

RESOLUTION NO. 18-115

Resolution Of The City Council Of The City Of Emeryville Authorizing the City Manager to Execute a Memorandum of Understanding Between the City of Emeryville and the County of Alameda Public Health Department Regarding Provision of Education and Outreach for City's Smoking Pollution Control Ordinance

WHEREAS, Chapter 29 of Title 5 of the Emeryville Municipal Code, "Smoking Pollution Control" prohibits the smoking of tobacco and tobacco products in certain areas throughout the City; and

WHEREAS, on July 24, 2018, the City Council adopted the first reading of Ordinance No. 18-___, repealing and replacing Chapter 29 of Title 5 of the Emeryville Municipal Code to ensure that smoking of both tobacco and tobacco products, and other substances, such as cannabis was prohibited, and to ensure that all types of multi-unit housing was smoke-free; and

WHEREAS, on August 3, 2018, the City Council adopted the second reading of Ordinance No. 18-___; and

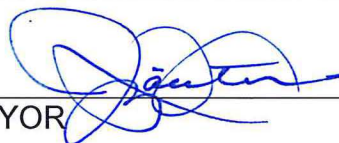
WHEREAS, the Alameda County Public Health Department-Tobacco Control Program (ACPHD-TCP) provides education and outreach to reduce smoking in Alameda County; and


WHEREAS, the City and ACPHD-TCP desire to partner to provide outreach and education regarding Ordinance No. 18-___ within the City of Emeryville; and now, therefore, be it


RESOLVED, by the City Council of the City of Emeryville, that the City Manager is authorized to execute the attached Memorandum of Understanding Between the City of Emeryville and the County of Alameda Public Health Department regarding provision of education and outreach of the City's Smoking Pollution Control Ordinance (Ordinance No. 18-___) and, be it, further

ADOPTED, by the City Council of the City of Emeryville at a regular meeting held Tuesday, August 3, 2018, by the following vote:

AYES:	<u>4</u>	Mayor Bauters, Vice Mayor Medina and Council Members Donahue and Patz
NOES:	<u>0</u>	
ABSTAIN:	<u>0</u>	
ABSENT:	<u>1</u>	Council Member Martinez


MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

**Memorandum of Understanding
Between
The City of Emeryville
And
The County of Alameda**

This Memorandum of Understanding ("MOU") is made and entered into this ____ day of _____, 2018 by and between the City of Emeryville ("City") and the County of Alameda by and through its Public Health Department ("County"). Each party is individually a "Party" and collectively the "Parties".

SUBJECT: Provision of Education and Outreach for City's Smoking Pollution Ordinance

A. Purpose and Scope

The purpose of this MOU is to identify the roles and responsibilities of each party as they relate to the City's Smoking Pollution Control Ordinance.

B. Reference

Please refer to the City's Smoking Pollution Control Ordinance, Emeryville Municipal Code Title 5, Chapter 29, effective December 1, 2018, ("Ordinance") for the regulations that will be the subject of the education and outreach associated with this MOU.

C. County Responsibilities

The County will:

1. Designate a person at the County who will be the primary contact for inquiries and complaints related to the Ordinance ("County Designated Representative").
2. Designate a phone number and email address that will be used for all inquiries and complaints from the public related to the Ordinance. This contact information will be listed on all educational materials related to the Ordinance.
3. Prepare and distribute educational materials, subject to City review and approval, and which include, but are not limited to, notification about the new Ordinance and technical assistance, such as, frequently asked questions ("FAQs"), and posters to landlords, homeowner associations ("HOAs"), property management companies, tenants, business owners, and other appropriate groups and individuals.
4. In consultation with the City, prepare a form for complaints associated with the Ordinance, which can be submitted electronically or on paper.
5. Post educational materials about the Ordinance on the Alameda County Public Health Department Tobacco Control Program website with links to the City's webpage about the Ordinance.

6. Respond to complaints associated with the Ordinance with educational outreach, written correspondence, phone calls, and general educational meetings as appropriate.
 - a. At a minimum, the County will send a letter to the appropriate parties in response to the first and second complaints received in relation to smoking at a single address within a six-month period to inform the parties of their rights and obligations under the Ordinance.
 - b. The County will work with the City to develop an administrative process that will provide the specific requirements related to addressing complaints associated with the Ordinance. The County's role is to provide education and information, not enforcement.
7. Track all calls and complaints associated with the Ordinance. Calls and complaints will be tracked by address, unless the Parties' designated representatives agree to track in a different manner. County will document all written and oral communications conducted in response to calls or complaints.
8. Provide an annual report to the City by January 31 indicating number of calls and complaints received, and the actions taken by the County in response to the calls and complaints.

D. City Responsibilities

The City will:

1. Assist the County in carrying out its obligations under this MOU, which includes but is not limited to, designating a person within the City Police Department who will be the primary contact for the County as it relates to the Ordinance and this MOU ("City Designated Representative").
2. Create and maintain a webpage on the City's website that will include educational materials related to the Ordinance.
3. Provide links on the City's website to the Alameda County Public Health Department Tobacco Control Program website.
4. Review and approve all educational materials about the Ordinance and the complaint form prepared by the County before they are distributed to the public.
5. If the County's education and outreach efforts have not been successful, the County will notify the City's Designated Representative and will transfer the complaint form(s), and any other documents to the City's Designated Representative within a reasonable time period. The City will be solely responsible for any enforcement action of the Ordinance. Upon request by the County's Designated Representative, the City will provide general information about the final outcome of any case referred for code enforcement.

E. Compensation and Fees

The Parties agree that the City will not compensate the County for providing the services specified herein, because the costs of these services is covered by state funds.

F. Effective Date and Term

This MOU shall take effect upon signature by the County and shall remain in effect until June 30, 2023, so long as not Terminated by either party pursuant to Section G.

G. Termination

This MOU may be terminated for the following reasons:

1. Upon the repeal or significant modification of the Ordinance; or
2. For any reason by either Party at any time during the term of this MOU, provided that written notice is given three months prior to the effective date of termination.

H. Severability Clause

Should any provision of this MOU be unenforceable, those provisions shall be considered severable, and the remaining provisions shall remain in effect.

I. Modifications

This MOU may be amended by written agreement of both Parties. No alternation of the terms herein shall be valid unless made in writing and signed by the Parties hereto, and no oral understanding or agreement not incorporated herein shall be binding on either Party.

J. Notices and Contact Information

All notices and other communications from one party to the other pursuant to this MOU, shall be provided to the following contact persons:

County: Tamiko Johnson
Alameda County Public Health Department | Health Care Services Agency
Tobacco Control Program
1000 Broadway, Suite 500 | Oakland, CA 94607
(510) 208-5916
Tamiko.johnson@acgov.org

City: Police Chief
City of Emeryville
2449 Powell Street, Emeryville, CA 94608
510-596-3700

with a copy to:

City Attorney's Office
1333 Park Avenue
Emeryville, CA 94608
510-596-4381

K. Authorization to Execute MOU

The Alameda County Public Health Department Director is authorized to execute this MOU. The City Manager of the City of Emeryville is authorized to execute this MOU, pursuant to action taken by the City of Emeryville City Council on _____.

Date: _____
Kimi Watkins-Tartt
Acting Health Officer and Alameda County Public Health Department Director

Approved as to Form:

Deputy County Counsel

Date: _____
City Manager

Approved as to Form:



Michael Guina, City Attorney