



Becoming a Policy Wonk on Comprehensive Outdoor Secondhand Smoke Ordinances: Answers to Tough Questions from Opponents and Elected Officials

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In California outdoor areas are the major place where individuals continue to be exposed to harmful secondhand smoke. Over the last two years, many cities and counties have adopted a comprehensive ordinance to restrict smoking in outdoor areas. Please refer to the document *Comprehensive Outdoor Secondhand Smoke Ordinances* for a complete listing of these cities and counties and for additional information about comprehensive ordinances. The Center defines a comprehensive outdoor secondhand smoke ordinance as an ordinance that restricts smoking in at least five of the seven major outdoor areas. These areas are (1) dining areas; (2) entryways; (3) public events; (4) recreation areas; (5) service areas; (6) sidewalks; and (7) worksites.

In the cities and counties where ordinances have been adopted, advocates have faced significant opposition at times, yet they have been able to successfully demonstrate the need for these comprehensive ordinances. Below are the major arguments from opponents and elected officials and detailed responses to each concern.

Is it legal to prohibit smoking in outdoor areas of restaurants, shopping centers and any other private business?

It is perfectly legal for the government to regulate smoking in outdoor areas of private businesses. Smoking is already restricted in indoor areas of most private businesses and banning smoking in outdoor areas is the same thing. Local governments place many other restrictions on private businesses and restricting smoking is no different than these other regulations.

Won't smoking regulations in parks and downtown areas cause valuable police resources to be spent responding to calls about people smoking?

It is not the intention of these ordinances that police will spend time and money enforcing the smoking prohibitions. Rather, these ordinances are designed to be self-enforcing. Through education efforts to residents and businesses and posting of "no smoking signs" in the prohibited areas, smokers will become aware of the places where they can and cannot smoke. Likewise, nonsmokers will be informed about where smoking is not allowed and will have the support of "no smoking signs" to be able to ask someone to stop smoking. Along with these efforts it is necessary to have enforcement provisions, such as fines, placed in the ordinance. Part of what makes these laws self-enforcing is that they are enforceable if needed. They are real laws with penalties and consequences for violation.

Won't smoking restrictions in outdoor areas of restaurants, shopping centers and downtown areas cause consumers to dine and shop elsewhere and hurt businesses in the city?

People actually prefer to dine and shop in places where they will not be bothered by drifting secondhand smoke. Studies show that smoking restrictions do not adversely affect business revenue.ⁱ Similar concerns were expressed when the ban on smoking inside restaurants was passed in California in 1994, yet restaurant business did not decline because of this smoking restriction. The city of Calabasas provides a more recent firsthand account of how restricting smoking can help businesses. In February 2006, the city passed an ordinance that prohibited smoking in all outdoor places, except private residential property and designated smoking areas. One year later, the Center for Tobacco Policy & Organizing commissioned a scientific survey of voters in the city and found that 72% do not feel that the ordinance discouraged people from coming to shop or dine in the city.ⁱⁱ Furthermore, the Chairman of the Board of the Calabasas Chamber of Commerce provided public comments to the Beverly Hills City Council, during consideration of an ordinance to restrict smoking in outdoor dining, stating that the Calabasas ordinance did not hurt business in the city.

ⁱ Glantz S, Smith L. American Journal of Public Health 1997; 87(10): 1687-1693

ⁱⁱ The Center for Tobacco Policy & Organizing, American Lung Association of California, Survey of Calabasas Voters, March 2007, conducted by Goodwin Simon Victoria Research

Is secondhand smoke exposure really harmful in outdoor areas?

Yes. Many scientific studies document the negative health effects of secondhand smoke exposure outdoors. Exposure to secondhand smoke can have immediate health consequences, including eye, nose and throat irritation, as well as asthma attacks and breathing problems for people with chronic lung disease. In 2006, the US Surgeon General stated that secondhand smoke exposure causes disease and premature death in nonsmokers and maintained that there is no risk-free level of exposure to secondhand smoke.ⁱⁱⁱ Also in 2006, the California Air Resources Board (ARB) formally identified secondhand smoke as a toxic air contaminant.^{iv} This places secondhand smoke in the same category as asbestos and benzene.

A recent study conducted by researchers with Stanford University shows there is a public health need for restricting smoking in outdoor areas.^v 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.

ⁱⁱⁱThe health consequences of involuntary exposure to tobacco smoke: a report of the Surgeon General. – [Atlanta, GA]: U.S. Dept. of Health and Human Services, Centers for Disease Control and Prevention, Coordination Center for Health Promotion, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, [2006]

^{iv}State of California, Air Resources Board, Resolution 06-1, January 26, 2006

^vKlepeis 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.

Shouldn't local communities wait for the State Legislature to take action on this issue?

If local cities and counties wait for the California Legislature to take action people in their community will continue to be exposed to secondhand smoke and suffer the adverse health affects in the meantime. In addition, there is no guarantee that the Legislature will act to protect people from secondhand smoke exposure in these different outdoor areas. In the past when the Legislature has acted to pass laws restricting smoking, it has only been because of momentum from local cities and counties. When dozens of cities and counties pass local comprehensive outdoor smoking bans, then the Legislature may take action in passing a statewide comprehensive outdoor smoking law.

Doesn't the state already do enough to protect workers in California from being exposed to secondhand smoke?

Despite the strong smokefree workplace law in California, there are still many people who are exposed to secondhand smoke while on the job. These include construction workers, workers at restaurants and bars and people that work at fairs, farmer's markets and other outdoor events. Because secondhand smoke exposure is harmful outdoors as well, local ordinances are needed to go beyond the state law and protect all workers. The best way to do this is through a specific restriction on smoking in places of employment as part of a comprehensive ordinance. However, workers can also be protected by other provisions that can be included in a comprehensive ordinance, such as smokefree outdoor dining and smokefree events.

Why should smoking be banned in parks and other large outdoor areas when there is enough room for smokers to not smoke in close proximity to other people?

As the US Surgeon General has stated, there is no safe level of exposure to secondhand smoke. Allowing smoking even in large outdoor areas does pose a health risk. Also, there are many areas in parks where people congregate, such as picnic areas and sport field bleachers, where people are exposed to secondhand smoke from a closer distance.

Besides the health impact, there are other benefits to prohibiting smoking in parks and other large outdoor areas. Cigarettes are the top litter item found at beaches and a major litter item at parks. Cigarettes also pose a risk of starting wildfires. One example is the 2007 Griffith Park fire in Los Angeles that was caused by a discarded burning cigarette. The fact that these ordinances would prohibit smoking in outdoor areas where children are frequently present also models healthy behavior for children. Unfortunately, people who smoke while watching their kids play at a park are sending the opposite message, that smoking is an acceptable activity. Finally, reducing the areas in which people can smoke makes it easier for people to quit because they have fewer opportunities to smoke and creates a new social norm in which smoking in public becomes less accepted.

Who is going to pay for the signage and education materials?

Determining who will pay for items, such as no-smoking signs, pamphlets, window stickers and other education materials, will likely be different in each community depending on the community's budget, commitment to the public education efforts and support of businesses and property owners. If the city is making the commitment to protect the public health of its residents through a comprehensive ordinance, it should be able to make some sort of financial commitment to pay for the no-smoking signs and education materials to make this ordinance effective at reducing exposure to secondhand smoke. However, some cities with comprehensive ordinances have looked to share the costs of signs by requiring businesses and property owners to pay for their own no-smoking signs.

If smoking is banned in all these outdoor places, will smokers have anywhere left to smoke?

Each city that adopts a comprehensive outdoor secondhand smoke ordinance will likely need to make sure that there is some sort of sensible location where people can smoke. What that sensible location is depends in large part on where the community chooses to prohibit smoking. In certain cities and counties, there may some outdoor areas such as sidewalks where smoking is still allowed and individuals will just need to go to these areas in order to smoke. In other cases where the smoking prohibitions are more restrictive, the best solution may be to allow businesses or the city or county to create clearly marked designated smoking areas that are located the greatest reasonable distance possible from entryways or areas where people congregate.