



## Answers to Tough Questions from Opponents and Elected Officials February 2019

According to the U.S. Surgeon General, there is no safe level of exposure to secondhand smoke. Therefore, 113 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 in California about comprehensive ordinances. A comprehensive outdoor secondhand smoke ordinance is defined 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. Additional smokefree outdoor area resources are available at [www.center4tobaccopolicy.org/tobacco-policy/smokefree-outdoor-areas/](http://www.center4tobaccopolicy.org/tobacco-policy/smokefree-outdoor-areas/)

### Is secondhand smoke exposure really harmful in outdoor areas?

Yes. According to the US Surgeon General, there is no safe level of exposure to secondhand smoke. 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.<sup>1</sup>

Also in 2006, the California Air Resources Board (CARB) formally identified secondhand smoke as a toxic air contaminant.<sup>2</sup> This places secondhand smoke in the same category as asbestos and benzene.

### 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 violations.

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

As the US Surgeon General has stated, there is no safe level of exposure to secondhand smoke. 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 close 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. In California, the large majority of fires are human-caused, and reports indicate that Cal Fire responds to 47 fires year caused by smoking.<sup>3,4</sup> 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.

### **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 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 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.<sup>5</sup> 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 prohibits smoking in all outdoor places, except private residential property and designated smoking areas. One year later, the American Lung Association in California 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.<sup>6</sup> 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.

### **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. 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 acted to pass laws restricting smoking, it was only done 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 is harmful at any level, 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.

### 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.

### Why are e-cigs included in smokefree ordinances, it's only vapor?

Secondhand aerosol from e-cigs does not produce a water vapor, it's rather a dense aerosol containing dangerous nanoparticles that are linked to serious lung disease (diacetyl), found in car exhaust (benzene), and other carcinogens such as glycols, lead, nickel, and formaldehyde.<sup>7,8</sup> Fifty-nine percent of California voters believe that vapor from electronic cigarettes is harmful for people exposed to it.<sup>9</sup>

E-cigs can also be used for both tobacco or marijuana and it is difficult to distinguish which substance is being smoked. Under state law, smoking marijuana is prohibited wherever tobacco smoke is prohibited.<sup>10</sup> Uniform enforcement of e-cigs is needed in order to ensure clear and fair enforcement for both tobacco and marijuana, while also protecting the community from all types of secondhand smoke.

## Footnotes

1. The 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]
2. State of California, Air Resources Board, Resolution 06-1, January 26, 2006
3. McGreevy, Patrick. "California Wildfires Fuel a New Push to Ban Smoking at State Parks and Beaches." Los Angeles Times. August 30, 2018
4. California's Forests and Rangelands 2017 Assessment.: California Department of Forestry and Fire Protection, Fire and Resource Assessment Program. August 2018
5. Shafer P. Impact of US smoke-free air laws on restaurants and bars by employer size: a panel study. *BMJ Open* 2017;7:e018137. doi: 10.1136/bmjopen-2017-018137
6. The Center for Tobacco Policy & Organizing, American Lung Association of California, Survey of Calabasas Voters, March 2007, conducted by Goodwin Simon Victoria Research
7. Surgeon General Dr. Vivek H. Murthy. Press conference releasing "E-Cigarette Use Among Youth and Young Adults: A Report of the Surgeon General" December 2016
8. Offermann, Bud. "The Hazards of E-Cigarettes." *ASHRAE Journal*, June 2014.
9. The Center for Tobacco Policy & Organizing, American Lung Association in California. California Voters' Attitudes About Secondhand Smoke Exposure: Public Opinion Survey, August 2018, conducted by Goodwin Simon Victoria Research.
10. California Health & Safety Code, 11362.3