

SMALL BUSINESS IMPACT BRIEF

San Francisco File No. 260361

Outdoor Bar Patio Smoking Prohibition — Impact on San Francisco Small Businesses

Submitted to: San Francisco Small Business Commission

Meeting of April 27, 2026 | Public Comment / Written Submission

Submitted by: Alejandro Montiel — Owner/Operator, The San Francisco Eagle Bar LLC
Leader, Friends of Eagle Plaza | Commissioner, SOMA Community Action Committee

Requested Action

I respectfully ask the Small Business Commission to **OPPOSE File No. 260361 as drafted**, and to communicate that opposition formally to the Board of Supervisors and the Land Use & Transportation Committee in advance of the earliest expected hearing on May 11, 2026.

Alternatively, if the Commission is not prepared to take a full opposition position, I respectfully ask that you transmit recommendations to the Board for substantive amendments addressing the small-business impacts described in this brief — specifically: (1) preservation of legacy LGBTQ+ venues, (2) carve-outs for bars with no employees, (3) targeted enclosure/ventilation standards in lieu of prohibition, and (4) a meaningful stakeholder process with affected operators before any vote.

Who I Am, and Why I'm Writing This Commission

I am the owner and operator of The San Francisco Eagle Bar LLC at 398 12th Street in SOMA — a 39-year-old LGBTQ+ institution and the flagship leather bar of San Francisco. I am also the Managing Director of Taldea Services & Maintenance / Taldea Contractors LLC, a SF-based small business employing local field staff. I lead Friends of Eagle Plaza, the nonprofit stewarding the first leather plaza in the world, recognized formally by the Mayor of San Francisco. I serve as a Commissioner on the SOMA Community Action Committee.

I am writing to this Commission specifically — rather than only to supervisors — because the Small Business Commission is the body charged with evaluating the small-business impact of proposed legislation and advising the Board accordingly. The legislative record on File No. 260361 to date does not contain substantive analysis of operational impact on the small businesses that will bear the burden. This brief provides that analysis.

What File No. 260361 Actually Does

The ordinance is broader than its public framing suggests. It would:

- Prohibit smoking on all outdoor patios of bars and taverns in San Francisco;
- Eliminate the existing Health Code exception for bars with no employees;
- Eliminate the existing exception for historically compliant semi-enclosed smoking rooms;
- Eliminate existing exceptions for smoking in certain hotel rooms.

Each of these provisions has distinct small-business consequences. The Commission's role is to evaluate them on the merits as a body of small-business owners, not to defer to public-health framing alone.

Small Business Impact: What This Commission Needs to Weigh

1. Patios Were the Operational Lifeline After the Indoor Smoking Ban

California prohibited indoor smoking in bars in 1998 (Labor Code § 6404.5). The economic impact literature on that prohibition is generally favorable to bar revenue — but it is favorable for a specific reason: outdoor patios absorbed the smoking patrons. A Federal Reserve Bank of St. Louis analysis of post-ban economic effects (Pakko, *The Regional Economist*, January 2008) explicitly documented bar owners describing patios as essential to survival in the post-indoor-ban environment. File No. 260361 removes that release valve.

In other words: the consensus that smoking bans don't hurt bars depends on patios remaining available. Take away the patios and the analogy breaks down.

2. Bars — Specifically — Show Different Economic Impact Than Restaurants

When the peer-reviewed literature disaggregates the hospitality sector, bars (and especially night-oriented bars) consistently show larger economic effects from smoking restrictions than restaurants do. Adams and Cotti (*B.E. Journal of Economic Analysis & Policy*, 2007) found a measurable negative employment impact specifically on bars following smoking bans, even where restaurant employment was unaffected. Gaming establishments — the closest analog to nightlife bars in patron smoking prevalence — have shown documented revenue declines of 8.9% to 17.8% following smoking bans (Pakko, 2008; Mandel, Alamar, and Glantz, *Tobacco Control*, 2005).

Generalizing from “the hospitality sector” to bars and nightlife venues misrepresents the underlying evidence. The Commission should evaluate this ordinance on the bar-specific data, not on the aggregated restaurant-and-bar averages typically cited in tobacco-policy advocacy.

3. Post-Pandemic SOMA Nightlife Is Not in a Position to Absorb Further Constraints

The bulk of the favorable economic literature on smoking bans was produced from data collected between 1998 and 2010. It does not reflect the operational reality of San Francisco nightlife in 2026: post-COVID closures, reduced tech-worker foot traffic, transformed downtown commute patterns, and significantly thinner margins than the businesses studied in the Klein et al. (*Preventing Chronic Disease*, 2014) nine-state analysis or comparable work.

The Commission's own 2022 small business survey found that hospitality and nightlife businesses in San Francisco are operating under sustained recovery pressure. Imposing a new operational constraint on these businesses now — without specific San Francisco economic analysis attached to the proposed ordinance — is not a small-business-friendly policy.

4. Compliance and Liability Burden

Small bar operators will be the parties responsible for enforcing the prohibition. That means: monitoring outdoor space, asking patrons to extinguish, managing the conflict that arises, documenting compliance, and bearing the risk of citation if patrons fail to comply. Unlike indoor smoking bans, where compliance is structurally enforced by the building, outdoor enforcement requires active staff intervention. This is an unfunded operational mandate on small businesses that already face thin staffing margins.

5. The Cultural-Asset Impact: Legacy LGBTQ+ Small Businesses

Several of the most affected businesses are not generic small bars — they are legacy LGBTQ+ small businesses recognized by the City as cultural assets:

- The San Francisco Eagle (398 12th Street) — 39 years in operation, flagship leather bar of San Francisco;
- Eagle Plaza — the first leather plaza in the world, recognized formally by the Mayor;
- Other historic LGBTQ+ bars with patios: Powerhouse, Lone Star, Hole in the Wall, SF Badlands, 440 Castro.

These businesses were the basis for San Francisco's Legacy Business Registry program. Their operational viability has rested for decades on the existing regulatory framework — including patio smoking. The Commission has consistently recognized that legacy businesses deserve special consideration in regulatory changes that would alter their operational model. File No. 260361 contains no legacy-business protections, transition periods, or carve-outs.

The Evidence the Legislative Record Has Not Engaged

The Commission may have been told that this ordinance is a straightforward extension of established public-health policy. The peer-reviewed scientific literature is more nuanced than that framing suggests. Three published findings the Commission should weigh:

Outdoor Smoke Dissipates Rapidly

Stanford researchers Klepeis, Ott, and Switzer (Journal of the Air & Waste Management Association, 2007) — in the first in-depth real-time field study of outdoor tobacco smoke — collected over 8,000 minutes of monitoring data and demonstrated that outdoor PM2.5 from cigarette smoking dissipates to near-background levels within seconds to minutes after a cigarette is extinguished, in marked contrast to indoor environments where particulates persist for hours.

Exposure Falls Sharply With Distance

A controlled experimental study (Hwang & Lee, Nicotine & Tobacco Research, 2014) measured outdoor PM2.5 from smoking at precise distances. The results:

Distance from smoker	PM2.5 from smoking ($\mu\text{g}/\text{m}^3$)	Reduction vs. 1 meter	Approx. distance (feet)
1 meter	72.7	—	~3.3 ft
3 meters	11.3	84% lower	~9.8 ft
6 meters	4.1	94% lower	~19.7 ft
9 meters	2.6	96% lower	~29.5 ft

San Francisco's existing Health Code already requires a 10-foot buffer from entries, exits, and operable windows. That regulation — already on the books — captures most of the available risk reduction. The evidence supports strengthening or clarifying buffer rules, not eliminating outdoor smoking on patios altogether.

Bar Patio Exposures Are Far Below Federal Guidelines

A peer-reviewed systematic review of sixteen outdoor secondhand smoke studies (Licht, Hyland, Travers, and Chapman, Tobacco Control, 2013) reported:

“Three observational studies of outdoor bar and restaurant areas suggest that PM2.5 levels are elevated by approximately $10 \mu\text{g}/\text{m}^3$ during times when active smoking occurs ... it is unlikely that the aforementioned 24-hour or annual guidelines for PM2.5 exposure would be exceeded based on these estimates.” — Licht et al., Tobacco Control (2013)

For reference, indoor smoking in bars produces PM2.5 in the hundreds of $\mu\text{g}/\text{m}^3$. The outdoor elevation of about $10 \mu\text{g}/\text{m}^3$ is an entirely different order of magnitude.

The legislative record on File No. 260361 has not engaged this peer-reviewed literature. The Commission's role is to ensure that the small-business impact of the ordinance is evaluated against the real, peer-reviewed scientific record — not against advocacy framing.

The Displacement Problem: The Commission's Other Small-Business Concern

File No. 260361 will not eliminate smoking; it will move smoking from regulated, age-restricted, staff-monitored bar patios to unregulated public sidewalks. Supervisor Dorsey has publicly acknowledged this concern. A peer-reviewed measurement study at the perimeter of a tobacco-free university campus (Cho, Lee, Hwang, et al., Journal of the Air & Waste Management Association, 64(8), 863–866, 2014)

found peak PM2.5 occurrence rates on perimeter sidewalks were 10.4 times higher than background, and average peak concentrations were 48.7% higher than background.

For SOMA small businesses, this matters in two ways:

- Restaurants, retail, and other adjacent small businesses on the same block as a bar will absorb the displaced smoking activity at their entrances and parklets — without any of the operational control they would have over their own indoor or patio spaces.
- Small businesses already navigating a difficult sidewalk environment in SOMA — including managing public-realm conflict — will face a new and predictable source of friction at no fault of their own.

In other words, the ordinance shifts a small-business problem from regulated bar operators to unregulated impacts on every other small business on the block.

Recommended Commission Action

The Commission has, in past sessions, recommended that the Board of Supervisors pause, amend, or substantively reconsider proposed ordinances where the small-business impact analysis is incomplete. That precedent applies directly here.

I respectfully request that the Commission adopt one of the following positions and transmit it to the Board:

Position A (preferred): Recommend OPPOSITION to File No. 260361 as drafted, citing the absence of small-business-impact analysis, the disproportionate effect on legacy LGBTQ+ small businesses, the SOMA sidewalk displacement concern, and the availability of less-restrictive alternatives that achieve worker-protection objectives without prohibition.

Position B (fallback): Recommend SUBSTANTIVE AMENDMENT before any vote, conditioned on: (1) preservation of the existing exception for bars with no employees; (2) targeted enclosure/ventilation standards in lieu of blanket prohibition for outdoor patios; (3) a Legacy Business Registry-style protection for historic LGBTQ+ bars; (4) a documented stakeholder process with affected operators, the Entertainment Commission, and SOMA neighborhood representatives before the ordinance advances.

Either position would be a defensible exercise of the Commission's statutory advisory role and would meaningfully improve the legislative process around this ordinance.

Closing

This is, at its core, a small-business policy question that has been framed as a public-health question. Both framings deserve to be on the record. The Commission's role is to ensure the small-business framing is not lost. I respectfully ask the Commission to do that work today.

I am present at this meeting (in person / by remote comment) and welcome the opportunity to answer questions from any Commissioner. A more comprehensive evidence brief, with full peer-reviewed citations, is available on request and is being submitted in parallel to the Board of Supervisors.

Respectfully submitted,

Alejandro Montiel

Owner/Operator, The San Francisco Eagle Bar LLC
Managing Director, Taldea Services & Maintenance / Taldea Contractors LLC
Leader, Friends of Eagle Plaza
Commissioner, SOMA Community Action Committee
398 12th Street, San Francisco, CA 94103 | Lex@thetaldea.com | (415) 618-9609

Key Peer-Reviewed References

Adams, S., & Cotti, C.D. (2007). The effect of smoking bans on bars and restaurants: An analysis of changes in employment. *The B.E. Journal of Economic Analysis & Policy*, 7(1), Article 12.

Cho, H., Lee, K., Hwang, Y., et al. (2014). Outdoor tobacco smoke exposure at the perimeter of a tobacco-free university. *Journal of the Air & Waste Management Association*, 64(8), 863–866.

Hwang, J., & Lee, K. (2014). Determination of outdoor tobacco smoke exposure by distance from a smoking source. *Nicotine & Tobacco Research*, 16(4), 478–484.

Klein, E.G., Liber, A.C., Kauffman, R.M., et al. (2014). The economic impact of smoke-free laws on restaurants and bars in 9 states. *Preventing Chronic Disease*, 11, 130327.

Klepeis, N.E., Ott, W.R., & Switzer, P. (2007). Real-time measurement of outdoor tobacco smoke particles. *Journal of the Air & Waste Management Association*, 57(5), 522–534.

Licht, A.S., Hyland, A., Travers, M.J., & Chapman, S. (2013). Secondhand smoke exposure levels in outdoor hospitality venues: A qualitative and quantitative review of the research literature. *Tobacco Control*, 22(3), 172–179.

Mandel, L.L., Alamar, B.C., & Glantz, S.A. (2005). Smoke-free law did not affect revenue from gaming in Delaware. *Tobacco Control*, 14(1), 10–12.

Pakko, M.R. (2008). Clearing the haze? New evidence on the economic impact of smoking bans. *Federal Reserve Bank of St. Louis, The Regional Economist*, January 2008.

San Francisco Health Code, Article 19F, § 1009.22.

San Francisco Board of Supervisors. (2026, April 7). File No. 260361 — Health Code, Smoke-Free Places (Sponsors: Melgar, Sauter).

Tuesday, April 28, 2026 at 9:32:43 AM Pacific Daylight Time

Subject: CASEMENTS - 2351 Mission street Letter in protest of banning patio smoking for bars and taverns .
Date: Monday, April 27, 2026 at 4:46:36 PM Pacific Daylight Time
From: Casements Bar
To: Birnbach, Kerry (ECN)

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

I am one of the owners of Casements bar in the Mission district. We are a bar with food and a full liquor license. We also have a substantial patio space in the back.

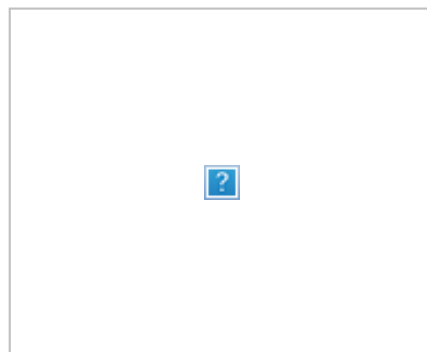
My partners and I wholeheartedly oppose banning any kind of smoking in bar and tavern patio spaces. Adding more restrictions to an already substantially restricted industry will drastically affect the entire culture of bars as a third space. It will also immediately harm businesses that choose, as is their right to allow folks to congregate, catch up and light up a cigarette outdoors if they so choose to.

We do not allow people to smoke on Casement's patio. I am writing this email and will be speaking tomorrow on behalf of other small businesses who allow it on their patios. I believe that by instituting this ban we are going backwards instead of forward into a more vibrant, happy and thriving city.

Everything is already hard enough for the populace at large. These are challenging times both in life and in business.

--

Casements Bar
2351 Mission St. SF, CA, 94110
(415) 658 7320



CasementsBar.com

Subject: PUBLIC COMMENT: 4/27/2026 Agenda - Item #3 - BOS file 260361 - Smoke Free Places
Date: Thursday, April 23, 2026 at 4:29:42 PM Pacific Daylight Time
From: crgbennett@gmail.com
To: Birnbach, Kerry (ECN)

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Commissioners,

"Devastating."

I have been involved in San Francisco's LGBT nightlife community for over 15 years, and that is the word I have heard repeatedly in the past week from colleagues, friends, bar employees and patrons in response to Supervisor Melgar's proposed ban on smoking on all bar patios (item #3 on your agenda; BOS File #260361). Over the past year, San Francisco has made significant progress in job in rolling back needless government restrictions and regulations on small businesses, and we cannot go backwards now.

As a reminder, current state and local law prohibits smoking in all indoor areas of bars. In addition, outdoor areas of restaurants must be smoke-free, and bars can already designate their outdoor areas as smoke-free if they so choose -- so this proposal is specifically targeting a minority of adult-only bars that have chosen to permit smoking in their outdoor areas for specific business reasons. This long-standing compromise was developed and approved by the Board of Supervisors after considerable discussion with impacted small business back in 2010.

While I am sure Supervisor Melgar's proposal was written with good intentions, it fails to recognize the nuances in San Francisco's diverse nightlife community, such as in our Leather & LGBTQ Cultural District. For example, the San Francisco Eagle has historically hosted numerous busy cigar events which would be deemed illegal should this legislation pass. Decades of comradery could be erased overnight, and our small businesses would lose reliable sources of income in an already challenging environment. Furthermore, the proposed legislation references a dubious "survey of more than 1,000 LGBT Californians." It is important to note that this "survey" was conducted by the LGBT Minus Tobacco advocacy organization, which receives grant funds from the State of California specifically to advocate against tobacco use. The "survey" was biased, unscientific, and did not represent the typical nightlife community in San Francisco. In fact, many other California cities with vibrant nightlife, particularly LGBT nightlife, have chosen NOT to ban smoking on bar patios -- among them: Los Angeles, Palm Springs, and West Hollywood.

Ironically, as item #4 on your agenda, you will be considering BOS File #260281 which could legalize the smoking of marijuana at some cafes that serve food and beverages. While I support this proposal, it would seem grossly hypocritical to expand the INDOOR smoking of marijuana at cafes while simultaneously banning the OUTDOOR smoking of tobacco at bars. Marijuana smoke, like tobacco smoke, is considered by the State of California's Office of Environmental Health Hazzard Assessment to be a cancer causing agent (<https://url.avanan.click/v2/r01/> <https://oehha.ca.gov/proposition-65/chemicals/cannabis-marijuana-smoke>).
.YXAzOnNmZHQyOmE6bzphZDg4YjZiNGEwNGQ0MDhIOWlyYTZmMDRmMjU5YjRmODo3OmViZjI6YzE1YWQ2NWU1ZDQ4MTMyNzY2M

While worker and customer safety is important, proponents of BOS File #260281 feel that appropriate safety mitigation techniques exist to permit the indoor smoking of marijuana at some adult-only cafes; certainly those mitigation techniques can be applied to the outdoor smoking of tobacco at adult-only bars.

I implore the Small Business Commission to center the voices in our local LGBTQ nightlife community, and to closely collaborate with our cherished nightlife institutions. Their voices deserve to be elevated over the grant-funded "LGBTQ Minus Tobacco" political advocacy organization which lacks well-established local roots.

Please take a strong stance in support of our small businesses and OPPOSE the ban on smoking on bar patios from the proposed legislation.

Sincerely,

Craig Bennett
San Francisco Resident & LGBTQ Community Member



April 27, 2026

Small Business Commission
San Francisco
1 Dr Carlton B Goodlett Place, Room 400
San Francisco, CA 94102

Dear Members of the Small Business Commission,

The American Cancer Society Cancer Action Network's (ACS CAN) mission is to end suffering and death from cancer, and we are committed to continuing that mission in San Francisco. San Francisco residents deserve to breathe clean air in all indoor and outdoor spaces, including outdoor patios of bars and taverns. Currently, San Francisco prohibits smoking anywhere food is served in indoor and outdoor dining areas of restaurants, cafes and coffee shops. However, the law does not include outdoor patios of bars and taverns. This is concerning as secondhand smoke can linger in semi-enclosed and outdoor areas of businesses, which can increase exposure levels for employees and customers alike. This exemption not only puts patrons and employees at risk of secondhand smoke exposure, but also residents of nearby homes and apartments (including children, seniors, and people who are at increased risk of respiratory illnesses and decreased lung function).

Evidence has consistently shown that smoke-free air laws do not result in the loss of revenues or business for establishments that adopt these policies. A 2005 study of California's statewide smoke-free restaurant and bar law (which went into effect in 1995 and 1998 respectively) found that the 1995 smoke-free restaurant law was associated with an increase in restaurant revenues, while the 1998 smoke-free bar law was associated with an increase in bar revenues (Cowling DW, Bond P, 2005). Additional studies have found similar results in other states.

ACS CAN strongly supports the adoption of this smoke-free outdoor bar patios ordinance in San Francisco. We recommend an amendment to the definition of "smoking" in the ordinance to include the use of electronic smoking devices. Thank you for your consideration of this ordinance and for prioritizing the health of the residents of San Francisco.

Sincerely,

A handwritten signature in black ink that reads "Liz Hendrix". The signature is written in a cursive, flowing style.

Liz Hendrix
Government Relations Director, Northern California
American Cancer Society Cancer Action Network

Thursday, April 23, 2026 at 11:50:59 AM Pacific Daylight Time

Subject: Proposed Tobacco legislation. Occidental Cigar Club
Date: Thursday, April 23, 2026 at 10:37:41 AM Pacific Daylight Time
From: Zachary Ruta
To: Birnbach, Kerry (ECN)

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To whom it may concern.
Members of the Small Business Commission of San Francisco.

My name is Zachery Ruta and I am an owner of the Occidental cigar club located at 471 Pine St, in district three.

Supervisor, Melgar's proposed tobacco legislation would force us to close our longtime downtown business down

For 32 years, we have operated as a downtown destination small business. This has been a substantial challenge through the years, with the financial crisis, the pandemic, and the current state of the downtown business environment.

We have worked through the years with supervisors Gonzales, Avalos, Maxwell, Marr, Chiu, and supervisor Peskin, maintaining the legality based on current legislation.

We recently signed a six year lease, which carries with it significant financial obligations. In addition, we still have a balance of over \$100,000 on an SBA loan we took out during the pandemic.

The bulk of the proposed legislation seems to be limited to outdoor smoking at regular bars, but as usual, the smoke free coalition always adds our legal business into all smoking legislation that they sponsor. We only exist because we have worked with the city over the years. We are a legal business, we are owner operated, and always will be owner operated.

Thank you very much for taking the time to hear from me.

Sincerely,
Zachery Ruta.
Occidental Cigar Club.
471 Pine Street, San Francisco
California. 94104.
(415)-685-1143
Sent from my iPhone
Sent from my iPhone

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April 20, 2026

San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689

Re: File #260361 – Health Code – Smokefree Bar Patios

Dear members of the San Francisco Board of Supervisors,

Americans for Nonsmokers' Rights is writing to express our support for the proposed ordinance to end smoking and vaping on outdoor patios and in semi-enclosed rooms at San Francisco's bars and taverns.

Expanding the city's smokefree air law to these worksites will close a longstanding loophole to ensure that bar workers have the same right to breathe smokefree air on the job as other workers in San Francisco. We're also pleased that the proposal would reflect the state law requiring owner-operated bars and all hotel/motel rooms to be 100% smokefree indoors.

Action needs to be taken on this issue because bar staff are some of the only workers in San Francisco who are still exposed to secondhand smoke on the job, and they deserve to breathe clean air just like other workers in the city and around the state. Workers shouldn't have to choose between their health and their paycheck.

Smoking and vaping on outdoor patios is not just a nuisance; exposure to secondhand smoke in these spaces is also a health hazard. The U.S. Surgeon General concluded that there is no safe level of exposure to secondhand smoke, and even small amounts of tobacco smoke over short periods of time can be harmful.ⁱ

Exposure to secondhand smoke and aerosol released by smoked and vaped products remains a significant health threat. Secondhand tobacco smoke contains fine particulate matter called PM2.5—and aerosol from electronic smoking devices contains even smaller ultrafine particulate matter. Fine and ultrafine particles can be breathed deeply into the lungs and can cause lung irritation, asthma attacks, and makes respiratory infections more likely.ⁱⁱ Fine and ultrafine particles also constrict arteries, which can trigger a heart attack.ⁱⁱⁱ

Outdoor secondhand smoke levels in places where people gather can be high enough to exceed safe air quality guidelines, which creates a particular risk for workers in outdoor spaces like restaurant and bar patios.^{iv}

Air quality measurements were gathered at nine San Francisco bar patios in 2022, which found that six of the bars had air quality ranges that peaked in the EPA Air Quality Index's "unhealthy" range or higher, with one venue reaching into the

“hazardous” range. Bar staff and nonsmoking patrons deserve protection from breathing toxic smoke.

An air quality study in Canada found that laws for smokefree indoor areas of bars do not provide workers with adequate protection from secondhand smoke if smoking is still allowed on adjacent patios, and that in order to protect worker health, smoking should be not allowed on bar patios.^v Research also shows that smokefree policies for bar and restaurant patios result in decreased secondhand smoke exposure in these spaces.^{vi}

Smokefree bar patios are a well-established practice and San Francisco would be in good company by joining Oakland, San Jose, and more than 50 other cities and counties in the Bay Area, along with more than 120 communities around the state that have adopted these policies locally. We know these policies work well in practice, and smokefree laws are both good for health and good for business.

Adopting the proposed ordinance will create a level playing field that provides equal health protections, and a simple, strong and fair law that applies equally to all bars and taverns makes it easier for bar owners, patrons, and enforcement agencies to understand, follow, and comply with the law.

San Francisco has a long history of leadership in tobacco prevention, and we encourage you to continue prioritizing the health of all San Franciscans by enacting this ordinance.

Thank you for your leadership and desire to make San Francisco the best place to live, work, and visit. Please feel free to contact me at 510-841-3045 or Liz Williams at liz.williams@no-smoke.org or 510-333-4559 if you have questions, comments, or feedback.

Sincerely,



Cynthia Hallett, MPH
President and CEO

Americans for Nonsmokers' Rights is a national, member-based, not-for-profit organization based in Berkeley, CA that is dedicated to helping nonsmokers breathe smokefree air since 1976.

ⁱ U.S. Department of Health and Human Services. [“The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General,”](#) U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Office on Smoking and Health, 2006.

ⁱⁱ [“Air and Health: Particulate Matter.”](#) National Environmental Public Health Tracking Network, U. S. Environmental Protection Agency.

ⁱⁱⁱ American Nonsmokers' Rights Foundation, [Electronic Smoking Devices and Secondhand Aerosol Fact Sheet](#); July 2025.

^{iv} Licht, A.S.; Hyland, A.; Travers, M.J.; Chapman, S., [“Secondhand smoke exposure levels in outdoor hospitality venues: a qualitative and quantitative review of the research literature,”](#) *Tobacco Control* 22(3): 172-179, May 2013.

^v Zhang, B.; Bondy, S.; Ferrence, R., [“Do indoor smoke-free laws provide bar workers with adequate protection from secondhand smoke?”](#) *Preventive Medicine*, July 6, 2009.

^{vi} Azagba, S., [“Effect of smoke-free patio policy of restaurants and bars on exposure to second-hand smoke,”](#) *Preventive Medicine*, April 22, 2015.

Subject: Supporting Ordinance to Ensure Smoke Free Bar Patios
Date: Friday, April 24, 2026 at 2:15:09 PM Pacific Daylight Time
From: Adam Francis
To: Birnbach, Kerry (ECN)
CC: Conrad Amenta, Low, Jen (BOS)
Attachments: image001.png, image002.png

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Hello Members of the Small Business Commission:

The San Francisco Marin Medical Society (SFMMMS) and our more than 3500 members, which include physicians across all medical specialties and practice settings, urges you to support Supervisor Melgar’s ordinance to ensure Smoke-Free Bar Patios in San Francisco. San Francisco is woefully behind in protecting small business employees and patrons from the dangers of second hand smoke, particularly in the Bay Area where **every other major city provides this protection**, including San Jose, Oakland, Fremont, Santa Rosa, Hayward, Sunnyvale, Santa Clara, Vallejo, Palo Alto, San Mateo, and dozens more.

SFMMMS is very sympathetic to the challenges of running a small business. Solo and small physician practices face similar regulatory and economic challenges. But as advocates for public health and safety, SFMMMS cannot condone exposure to second and third hand smoke. If any other type of business, large or small, were allowing for the exposure of toxic chemicals with no health benefits (which is what secondhand smoke is) to patrons or employees, the city would likely shut them down.

We all know the science: the Centers for Disease Control and Prevention (CDC) states **there is “no safe level of exposure to secondhand smoke.”** People who do not smoke but who are exposed to secondhand smoke, even for a short time, can suffer harmful health effects, including:

- Lung, breast, and nasopharyngeal cancer.
- Bronchitis, asthma, and other respiratory infections.
- Heart disease and stroke.
- Damage to blood vessels and increased blood clotting.
- Type 2 diabetes. ^[1]

The arguments against smoke-free bar patios are the same arguments made by pro-smoking groups for decades. They are identical to the unfounded arguments made when restaurants were facing the prospect of smoking bans:

1. If we get rid of smoking inside restaurants, smokers will go outside and bother the people on the patio or sidewalk.
2. Some restaurants are smoke-free and others aren’t; people should have a choice whether to

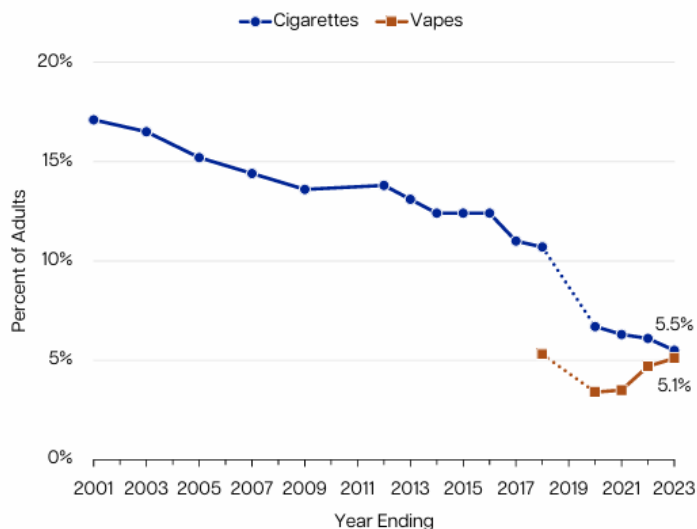
go to the smoking restaurant or the nonsmoking restaurant.

3. If smoking is prohibited, restaurants will go out of business.

These exact same arguments were made when the proposal to prohibit smoking inside bars was made. This will be at least the third time these claims have been made, but history has proven all of these arguments unsubstantiated. Not only is there no evidence of bar or restaurant closures or negative economic consequences as a result of city smoking ordinances, after the law designated indoor areas of California bars smoke-free in 1998, bar revenues continued to climb.^[2] A 2023-24 survey of 379 people who go to San Francisco bars with patios where smoking is allowed showed nearly half would go to those bars **MORE OFTEN** if the city required all bar patios to be smoke-free, and only seven percent would go less (the other 40 percent would go the same about).

Even more beneficial, laws reducing smoking use and exposure have caused smoking rates to decline significantly, improving public health and saving taxpayers billions of dollars in smoking-related health care costs.

Figure 1. Current Cigarette Use and Current Vape Use Among Adults Aged ≥18 Years, by Year—California Health Interview Survey, 2001 to 2022–23

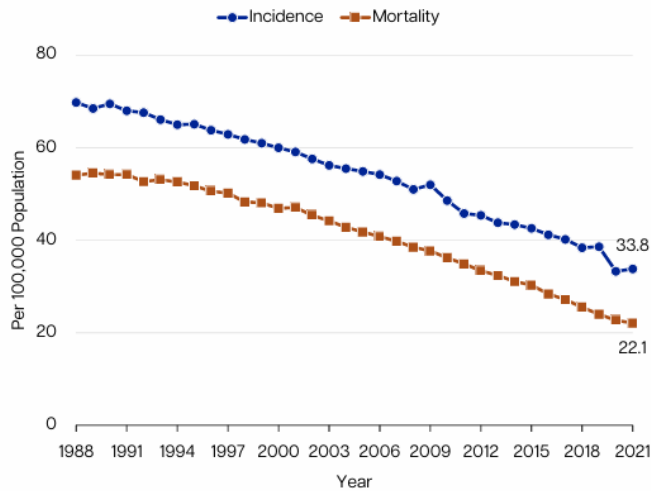


The break in trend is due to a methodology change. Current vape use was first collected of all adults in 2017.

Source: California Health Interview Survey. CHIS 2001 to CHIS 2023 Adult Files. Los Angeles, CA: UCLA Center for Health Policy Research; February 2025.

Cigarette use is the number one risk factor for lung and bronchial cancer. In California, lung and bronchial cancer incidence (number of new cases) and mortality (number of deaths) have decreased as restrictions on smoking have been implemented.

Figure 17. Lung and Bronchial Cancer Incidence and Mortality Rates Per 100,000 Population, by Year—California Cancer Registry, 1988 to 2021



Source: California Cancer Registry. CAL*Explorer: an interactive website for California Cancer Registry (CCR) cancer statistics. Updated June 27, 2024. Accessed March 19, 2025. <https://explorer.ccrca.org>

San Francisco law protects people from secondhand smoke nearly everywhere else in the city, including but not limited to farmer’s markets, sports arenas, movie lines, ATM lines, bus stops, parklets, restaurant patios, and indoor areas of bars. Closing the bar patio smoking loophole is supported by a wide range of organizations including SFMMS, the Bay Area Council, Harvey Milk LGBTQ Democratic Club, Folsom Street, the American Heart Association, co-owners of Teeth and Bender’s bars, bartenders, and many more.

The physicians of San Francisco urge your support of Smoke-Free Bar Patios for the health of small businesses, employees, and customers.

Thank you,

Adam Francis

Senior Director, Advocacy and Policy

San Francisco Marin Medical Society

Phone: 415.561.0850 ext. 200

www.sfmms.org

[1] https://url.avanan.click/v2/r01/_https://www.cdc.gov/tobacco/secondhand-smoke/health.html_.YXAzOnNmZHQyOmE6bzo2NmYxZjJkNGRhOGE0NjM1NjlmYmZiNGVlNDM4MWZlZTo3OmlyN2U6ZjIwN2E5MWNmZiU0NmZlMmUwZmZjNzcyZiZHMGRhMGNIMzBiYzFiOTFhYzUzZmY3ZTYxZTY3N2RlNDVhMzFjZjIj0OkY6Tg

[2] https://url.avanan.click/v2/r01/_https://faculty.washington.edu/apbond/research/he2005.pdf_.YXAzOnNmZHQyOmE6bzo2NmYxZjJkNGRhOGE0NjM1NjlmYmZiNGVlNDM4MWZlZTo3OmVknzk6MTNINzY4NjFmY2QzYzk1YWVM2ZWVhMzUyY2FkYTdiMzM4N2NkYjU3YjAxODU1M2QzMjFiMTE5ZWVhMzFjZjIj0OkY6Tg



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San Francisco Small Business Commission
April 25, 2026

Dear Commissioners,

I am writing to express my strongest support for Item #3 on your April 27 agenda, which would close the loophole that has allowed continued smoking in outdoor patios of bars, and eliminate exceptions, to conform with provisions of California law.

I realize you will undoubtedly hear from small business owners claiming that this public health requirement will put them out of business. This is the same argument made about virtually every public health policy regulating tobacco over the last 20 years. Bar owners were all going to go out of business when smoking was banned inside bars back in 1998. Restaurants were going to fail when smoking was banned in those venues in 1995. Planes were going to fall from the sky when smoking was banned on airplanes. None of it was true. While some businesses have failed, research shows that it's not due to smokefree policies, which are very popular with the public. Even people who smoke like to breathe clean air.

I support small businesses, and I would love to be able to enjoy a drink at an outdoor patio without choking on toxic cigarette smoke. But customers aside, it is truly not okay to force bar employees to be exposed to secondhand smoke just to do their jobs.

As part of another project, I have been re-examining what the tobacco companies knew about secondhand smoke and when they knew it. I have studied the activities of the tobacco industry for more than 25 years, and published more than 100 papers on tobacco control policies and the tobacco industry. Even I was shocked to learn how much they knew and when, and how they systematically concealed that knowledge. For example, back in the early 1980s results from Philip Morris secret research, conducted overseas to avoid having to disclose it in court cases, showed that secondhand smoke had "higher tumorigenic activity than mainstream condensate." Long before the U.S. Surgeon General declared that there was no safe level of exposure to secondhand smoke, tobacco companies knew.

Please do the right thing. It's way past time.

Sincerely,

Ruth E. Malone, RN, PhD
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Stephen Torres
Mission-Bernal
San Francisco, California 94110

April 28, 2026

Small Business Commission
1 Dr Carlton B Goodlett Place
San Francisco, CA 94102

Good afternoon Commissioners,

I strongly urge that you strongly decline to support BOS File 260361. It is a well-intended, but unfortunately short sighted and poorly thought out as a way to support the health and well-being of workers and patrons.

Like the current iteration of smoke-free ordinances, enforcement falls on workers and small businesses as does the penalty in failing to adequately do so. In this way it targets the very people it purports to support.

The city has no plan for enforcement that does not negatively impact workers and businesses at a time when these communities are receiving increasing mandates that may result in closure. This ordinance will not likely result in more folks giving up smoking and vaping, but will likely results in fines, extra labour and possible business closure. Impacts that jeopardize already imperiled jobs and business districts.

Sincerely,

Stephen Torres
Nightlife worker, Former Entertainment Commissioner