

APPENDIX C: Local Grading Methodology

The American Lung Association in California established local tobacco control grades in four categories that reflect where local action is needed and where the greatest public health benefit can be derived. The bar is set high because tobacco remains the number one preventable cause of death in California and because experience shows that local action has been the cornerstone of the tobacco control movement and public health improvement.

The three tobacco control policy grades that are assigned to each city and county are:

- (1) Smokefree Outdoor Air
- (2) Smokefree Housing
- (3) Reducing Sales of Tobacco Products

These three grades plus Emerging Issues Bonus Points are then used to calculate an Overall Tobacco Control grade for each municipality. An “n/a” or “not applicable” score is given to municipalities in which it is not possible to adopt a specific type of policy due to a complete lack of the entity that is being graded. For example, if a city or county doesn’t have any stores that sell tobacco products, then the city is awarded an n/a as opposed to 0 points in the Reducing Sales of Tobacco Products category, and the grading scales are adjusted accordingly.

Below is a description of each of the grading categories, a summary of the relevant state laws and an explanation of the grade criteria.

Overall Tobacco Control Grade

Description –The Overall Tobacco Control grade is a letter grade awarded to the municipality based on its grades in the three categories, plus Emerging Issues Bonus Points.

Grade Criteria – To determine the Overall Tobacco Control grade, the city or county is given a point value for each of its grades in the three categories (**Smokefree Outdoor Air**, **Smokefree Housing**, **Reducing Sales of Tobacco Products**) as follows: A=4; B=3; C=2; D=1; and F=0. These three point values are then added together, along with the Emerging Issues Bonus Points section (3 or more bonus points = 1 additional point), for a total point value for the Overall Tobacco Control grade. The total points are turned into grades based on a scale of: A (11-12); B (8-10); C (5-7); D (2-4); and F (0-1).

Grade Scale

Below is a quick reference for the point scale for the four letter grades received by each city and county.

Overall Tobacco Control Grade

- A: 11-12 pts
- B: 8-10 pts
- C: 5-7 pts
- D: 2-4 pts
- F: 0-1 pts

Smokefree Outdoor Air Grade

- A: 18+ pts
- B: 13-17 pts
- C: 8-12 pts
- D: 3-7 pts
- F: 0-2 pts

Smokefree Housing Grade

- A: 10+ pts
- B: 7-9 pts
- C: 4-6 pts
- D: 1-3 pts
- F: 0 pts

Reducing Sales of Tobacco Products Grade

- A: 4 pts
- B: 3 pts
- C: 2 pts
- D: 1 pts
- F: 0 pts

Emerging Issues Bonus Points

3+ pts adds one point to the Overall Grade



Smokefree Outdoor Air

Description – Secondhand smoke exposure is proven to be harmful at any level. This recognition that secondhand smoke is extremely toxic has bolstered efforts by local elected officials across the state to protect the health of their residents by adopting local ordinances that restrict smoking in a variety of outdoor areas ranging from parks to sidewalks.

State Law – California used to have some of the strongest laws in the nation to protect people from harmful secondhand smoke exposure. However, these state laws mostly focus on workplaces and other indoor areas and only a few laws restricting smoking in outdoor areas, such as those detailed below. Cities and counties have the explicit authority to go beyond state law and enact secondhand smoke restrictions in outdoor areas.

Grade Criteria – The Smokefree Outdoor Air grade is based on the smoking restrictions adopted by local communities in seven outdoor areas – (1) **Dining Areas**; (2) **Entryways**; (3) **Public Events**; (4) **Recreation Areas**; (5) **Service Areas**; (6) **Sidewalks in Commercial Areas**; and (7) **Worksites**. In the five outdoor areas, the city or county is given a point value between 0 and 4 based on the strength of their local ordinance. In two of the outdoor areas (Sidewalks in Commercial Areas and Worksites), the city or county is given a point value of 0 or 1 based on their local ordinance. These point values for the seven areas are then added together to calculate the overall Smokefree Outdoor Air grade using a scale of: A (18+); B (13-17); C (8-12); D (3-7); and F (0-2).

Dining Areas

Description – Restrictions on smoking in outdoor seating areas at restaurants and bars.

State Law – Smoking is prohibited in indoor dining areas but there are no state law restrictions on smoking in outdoor dining areas.

Criteria

- 4 – All outdoor dining areas at bars and restaurants are 100% smokefree
- 2 – Smoking restricted in outdoor dining areas but designated smoking areas allowed or exceptions made for certain types of bars and/or restaurants
- 0 – No smoking restrictions in outdoor dining areas

Entryways

Description – Restrictions on smoking in places within a certain distance of doors, windows, and other openings into all enclosed areas where smoking is prohibited.

State Law – Smoking is prohibited within 20 feet of entrances, exits, or operable windows of a public building, which includes state, county and city buildings.

Criteria

- 4 – Smoking prohibited within 20 or more feet of entryways
- 3 – Smoking prohibited within 15-19 feet of entryways
- 2 – Smoking prohibited within some distance less than 15 feet of entryways or within an unspecified distance of entryways
- 0 – No smoking restrictions for entryways





Public Events

Description – Smoking restrictions at events open to the public such as fairs, farmer’s markets, parades, concerts and other similar events that take place on public property.

State Law – There are no statewide restrictions on smoking in outdoor public events.

Criteria

- 4 – All public events are 100% smokefree
- 3 – Smoking restricted at all public events, but designated smoking areas are permitted
- 2 – Smoking restricted at specific types of public events (such as in all farmer’s markets), but not all public events
- 0 – No restrictions on smoking at public events

Recreation Areas

Description – Smoking restrictions at parks, beaches, trails and other similar recreation areas.

State Law – Smoking is prohibited within 25 feet of tot lots and playgrounds.

Criteria

- 4 – All recreation areas are 100% smokefree
- 3 – Smoking restricted in all recreation areas, but designated smoking areas are permitted
- 2 – Smoking prohibited in some parks, beaches and trails but not all recreation areas
- 0 – No smoking restrictions in recreation areas

Service Areas

Description – Smoking restrictions in outdoor locations where people stand or wait for services including ATM lines, public transit stops, taxi stands and ticket lines.

State Law – There are no statewide restrictions on smoking in service areas.

Criteria

- 4 – Smoking restricted at all service areas
- 2 – Smoking restricted at some types of service areas (such as at bus stops) but not all service areas
- 0 – No restrictions on smoking in service areas

Smokefree Outdoor Air - Sidewalks in Commercial Areas

Description – Smoking restrictions on sidewalks and other pedestrian walkways in commercial areas, such as downtown areas and outdoor shopping centers.

State Law – There are no statewide restrictions on smoking on sidewalks in commercial areas.

Criteria

- 1 – Smoking restricted on sidewalks or other pedestrian walkways within all commercial areas or within a specified commercial or downtown area

Smokefree Outdoor Air - Worksites

Description – Smoking restrictions in outdoor places of employment, such as construction sites.

State Law – There are no statewide restrictions on smoking in outdoor worksites.

Criteria

- 1 – Smoking restricted for some or all outdoor worksites

Smokefree Housing

Description – While California has been a leader on protections from secondhand smoke, one area where people continue to be unprotected is in multi-unit housing. Secondhand smoke exposure in multi-unit housing is a serious health threat because secondhand smoke drifts into housing units from other units, balconies, patios and common areas.

State Law – The only statewide smoking restriction in multi-unit housing is a workplace restriction prohibiting smoking in indoor common areas (described below) and is not intended to protect the health of tenants. A new state law that went into effect on January 1, 2012 authorizes landlords to prohibit smoking in the units they manage. While it was legal for landlords to prohibit smoking in the apartments they own and manage prior to this law, that authority is now specifically articulated in state law. Cities and counties are allowed to go beyond state law in enacting secondhand smoke restrictions for multi-unit housing and the new state law does not preempt these local ordinances.

Grade Criteria – Cities and counties have taken a variety of approaches in passing local ordinances to try to address the problem of secondhand smoke in multi-unit housing. The overall Smokefree Housing grade is based on the grades for three types of smokefree housing policies – (1) **Nonsmoking Units in Apartments**; (2) **Nonsmoking Units in Condominiums**; (3) **Nonsmoking Common Areas**. For three of the policy areas, the city or county is given a point value between 0 and 4 based on the strength of their local ordinance the point values for the three areas are then added together to calculate the overall Smokefree Housing Grade. The point values are added and given a grade using a scale of: A (10+); B (7-9); C (4-6); D (1-3); and F (0).

Nonsmoking Units in Apartments

Description – Prohibiting smoking within the units of multi-unit apartment buildings.

State Law – There are no statewide restrictions on smoking in units of multi-unit housing.

Criteria

- 4 – Prohibits smoking in 100% of units for both new and existing apartments
- 2 – Prohibits smoking in 75% or more of new and existing apartment units
- 1 – Prohibits smoking in 75% or more of new apartment units
- 0 – No requirements for declaring multi-unit housing units nonsmoking



Nonsmoking Units in Condominiums

Description – Prohibiting smoking within the units of multi-unit condominium buildings.

State Law – There are no statewide restrictions on smoking in units of multi-unit housing.

Criteria

- 4 – Prohibits smoking in 100% of units for both new and existing condos
- 2 – Prohibits smoking in 75% of new and existing condos units
- 1 – Prohibits smoking in 75% or more of new condos units
- 0 – No requirements for declaring multi-unit housing units nonsmoking

Nonsmoking Common Areas

Description – Smoking restrictions in both indoor common areas, which include hallways, stairwells, laundry rooms and recreation rooms, and outdoor common areas, which include swimming pools, play areas, outdoor eating areas and courtyards of multi-unit housing.

State Law – Smoking is prohibited in indoor common areas of apartments and condominiums if the areas are places of employment. These areas are places of employment if there is an employee who works on the property, such as an on-site property manager, security guard or maintenance worker.

Criteria

- 4 – Smoking restricted in all indoor and outdoor common areas, including ordinances that allow for designated smoking areas in outdoor common areas
- 2 – Smoking restricted in all indoor common areas, but not outdoor common areas
- 0 – No restrictions on smoking in common areas



Reducing Sales of Tobacco Products

Description – An important aspect of reducing the smoking prevalence rates in California is to reduce the availability and sales of tobacco products. This most efficient way to do this is through the tobacco retail environment.

State Law – California has several statewide laws related to access to and sales of tobacco products that are described in the policy areas below. The state allows municipalities to go beyond state law in enacting restrictions in these policy areas.

Grade Criteria – The Reducing Sales of Tobacco Products grade is determined by the ordinances adopted by cities/counties in one area, **Local Tobacco Retailer Licensing Ordinance**. For this policy area, the city or county is given a point value between 0 and 4 based on the strength of their ordinance. The point value regarding the Tobacco Retailer Licensing Ordinance is then used to calculate the overall Reducing Sales of Tobacco Products grade using a scale of: A (4); B (3); C (2); D (1); and F (0).



Local Tobacco Retailer Licensing Ordinance

Description – Youth under the age of 21 are often able to purchase tobacco products at all types of retailers, ranging from convenience stores and gas stations to large chain grocery stores and pharmacies, even though it is illegal to sell tobacco products to minors. To combat this problem many cities and counties in California are passing ordinances that require tobacco retailers to obtain a license to sell tobacco products, which allows municipalities to keep track of tobacco retailers, conduct enforcement activities to ensure compliance with state and local laws and penalize retailers who sell to minors.

State Law – It is illegal in the state to sell or give tobacco products to anyone under the age of 21. There are laws in California to punish the business owner or the clerk when an illegal sale is made. Tobacco retailers are also required to obtain a state tobacco retailer license with an annual fee of \$265, which has generally been used to combat black market sales and tax evasion.

Criteria – In order for a local licensing ordinance to effectively reduce illegal sales to minors, it must contain four provisions: (1) requiring tobacco

retailers to pay an annual fee that sufficiently covers administration and enforcement efforts, including compliance checks; (2) requirement that all retailers obtain a license to sell tobacco and renew it annually; (3) provision that any violation of a local, state or federal tobacco law is considered a violation of the license; and (4) financial deterrent through fines and penalties for violations that includes suspension and revocation of the license. Of these four provisions, it is essential that the licensing ordinance requires a sufficient fee that will cover the administration and enforcement of the license to ensure that these activities occur. A city/county can get credit for meeting the annual fee requirement if it uses other sustainable funding sources (such as funds from the Master Settlement Agreement) that are dedicated for administration and enforcement of the retailer license.

The grade for Local Tobacco Retailer Licensing Ordinance section is based on the provisions of the ordinance that a city or county has adopted with the following scale:

- 4** – Licensing ordinance with sufficient annual fee and the other 3 provisions outlined above
- 3** – Licensing ordinance with sufficient annual fee and 2 of the other 3 provisions outlined above
- 2** – Licensing ordinance with sufficient annual fee and 1 of the other 3 provisions outlined above
- 1** – Licensing ordinance with sufficient annual fee and 0 of the other 3 provisions outlined above or licensing ordinance with insufficient annual fee and any of the other 3 provisions outlined above
- 0** – No licensing ordinance or a licensing ordinance with none of the provisions outlined above



Emerging Issue Bonus Points Methodology

Description –To combat ways the tobacco industry promotes the use of tobacco, cities and counties are adopting policies in new and challenging areas to reduce the prevalence of smoking in California.

Grade Criteria – The Emerging Issues section includes 6 possible bonus points and factors them into the Overall Tobacco Control Grade. Bonus points are available in the following issue areas (1) **Emerging Products Definition in Secondhand Smoke**; (2) **Emerging Products Definition in Tobacco Retailer Licensing Ordinances** (3) **Tobacco Retailer Location Restrictions**; (4) **Sales of Tobacco Products in Pharmacies**; (5) **Flavored Tobacco Product**; and (6) **Minimum Packaging of Cigars**. Receiving a total of 3 or more of these bonus points adds one point to the Overall Tobacco Control points.

Emerging Products Definition Secondhand Smoke

Description – The tobacco industry is constantly creating and marketing new tobacco products. These products are often targeted to kids and can continue to attract new users to tobacco products. One such product is electronic cigarettes.

State Law – State law restricts electronic cigarettes in the same places where it restricts traditional cigarettes.

Criteria

1 bonus point – There is a strong definition of smoke, smoking or tobacco product that would include electronic cigarettes or other new and emerging tobacco products in a jurisdiction's secondhand smoke laws, and the jurisdiction's secondhand smoke laws extend further than the state laws.

Emerging Products Definition Tobacco Retailer License

Description – The tobacco industry is constantly creating and marketing new tobacco products. These products are often targeted to kids and can continue to attract new users to tobacco products. One such product is electronic cigarettes.

State Law – It is illegal to sell electronic cigarettes to anyone under the age of 21.

Criteria

1 bonus point – There is a strong definition of smoke, smoking or tobacco product that would include electronic cigarettes or other new and emerging tobacco products in a jurisdiction's tobacco retailer licensing ordinance.

Reducing Sales of Tobacco Products Flavored Tobacco Products

Description – Another tool used by tobacco companies to target youth and gain new customers is to produce tobacco products in a myriad of flavors. Restricting the flavors of tobacco helps to reduce the appeal to youth.

State Law – There are no statewide laws restricting the sale of flavored tobacco products.

Criteria

1 bonus point – The sale of flavored tobacco products, including cigars, little cigars, pipe tobacco and electronic cigarettes is prohibited.



Reducing Sales of Tobacco Products Tobacco Retailer Location Restrictions

Description – Cities and counties can restrict where tobacco retailers are located and can prohibit them from being located within a certain distance, such as within 1,000 feet, of schools and parks. This type of policy can be enacted in several ways including through conditional use permits, other zoning restrictions and local tobacco retailer licensing ordinances. By reducing the presence of tobacco retailers in locations where youth congregate, this type of policy can reduce sales of tobacco products to youth and assist with efforts to reduce youth smoking. Furthermore, the number of tobacco stores in a neighborhood can have an effect on youth smoking behaviors in that neighborhood and in some disadvantaged neighborhoods, the numbers of tobacco retailers is far greater than in less disadvantaged neighborhoods.

State Law – There are no statewide laws restricting tobacco retailers from being within a certain distance of schools and parks based on proximity to other retailers or populations.

Criteria

1 bonus point – The city/county restricts businesses that sell tobacco from being located within a certain distance of schools and/or parks through a conditional use permit, other zoning restrictions or a local tobacco retailer licensing ordinance. Or the city/county prohibits a tobacco retailer from being located within a certain distance of other retailers to avoid a high concentration in certain areas. Or there is a limit to the number of tobacco retailer licenses that can be issued.

Reducing Sales of Tobacco Products Sale of Tobacco Products in Pharmacies

Description – Cities and counties can restrict sales of tobacco products at pharmacies. Pharmacies are traditionally places where people go to purchase products to get healthy or improve their health. The availability of tobacco products at pharmacies associates them with other healthy products and with the general health focus of these stores. Selling tobacco at pharmacies is contrary to a pharmacy's purpose and sends a mixed message to consumers and youth.

State Law – There is no statewide law that restricts pharmacies from selling tobacco products. Pharmacies that elect to sell tobacco products, like all other types of tobacco retailers, must obtain a statewide tobacco retailer license.

Criteria

1 bonus point – Tobacco products are prohibited from being sold at all pharmacies or at certain types of pharmacies in the city/county

Reducing Sales of Tobacco Products Minimum Pack Size of Cigars

Description – Tobacco products are often sold individually to make them less expensive, and more enticing to youth. Establishing policies to ensure minimum packaging, or a minimum unit in which cigars can be sold in, will increase the purchase price and help protect youth from the health dangers of smoking little cigars and cigarillos.

State Law – There is no statewide law that restrict the sale of cigars in individual or small packages.

Criteria

1 bonus point – Prohibits the sale of cigars in individual or small packages, which increases the price and makes them less attractive to youth.

