

OFFICE OF THE CITY MANAGER

May 5, 2008

TO: City Council
FROM: City Manager
RE: No Smoking In Certain Outdoor Public Places

On April 7, 2008, the Public Safety Committee reviewed the attached agenda report regarding limitations on smoking in outdoor public places. At that time, the Committee asked staff to return with further information on outreach to local businesses and updates on laws adopted by other cities. Attached is the information submitted to the Public Safety Committee in follow-up to those concerns.

Respectfully submitted,

BERNARD K. MELEKIAN
City Manager

BKM:ld

Attachment

5/05/08
7.D.1.

Memorandum

To: City Council Public Safety Committee
From: Takashi M. Wada, Public Health Director/Health Officer
Public Health Department
Date: May 5, 2008
Re: NO-SMOKING IN OUTDOOR PUBLIC PLACES

This report responds to questions raised at the April 7, 2008 Public Safety Committee meeting regarding smoking in public places within Pasadena. Staff was asked to 1) develop a business outreach plan to provide opportunity for local businesses to provide input on the proposed policies [Attachment A]; and 2) provide any updates on the matrix on what other cities have adopted, specifically the five local cities of Calabasas, Glendale, Burbank, Santa Monica, and South Pasadena [Attachment B].

BACKGROUND:

A local community intercept survey of 900 respondents representing Pasadena's daytime population showed strong community support for the proposed policies (ranging from 76-82%). Based on the survey data there is community readiness for Pasadena to adopt proposed policies to prohibit outdoor tobacco smoke in public places to further reduce the public's exposure to secondhand smoke.

BUSINESS OUTREACH PLAN:

Staff developed an information sheet to provide local businesses with background information on the proposed policies [Attachment A]. This information was converted to a hyperlink that directed website visitors to the Public Health Department comment page in order to receive input from the public and businesses electronically. The South Lake Business District has posted a link to the Public Health Department on their website for their constituents to provide comments on the proposed smoking policies. In addition, the information sheet and the web address for the Public Health Department were also sent to the Chamber of Commerce to post on their website and to be included in their newsletter.

Staff also worked with the Planning & Development Department, Economic Development Division, to arrange a meeting with the three major business districts that represent 95% of Pasadena businesses: Old Pasadena Management District, South Lake Business District, and the Pasadena Playhouse District. This meeting was held on

April 29, 2008 to discuss the proposed policies in detail and to address any concerns regarding implementation and enforcement expectations of the proposed policies. Several clarifications were addressed. Discussion included whether or not significant tobacco retailers (such as Chivas and Ceniza) would be exempted from the proposed policies. Smoking would be continued to be allowed in these establishments as are they are already exempted from certain local and state tobacco control laws. The second question was about enforcement expectations. Enforcement of the proposed policies would be built into an existing enforcement mechanism operated by the Public Health Department. This mechanism is a complaint-driven process with a telephone number and website for the public to register complaints. Staff will also develop a comprehensive proactive public education communications effort, coupled with prominent, clear, and business friendly signage to notify the public about the newly adopted policies. The business district representatives expressed some concern from their constituents that the new policies may negatively impact revenue. In order to address this issue, public health department staff shared information and data that have demonstrated minimal overall financial impact when smoking prohibition policies were implemented in the past.

Additionally, staff collaborated with the Northwest Programs, Enterprise Zone Manager to work with businesses in the northwest Pasadena area. Attachment A was sent electronically to the Enterprise Zone Manager as a hyperlink that was then forwarded to the businesses on their distribution list.

The Chamber of Commerce raised concerns about where staff would be able to smoke during their breaks and whether it would be possible to designate defined smoking areas. Staff clarified that the 20 foot prohibition of smoking from business entrances/ exits would apply only to public entrances/ exits and would not apply to employee or service entrances/ exits. Additionally, the policies are geared to prohibit stationary smokers, but would not impact mobile smokers. For example, a stationary smoker would be prohibited from standing, lingering or sitting within 20 feet of an entrance of a business. However, an individual who parked their car and was smoking while walking to a restaurant would be able to smoke on the sidewalk, even if they passed within 20 feet of a business entrance, until they reached the restaurant. In a review of experiences from other jurisdictions, staff do not recommend designated smoking areas due to difficulties in implementation and enforcement with such exemptions.

The board of Pasadena Playhouse District has voted in favor of the proposed no-smoking policies. The Old Pasadena Management District and South Lake Business District have a neutral position on the proposed policies.



TO OUR PASADENA BUSINESS COMMUNITY

At the request of the City of Pasadena Public Safety Committee, Public Health Department staff was asked to research outdoor tobacco smoking and provide a report on recommendations to amend the current City municipal code's tobacco control ordinance. The following is summary of the key points:

- As of June 2007, in California, 42 cities and/or counties have policies regulating tobacco smoke in outdoor dining, 46 have an entryway policy, and 29 have adopted policies related to service lines, waiting lines, bus stops, and taxi shelters. Cities and counties that have one or more of these policies include Calabasas, Beverly Hills, Santa Monica, South Pasadena, Baldwin Park Santa Rosa, Contra Costa County, Marin County, Laguna Woods, Baldwin Park, Burbank, Temecula, El Cajon, Belmont, Ross and Berkeley. Three of these—Santa Monica, Calabasas and Beverly Hills—are nearby communities with major retail and/or restaurant businesses. In addition, Glendale is now considering outdoor tobacco smoke and drifting tobacco smoke in multi-unit housing polices. The City of Berkeley is now considering no smoking on sidewalks in all commercial zones. Culver City is considering policies to prohibit smoking in outdoor dining.
- Demand is high for smoke-free outdoor air. Eighty-five per cent (85%) of adults in Los Angeles County do not smoke and prefer dining outdoors at their favorite restaurant without subjecting themselves and their families to drifting secondhand smoke. (www.freshairdining.com).
- The 2005 Zagat Restaurant National Survey reported that customers would eat out significantly more often as a result of smoke-free restaurants.
- When the State Labor Code was amended in 1994 restricting smoking inside restaurants, and in 1998, inside bars, a Board of Equalization study showed this sector had an increase in business.
- Since August 2007, staff has worked with 15 community volunteers to conduct a local community intercept survey to obtain public opinion and gauge community readiness about outdoor tobacco smoke regulations in public places. This survey was completed by 900 respondents representing Pasadena's daytime population. Although this was not a randomized sample, significant efforts were made to reach a diverse demographic of respondents from various parts of the city as well as smokers and nonsmokers. The analysis was conducted by an independent research consulting firm and the results indicate the following:
 - 76% would support a policy to prohibit smoking in all public places.
 - 82% would support a policy to prohibit smoking in public service waiting lines.
 - 78% would support a policy to prohibit smoking in all outdoor gathering events (not on parkland, since city-owned parks are already 100% smoke-free).
 - 81% would support a policy to prohibit smoking in outdoor dining.
 - 82% would support a policy to prohibit smoking within a certain distance from the main building entrance.

- In February 2008, the American Lung Association released its first annual Tobacco Control report card, highlighting cities with the most comprehensive tobacco control ordinances in Los Angeles and Orange County cities. Grading for tobacco prevention is based on the Centers for Disease Control and Prevention's (CDC) Best Practices for Comprehensive Tobacco Control Programs. Cities and Counties, rated on a grade scale (A – F), were measured on how city leaders and officials protect their citizens from harmful secondhand smoke exposure in city parks and recreation areas, entryways, service lines, outdoor dining, and apartments.
→ The City of Pasadena obtained a “**C**” grade, citing the need to upgrade local policies that further reduce the public’s exposure to secondhand smoke.
- The Environmental Protection Agency has classified secondhand smoke as a Class A carcinogen, known to cause cancer in humans. According to the California Department of Health Services, secondhand smoke contains more than 50 cancer-causing chemicals and 50,000 Americans each year.
- Smoking in outdoor venues exposes people to levels of harmful secondhand smoke as high as levels existing in indoor spaces where smoking is unrestricted. Evidence regarding the harmful effects of secondhand smoke is well-documented in medical and scientific literature and substantiates the need for stronger policies to regulate secondhand smoke in outdoor public places. Additionally, prohibiting smoking within a defined distance from main building entrances will further protect the public’s health by preventing people from breathing in concentrated carcinogenic secondhand smoke as they enter or exit buildings, particularly a concern for youth and those with respiratory disabilities.

* * *

It is recommended that City Council direct the City Attorney to amend the City’s municipal code to:

1. Prohibit smoking in outdoor malls, shopping areas/centers.
2. Prohibit smoking in outdoor dining areas.
3. Prohibit smoking within 20-feet of main business entrances.
4. Prohibit smoking in public service waiting lines (e.g. movie theatre lines, ATM lines, bus stops).
5. Prohibit smoking in public outdoor gathering events/special events/parades/fairs (not on parkland).

These recommendations will not impact smoking inside cigar lounges/significant tobacco-retailer shops, as these establishments are already exempted under current state and local laws. Enforcement of the proposed policies would be built into an existing enforcement mechanism operated by the Public Health Department. This mechanism is a complaint-driven process with a telephone number and website for the public to register complaints. Staff will also develop a comprehensive proactive public education communications effort, coupled with clear and prominent signage to notify the public about the newly adopted policies.

* * *

Your business input is valued.

Please share any comments you have on these recommendations
to the City of Pasadena Public Health Department
by Friday, May 2, either online or by phone:

Online: www.cityofpasadena.net/publichealth/comments.htm

Phone: (626) 744-6014

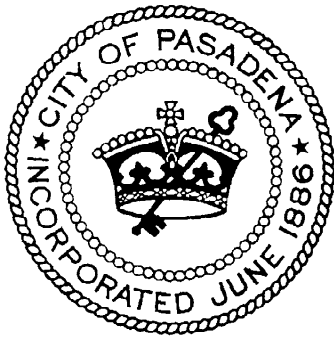
Local Communities with Ordinances Regulating Smoking in Public Places*

City/Population	Adoption	Policy Description (Smoking Prohibited)	Enforcement Agent/ Enforcement Tools	Violation/Fines/ Penalties
Burbank 100,316	April 2007	Outdoor dining (up to 40% can be designated for smoking). Also bans smoking in city parks, downtown sidewalks, Chandler bikeway, service areas, outdoor events, and outdoor shopping areas.	Police Department/Signage	Misdemeanor or infraction at the discretion of the City Prosecutor.
Calabasas 23,123	March 2006	All outdoor public places, except for designated smoking areas. Includes outdoor workites, enclosed and unenclosed patio areas of restaurants and bars, and no-smoking within 20-ft of any entrance to any enclosed, non-smoking area, and outdoor common areas in multi-unit housing. Businesses that intentionally violate the ordinance are subject to fines and/or prosecution.	Code Enforcement/Peace Officer/Signage.	Misdemeanor or infraction at the discretion of City Prosecutor. Also has a private enforcement provision.
Glendale 204,004	July 2005	Service lines/ticket lines/waiting lines, bus stops, taxi terminals, golf courses, swimming pools, outdoor events, bleachers, benches, 25-ft distance requirement for city park and recreational facilities. Prohibit smoking in Brand Boulevard Chess Park, within any outdoor seating area and within 25- ft of outdoor seating area located in a city park or recreational facility, during an outdoor event located within a city park or recreational facility, and within 25-ft of a person in a service line. Outdoor seating areas/events/service lines prohibitions only apply to places located within city parks or city recreational facilities. Currently considering prohibiting drifting tobacco smoke in multi-unit housing.	Signage, City Manager and/or his/her designee, Director of Parks, Police Department, Park Rangers.	Infraction. Three or more violations in one year will constitute a misdemeanor.
Santa Monica 84,084	October 2006	Outdoor dining, Farmer's Market, Third Street Promenade, waiting areas, ATM, movie lines, bus stops, 20-ft distance requirement, parks, beaches, Santa Monica Pier (except designated areas).	Police Department enforces the law along with a 24-hour staff hotline. Violations are considered infractions, with a \$250 fine.	Infraction, \$250 fine.
South Pasadena 25,824	August 2007	Prohibits smoking in parks, golf courses, waiting lines, outdoor dining areas, shopping area sidewalks, 20-25 feet from buildings, and other public gathering areas in the city.	Chief of Police or authorized designee	Infraction, minimum fine is \$50. No posting of signs is guilty of misdemeanor.

* All policies go beyond 100% smokefree parks, which is the only outdoor air policy in Pasadena

City of Pasadena Public Health Department Tobacco Control Program

Updated 4/28/08



Agenda Report

TO: CITY COUNCIL

DATE: April 7, 2008

THROUGH: PUBLIC SAFETY COMMITTEE

FROM: CITY MANAGER

SUBJECT: NO SMOKING IN CERTAIN OUTDOOR PUBLIC PLACES

RECOMMENDATION:

It is recommended that City Council direct the City Attorney to amend the City's municipal code as follows:

1. Prohibit smoking in outdoor malls, shopping areas/centers.
2. Prohibit smoking in outdoor dining areas.
3. Prohibit smoking within 20-feet of business entrances/exits.
4. Prohibit smoking in public service waiting lines (e.g. movie theatre lines, ATM lines, bus stops).
5. Prohibit smoking in public outdoor gathering events/special events/parades/fairs (other than parkland).

BACKGROUND:

This report addresses questions raised at the February 4, 2008 Public Safety Committee meeting regarding smoking in public places within Pasadena. Staff was asked to provide: 1) an update on the results of the local community opinion survey addressing the issues of smoking in public places [Attachment A]; 2) recommendations to further protect the public's exposure to secondhand smoke in outdoor public places; and 3) a description of policy provisions that reflect an American Lung Association "A" grade versus a "B" grade relative to their report card evaluation of cities' tobacco control regulations.

Smoking in outdoor venues exposes people to levels of harmful secondhand smoke as high as levels existing in indoor spaces where smoking is unrestricted. Evidence regarding the harmful effects of secondhand smoke is well documented in medical and scientific literature and substantiates the need for stronger policies to regulate secondhand smoke in outdoor public places. Additionally, prohibiting smoking within a defined distance from building entrances/exits will further protect the public's health by preventing people from breathing in

concentrated, unwanted carcinogenic secondhand smoke as they enter or exit buildings, particularly persons with respiratory disabilities.

Enforcement of the proposed policies would be built into an existing enforcement mechanism operated by the Public Health Department Tobacco Control Program. This mechanism is a complaint-driven process with a telephone number and website for the public to register complaints. Staff will also develop a comprehensive proactive public education communications effort, coupled with clear and prominent signage to notify the public about the newly adopted policies.

Results of Local Survey:

Since August 2007, staff has worked with 15 community volunteers to conduct a community intercept survey to obtain public opinion and gauge community readiness about outdoor tobacco smoke regulations in public places. This survey was completed by 900 respondents representing Pasadena's daytime population. Although this was not a randomized sample, significant efforts were made to reach a diverse demographic of respondents from various parts of the city. The analysis was conducted by an independent research consulting firm and the results indicate the following:

- 76% would support a policy to prohibit smoking in all public places.
- 82% would support a policy to prohibit smoking in public service waiting lines.
- 78% would support a policy to prohibit smoking in all outdoor gathering events (other than parkland).
- 81% would support a policy to prohibit smoking in outdoor dining.
- 82% would support a policy to prohibit smoking within a certain distance from the main building entrance or exits.

Update on Other California Communities with Existing Outdoor Tobacco Smoke Policies in Public Places

As of June 2007, 42 cities have policies regulating tobacco smoke in outdoor dining, 46 cities have an entryway policy, and 29 cities have adopted policies related to service lines, waiting lines, bus stops, and taxi shelters. The City of Glendale is currently considering outdoor tobacco smoke and drifting tobacco smoke in multi-unit housing policies. It may also ban smoking on sidewalks in all commercial zones. Culver City is considering policies to prohibit smoking in outdoor dining.

Tobacco Control Policy Elements of an "A" Grade Ordinance versus a "B" Grade Ordinance

In February 2008, the American Lung Association held a press conference to release its first ever local Tobacco Control report card, highlighting the cities with the most comprehensive tobacco control ordinances in Los Angeles and Orange County cities.

Grading for tobacco prevention is based on the Centers for Disease Control and Prevention's (CDC) 1999 Best Practices for Comprehensive Tobacco Control Programs. Cities and Counties were rated on a grade scale (A – F) and were measured on how city leaders and officials protect their citizens from harmful secondhand smoke exposure in city parks and recreation areas, entryways, service lines, outdoor dining, and apartments. Local governments were also graded on preventing youth access to tobacco through tobacco retailer licensing laws.

While the City of Pasadena has remained a leader in preventing youth access to tobacco products, it has lagged behind other communities in secondhand smoke policies. The City obtained a “**C**” grade, citing the need to upgrade local policies that further reduce the public’s exposure to secondhand smoke.

An “A” grade ordinance is primarily based on its comprehensiveness in protecting the public from exposure to secondhand smoke. According to the Center for Policy and Organizing, a statewide agency that monitors local tobacco control ordinances, there are seven policy elements of a comprehensive outdoor air ordinance when approaching a prohibition of smoking in all public places:

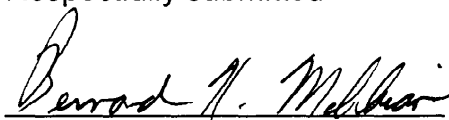
1. **Dining Areas** – defined as outdoor seating at restaurants, bars, etc.
2. **Entryways** – defined as within a certain distance of doors, windows, and other openings into enclosed areas (many entryways restrictions prohibit smoking within a certain distance of all areas where smoking is prohibited, not just openings into buildings).
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

Cities and counties that have comprehensive ordinances include Calabasas, Santa Rosa, Santa Monica, Contra Costa County, Marin County, Laguna Woods, Baldwin Park, Burbank, Temecula, El Cajon, Belmont, Ross and Berkeley.

FISCAL IMPACT:

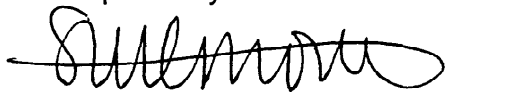
There would be a nominal cost for staff time related to enforcement, signage and the public education campaign to inform the public about the new restrictions on smoking in public.

Respectfully submitted



Bernard K. Melekian
City Manager

Prepared by:



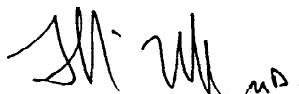
Statice Wilmore
Tobacco Control Coordinator II

Reviewed by:



Joy Guihama, MPH, CHES
Division Manager
Health Promotion & Policy Development

Approved by:



Takashi M. Wada, MD, MPH
Director/Public Health Officer