



Training Presentation: Smoke-Free Outdoor Dining and San Diego County Ordinance No. 10647

County of San Diego, Health and Human Services Agency,
Tobacco Control Resource Program

Updated June 21, 2020

www.sandiegocounty.gov/hhsa/tobacco



Introduction



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- This training is designed to inform restaurants and permitted food facilities about Ordinance No. 10647, which establishes smoke-free outdoor dining in the unincorporated area of San Diego County.
- The County of San Diego's Tobacco Control Resource Program (TCRP) is available to provide guidance and information on how to follow the smoke-free outdoor dining ordinance.
- For questions or to request assistance, e-mail tobacco@sdcounty.ca.gov or call (619) 542-4178.

Presentation Goals



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This presentation will help you learn about:

1. The reasons why the smoke-free outdoor dining ordinance was established.
2. The requirements of the smoke-free outdoor dining ordinance.
3. How your restaurant or permitted food facility can follow the smoke-free outdoor dining ordinance.
4. Ways you can educate your employees about the Ordinance.
5. Available resources.

Context: Secondhand Smoke



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1. Secondhand smoke causes 41,000 preventable deaths each year in nonsmoking persons.
2. Depending on several factors, exposure to secondhand smoke can occur at significant levels outdoors, and secondhand exposure can reach levels attained indoors.
3. Due to lack of regulation at the State level, Californians working in the service and hospitality industry have much greater exposure to secondhand smoke when there is an outdoor dining area at their workplace.

1. Centers for Disease Control and Prevention. Fast Facts. May 2020.

2. Klepeis NE, Ott WR, and Switzer P. (2007). Real time measurement of outdoor tobacco smoke particles. *Journal of the Air and Waste Management Association*, 57(5): 522-34.

3. California Department of Public Health. California Clean Indoor Air Law Frequently Asked Questions (FAQ). 2017.

History of the Smoke-Free Outdoor Dining Ordinance



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On **January 28, 2020**, County of San Diego Board of Supervisors approved the smoke-free outdoor dining ordinance, which is applicable to the unincorporated area of San Diego County.



Economic Impact of Smoke-Free Outdoor Dining



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- Studies, including one investigating the 1995 and 1998 California ban on smoking in restaurants and bars, have shown that prohibiting smoking does not have a negative financial impact on restaurants or bars.
- This finding was true for both restaurants in general as well as those that do not serve alcohol.

Cowling, David W, and Philip Bond. "Smoke-free laws and bar revenues in California--the last call." *Health economics* vol. 14,12 (2005): 1273-81. doi:10.1002/hec.1016

Loomis, Brett R et al. "The economic impact of smoke-free laws on restaurants and bars in 9 States." *Preventing chronic disease* vol. 10 E128. 1 Aug. 2013, doi:10.5888/pcd10.120327

Stolzenberg, Lisa, and Stewart J D'Alessio. "Is nonsmoking dangerous to the health of restaurants? The effect of California's indoor smoking ban on restaurant revenues." *Evaluation review* vol. 31,1 (2007): 75-92. doi:10.1177/0193841X06284814

Where Smoking is Prohibited



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Effective July 1, 2020, smoking is prohibited:

- In all outdoor dining areas and within 25 feet from the perimeter of such areas.
- Within 40 feet from a permitted food facility that is a mobile or temporary food facility, including a food truck or a food cart.

What is an Outdoor Dining Area?



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According to the smoke-free outdoor dining ordinance:

“Outdoor dining area” means any portion of a permitted food facility that contains areas designated, established, or regularly used for consuming food or drink outdoors, in a covered area, or otherwise outside the confines of the interior premises.

Responsibilities of Business Owners, Operators, and Managers



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1. Clearly and visibly post signage at congregating points in and at entrance points to areas where smoking is prohibited.
2. Inform any person who is in violation of the smoking prohibition to stop smoking.
3. Remove and/or not allow any ashtrays in areas where smoking is prohibited.

Complaint Process



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Complaint Received

- Phone
- E-mail
- Web Form

County performs investigation to determine if there is evidence to support the complaint.

IF YES:

- Establishment receives educational packet
- County fines establishment based on date of violation

IF NO:

- Establishment receives educational packet

Fines Associated with the Smoke-Free Outdoor Dining Ordinance



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First violation: Warning and educational session with the County

Second violation within a 12-month period: \$100

Third violation within a 12-month period: \$200

Each additional violation within a 12-month period: \$500

The Ordinance may also be enforced through administrative remedies or through a civil court action, if necessary.

Appeal Process



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1. Establishment
requests appeal.

2. County conducts
hearing

3. Hearing Officer
makes final
decision.

4. Establishment
receives final
decision.

How to Comply with the Smoke-Free Outdoor Dining Ordinance



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1. Be knowledgeable about the sections of Ordinance No. 10647 that are related to smoke-free outdoor dining.
2. Develop and follow policies for smoke-free outdoor dining.
3. Train your employees.
4. Post mandatory signage.

The screenshot shows the homepage of the Tobacco Control Resource Program (TCRP) under the Health & Human Services Agency. The header includes the City of San Diego seal, HHSA logo, and Live Well San Diego logo. The main content area features three circular icons (no smoking, people, scales), the title "TOBACCO CONTROL RESOURCE PROGRAM", and a section titled "Tobacco Control Resource Program (TCRP)". It describes the TCRP's role in reducing tobacco-related death and disability. Below this are links for "SMOKING LAWS", "QUITTING SMOKING", "DATA, MATERIALS, & RESOURCES", "TOBACCO CONTROL ORGANIZATIONS", and "SUBMITTING A COMPLAINT". The right sidebar contains links to various county services like Maternal, Child, and Family Health Services, Aging & Independence Services, and Behavioral Health Services.

Resources associated with these suggestions are available at www.sandiegocounty.gov/hhsa/tobacco

Develop and Follow Internal Policies

- Having a smoke-free outdoor dining policy for your business can help you and your staff follow the Ordinance.
- Inform your employees that the County will respond to complaints made by members of the public.
- Inform your employees that the establishment may be cited, which may result in a fine.



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Sample Business Policy for Smoke-Free Outdoor Dining



[INSERT POLICY NAME]

[INSERT BUSINESS NAME]

[INSERT EFFECTIVE DATE]

General Information

San Diego County Ordinance No. 10647 prohibits smoking in all outdoor dining areas, and within 25 feet from the perimeter of such areas. Additionally, smoking is prohibited within 40 feet from a mobile food or temporary food facility, such as a food truck or food cart. To comply with the law and to protect the health of our employees, [Business Name] has established a smoke-free outdoor dining policy.

|

Smoke-Free Outdoor Dining Policy

Smoking and using e-cigarettes are not allowed in our outdoor dining areas. Additionally, smoking is not allowed within [25 feet from the perimeter of our outdoor dining areas OR 40 feet from our mobile food facility]. Under this policy, [Business Name] will clearly post "No Smoking" signs at the entrance to and throughout outdoor dining areas. Ashtrays are not permitted in any outdoor dining area.

Compliance

All employees and clients are required to comply with the [Business Name] smoke-free outdoor dining policy. Employees who violate this policy may face disciplinary action. Violations of the smoke-free outdoor dining policy by clients should be referred to [Business Designee].

Quit Smoking

[Business Name] supports all employees who want to quit smoking. Employees can call the California Smokers' Helpline at 1-800-NO-BUTTS, 1-844-8-NO-VAPE, or visit <https://www.nobutts.org/> for more information.

Questions

Contact [Business contact for handling questions] for more information about the [Business Name] [policy name].

A sample business policy template is available at www.sandiegocounty.gov/hhsa/tobacco.

Train Your Employees



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- **WHAT** employees need to know regarding the smoke-free outdoor dining ordinance and how it impacts your establishment.
- **WHO** is the designated smoke-free outdoor dining contact for your business.
- **HOW** to inform any person who is in violation of the smoking prohibition to stop smoking.

Use Mandatory Signage

- Post legally required signage within areas where smoking is prohibited.
- Post information about the smoke-free outdoor dining ordinance in staff-only areas.



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NO SMOKING OR VAPING

IN THIS OUTDOOR DINING AREA OR
WITHIN 25 FEET FROM THE PERIMETER.

SAN DIEGO COUNTY ORDINANCE NO. 10647



For more information or to file a complaint online:



Scan the QR code with your smartphone camera
OR
Visit www.sandiegocounty.gov/hhsa/tobacco



Free, downloadable signage is available at www.sandiegocounty.gov/hhsa/tobacco.

Where to Post Mandatory Signage



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According to the smoke-free outdoor dining ordinance:

“The signage shall be clearly and conspicuously posted at congregating points in, and at entrance points to, areas subject to this section.”

Role-Playing Scenarios



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Scenarios:

1. A regular customer, who hasn't come into the establishment since the change in smoking policy, sits on the patio and begins to smoke. How do you handle the situation?
2. A customer is smoking on the patio. Once you inform them of the smoking prohibition, they move off the patio, but within the designated buffer zone. What do you do?

What you can say:

- “I’m sorry. It’s against the law.”
- “(*Establishment name*) could be fined if I break the law.”
- “I’m sorry, it’s (*Establishment name*) policy.”

Role-Playing Scenarios: What You Can Do



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- After telling the customer about the smoking prohibition, remain calm.
- If a customer insists or becomes argumentative, contact the person in charge or the designated smoke-free outdoor dining contact for your business.
- If the customer still refuses to stop smoking, contact the San Diego County Sheriff's Department at (858) 565-5200.

Where to Get Signage, Resources, and Other Information



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- To learn more about the smoke-free outdoor dining ordinance and obtain resources, visit: www.sandiegocounty.gov/hhsa/tobacco
- If you have other questions, contact the County of San Diego Tobacco Control Resource Program by e-mail at tobacco@sdcounty.ca.gov or call (619) 542-4178.

Review: What You Need to Know about the Smoke-Free Outdoor Dining Ordinance



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1. The smoke-free outdoor dining ordinance will become enforceable on July 1, 2020.
2. The County will investigate all complaints to determine if there is evidence to support the complaint.
3. Establishments that are found in violation of the ordinance can be fined.
4. The County is available to help you be successful!



Thank you!

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