



Legal Basis For Regulating Effects of Secondhand Smoke



“A local governing body may ban completely the smoking of tobacco, or may regulate smoking in any manner not inconsistent with ... any ... provision of state law.” (California Health and Safety Code Section 118920)

“Regulating the smoking of tobacco to protect the health of local residents is a valid exercise of local police power. (City of San Jose v. Department of Health Services (1998) 66 Cal.App.4th 35)

State prison inmate can assert violation of 8th Amendment (cruel and unusual punishment) for exposure to secondhand smoke in cell. (Helling v. McKinney (1993) 509 U.S. 25)



Current Belmont Ordinance Smoking Not Allowed:



- Certain Defined Public Places, Indoor Or Outdoor
- Indoor Service Lines
- Restaurants, Indoor Or Outdoor
 - Exception: Bars And Bar Areas Of Restaurants
- Performance Venues (Movie Theaters, Auditoriums, Etc)
- Enclosed Sports Arenas And Convention Halls
- Medical Offices And Facilities
- Common Areas Of Multiresidential Facilities And Buildings
- Enclosed Places Of Employment, Public Or Private

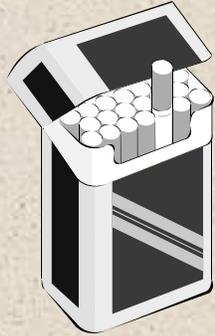


Current Belmont Ordinance

Smoking Allowed:



- Bars And Bar Areas Of Restaurants
- Private Residences Except When Used As Healthcare, Childcare, Group Home Or Senior Care Facility
- Retail Tobacco Stores
- Hotel/Motel Rooms
- Meeting Rooms Of Hotels/Motels If Used For Private Function
- Outdoor Service Lines



Current Belmont Ordinance

Other Provisions:

- Owners/Operators Required to Post Signs
- No Sale Of Tobacco Products From Vending Machines Or Self-service Displays
- Enforcement
 - Letter To City Manager
 - Criminal Infraction: Fines Up To \$500
 - Public Nuisance: Abatement By City
 - Civil Action By Citizen
 - Public Education
- City Has Not Received Any Requests For Enforcement



Current Belmont Ordinance

Issues with Ordinance:



- Does Not Clearly Define “Public Place” Except By Example
- Other Definitions Unclear Or Contradictory
 - “Bar Area” Of Restaurant Could Extend 15’ Into “Enclosed Dining Area” Where No Smoking Allowed
 - Unclear If “Common Areas” Includes Outdoor Areas Or Decks Of Multi-unit Residential Buildings
- Based On 1993 Or Earlier Medical Research

Draft Model Public Health Institute Ordinance



- Compilation Of Provisions From Past Model Ordinances Plus Adopted Ordinances Throughout State
- Updated With Medical Research Findings Through Late 2006
- Updated With Consistent Definitions
- All Provisions, Except Ban On Smoking Inside Units Of Multi-unit Residences, Can Be Found In Other Adopted Ordinances



California Cities And Counties With Smoke-Free Laws



Amusement Parks/Golf Courses/Zoos

Fresno, Oakland, Pasadena, San Francisco (City and County)

Athletic Fields/Sporting Venues

Albany, Anaheim, Arcata, Berkeley, Buellton, Burbank, Calabasas, Calexico, Carpinteria, Clayton, Concord, Davis, El Centro, Fremont, Glendale, Goleta, Lafayette, Laguna Hills, Laguna Woods, Lemon Grove, Livermore, Los Angeles, Marin (County), Milpitas, Monterey (County), Mountain View, Newark, Oakland, Ojai, Palm Desert, Pittsburg, Pleasant Hill, Pleasanton, Redding, Reedley, Richmond, Sacramento (specifically Raley Field), Salinas, San Bernardino (City and County), San Diego, San Fernando

Athletic Fields/Sporting Venues (Cont.)

San Francisco (City and County), San Jose, San Rafael, Santa Barbara (County), Santa Rosa, Sonoma, Stockton, Sunnyvale, Tuolumne (County), Union City, Visalia, Woodland

Beaches and Piers

Capitola, Carmel-by-the-Sea, Carpinteria, Coronado, Del Mar, El Segundo, Hermosa Beach, Huntington Beach, Huntington Park, Imperial Beach, Laguna Beach, Long Beach, Los Angeles (City and County), Malibu, Manhattan Beach, Marina Del Rey, Morro Bay, Newport Beach, Pacific Grove, Pacifica, San Clemente, San Diego, San Francisco (City and County), Santa Barbara, Santa Cruz, Santa Monica, Seal Beach, Solana Beach, Torrance

Entryways: Non-Governmental(Privately Owned) Facilities

Alameda (County), Arcata, Berkeley, Buellton, Calabasas, Calexico, Capitola, Carpinteria, Colusa (County Private Medical Offices), Contra Costa (County), Crescent, Davis, Dublin, El Cajon, Fremont, Goleta, Healdsburg, Imperial Beach, Laguna Hills, Laguna Woods, Livermore, Marin (County), Mono (County), Newark, Novato, Oakland, Palm Desert, Palo Alto, Pleasanton, Rancho Cucamonga, Sacramento (City and County), San Anselmo, San Mateo (County), San Rafael, San Ramon, Santa Barbara (City and County), Santa Cruz (County), Santa Monica, Sausalito, Scotts Valley, Stockton, Sutter (County), Thousand Oaks, Tracy, Union City, Watsonville, Woodland, Yolo (County)

Hotels and Motels

Alameda (County), Berkeley, Livermore, Marin (County), Ojai, Pleasanton, San Jose

Misc Local Ordinances/Regulations

Anderson, Arcata, Chico, Davis, El Centro, Kings (County), Los Gatos, Mendota, Oceanside, Palos Verdes Estates, Redlands, Santa Rosa, Sutter (County), Thousand Oaks, Trinity (County), Vista, Woodland

Common Areas of Multi Family Housing

Buellton, Calabasas, Contra Costa (County), San Jose, San Mateo (County)



California Cities And Counties With Smoke-Free Laws Continued



Nuisance

Calabasas, Dublin

Outdoor Dining

Alameda (County), Albany, Arcata, Berkeley, Buellton, Calabasas, Carpinteria, Chula Vista, Contra Costa (County), Davis, Del Mar, Dublin, Fremont, Gilroy, Goleta, Hayward, Healdsburg, Laguna Hills, Laguna Woods, Los Gatos, Marin (County), Menlo Park, Newark, Ojai, Palo Alto, Pleasanton, Reedley, San Carlos, San Mateo, San Ramon, Santa Barbara (City and County), Santa Monica, South San Francisco, Sunnyvale, Tuolumne (County), Union City

Outdoor Workplaces

Berkeley, Santa Monica, Marin (County)

Parks and Gardens

Arcata, Baldwin Park, Beverly Hills, Calabasas, Calexico, Capitola, Carpinteria, Carson, Ceres, Cerritos, Compton, Contra Costa (County), Coronado, Covina, Culver City, Davis, Del Mar, El Cajon, El Monte, Firebaugh, Fowler, Fresno, Gardena, Glendale, Grand Terrace, Hawthorne, Healdsburg, Huntington Park, Imperial (County), Imperial Beach, Irvine, La Mesa, La Puente, Laguna Hills, Laguna Niguel, Lake Forest, Lathrop, Los Alamitos, Los Angeles, Mammoth Lakes, Manhattan Beach, Mendota, Modesto, Monterey (County), Monterey Park, Newport Beach, Oakland, Oceanside, Orange Cove, Orinda, Palm Desert, Pasadena, Pine Grove, Rancho Cucamonga, Redlands, Redondo Beach, Reedley, Riverbank, Rohnert Park, Rosemead, Salinas, San Diego (City and County), San Fernando, San Francisco (City and County), San Marino, San Rafael, San Ramon, Santa Clarita, Santa Cruz (City and County), Santa Monica, Scotts Valley, Seal Beach, Solana Beach, Tulare (County), Vacaville, Ventura (County), Vista, Walnut, Watsonville, Windsor, Winters, Woodland, Yolo (County), Yucaipa

Public Places: Comprehensive (Indoor/Outdoor)

Albany, Berkeley, Calabasas, Ceres, Clayton, Contra Costa (County), Coronado, Dublin, Healdsburg, Laguna Hills, Laguna Woods, Lemon Grove, Marin (County), Riverbank, San Carlos, San Mateo (City and County), Santa Monica, Santa Rosa, Windsor

Retail Tobacco Shops

Dublin, Galt, Pleasant Hill

Service Lines/Ticket Lines/Waiting Lines/Bus Stops/Taxi Shelters/ Terminals/Waiting Rooms

Albany, Arcata, Berkeley, Buellton, Carpinteria, Corte Madera, Davis, Dublin, Fremont, Glendale, Goleta, Hayward, Laguna Woods, Los Angeles, Marin (County), Newark, Ojai, Palo Alto, Pleasanton, San Bernardino, San Francisco (City and County), San Mateo, Santa Barbara (City and County), Scotts Valley, Sunnyvale, Tuolumne (County), Union City, Visalia

Statewide Laws

Day Care Facilities, Entryways to Government Buildings, Fair Employment and Housing Act, Food Handling and Tobacco Use, Playgrounds and Tot Lots, Prisons, Prop 65, Public Schools, Public Transportation, Workplaces

California Private and Public Entities Which Have Voluntarily Adopted Smoke-Free Policies

Hospitals/Health Care Campuses

Kaiser Permanente (Statewide), Mercy General Hospital (Sacramento), Sutter Medical Center (Sacramento), Watts Healthcare Corporation (Los Angeles)

Hotels and Motels

Marriott International Inc (Statewide), Westin Hotel (Statewide)

Housboats

Shasta

Multi-Family Housing (Indoor/Outdoor)

Pleasanton Gardens (Alameda), Plumas (County)

Outdoor Community Events (Monterey)

Girl Scouts of Monterey Bay, Kidfest Tobacco Policy, Monterey Peninsula College Farmers Market, Pacific Grove Feast of Lanterns, American Cancer Society Relay for Life (Salinas), Artistas Unidos First Friday Art Walk

State and County Fairs

Amador County Fair (Amador), Antelope Valley Fair and Alfalfa Festival (Los Angeles), Big Fresno Fair (Fresno), Calaveras County Fair and Jumping Frog Jubilee (Calaveras), California Mid-State Fair (San Luis Obispo), California State Fair (Sacramento), Colorado River Country Fair (Riverside), Del Norte County Fair (Del Norte), Desert Empire Fair and High Desert Spring Festival (Kern), Dixon May Fair (Solano), Eastern Sierra Tri-County Fair (Alpine, Inyo and Mono), El Dorado County Fair (El Dorado), Glenn County Fair (Glenn), Humboldt County Fair (Humboldt), Kern County Fair (Kern), Lake County Fair (Lake), Mariposa County Fair and Homecoming (Mariposa), Plumas-Sierra County Fair (Plumas), San Benito County Fair (San Benito), San Joaquin Fair (San Joaquin), Santa Barbara Fair and Expo (Santa Barbara), Shasta District Fair (Shasta), Siskiyou Golden Fair (Siskiyou), Sonoma-Marin Fair (Marin and Sonoma), Stanislaus County Fair (Stanislaus), Trinity County Fair (Trinity), Yolo County Fair (Yolo), Yuba-Sutter Fair (Sutter and Yuba)

Theme Parks

Disneyland Resort (Orange), Universal City Walk (Los Angeles)

Tribal Casinos

Lucky Bear Casino (Humboldt)

University Campuses

Santa Monica College (Los Angeles), San Diego Mesa Community College (San Diego), Santa Rosa Junior College (Sonoma), Woodland Community College (Yolo)



Main Provisions of Draft Model Public Health Institute Ordinance

- No Smoking In:
 - Outdoor As Well As Indoor Workplaces (Including Restaurants And Bars)
 - Outdoor As Well As Indoor Public Places
 - Sidewalks And Streets: Several Alternatives Provided
 - Outdoor As Well As Indoor Service Lines
 - Individual Units, As Well As Indoor And Outdoor Common Areas Of Multi-Unit Housing: Several Alternatives Provided



Main Provisions of Draft Model Public Health Institute Ordinance



- Smoking Allowed:
 - In Single Family Houses And Lots Unless Used As Childcare Or Health Care Facilities
 - In Percentage Of Hotel/Motel Guest Rooms
 - For Medical Marijuana Uses For Consistency With State Law

Enforcement Under Draft Model Ordinance

- Criminal Infraction: Fines
- Public Nuisance: Abatement And/Or Civil Fines
- Civil Action By Citizen Individually Or As Member Of Public
- Landlords Not Obligated To Enforce





Some Open Issues Under Draft Model Ordinance



- Role Of City In Education And Smoking Cessation Services And Products
- Condominiums/Townhouses
- Additional Findings Recently Provided Regarding Ineffectiveness Of Ventilation Systems In Preventing Spread Of Secondhand Smoke
- Additional Findings Recently Provided Regarding Short-term Exposure To Secondhand Smoke Injurious To Health
- Clarification Of Enforcement Alternatives