CITY OF BEVERLY HILLS
STAFF REPORT

Meeting Date: February 2, 2010

To: Honorable Mayor & City Council

From: Daniel E. Cartagena, Senior Management Analyst

Subject: Tobacco Control Options Near Schools

Attachments:
1. Correspondence from State Senator Alex Padilla
2. American Lung Association 2009 Tobacco Control Report Card

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INTRODUCTION

Recently, the City Council received a request from California State Senator Alex Padilla encouraging cities to adopt a local ordinance prohibiting and/or restricting the sale of tobacco near schools.

In California, 36,000 children become new smokers every year, with tobacco use continuing to be one of the leading causes of preventable death in the state. Surveys indicate that the closer a tobacco retailer is to a school, the more likely they are to sell tobacco products to children.

For over 100 years, it has been illegal to sell tobacco products to minors. In April 2009, a survey conducted by Los Angeles County's Department of Public Health explored the percentage of Beverly Hills retail establishments willing to sell tobacco products to minors under the age of 18.

The survey's results indicate that 47% of the City's businesses were willing to sell a tobacco product to a minor, reflecting a rate nearly four times greater than the 12.6% rate discovered in a California's 2008 statewide survey.

The City of Beverly Hills has been among a growing list of progressive cities throughout the nation which have adopted more stringent local tobacco control ordinances to protect public health. Smoking is restricted in and around certain public facilities and is completely prohibited in public parks.

In 2008, the City adopted the '90210™ Fresh Air Dining Ordinance' which banned smoking in all outdoor dining areas in the city. This restriction allowed restaurant patrons to enjoy a smoke-free dining experience and avoid the hazards of secondhand smoke.

Councilmembers Delshad and Brien requested that this issue be placed on the Council's Study Session for further review.

DISCUSSION

Several options are available to the City Council to expand the city's anti-smoking commitment, particularly as it relates to youth and school-age children:

(1) Expanded Zoning Ordinance. Senator Padilla's recommendation prohibits the sales of tobacco products within 600 feet of a school. In addition to schools, a zoning ordinance can restrict the sale of tobacco products within a distance of other sensitive uses where children congregate such as such as recreation centers, childcare centers, libraries, churches, synagogues, public transit stops, etc.

(2) Tobacco Retailer Regulatory Permit Ordinance. This ordinance would require places that sell tobacco to obtain a special permit from the City in order to lawfully sell tobacco products. Once issued, if the City finds the tobacco retailer selling tobacco products to minors or engaged in other violations, then a series of local penalties could apply which may eventually result in the suspension or revocation of the retailing license.

Each of these options would be combined with education, outreach and enforcement activities.

In regard to the zoning ordinance option, determining an acceptable distance between a public schools and tobacco retailers can be challenging. Two Beverly Hills Unified schools (Horace Mann and El Rodeo) are located near commercial properties. It is unknown at this time whether or not a tobacco retail business is located in these commercial properties.

El Rodeo Elementary is directly across the street from the 9900 Wilshire and Beverly Hilton properties. It is likely that the hotel's gift shop is a tobacco retailer. Consequently, the distance between property lines is approximately the width of Wilshire Boulevard. Any zoning ordinance would render existing tobacco retailers within the distance set in the ordinance non-conforming uses.

As for the tobacco retailer regulatory permit ordinance, this would require additional up-front staff time as all establishments that sell tobacco would have to obtain a permit.

Any measure adopted by the City Council to strengthen local tobacco control ordinances will result in the City improving its grade from the American Lung Association in its annual tobacco control report card. In recent years, the city's grade has been lower than expected, primarily since many cities throughout the state have stricter local measures.

FISCAL IMPACT

The City may incur an initial front-end costs associated with the development and implementation of these ordinance options, including activities such as letting permits, monitoring tobacco retailers and enforcing the local ordinance. With the tobacco retailer regulatory permit ordinance, staff would also recommend establishing a new fee which would allow the City to recover its costs for processing the permits.

Finally, the City may experience a nominal loss in sales tax revenue resulting in the tightening the restriction on the sale of tobacco products.

RECOMMENDATION

It is recommended the City Council direct staff to draft the appropriate ordinance to reduce the sales of tobacco products to minors and improve the public health of the community.

Daniel E. Cartagena
Approved By

California State Senate

ALEX PADILLA
SENATOR, 20TH DISTRICT

October 30, 2009

Honorable Barry Brucker
Councilmember
City of Beverly Hills
455 N Rexford Dr Rm 300
Beverly Hills, CA 90210-4817

Dear Councilmember Brucker:

I am writing to ask you to consider adopting an ordinance prohibiting and/or restricting the sale of tobacco near schools. Each year, 36,000 California kids become new smokers and 75% of them will go on to become life-long smokers. Tobacco use remains to be one of the leading causes of preventable death in California with 40,000 Californians dying each year as a result of tobacco use. Costs associated with smoking-related diseases in California amount to nearly $16 billion annually.

Surveys continue to confirm that the closer a tobacco retailer is to a school, the more likely they are to sell to children. A 2004 study by the Tobacco Related Disease Research Program found that 33% of tobacco sales to minors take place within 1,000 feet of a school. On September 22, Los Angeles City Attorney Carmen Trutanich announced the suspension of 24 tobacco retailers' licenses due to repeated sales of tobacco to minors. Most of these violations took place near schools. By prohibiting or restricting sales in the proximity of schools, we can significantly reduce tobacco access to children.

Dozens of cities throughout the nation have prohibited/restricted tobacco sales in close proximity to schools. On July 23, the City of New Orleans, Louisiana became the latest city in the nation to adopt an ordinance restricting tobacco sales near schools, banning tobacco sales within 300 feet of schools, churches, playgrounds, public libraries and any places "offering structured, organized care for youth."

While the City of New Orleans and others have shown tremendous leadership on this issue, I believe California cities and counties can and should do more. Enclosed please find a model ordinance for your consideration. The Office of Legislative Counsel of California confirmed that local governments may validly enact such tobacco control ordinances.

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I offer the following suggestions for making a local ordinance more effective:

1. Sales Prohibition

At a minimum prohibit sales of tobacco products within 600 feet of a school. 1,000 feet would be preferable.

2. Three Strikes and You're Out

If an ordinance grandfathers-in existing tobacco retailers in close proximity to schools, then those retailers should be subject to a tougher penalty schedule including license revocation after a third violation of selling tobacco to minors.

3. Limited Hours

If an ordinance grandfathers-in existing tobacco retailers, you have the ability to restrict the hours of operation/sales including, but not limited, to prohibiting sales during school hours, hours when students are walking to school, and hours when students are walking home from school.

Before my election to the State Senate, I served as President of the Los Angeles City Council and as President of the League of California Cities. I now know first-hand how much tougher it is to enact a statewide law restricting tobacco sales than to adopt a local city or county ordinance. This past year, I authored legislation to create a statewide prohibition of tobacco sales near schools (SB 601). Not surprisingly, this effort encountered tremendous opposition from the tobacco industry.

While I remain committed to my legislative effort in the State Capitol, I am appealing to local government officials statewide to join me in this effort to ban tobacco sales near schools. There are countless examples of how land use ordinances have improved the quality of life in neighborhoods. The proposed tobacco control ordinance will continue that tradition and protect the health and safety of California's children. Please join me in this effort to reduce the illegal sales of tobacco to children.

Thank you in advance for your consideration. If you have any questions or need additional information, please feel free to contact me at (916) 651-4020.

Sincerely,

ALEX PADILLA
State Senator, 20th District

AN ORDINANCE OF THE [CITY / COUNTY] OF [____] AMENDING THE [____] MUNICIPAL CODE TO RESTRICT TOBACCO PRODUCT SALES NEAR SCHOOLS

The [City Council of the City / Board of Supervisors of the County] of [____] does ordain as follows:

ARTICLE __ TOBACCO FREE SCHOOLS ACT

SECTION I. FINDINGS. The [City Council of the City / Board of Supervisors of the County] of [____] hereby finds and declares as follows:

WHEREAS, tobacco use causes death and disease and imposes great social and economic costs, as evidenced by the following:

- more than 440,000 people die in the United States from tobacco-related diseases every year, making it the nation's leading cause of preventable death;[1] and

- the medical and economic costs to nonsmokers suffering from lung cancer or heart disease caused by secondhand smoke are nearly $6 billion per year in the United States;[2] and

- the total annual cost of smoking in California was estimated at $475 per resident or $3,331 per smoker per year, for a total of nearly $15.8 billion in smoking-related costs in 1999 alone;[3] and

WHEREAS, in California, 13.3% of the adult population and 15.4 % of high school students[4] smoke; and

WHEREAS, local zoning controls allow local governments to regulate the operation of lawful businesses to avoid circumstances which facilitate violations of state, federal, and local laws; and

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[1] U.S. Dep't of Health and Human Servs., Centers for Disease Control and Prevention, *Annual Smoking – Attributable Mortality, Years of Potential Life Lost, and Economic Costs – United States 1995-1999* MORBIDITY AND MORTALITY WEEKLY REPORT, 51(14), at 300-303 (2002), *available at* http://www.cdc.gov/mmwr/PDF/wk/mm5114.pdf (last accessed October 11, 2006).

[2] American Academy of Actuaries, *Costs Associated with Secondhand Smoke*, October, 2006, *available at* http://www.actuary.org/pdf/health/smoking_oct06.pdf (last accessed October 11, 2006).

[3] Wendy Max, Dorothy P. Rice, Xiulan Zhang, Hai-Yen Sung, Leonard Miller, Cal. Dept. of Health Servs., *The Cost of Smoking in California, 1999*, at 76 (2002), *available at* http://www.dhs.ca.gov/tobacco/documents/pubs/CostOfSmoking1999.pdf (last accessed October 18, 2006).

[4] Cal. Dep't Health Servs, Tobacco Control Sec., 30-Day Smoking Prevalence Among California Youth (March 2006).

WHEREAS, although it is unlawful to sell tobacco products to minors,[5] 8.6 % of California retailers surveyed do sell to minors.[6] In fact, despite laws in every state making it illegal to sell tobacco to minors, each year an estimated 924 million packs of cigarettes are consumed by minors 12 to 17 years of age, yielding the tobacco industry $480 million in profits from underage smokers;[7] and

WHEREAS, [City / County] has a substantial interest in ensuring that any person selling or exchanging tobacco products should be at least of a legal age to purchase such products; and

WHEREAS, [City / County] has a substantial interest in promoting compliance with state laws prohibiting the sales of tobacco products to minors; in promoting compliance with federal, state and local laws intended to discourage the purchase of tobacco products by minors; and finally, and most importantly, in protecting children from being lured into illegal activity through the misconduct of adults; and

WHEREAS, the California courts in such cases as *Cohen v. Board of Supervisors*, 40 Cal.3d 277 (1985), and *Bravo Vending v. City of Rancho Mirage*, 16 Cal.App.4th 383 (1993), have affirmed the power of local governments to regulate business activity in order to discourage violations of state law; and

WHEREAS, the California Constitution, Article XI, section 7, provides cities and counties with the authority to enact ordinances to protect the health, safety, welfare, and morals of their citizens; and

WHEREAS, a recent study found that 33% of tobacco underage sales took place within 1000 feet of a school[8]; and

WHEREAS, zoning regulations are necessary to control the location and operation of the sale or exchange of tobacco products for the protection of public health, safety and welfare; and

WHEREAS, [City / County] of [____] intends to restrict the location of tobacco retailers in the [City / County] for the protection of public health, safety, and welfare of children; and

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[5] Cal. Penal Code § 308 (West 1999).

[6] Cal. Dep't Public Health, Tobacco Control Sec., Youth Tobacco Purchase Survey 2009 (survey results are available at http://www.cdph.ca.gov/Documents/PH09-85-Tobacco-Sales-to-Minors-2009-Chart.pdf). Note that the youth sale rate cited above is a statewide average. Youth sales rates for a particular city or county may be significantly higher. Check with your local tobacco prevention project, usually located in the county Health Department, to see if local figures are available.

[7] Joseph R. DiFranza, MD & John J. Librett, MPH, *State and Federal Revenues from Tobacco Consumed by Minors*, 89(7) Am. J. Pub. Health 1106 (July 1999).

[8] Robert Lipton, Ph.D, *The Spatial Distribution of Underage Tobacco Sales and School Proximity in Los Angeles.*

NOW, THEREFORE, THE CITY COUNCIL/BOARD OF SUPERVISORS OF [CITY / COUNTY] DOES ORDAIN AS FOLLOWS:

SECTION IV. [ARTICLE / SECTION] OF THE [CITY / COUNTY] OF [____] ZONING CODE IS HEREBY AMENDED TO READ AS FOLLOWS:

Section ____ Definitions

The following words and phrases, whenever used in this article, shall have the meanings defined in this section unless the context clearly requires otherwise:

Tobacco Product means any product(s) that is used to consume tobacco or any product that contains any tobacco leaf, including but not limited to: cigarettes, cigars, cigarillos, blunts, snuff, creamy snuff, dipping/chewing tobacco, flavored tobacco, tobacco water, tobacco paste, gutka, kretek, shisha, roll-your-own cigarettes, cigarette or cigar rolling papers, or pipes.

Tobacco Retailer means any person, retail establishment, or any other legal entity who knowingly sells, donates, distributes, or delivers to any person(s), for any form of consideration, tobacco products.

Section ___ Zoning Regulations

It is hereby declared that the sense and policy of this section is that no tobacco retailer shall be permitted to sell, donate, distribute, or deliver to any person(s), for any form of consideration, tobacco products within ____ feet of any playground, church, public library, school, or any childcare facility or similar entity providing structured, organized care for youth.

Section ___ How distance measured

(a) The ____-foot distance provided for in section ___ shall be measured as a person walks, using the sidewalk, from the nearest point of the property line of the playground, church, public library, school, or childcare facility or similar entity providing structured, organized care for youth, to the nearest of the property line of the tobacco retailer.

(b) If a tobacco retailer has an interruption of the continuity of business for a period in excess of six months, in order to reopen for business, the requirements set forth above must be complied with.

Section ____ Enforcement

(a) Enforcement of this chapter shall be the responsibility of [____]. In addition, any peace officer or code enforcement official also may enforce this chapter.

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Municipal Authority to Regulate the Location and Operation of Tobacco Retailers

Revised March 2002

Background

Many California communities are seeing an increase in the number of stores that sell tobacco products. This memo addresses how public health can be improved when local governments exercise their constitutional, statutory, and charter authority to regulate the uses of land within their jurisdictions to control tobacco retailing.[1]

I. Police Powers

The California State Constitution grants cities and counties the "police power" to enact ordinances and regulations that protect the health, safety, welfare and morals of their citizens.[2] This police power is broad in scope and elastic in nature, expanding to meet the developments of modern life.[3] A local ordinance is legitimate so long as the police power exercised has a rational relationship to a legitimate state purpose.[4] While not required in an ordinance, legislative findings help demonstrate the rationality and legitimacy of the government's actions and can be especially beneficial if the ordinance raises First Amendment or preemption concerns.[5] The attached Model Land Use Ordinance includes data that a community may wish to incorporate directly into its own local ordinance or keep on file to defend any legal challenges.

II. Land Use Controls

Controlling land use, through zoning regulations for example, has long been recognized as a fundamental local police power. Zoning ordinances enacted by a City Council or Board of Supervisors determine how land may be used in the city or county as a whole and within a particular zones within the city or county.

Two main land use tools are described below with examples of how each can be used to protect public health and safety. First, zoning ordinances can put general and location-specific

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restrictions on certain uses of property. Second, zoning ordinances also can require conditional use permits for certain purposes, such as tobacco retailing. These tools are generally applied *before* land has been dedicated to a particular use. However, under certain circumstances these tools can be used to control existing land uses, whether through the "legal nonconforming use" and "deemed approved" techniques, or through "amortization" (see below for more information).

A. Zoning Ordinances to Regulate the Location of a Tobacco Retailer

Zoning ordinances are used to establish the uses of property in different areas or "zones" within a city's or county's boundaries. Ideally, zoning ensures that activities which should be near each other—such as housing and grocery stores—can be near each other, and that those activities which should be separated—such as housing and heavy industry—are indeed separate. Using the tool of conditional use permits (discussed more fully below), zoning can ensure that individualized decisions are made on the compatibility of certain uses.

Given that tobacco products harm community health and safety, it is reasonable for local government to assess whether the location of tobacco retailers is compatible with residential areas or with other community land uses. This government role is especially important where youth access is concerned, given that 57% of 10th graders and 38% of 8th graders perceive that it would be easy for them to obtain cigarettes from a retail source,[6] and the best predictor of adolescent experimentation with cigarettes is the perception that they are easily available.[7]

To diminish the harm caused by tobacco in a community, local governments can use zoning to:

- Require that tobacco retailers be located away from areas frequented by children (e.g., schools, playgrounds, video arcades) on the grounds that children are not allowed to purchase tobacco products and should not be tempted to make illegal purchases of tobacco products.[8]

- Restrict new significant tobacco retailers to light industrial or industrial use zones to control the "secondary effects" of such businesses such as increased youth smoking rates.[9]

- Limit the total number of tobacco retailers in any community. If a city or county determines that sufficient outlets for tobacco products already exist in a community, the government can prohibit new retailers from opening.[10]

- Limit the proximity of all tobacco retailers to each other, ensuring, for example, that each corner at an intersection is not occupied by a tobacco retailer.

TALC's Model Land Use Ordinance applies all of these concepts to tobacco retailers.

B. Conditional Use Permits for the Operation of Tobacco Retailers

Although a community may decide to allow new tobacco retailers to open and existing retailers to continue to operate, it may still impose conditions on all or some retailers. These conditions can be imposed on a standardized basis through a general police power or zoning ordinance, or on an individualized basis through "conditional use permits" (CUPs).

CUPs are used to make an *individualized* determination as to the suitability of a proposed use in a particular, unique location.[11] For example, with appropriate findings linking a decision to

public health and safety, a city can deny a business's CUP application if its location appears harmful to the public welfare, such as a tobacco retailer locating next to a school.[12]

Examples of controls that may be adopted by general police powers, or imposed via zoning or a CUP include:

- Self-service display bans that require the tobacco product to be retrieved by a retail clerk and given to the customer. To apply to existing tobacco retailers, a self-service ban is best imposed in a general police power ordinance.[13] A self-service display ban additionally may be made a condition of a CUP or license.

- Requirements that tobacco retailers post warnings concerning the prohibition against sales to minors, and post signs stating the legal age to buy tobacco products and warning that the retailer will check identification for all purchases. Again, to apply to existing tobacco retailers, these requirements are best imposed in general police power ordinances. To increase enforcement opportunities, the requirements may be made a requirement of a CUP or license.

- Requirement that any store clerk that sells tobacco products be at least 18 years old.

- Requirement that the retailer comply with all local, state, and federal tobacco control laws.

- Prohibition on smoking in retail or wholesale tobacco shops (to eliminate the exception contained in Californian Labor Code section 6404.5).

- Other individualized conditions can be drafted for each CUP. For example, conditions can be imposed related to the floor space devoted to tobacco products, the hours of operation, etc.

TALC recommends that land use ordinances declare that a violation of any standardized or individualized condition or restriction on the business constitutes a public nuisance. This will give the local government the authority to close down a tobacco retailer if there is sufficient evidence that the business is violating any part of the ordinance.

Similarly, a violation of the ordinance—or any other law—constitutes an unfair business act or practice under California Business and Professions Code section 17200.[14] TALC recommends that land use ordinances state this fact explicitly. Section 17200 gives the local government the authority to collect $2,500 in damages from a tobacco retailer for each violation.[15] TALC's Model Land Use Ordinance includes these recommended statements.

C. Options for Regulating Existing Tobacco Retailers

Unlike general police power ordinances, new zoning ordinances or amendments usually only apply to *new* businesses (e.g., they have *prospective* application). This is because an existing property owner or occupant may have a legal right to continue a lawfully established business or other use of land.[16] However, zoning requirements can sometimes be applied *retrospectively* to existing uses of land through such tools and concepts as legal nonconforming uses, amortization, and deemed approved status.

Legal Nonconforming Uses: A legal nonconforming use is one that was legal when it began, but is now prohibited by an ordinance. Zoning ordinances generally cannot and do not require the immediate termination of legal nonconforming uses. Rather, the nonconforming uses are "grandparented"—e.g., they are allowed to remain despite the new law.[17]

Amortization: Communities can either terminate an existing use of property immediately, through a cash payment, or after a period of time, through "amortization." In the context of land use, amortization is the "paying down" of a financial obligation over time—like paying down a mortgage. The constitutional obligation that a public entity pay "just compensation" for property it appropriates or makes unusable is satisfied by allowing the nonconforming use to continue for a set period of time. The appropriate "amortization period" depends upon many factors and is calculated on a case-by-case basis.[18] Many localities already have zoning ordinances that include amortization procedures and standardized formulae. In fact, many ordinances amortize a business over the course of six months or a year (and in some instances even less time), and give the business owner the burden of showing why a longer period of time may be needed due to unique circumstances pertaining to his/her business.

Deemed Approved Status: A relatively new government tool is to declare an existing business that would otherwise be a "legal nonconforming use" to be "deemed approved" (e.g., no longer a legal nonconforming use) *if* the business conforms to new regulatory standards. The new standards would be the same as those applied to *new* businesses in the conditions of their CUPs.

Several jurisdictions have successfully regulated existing alcohol retailers by granting them "deemed approved" status if they comply with new conditional use permit standards (e.g., graffiti abatement, limited hours or operation, and outside lighting requirements). TALC's Model Land Use Ordinance applies this tool by requiring existing tobacco retailers to conform to "Deemed Approved Performance Standards," which are identical to the "Conditional Use Permit" conditions (e.g., self-service display ban, minimum age for clerks, and compliance with all tobacco laws (see section II.B above)). A tobacco retailer who fails to meet the new standards is declared a "public nuisance" and can be shut down. While successfully used to control the secondary effects of alcohol sales (such as loitering, public drunkenness, graffiti, etc.), this new tool is untested as a method to control the secondary effects of tobacco sales (e.g., increased youth smoking rates).

Conclusion

A land use ordinance is a powerful tobacco control tool and is uniquely suited to controlling the *location* of tobacco retailers. Land use controls, just like other regulations, can be adopted by a community at any time. It may be most advantageous if the controls are adopted *before* a tobacco retailer seeks to open in an unsuitable location within the community. This way a city or county can lawfully prevent a tobacco retailer from opening across the street from a school or playground, while at the same time avoiding potential legal challenges from existing retailers.

[1] For purposes of this memo, "tobacco retailer" means a store that sells tobacco products. Each community must develop a definition of a tobacco retailer before it enacts an ordinance to regulate such retailers, which may change to meet the particular needs or goals of a city or county. The model ordinance attached to this memorandum suggests two definitions, based on Oakland's Planning Code. *See* Oakland Planning Code, § 17.09.40.

[2] *See* Cal. Const. art. XI, § 7.

[3] *See Miller v. Board of Public Works*, 195 Cal. 477, 484 (1925); *Birkenfield v. City of Berkeley*, 17 Cal. 3d 129 (1976). *See also, Consolidated Rock Products v. City of Los Angeles*, 57 Cal. 2d 515, 522 (1962).

[4] *See Stubblefield Constr. Co. v. City of San Bernardino*, 32 Cal. App. 4th 687, 712-13 (1995). For instance, if a city zones an area of the city to preclude a proposed development solely because the developer had political differences with the mayor, it has performed an arbitrary or capricious act without rational basis because there is no link between the developer's political beliefs and the use of the property for a development. However, if there is any reason to preclude development in the area, such as increased traffic, neighborhood opposition or protection of a wetland, the zoning must be upheld. *See, e.g., Village of Willowbrook v. Olech*, 120 S.Ct. 1073 (2000) (concluding that arbitrary and discriminatory zoning also can violate equal protection).

[5] *See Arnel Development Co. v. City of Costa Mesa*, 28 Cal. 3d 511, 520 (1980) (noting that zoning is a legislative act reviewable only under traditional mandate principles, that is, for arbitrary and capricious action). *See also, Lockard v. City of Los Angeles*, 33 Cal. 2d 453, 460 (1949) (holding that zoning legislation is presumed to be constitutional, and this presumption can only be overcome by a clear showing of arbitrariness and irrationality).

[6] Tobacco Control Section, Cal. Dep't of Health Servs., *Independent Evaluation of the California Tobacco Control Prevention & Education Program: Wave 2 Data, 1998, Wave 1 & Wave 2 Data Comparisons 1996-1998* 76 (2001), *available at* http://www.dhs.ca.gov/tobacco/documents/Wave2IEreport.pdf (last updated Apr. 24, 2001).

[7] Leslie A. Robinson et al., *Predictors of Risk for Different States of Adolescent Smoking in a Biracial Sample*. 65 J. of Consultative Clinical Psychol. 653,657 (1997).

[8] *Cf. Suter*, 57 Cal. App. 4th at 1133 (upholding prohibition on minors entering store whose "primary" business is selling firearms, on the grounds that minors are barred from owning firearms).

[9] *Cf. Lakeland Lounge of Jackson, Inc.*, 973 F.2d at 1258-59 (upholding the regulation of adult businesses premised on the bad "secondary effects" of those establishments such as crime, deterioration of retail trade, and a decrease in property values).

[10] *Cf. Van Sicklen*, 15 Cal. App. 3d at 127-28 (upholding denial of use permit for gas station on the grounds that there was a sufficient number of stations in the area).

[11] *See Saad* v. City of Berkeley, 24 Cal. App. 4th at 1206 (1994) (upholding a denial of a permit to build a single-family residence based on an individualized design review process).

[12] *Id.* at 1259.

[13] *See Bravo Vending v. City of Rancho Mirage*, 16 Cal. App. 4th 383 (1993).

[14] *Hewlett v. Squaw Valley Ski Corp.*, (1997) 54 Cal. App. 4th 499, 529-33 (1997) (holding that ongoing violation of a conditional use permit violated the local zoning ordinance and was basis for unfair business practice. "The unfair competition statute is not confined to anticompetitive business practices, but is also directed toward the public's right to protection from fraud, deceit, and unlawful conduct"); Cal. Bus. & Prof. Code § 17200 (1997) in pertinent part states, "unfair competition shall mean and include any unlawful, unfair or fraudulent business act or practice." *See, e.g., Consumers Union of U.S., Inc. v. Alta-Dena Certified Dairy*, (1992) 4 Cal. App. 4th 963, 967 (1992) (finding an unfair business practice action based on a violation of Alameda County ordinance regulating sale of raw milk).

[15] Cal. Bus. & Prof. Code § 17206 (1997).

[16] *See Bauer v. San Diego*, 75 Cal. App. 4th 1281 (1999); *Hansen Bros. Enterprise v. Board of Supervisors*, 12 Cal. App. 4th 533, 552 (1996) (stating "a provision which exempts existing nonconforming uses 'is ordinarily included in zoning ordinances because of the hardship and doubtful constitutionality of compelling the immediate discontinuance of nonconforming uses.'"); *Goat Hill Tavern v. City of Costa Mesa*, 6 Cal. App. 4th 1519 (1992).

[17] If a legal nonconforming use is considered to be seriously injurious to public health, welfare, and safety over and above its nonconforming status, it may be terminated as a public nuisance. For example, a city may not be able to close down an existing mining operation simply by rezoning the area but could close it down if it endangered several new residential subdivisions.

[18] *Bohannon v. City of San Diego*, 30 Cal. App. 3d 416, 426 (1973).

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October 16, 2009

Honorable Alex Padilla
Room 4038, State Capitol

TOBACCO SALES: AREA NEAR SCHOOLS OR CHILDCARE FACILITIES - #0924783

Dear Senator Padilla:

Pursuant to the request of Mandy Lee, acting on your behalf, we are providing this written confirmation of the oral opinion we provided to her under RN 09:24634. The question addressed in that oral opinion was whether a city or county may lawfully enact an ordinance to restrict or prohibit the sale of tobacco products near schools or other facilities that offer organized care for children.

On October 15, 2009, we orally conveyed to Mandy Lee our opinion that a city or county may lawfully enact an ordinance to restrict or prohibit the sale of tobacco products near schools or other facilities that offer organized care for children.

If you would like further assistance with this issue, please contact the undersigned deputy at 341-8359.

Very truly yours,

Diane F. Boyer-Vine
Legislative Counsel

By
Eric D. Dye
Deputy Legislative Counsel

EDD:jgg

AMERICAN LUNG ASSOCIATION. IN CALIFORNIA

2009 State of Tobacco Control - Local Grades

RAISE THE GRADE

Category	LOS ANGELES COUNTY						
	Agoura Hills	Alhambra	Arcadia	Artesia	Avalon	Azusa	Baldwin Park
Overall Tobacco Control Grade	F	F	F	D	D	F	B
Total Points	**0**	**1**	**0**	**3**	**2**	**0**	**8**
Smokefree Outdoor Air Grade	F	D	F	F	D	F	A
Dining	0	0	0	0	0	0	4
Entryways	0	0	0	0	0	0	4
Public Events	0	2	0	0	0	0	2
Recreation Areas	0	4	2	0	2	2	4
Service Areas	0	0	0	0	4	0	4
Sidewalks	0	0	0	0	0	0	0
Total Points	**0**	**6**	**2**	**0**	**6**	**2**	**18**
Smokefree Housing Grade	F	F	F	F	F	F	F
Nonsmoking Units	0	0	0	0	0	0	0
Nonsmoking Common Areas	0	0	0	0	0	0	0
Disclosure	0	0	0	0	0	0	0
Nuisance	0	0	0	0	0	0	0
Housing Authority Units	0	0	0	0	0	0	0
Total Points	**0**	**0**	**0**	**0**	**0**	**0**	**0**
Reducing Sales of Tobacco Products Grade	F	F	F	B	D	F	A
Tobacco Retailer Licensing	0	0	0	3	0	0	4
Conditional Use Permit	0	0	0	0	0	0	0
Sales in Pharmacies	0	0	0	0	0	0	0
Sampling of Tobacco Products	0	0	0	0	1	0	0
Total Points	**0**	**0**	**0**	**3**	**1**	**0**	**4**

Overall Tobacco Control Grade: A (11-12), B (8-10), C (5-7), D (2-4), F (0-1); points from other three grades - A (4), B (3), C (2), D (1), F (0)
Smokefree Outdoor Air Grade: A (18+), B (13-17), C (8-12), D (3-7), F (0-2)
Smokefree Housing Grade: A (11+), B (8-10), C (5-7), D (2-4), F (0-1)
Reducing Sales of Tobacco Products Grade: A (4+), B (3), C (2), D (1), F (0)

AMERICAN LUNG ASSOCIATION. IN CALIFORNIA

2009 State of Tobacco Control - Local Grades

RAISE THE GRADE

Category	LOS ANGELES COUNTY						
	Bell	Bellflower	Bell Gardens	Beverly Hills	Bradbury	Burbank	Calabasas
Overall Tobacco Control Grade	Incomplete	F	F	D	F	B	A
Total Points		**0**	**0**	**2**	**0**	**8**	**12**
Smokefree Outdoor Air Grade	n/a	F	F	C	F	B	A
Dining		0	0	4	0	2	4
Entryways		0	0	2	0	4	4
Public Events		0	0	0	0	2	4
Recreation Areas		0	0	4	0	3	4
Service Areas		0	0	0	0	4	4
Sidewalks		0	0	0	0	1	1
Total Points		**0**	**0**	**10**	**0**	**16**	**21**
Smokefree Housing Grade	n/a	F	F	F	F	D	A
Nonsmoking Units		0	0	0	0	0	4
Nonsmoking Common Areas		0	0	0	0	2	4
Disclosure		0	0	0	0	0	3
Nuisance		0	0	0	0	1	1
Housing Authority Units		0	0	0	0	0	0
Total Points		**0**	**0**	**0**	**0**	**3**	**12**
Reducing Sales of Tobacco Products Grade	n/a	F	F	F	F	A	A
Tobacco Retailer Licensing		0	0	0	0	4	4
Conditional Use Permit		0	0	0	0	0	0
Sales in Pharmacies		0	0	0	0	0	0
Sampling of Tobacco Products		0	0	0	0	0	0
Total Points		**0**	**0**	**0**	**0**	**4**	**4**

Overall Tobacco Control Grade: A (11-12), B (8-10), C (5-7), D (2-4), F (0-1); points from other three grades - A (4), B (3), C (2), D (1), F (0)
Smokefree Outdoor Air Grade: A (18+), B (13-17), C (8-12), D (3-7), F (0-2)
Smokefree Housing Grade: A (11+), B (8-10), C (5-7), D (2-4), F (0-1)
Reducing Sales of Tobacco Products Grade: A (4+), B (3), C (2), D (1), F (0)

AMERICAN LUNG ASSOCIATION. IN CALIFORNIA

2009 State of Tobacco Control - Local Grades

RAISE THE GRADE

Category	LOS ANGELES COUNTY						
	Carson	Cerritos	Claremont	Commerce	Compton	Covina	Cudahy
Overall Tobacco Control Grade	C	C	F	F	D	F	Incomplete
Total Points	**5**	**5**	**1**	**0**	**4**	**0**	
Smokefree Outdoor Air Grade	D	D	D	F	F	F	n/a
Dining	0	0	0	0	0	0	
Entryways	0	0	0	0	0	0	
Public Events	0	0	0	0	0	0	
Recreation Areas	4	4	4	0	0	0	
Service Areas	0	0	0	0	0	0	
Sidewalks	0	0	0	0	0	0	
Total Points	**4**	**4**	**4**	**0**	**0**	**0**	
Smokefree Housing Grade	F	F	F	F	F	F	n/a
Nonsmoking Units	0	0	0	0	0	0	
Nonsmoking Common Areas	0	0	0	0	0	0	
Disclosure	0	0	0	0	0	0	
Nuisance	0	0	0	0	0	0	
Housing Authority Units	0	0	0	0	0	0	
Total Points	**0**	**0**	**0**	**0**	**0**	**0**	
Reducing Sales of Tobacco Products Grade	A	A	F	F	A	F	n/a
Tobacco Retailer Licensing	4	4	0	0	4	0	
Conditional Use Permit	0	0	0	0	0	0	
Sales in Pharmacies	0	0	0	0	0	0	
Sampling of Tobacco Products	0	0	0	0	0	0	
Total Points	**4**	**4**	**0**	**0**	**4**	**0**	

Overall Tobacco Control Grade: A (11-12), B (8-10), C (5-7), D (2-4), F (0-1); points from other three grades - A (4), B (3), C (2), D (1), F (0)
Smokefree Outdoor Air Grade: A (18+), B (13-17), C (8-12), D (3-7), F (0-2)
Smokefree Housing Grade: A (11+), B (8-10), C (5-7), D (2-4), F (0-1)
Reducing Sales of Tobacco Products Grade: A (4+), B (3), C (2), D (1), F (0)

AMERICAN LUNG ASSOCIATION. IN CALIFORNIA

2009 State of Tobacco Control - Local Grades

RAISE THE GRADE

Category	LOS ANGELES COUNTY						
	Culver City	Diamond Bar	Downey	Duarte	El Monte	El Segundo	Gardena
Overall Tobacco Control Grade	C	F	F	F	F	F	C
Total Points	**6**	**0**	**0**	**1**	**1**	**0**	**5**
Smokefree Outdoor Air Grade	C	F	F	F	D	F	D
Dining	2	0	0	0	0	0	0
Entryways	2	0	0	0	0	0	0
Public Events	0	0	0	0	0	0	0
Recreation Areas	4	2	0	0	4	2	4
Service Areas	0	0	0	0	0	0	0
Sidewalks	0	0	0	0	0	0	0
Total Points	**8**	**2**	**0**	**0**	**4**	**2**	**4**
Smokefree Housing Grade	F	F	F	F	F	F	F
Nonsmoking Units	0	0	0	0	0	0	0
Nonsmoking Common Areas	0	0	0	0	0	0	0
Disclosure	0	0	0	0	0	0	0
Nuisance	0	0	0	0	0	0	0
Housing Authority Units	0	0	0	0	0	0	0
Total Points	**0**	**0**	**0**	**0**	**0**	**0**	**0**
Reducing Sales of Tobacco Products Grade	A	F	F	D	F	F	A
Tobacco Retailer Licensing	4	0	0	0	0	0	4
Conditional Use Permit	0	0	0	0	0	0	0
Sales in Pharmacies	0	0	0	0	0	0	0
Sampling of Tobacco Products	0	0	0	1	0	0	0
Total Points	**4**	**0**	**0**	**1**	**0**	**0**	**4**

Overall Tobacco Control Grade: A (11-12), B (8-10), C (5-7), D (2-4), F (0-1); points from other three grades - A (4), B (3), C (2), D (1), F (0)
Smokefree Outdoor Air Grade: A (18+), B (13-17), C (8-12), D (3-7), F (0-2)
Smokefree Housing Grade: A (11+), B (8-10), C (5-7), D (2-4), F (0-1)
Reducing Sales of Tobacco Products Grade: A (4+), B (3), C (2), D (1), F (0)

AMERICAN LUNG ASSOCIATION. IN CALIFORNIA

2009 State of Tobacco Control - Local Grades

RAISE THE GRADE

Category	LOS ANGELES COUNTY						
	Glendale	Glendora	Hawaiian Gardens	Hawthorne	Hermosa Beach	Hidden Hills	Huntington Park
Overall Tobacco Control Grade	A	F	F	D	F	F	D
Total Points	**11**	**1**	**0**	**4**	**0**	**0**	**2**
Smokefree Outdoor Air Grade	A	D	F	F	F	F	C
Dining	2	0	0	0	0	0	0
Entryways	4	0	0	0	0	0	4
Public Events	4	0	0	0	0	0	0
Recreation Areas	4	4	0	2	2	0	4
Service Areas	4	0	0	0	0	0	0
Sidewalks	0	0	0	0	0	0	0
Total Points	**18**	**4**	**0**	**2**	**2**	**0**	**8**
Smokefree Housing Grade	B	F	F	F	F	F	F
Nonsmoking Units	0	0	0	0	0	0	0
Nonsmoking Common Areas	4	0	0	0	0	0	0
Disclosure	3	0	0	0	0	0	0
Nuisance	1	0	0	0	0	0	0
Housing Authority Units	0	0	0	0	0	0	0
Total Points	**8**	**0**	**0**	**0**	**0**	**0**	**0**
Reducing Sales of Tobacco Products Grade	A	F	F	A	F	F	F
Tobacco Retailer Licensing	4	0	0	4	0	0	0
Conditional Use Permit	0	0	0	0	0	0	0
Sales in Pharmacies	0	0	0	0	0	0	0
Sampling of Tobacco Products	0	0	0	0	0	0	0
Total Points	**4**	**0**	**0**	**4**	**0**	**0**	**0**

Overall Tobacco Control Grade: A (11-12), B (8-10), C (5-7), D (2-4), F (0-1); points from other three grades - A (4), B (3), C (2), D (1), F (0)
Smokefree Outdoor Air Grade: A (18+), B (13-17), C (8-12), D (3-7), F (0-2)
Smokefree Housing Grade: A (11+), B (8-10), C (5-7), D (2-4), F (0-1)
Reducing Sales of Tobacco Products Grade: A (4+), B (3), C (2), D (1), F (0)

AMERICAN LUNG ASSOCIATION. IN CALIFORNIA

2009 State of Tobacco Control - Local Grades

RAISE THE GRADE

Category	LOS ANGELES COUNTY						
	Industry	Inglewood	Irwindale	La Canada Flintridge	La Habra Heights	La Mirada	La Puente
Overall Tobacco Control Grade	F	C	F	D	D	F	F
Total Points	**0**	**5**	**0**	**4**	**2**	**1**	**0**
Smokefree Outdoor Air Grade	F	D	F	F	C	F	F
Dining	0	0	0	0	0	0	0
Entryways	0	0	0	0	0	0	0
Public Events	0	4	0	0	4	0	0
Recreation Areas	0	0	2	0	4	0	2
Service Areas	0	0	0	0	0	0	0
Sidewalks	0	0	0	0	0	0	0
Total Points	**0**	**4**	**2**	**0**	**8**	**0**	**2**
Smokefree Housing Grade	F	F	F	F	F	F	F
Nonsmoking Units	0	0	0	0	0	0	0
Nonsmoking Common Areas	0	0	0	0	0	0	0
Disclosure	0	0	0	0	0	0	0
Nuisance	0	0	0	0	0	0	0
Housing Authority Units	0	0	0	0	0	0	0
Total Points	**0**	**0**	**0**	**0**	**0**	**0**	**0**
Reducing Sales of Tobacco Products Grade	F	A	F	A	F	D	F
Tobacco Retailer Licensing	0	4	0	4	0	0	0
Conditional Use Permit	0	0	0	0	0	1	0
Sales in Pharmacies	0	0	0	0	0	0	0
Sampling of Tobacco Products	0	0	0	0	0	0	0
Total Points	**0**	**4**	**0**	**4**	**0**	**1**	**0**

Overall Tobacco Control Grade: A (11-12), B (8-10), C (5-7), D (2-4), F (0-1); points from other three grades - A (4), B (3), C (2), D (1), F (0)
Smokefree Outdoor Air Grade: A (18+), B (13-17), C (8-12), D (3-7), F (0-2)
Smokefree Housing Grade: A (11+), B (8-10), C (5-7), D (2-4), F (0-1)
Reducing Sales of Tobacco Products Grade: A (4+), B (3), C (2), D (1), F (0)

AMERICAN LUNG ASSOCIATION. IN CALIFORNIA

2009 State of Tobacco Control - Local Grades

RAISE THE GRADE

Category	LOS ANGELES COUNTY						
	La Verne	Lakewood	Lancaster	Lawndale	Lomita	Long Beach	Los Angeles
Overall Tobacco Control Grade	F	F	D	D	C	C	C
Total Points	**0**	**0**	**4**	**4**	**5**	**7**	**5**
Smokefree Outdoor Air Grade	F	F	F	F	D	C	D
Dining	0	0	0	0	0	2	0
Entryways	0	0	0	0	0	0	0
Public Events	0	0	0	0	0	2	2
Recreation Areas	0	0	0	0	4	2	3
Service Areas	0	0	0	0	0	2	0
Sidewalks	0	0	0	0	0	0	0
Total Points	**0**	**0**	**0**	**0**	**4**	**8**	**5**
Smokefree Housing Grade	F	F	F	F	F	D	F
Nonsmoking Units	0	0	0	0	0	0	0
Nonsmoking Common Areas	0	0	0	0	0	2	0
Disclosure	0	0	0	0	0	0	0
Nuisance	0	0	0	0	0	0	0
Housing Authority Units	0	0	0	0	0	0	0
Total Points	**0**	**0**	**0**	**0**	**0**	**2**	**0**
Reducing Sales of Tobacco Products Grade	F	F	A	A	A	A	A
Tobacco Retailer Licensing	0	0	4	4	4	4	4
Conditional Use Permit	0	0	0	0	0	0	0
Sales in Pharmacies	0	0	0	0	0	0	0
Sampling of Tobacco Products	0	0	0	0	0	0	0
Total Points	**0**	**0**	**4**	**4**	**4**	**4**	**4**

Overall Tobacco Control Grade: A (11-12), B (8-10), C (5-7), D (2-4), F (0-1); points from other three grades - A (4), B (3), C (2), D (1), F (0)
Smokefree Outdoor Air Grade: A (18+), B (13-17), C (8-12), D (3-7), F (0-2)
Smokefree Housing Grade: A (11+), B (8-10), C (5-7), D (2-4), F (0-1)
Reducing Sales of Tobacco Products Grade: A (4+), B (3), C (2), D (1), F (0)

AMERICAN LUNG ASSOCIATION. IN CALIFORNIA

2009 State of Tobacco Control - Local Grades

RAISE THE GRADE

Category	LOS ANGELES COUNTY						
	Lynwood	Malibu	Manhattan Beach	Maywood	Monrovia	Montebello	Monterey Park
Overall Tobacco Control Grade	F	D	F	F	F	D	F
Total Points	**0**	**3**	**1**	**0**	**0**	**4**	**1**
Smokefree Outdoor Air Grade	F	B	D	F	F	F	D
Dining	0	4	0	0	0	0	0
Entryways	0	4	0	0	0	0	0
Public Events	0	2	0	0	0	0	0
Recreation Areas	0	4	4	2	2	0	4
Service Areas	0	0	0	0	0	0	0
Sidewalks	0	0	0	0	0	0	0
Total Points	**0**	**14**	**4**	**2**	**2**	**0**	**4**
Smokefree Housing Grade	F	F	F	F	F	F	F
Nonsmoking Units	0	0	0	0	0	0	0
Nonsmoking Common Areas	0	0	0	0	0	0	0
Disclosure	0	0	0	0	0	0	0
Nuisance	0	0	0	0	0	0	0
Housing Authority Units	0	0	0	0	0	0	0
Total Points	**0**	**0**	**0**	**0**	**0**	**0**	**0**
Reducing Sales of Tobacco Products Grade	F	F	F	F	F	A	F
Tobacco Retailer Licensing	0	0	0	0	0	4	0
Conditional Use Permit	0	0	0	0	0	0	0
Sales in Pharmacies	0	0	0	0	0	0	0
Sampling of Tobacco Products	0	0	0	0	0	0	0
Total Points	**0**	**0**	**0**	**0**	**0**	**4**	**0**

Overall Tobacco Control Grade: A (11-12), B (8-10), C (5-7), D (2-4), F (0-1); points from other three grades - A (4), B (3), C (2), D (1), F (0)
Smokefree Outdoor Air Grade: A (18+), B (13-17), C (8-12), D (3-7), F (0-2)
Smokefree Housing Grade: A (11+), B (8-10), C (5-7), D (2-4), F (0-1)
Reducing Sales of Tobacco Products Grade: A (4+), B (3), C (2), D (1), F (0)

AMERICAN LUNG ASSOCIATION. IN CALIFORNIA

2009 State of Tobacco Control - Local Grades

RAISE THE GRADE

Category	LOS ANGELES COUNTY						
	Norwalk	Palmdale	Palos Verdes Estates	Paramount	Pasadena	Pico Rivera	Pomona
Overall Tobacco Control Grade	F	D	F	F	B	F	F
Total Points	**0**	**2**	**0**	**0**	**9**	**0**	**0**
Smokefree Outdoor Air Grade	F	D	F	F	A	F	F
Dining	0	0	0	0	4	0	0
Entryways	0	0	0	0	4	0	0
Public Events	0	2	0	0	4	0	0
Recreation Areas	0	3	2	0	4	2	2
Service Areas	0	0	0	0	4	0	0
Sidewalks	0	0	0	0	1	0	0
Total Points	**0**	**5**	**2**	**0**	**21**	**2**	**2**
Smokefree Housing Grade	F	D	F	F	D	F	F
Nonsmoking Units	0	0	0	0	0	0	0
Nonsmoking Common Areas	0	2	0	0	2	0	0
Disclosure	0	0	0	0	0	0	0
Nuisance	0	0	0	0	0	0	0
Housing Authority Units	0	0	0	0	0	0	0
Total Points	**0**	**2**	**0**	**0**	**2**	**0**	**0**
Reducing Sales of Tobacco Products Grade	F	F	F	F	A	F	F
Tobacco Retailer Licensing	0	0	0	0	4	0	0
Conditional Use Permit	0	0	0	0	1	0	0
Sales in Pharmacies	0	0	0	0	0	0	0
Sampling of Tobacco Products	0	0	0	0	0	0	0
Total Points	**0**	**0**	**0**	**0**	**5**	**0**	**0**

Overall Tobacco Control Grade: A (11-12), B (8-10), C (5-7), D (2-4), F (0-1); points from other three grades - A (4), B (3), C (2), D (1), F (0)
Smokefree Outdoor Air Grade: A (18+), B (13-17), C (8-12), D (3-7), F (0-2)
Smokefree Housing Grade: A (11+), B (8-10), C (5-7), D (2-4), F (0-1)
Reducing Sales of Tobacco Products Grade: A (4+), B (3), C (2), D (1), F (0)

AMERICAN LUNG ASSOCIATION. IN CALIFORNIA

2009 State of Tobacco Control - Local Grades

RAISE THE GRADE

Category	LOS ANGELES COUNTY						
	Rancho Palos Verdes	Redondo Beach	Rolling Hills	Rolling Hills Estates	Rosemead	San Dimas	San Fernando
Overall Tobacco Control Grade	F	F	C	F	F	F	C
Total Points	**1**	**1**	**7**	**0**	**1**	**1**	**5**
Smokefree Outdoor Air Grade	D	D	A	F	D	D	D
Dining	0	0	4	0	0	0	0
Entryways	0	0	4	0	0	0	0
Public Events	0	0	4	0	0	0	0
Recreation Areas	3	4	4	0	4	4	4
Service Areas	0	0	4	0	0	0	0
Sidewalks	0	0	1	0	0	0	0
Total Points	**3**	**4**	**21**	**0**	**4**	**4**	**4**
Smokefree Housing Grade	F	F	B	F	F	F	F
Nonsmoking Units	0	0	4	0	0	0	0
Nonsmoking Common Areas	0	0	4	0	0	0	0
Disclosure	0	0	0	0	0	0	0
Nuisance	0	0	0	0	0	0	0
Housing Authority Units	0	0	0	0	0	0	0
Total Points	**0**	**0**	**8**	**0**	**0**	**0**	**0**
Reducing Sales of Tobacco Products Grade	F	F	F	F	F	F	A
Tobacco Retailer Licensing	0	0	0	0	0	0	4
Conditional Use Permit	0	0	0	0	0	0	0
Sales in Pharmacies	0	0	0	0	0	0	0
Sampling of Tobacco Products	0	0	0	0	0	0	0
Total Points	**0**	**0**	**0**	**0**	**0**	**0**	**4**

Overall Tobacco Control Grade: A (11-12), B (8-10), C (5-7), D (2-4), F (0-1); points from other three grades - A (4), B (3), C (2), D (1), F (0)
Smokefree Outdoor Air Grade: A (18+), B (13-17), C (8-12), D (3-7), F (0-2)
Smokefree Housing Grade: A (11+), B (8-10), C (5-7), D (2-4), F (0-1)
Reducing Sales of Tobacco Products Grade: A (4+), B (3), C (2), D (1), F (0)

AMERICAN LUNG ASSOCIATION. IN CALIFORNIA

2009 State of Tobacco Control - Local Grades

RAISE THE GRADE

Category	LOS ANGELES COUNTY						
	San Gabriel	San Marino	Santa Clarita	Santa Fe Springs	Santa Monica	Sierra Madre	Signal Hill
Overall Tobacco Control Grade	F	F	F	F	B	C	F
Total Points	**0**	**0**	**1**	**0**	**9**	**5**	**0**
Smokefree Outdoor Air Grade	F	F	D	F	A	D	F
Dining	0	0	0	0	4	4	0
Entryways	0	0	0	0	4	0	0
Public Events	0	0	0	0	2	0	0
Recreation Areas	0	0	4	0	4	2	0
Service Areas	0	0	0	0	4	0	0
Sidewalks	0	0	0	0	1	0	0
Total Points	**0**	**0**	**4**	**0**	**19**	**6**	**0**
Smokefree Housing Grade	F	F	F	F	D	F	F
Nonsmoking Units	0	0	0	0	0	0	0
Nonsmoking Common Areas	0	0	0	0	4	0	0
Disclosure	0	0	0	0	0	0	0
Nuisance	0	0	0	0	0	0	0
Housing Authority Units	0	0	0	0	0	0	0
Total Points	**0**	**0**	**0**	**0**	**4**	**0**	**0**
Reducing Sales of Tobacco Products Grade	F	F	F	F	A	A	F
Tobacco Retailer Licensing	0	0	0	0	4	4	0
Conditional Use Permit	0	0	0	0	0	0	0
Sales in Pharmacies	0	0	0	0	0	0	0
Sampling of Tobacco Products	0	0	0	0	0	0	0
Total Points	**0**	**0**	**0**	**0**	**4**	**4**	**0**

Overall Tobacco Control Grade: A (11-12), B (8-10), C (5-7), D (2-4), F (0-1); points from other three grades - A (4), B (3), C (2), D (1), F (0)
Smokefree Outdoor Air Grade: A (18+), B (13-17), C (8-12), D (3-7), F (0-2)
Smokefree Housing Grade: A (11+), B (8-10), C (5-7), D (2-4), F (0-1)
Reducing Sales of Tobacco Products Grade: A (4+), B (3), C (2), D (1), F (0)

AMERICAN LUNG ASSOCIATION. IN CALIFORNIA

2009 State of Tobacco Control - Local Grades

RAISE THE GRADE

Category	LOS ANGELES COUNTY						
	South El Monte	South Gate	South Pasadena	Temple City	Torrance	Vernon	Walnut
Overall Tobacco Control Grade	F	F	B	F	F	F	F
Total Points	**0**	**0**	**8**	**1**	**0**	**0**	**1**
Smokefree Outdoor Air Grade	F	F	B	D	F	F	D
Dining	0	0	4	0	0	0	0
Entryways	0	0	4	0	0	0	0
Public Events	0	0	0	0	0	0	0
Recreation Areas	0	0	4	4	2	0	4
Service Areas	0	0	4	0	0	0	0
Sidewalks	0	0	0	0	0	0	0
Total Points	**0**	**0**	**16**	**4**	**2**	**0**	**4**
Smokefree Housing Grade	F	F	D	F	F	F	F
Nonsmoking Units	0	0	0	0	0	0	0
Nonsmoking Common Areas	0	0	2	0	0	0	0
Disclosure	0	0	0	0	0	0	0
Nuisance	0	0	0	0	0	0	0
Housing Authority Units	0	0	0	0	0	0	0
Total Points	**0**	**0**	**2**	**0**	**0**	**0**	**0**
Reducing Sales of Tobacco Products Grade	F	F	A	F	F	F	F
Tobacco Retailer Licensing	0	0	4	0	0	0	0
Conditional Use Permit	0	0	0	0	0	0	0
Sales in Pharmacies	0	0	0	0	0	0	0
Sampling of Tobacco Products	0	0	0	0	0	0	0
Total Points	**0**	**0**	**4**	**0**	**0**	**0**	**0**

Overall Tobacco Control Grade: A (11-12), B (8-10), C (5-7), D (2-4), F (0-1); points from other three grades - A (4), B (3), C (2), D (1), F (0)
Smokefree Outdoor Air Grade: A (18+), B (13-17), C (8-12), D (3-7), F (0-2)
Smokefree Housing Grade: A (11+), B (8-10), C (5-7), D (2-4), F (0-1)
Reducing Sales of Tobacco Products Grade: A (4+), B (3), C (2), D (1), F (0)

AMERICAN LUNG ASSOCIATION. IN CALIFORNIA

2009 State of Tobacco Control - Local Grades

RAISE THE GRADE

Category	LOS ANGELES COUNTY						
	West Covina	West Hollywood	Westlake Village	Whittier	County Unincorporated		
Overall Tobacco Control Grade	F	F	F	F	C		
Total Points	**0**	**1**	**0**	**0**	**5**		
Smokefree Outdoor Air Grade	F	F	F	F	D		
Dining	0	0	0	0	0		
Entryways	0	0	0	0	0		
Public Events	0	0	0	0	0		
Recreation Areas	0	0	0	0	4		
Service Areas	0	0	0	0	0		
Sidewalks	0	0	0	0	0		
Total Points	**0**	**0**	**0**	**0**	**4**		
Smokefree Housing Grade	F	F	F	F	F		
Nonsmoking Units	0	0	0	0	0		
Nonsmoking Common Areas	0	0	0	0	0		
Disclosure	0	0	0	0	0		
Nuisance	0	0	0	0	0		
Housing Authority Units	0	0	0	0	0		
Total Points	**0**	**0**	**0**	**0**	**0**		
Reducing Sales of Tobacco Products Grade	F	D	F	F	A		
Tobacco Retailer Licensing	0	0	0	0	4		
Conditional Use Permit	0	1	0	0	0		
Sales in Pharmacies	0	0	0	0	0		
Sampling of Tobacco Products	0	0	0	0	0		
Total Points	**0**	**1**	**0**	**0**	**4**		

Overall Tobacco Control Grade: A (11-12), B (8-10), C (5-7), D (2-4), F (0-1); points from other three grades - A (4), B (3), C (2), D (1), F (0)
Smokefree Outdoor Air Grade: A (18+), B (13-17), C (8-12), D (3-7), F (0-2)
Smokefree Housing Grade: A (11+), B (8-10), C (5-7), D (2-4), F (0-1)
Reducing Sales of Tobacco Products Grade: A (4+), B (3), C (2), D (1), F (0)