exposure to marijuana smoke in 2019, with exposure decreasing to 41.8% in 2020—which is still two percentage points higher than 2018.

---

<sup>i</sup> U.S. Census Bureau 2015-2019 American Community Survey 5-Year Estimates, 2019, [DP05 ACS Demographic and Housing Estimates](#).

<sup>ii</sup> U.S. Census Bureau, American Community Survey 5-Year Estimates, 2020, [DP04 Selected Housing Characteristics](#).

- 
- iii “Secondhand Smoke: An Unequal Danger.” CDC Vital Signs, February 2015, <https://www.cdc.gov/vitalsigns/pdf/2015-02-vitalsigns.pdf>.
- iv U.S. Census Bureau, American Community Survey 5-Year Estimates, 2020, [DP04 Selected Housing Characteristics](#).
- v California Health Interview Survey. CHIS 2019 Adult Files. Los Angeles, CA: UCLA Center for Health Policy Research; October 2020. Via [California Tobacco Facts & Figures 2021](#).
- vi Online California Adult Tobacco Survey. Online CATS 2019-2020 (Wave 1-4). Sacramento, CA: California Department of Public Health; February 2021. Via [California Tobacco Facts & Figures 2021](#).
- vii U.S. Census Bureau, American Community Survey 5-Year Estimates, 2020, [DP04 Selected Housing Characteristics](#).
- viii Sperling’s BestPlaces, accessed April 2022, <https://www.bestplaces.net/docs/datasource.aspx>.