

## Provisions of Draft Smoking Ordinance for Task Force Consideration

### 1. Proposed Outdoor Smoking Prohibition

#### a. No person shall smoke in:

##### ▪ **An open dining area**

Proposed Definition:

- Open Air Dining Area means any unenclosed area located on private or public property made available to or customarily used by the general public that is designed, established or regularly used for consuming food and/or beverages or where food or beverages are served whether or not for compensation. This includes without limitation restaurants, cafes, and coffee shops.

Proposed Definition

- Restaurant means an establishment that: (1) sells, or offers for sale, food and beverages during all hours it is open for business primarily by way of table service; (2) prepares food on-site in a kitchen capable of preparing food from its component ingredients and otherwise meets the definition of a “bona fide public eating place” contained in California Business & Professions Code §23038; and (3) does not limit entry to persons 21 years of age or older and service of alcoholic beverages is secondary to service of food, except that the term “restaurant” shall not include a nightclub or bar as defined herein.

##### ▪ **A common outdoor patio or common open space area**

Proposed Definition

- Common Outdoor Patio or “common open space area” means any unenclosed common area located on private or public property other than an open air dining area, adjacent to or associated with a commercial business, building, or facility, or other building open to the general public, that is accessible to and usable by the patrons, visitors, employees and occupants of the premises. This includes public patios, pedestrian oriented public plazas, and unenclosed parking areas, but does not include designated common areas of residential uses.

##### ▪ **Outdoor service area.**

Proposed Definition

- Outdoor Service Area means any unenclosed area where one or more persons wait for or receive goods or services of any kinds, whether or not such good or service involves the exchange of money; including without limitation lines

or waiting areas for ATM machines, information kiosks, banks, restaurants and other food service, tickets and admission to a theater or event, waiting areas at car washes and vehicle service establishments and valet parking pick-up areas.

**2. Location Requirements**

- a. An outdoor smoking area shall not be located in any open air dining area, common outdoor patio, common open space area, or outdoor service area.

**3. Proposed Exceptions for Discussion (outdoor areas only)**

**a. Bars and nightclubs**

Proposed Definition

- Bar means an establishment: (1) that sells or offers for sale alcoholic beverages pursuant to a Type 48 license from the Department of Alcoholic Beverage Control, (2) that limits entry to persons 21 years of age or older and (3) where food service, if any, is subordinate to the sale of alcoholic beverages. Does not include a bar area that is an integrated part of a restaurant. May include beer brewing as part of a microbrewery and other alcoholic beverage tasting facilities and nightclubs.

**b. Hotels**

**c. Private Clubs**

**d. Smoking establishments (for example- hookah bar)**

**e. Other business difficult to classify as only a bar or a restaurant**

**4. Additional considerations**

**a. Time restrictions for outdoor areas of bars and restaurants**

- For example- permitting smoking during certain times in the evenings after the dinner hour when minors are not allowed in.

**b. Businesses with encroachment permits for dining on the public right of way**

- Offering incentives for voluntarily maintaining no-smoking area.

**c. Prohibition near mobile food trucks**

**d. Other topics of concern**

**5. Additional topics for next meeting**

**a. Enforcement**

**b. Signage**

**c. Smoking buffer zone**