



# COMPREHENSIVE OUTDOOR SECONDHAND SMOKE ORDINANCES

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Many cities and counties in California are working to protect their residents from the dangers of secondhand smoke exposure by passing ordinances that restrict smoking in outdoor areas, especially in places where people congregate. In fact, many cities and counties are passing ordinances that are comprehensive in scope and include protections in many areas of the community, from city parks to building entryways to ATM lines. This document examines the most wide-ranging of these ordinances to provide a clear picture of comprehensive outdoor smoking bans in California and to assist local advocates in their efforts to get more communities to adopt such policies.

## THE NEED FOR COMPREHENSIVE OUTDOOR SECONDHAND SMOKE ORDINANCES

There is no question that secondhand smoke is harmful to individuals. The California Air Resources Board declared secondhand smoke a toxic air contaminant in January 2006 and the U.S. Surgeon General stated that there is no risk-free level of exposure to secondhand smoke in June 2006. A recent study conducted by researchers with Stanford University further shows the public health need for restricting smoking in outdoor areas.\* This research measured air pollution levels at outdoor places, such as dining areas and parks, where people were smoking and found that levels of exposure to secondhand smoke outdoors can be comparable to secondhand smoke exposure indoors. In addition, when an individual is near a smoker outdoors, they are exposed to air pollution levels significantly higher than normal background air pollution levels. Finally, the study indicates that there is a compelling health basis for outdoor smoking bans in commercial and non-commercial settings.

In addition to the health risks associated with outdoor smoking, there are other reasons to restrict smoking in certain outdoor areas. Cigarette butts are the number one litter item found along beaches. Cigarette litter damages the environment and poses a hazard to children, pets and wildlife that may pick up or swallow these cigarette butts. Recreation areas suffer from cigarette trash but also from the risk of fire. In May 2007, a fire started by a discarded cigarette butt in Griffith Park in Los Angeles burned over 800 acres.

\*Klepeis NE, Ott WR, Switzer P (2007) Real-time measurement of outdoor tobacco smoke particles. Journal of the Air and Waste Management Association, 57:522-534.

## WHAT MAKES A COMPREHENSIVE ORDINANCE?

Smoking can be restricted in any outdoor area, but there are seven outdoor areas that comprehensive ordinances most commonly target. To be classified in this document as a comprehensive outdoor secondhand smoke ordinance, the ordinance must include smoking prohibitions in at least five of the seven major outdoor areas. The restrictions in these areas must go beyond any state laws that restrict smoking in these areas. For example, state law prohibits smoking within 20 feet of entrances and exits to city, county and state buildings so a local ordinance must go beyond that restriction to restrict smoking in the entryways of other buildings. The seven areas are:

1. **Dining Areas** – defined as outdoor seating at restaurants, bars, etc.
2. **Entryways** – defined as within a certain distance of doors, windows, and other openings into enclosed areas
3. **Public Events** – defined as farmer’s markets, fairs, concerts, etc.
4. **Recreation Areas** – defined as parks, beaches, trails, sports fields, etc.
5. **Service Areas** – defined as bus stops, ATM lines, ticket lines, taxi stands, etc.
6. **Sidewalks** – defined as public sidewalks, such as sidewalks around downtown shopping and business areas
7. **Worksites** – defined as any outdoor working area, such as construction areas

Thirty-seven cities and counties in California have passed comprehensive outdoor secondhand smoke ordinances. The full list of 37 jurisdictions is available in a table on pages 4-5 that outlines the different areas where each ordinance restricts smoking.

## COMPREHENSIVE ORDINANCES: TWO APPROACHES FOR SUCCESS

There are two approaches for a comprehensive outdoor secondhand smoke ordinance. The first approach, or **inclusive approach**, is an ordinance that bans smoking in all public places in the community. Calabasas, El Cajon and Loma Linda have adopted this type of ordinance. The second approach, the **listing approach**, specifies the outdoor places where smoking is prohibited. The other communities follow the listing approach.

The ordinances adopted in Calabasas, El Cajon and Loma Linda stand out from the other ordinances because they are more far-reaching and use the inclusive approach to restrict smoking in all outdoor public places rather than just listing specific places where smoking is banned. In these three cities, smoking is prohibited in all public places, which is defined as any public or private place that is open to the general public. All seven of the major outdoor areas (dining areas, entryways, public events, recreation areas, service areas, sidewalks, and worksites) are covered by these ordinances, as are other public places such as parking lots. These three cities set the standard for comprehensive smokefree outdoor areas by providing their residents protection from secondhand smoke exposure in all outdoor public places.

Many other cities and counties have comprehensive outdoor secondhand smoke ordinances that also provide much needed protection from secondhand smoke exposure to their residents. These communities use the listing approach to provide this protection. Instead of prohibiting smoking in all public places, these ordinances follow the approach that specifically lists the places where smoking is prohibited. This model provides the same type of protection from secondhand smoke as the inclusive approach, but just in fewer locations. However, it should be noted that some of the ordinances using the listing approach are so comprehensive in the areas that they list, that they end up prohibiting smoking in as many areas as the ordinances using the inclusive approach.

A benefit of the listing approach is that it allows for more flexibility in terms of where smoking can be prohibited. If there is not the political will to ban smoking in all public places, the listing approach offers a way to draft a comprehensive ordinance that provides an opportunity to reach compromises that may be necessary to pass the ordinance. Conversely, if a community is only working on restricting smoking in one type of outdoor area, this approach provides an easy way to expand the policy into a comprehensive ordinance if an opportunity presents itself.

## PUBLIC SUPPORT FOR COMPREHENSIVE ORDINANCES

The Center commissioned two public opinion surveys that featured questions about comprehensive ordinances and both show strong public support for these laws. In November 2008, the Center commissioned a survey of California voters about secondhand smoke policies and found that 73% of California voters support a comprehensive law that prohibits smoking in all outdoor areas accessible to the public, except for designated smoking areas. In March 2007, the Center commissioned a survey of Calabasas voters one year after the city’s comprehensive ordinance went into effect. The results show that 80% of Calabasas voters approve of the law and 74% think the law is an appropriate way to protect people from secondhand smoke. Both surveys were conducted by Goodwin Simon Victoria Research and survey results and summary documents are available at [www.Center4TobaccoPolicy.org/polling](http://www.Center4TobaccoPolicy.org/polling).

## IMPLEMENTATION

Because these ordinances are designed to be self-enforcing, it is important for the city or county to properly implement the ordinance with an education campaign to make the public aware of the locations where smoking is prohibited. A good implementation plan can include several different elements depending on city/county resources, including signage, publications, websites, dedicated staff and a campaign theme. While every jurisdiction may not include all of these elements, it is important to include as many as possible to ensure that the ordinance is effective at prohibiting smoking in these outdoor areas. Below are descriptions and examples for each of these elements:

**Signage** – “No smoking” signs make it clear to the public where smoking is prohibited and empowers people to ask someone to stop smoking. The signs in [Calabasas](#) clearly designate which outdoor areas are smokefree, while [Martinez](#) has signs that clearly state the entryways smoking restrictions.

**Publications** – Materials such as brochures, Frequently Asked Questions (FAQs) and window decals are useful for providing to businesses so that they can comply with the new law. [San Luis Obispo](#) has a brochure with a good summary and Baldwin Park has FAQs available in both [English](#) and [Spanish](#).

**Websites** – A useful way to reach a broad audience is to dedicate a section of the jurisdiction’s website for information on the ordinance. [Camarillo’s website](#) has clear outlines on where smoking is prohibited and allowed, FAQs and downloadable materials for businesses.

**Dedicated Staff** – Some cities have designated a specific staff person to work on educating businesses and the public. Glendale hired a [Fresh Air Program Ambassador](#) to meet with any residents or merchants who have questions about the secondhand smoke ordinance.

**Campaign Theme** – Developing a theme for the ordinance can help a jurisdiction tie all of the implementation elements together and frame the new ordinance around the issue of clean air and protecting health. Calabasas developed the theme [Clean Air Calabasas](#) creating a logo and identity for their implementation.

## ENFORCEMENT

Comprehensive outdoor smoking ordinances are designed to be self-enforcing. When communities pass these types of policies, they do not intend for police officers to spend their time searching for people smoking in public places. Rather, the expectation is that through education and signage, residents will become aware of the smoking restrictions and most individuals who smoke will obey the law. If someone does smoke in a restricted area, other people are likely to ask that individual to stop and inform him/her of the smoking restrictions.

Despite the reliance on self-enforcement, all of these ordinances have some provisions that allow the city to enforce the ordinance if needed. For example, all the ordinances detail how violators of the ordinance can be punished. Cities and counties have made violations of their outdoor smoking ban punishable as a misdemeanor, infraction or both. Some ordinances even specify the amount that violators can be fined, often several hundred dollars.

Another enforcement element found in most of these ordinances is the designation of an enforcement agency for the smoking prohibitions. Examples of the individuals and departments that have been designated as enforcement agencies in one or more of the ordinances include police officers, code enforcement officers, city attorneys, city prosecutors, city managers, the fire department, health and human services department, environmental health department and parks department. An innovative way to report violations to the enforcement agency has been set up in Pasadena. The city has an [Online Violations Report Form](#) where individuals can report violations of tobacco control laws and the city will investigate within one business day.

A final enforcement provision found in some of the ordinances is private enforcement. This enforcement option empowers an individual to enforce the non-smoking prohibition by bringing a civil action in court against a violator and suing for damages that were caused by violations of the ordinance.

## OTHER RESOURCES

The Center has other resources on comprehensive outdoor secondhand smoke ordinances available on our website at [www.Center4TobaccoPolicy.org/localpolicies-outdoorareas](http://www.Center4TobaccoPolicy.org/localpolicies-outdoorareas). For sample language on drafting a comprehensive outdoor smoking ordinance, please visit the Technical Assistance Legal Center’s (TALC) website at <http://www.phlpnet.org>.

## TABLE OF COMPREHENSIVE OUTDOOR SECONDHAND SMOKE ORDINANCES

The 37 cities and counties in California with comprehensive ordinances are listed below, which details each outdoor area where a community prohibits smoking in its ordinance. When there are limitations or exceptions to completely prohibiting smoking in the seven outdoor areas, it is noted with a footnote.

CITY / COUNTY	OUTDOOR AREA WHERE SMOKING IS PROHIBITED						
	Dining Areas	Entryways	Public Events	Recreation Areas	Service Areas	Sidewalks	Worksites
<b>Sebastopol</b> August 2010	X	X	X	X	X		X
<b>Eureka</b> July 2010	X	X	X	X	X	X*	X
<b>San Luis Obispo</b> April 2010	X*	X	X	X	X	X	X
<b>Camarillo</b> April 2010	X	X	X	X	X	X*	X
<b>Pinole</b> April 2010	X	X	X	X	X		
<b>Santa Barbara County</b> April 2010	X*	X	X*	X	X		
<b>San Francisco</b> March 2010	X*	X*	X*	X	X		
<b>San Leandro</b> December 2009	X	X	X	X	X		X
<b>Del Mar</b> December 2009	X	X	X	X	X	X	X
<b>Moorpark</b> September 2009	X	X	X*	X	X	X	X
<b>Richmond</b> June 2009	X	X	X	X	X		
<b>Martinez</b> April 2009	X	X	X	X	X		X
<b>Pasadena</b> October 2008	X	X	X	X	X		
<b>Glendale</b> October 2008	X*	X	X	X	X		X
<b>Dublin</b> October 2008	X	X	X*	X*	X		
<b>Thousand Oaks</b> July 2008	X*	X	X*	X*	X		
<b>Loma Linda</b> June 2008	X	X	X	X	X	X	X
<b>Albany</b> May 2008	X*	X	X	X	X	X*	X
<b>Hayward</b> May 2008	X	X	X*	X	X	X	

*continued on the next page*

\*Eureka – sidewalk prohibitions only apply to Eureka boardwalk

\*San Luis Obispo – allows designated smoking areas that meet certain criteria in outdoor seating of bars that do not serve food

\*Camarillo – only applies to sidewalks designated by city resolution

\*Santa Barbara County – allows exemptions for smoking to be allowed at free standing bars and 25% of outdoor seating at restaurants

\*Santa Barbara County – only applies to outdoor concerts, sporting events, plays and similar performances

\*San Francisco – for outdoor dining areas of bars, the ordinance only restricts smoking within 10 feet of entrances and windows

\*San Francisco – for building entrances, exits and windows, smoking is allowed at the curb outside the building or if there is no curb, smoking is prohibited within 15 feet

\*San Francisco – only specifically prohibits smoking at farmer's markets, but smoking is also prohibited at public events that are held in other locations where smoking is prohibited, such as in parks

\*Moorpark – allows exceptions for an outdoor special event subject to approval by the community development director

\*Glendale - allows for creation of designated smoking section in outdoor dining

\*Dublin – allows for creation of designated smoking areas at public events

\*Dublin - recreation areas does not include community parks

\*Thousand Oaks – allows restaurants to apply for a permit for a designated outdoor smoking section if certain conditions are met

\*Thousand Oaks – allows for creation of designated smoking areas at public events

\*Thousand Oaks – smoking prohibitions only apply to recreational areas under the city's authority; city parks are under a separate jurisdiction

\*Albany – allows exceptions for permitting smoking in outdoor areas at stand-alone bars if certain conditions are met

\*Albany – only prohibits smoking on sidewalks adjacent to school property and sidewalks on Solano Avenue between San Pablo Avenue and the City of Berkeley jurisdictional border

\*Hayward – allows for creation of designated smoking areas at public events

**TABLE OF COMPREHENSIVE OUTDOOR SECONDHAND SMOKE ORDINANCES (continued)**

CITY / COUNTY	OUTDOOR AREA WHERE SMOKING IS PROHIBITED						
	Dining Areas	Entryways	Public Events	Recreation Areas	Service Areas	Sidewalks	Worksites
<b>Novato</b> April 2008	X*	X	X	X	X		X
<b>Berkeley</b> December 2007	X	X		X	X	X*	X
<b>Ross</b> December 2007	X	X	X	X	X		
<b>Belmont</b> October 2007	X	X	X	X	X		X
<b>El Cajon</b> August 2007	X	X	X	X	X	X	X
<b>Blue Lake</b> June 2007	X*	X	X*	X	X		
<b>Temecula</b> May 2007	X	X	X	X	X		X
<b>Burbank</b> April 2007	X*	X	X	X*	X*	X*	
<b>Baldwin Park</b> February 2007	X	X	X*	X	X		
<b>Emeryville</b> December 2006	X	X	X	X	X		
<b>Laguna Woods</b> November 2006	X*	X	X	X	X		
<b>Marin County</b> November 2006	X*	X	X	X	X		X
<b>Contra Costa County</b> October 2006	X	X	X	X	X		
<b>Santa Monica</b> October 2006	X	X	X*	X	X	X*	
<b>Mammoth Lakes</b> June 2006	X	X	X	X	X		X
<b>Santa Rosa</b> June 2006	X	X	X	X	X*	X*	
<b>Calabasas</b> February 2006	X	X	X	X	X	X	X
<b>Davis</b> March 1993	X	X	X	X*	X		

\*Novato – allows exceptions for permitting smoking in outdoor areas at stand-alone bars if certain conditions are met

\*Berkeley – only prohibits smoking on sidewalks in commercial areas

\*Blue Lake – allows exemptions for smoking to be allowed at bars

\*Blue Lake – allows for designated smoking areas at public events

\*Burbank – allows restaurants to apply for a designated outdoor smoking section that can cover up to 40% of dining area

\*Burbank – allows for creation of designated smoking areas in recreation areas

\*Burbank – service areas prohibition does not include individual bus stops in public rights-of-way

\*Burbank – only prohibits smoking on sidewalks in downtown Burbank

\*Baldwin Park – only prohibits smoking at farmer's markets

\*Laguna Woods - only applies to restaurants, not bars

\*Marin County – allows exceptions for permitting smoking at outdoor dining at bars if certain conditions are met

\*Santa Monica – only prohibits smoking at farmer's markets

\*Santa Monica – only applies to sidewalks at the Third Street Promenade

\*Santa Rosa – service areas prohibition only includes downtown transit mall

\*Santa Rosa – only applies to sidewalks at Comstock mall and Jeju Way

\*Davis – only applies to open space areas that are used for recreation

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The Center for Tobacco Policy & Organizing • American Lung Association in California  
1029 J Street, Suite 450 • Sacramento, CA 95814 • Phone: (916) 554.5864 • Fax: (916) 442.8585 • [www.Center4TobaccoPolicy.org](http://www.Center4TobaccoPolicy.org)