



# Phasing Out the Sale of Tobacco Products **CASE STUDY**



Advancing Momentum for a Tobacco-Free California

<https://EndTobaccoCA.ash.org>

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**Beverly Hills will be at the forefront of this movement. We will be the first to put our citizen's health first and ban the sale of tobacco products. The hope is that other cities will see what we are doing and work to make changes in their own communities.**

**- Student from Beverly Hills High School Medical Science Academy**

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**“SOMEBODY HAS TO BE  
FIRST, SO LET IT BE US.”  
- MAYOR JOHN MIRISCH**

## Background

Beverly Hills has spent decades working towards a tobacco-free future. On January 1st, 2021, they took a world-beating step. “The Beverly Hills City Council voted to outlaw the sales of most tobacco products in a sweeping ordinance that is believed to be the first of its kind in the nation.”<sup>[1]</sup> The ban prohibits the sale of tobacco products in virtually all venues.

Beverly Hills passed a pallet of comprehensive

tobacco policies leading up to the sales ban, including prohibitions on smoking in city parks, in public/private open air dining areas, in outdoor service lines, and in multi-unit housing, as well as a flavor sales ban and sales bans in some venues, such as pharmacies.

During a City Council hearing on a flavor ban in 2018, Councilmember John Mirisch (who later that year rotated into the mayor position) asked why

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1 Daniels, Jeff. CNBC. “Beverly Hills votes to outlaw tobacco sales in ordinance believed to be first of its kind in US” (2019).



they were proposing a new regulation every year instead of simply removing the product. The City Council grew supportive of a general tobacco sales ban and worked with the city's Health and Safety Commission to research the issue and draft an ordinance. The first version of the ban was more liberal on exemptions; the second was very similar to the ordinance that passed.

## Track Record of Leadership

- **1987** – Smoking prohibited at public meetings, restaurants, and grocery stores.
- **1999** – Smoking prohibited in city parks.
- **2007** – Smoking prohibited in public/private open air dining areas.
- **2014** – E-cigarettes to be treated the same as tobacco.
- **2014** – Smoking prohibited in outdoor service lines, farmers markets, and outdoor public/private plazas.
- **2017** – Smoking prohibited within 20 ft. of open-air dining areas unless actively traveling.
- **2017** – Smoking prohibited within the public right of way (including all public sidewalks and alleyways) unless actively traveling.
- **2017** – Smoking prohibited in all multi-unit housing.
- **2018** – Sale of flavored tobacco products prohibited.

## Strengths

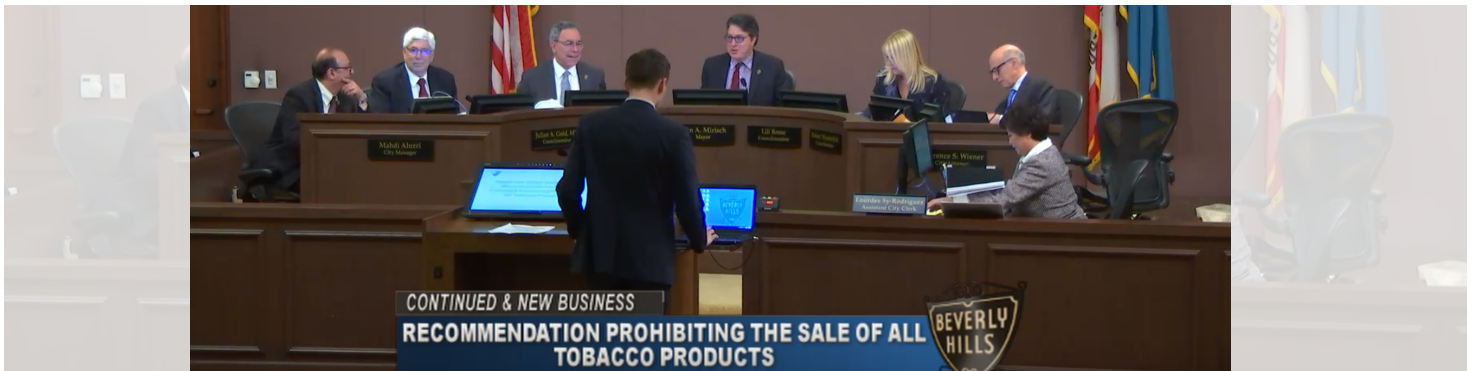
Prior to January 1st, 2021, Beverly Hills had passed virtually every other tobacco control policy other than the sales ban, demonstrating the prioritization of the health of its constituents. The City Council held a series of public meetings to ensure businesses and the public were aware of the upcoming vote. These meetings provided a space for public feedback and allowed citizens to get involved with the reform.

The ordinance was adopted on June 4th, 2019, became effective on January 1st, 2021, and enforceable on July 1, 2021, giving businesses ample time to adjust their business models. The Health and Safety Commission discussed different options to help small

businesses in mitigating the impact of revenue lost from tobacco sales. In the end, Beverly Hills contracted with the local Chamber of Commerce to provide one-on-one advising services to local business owners.

Beverly Hills' initiative was victorious with help from key champions, such as the Health and Safety Commission and committed youth leadership from the Beverly Hills High School Medical Science

Academy, who testified at city council meetings. Seven students stood before the city council to show their support for the tobacco ban, explaining the negative impacts that tobacco products have on the community. As the first city to take this action in the U.S., support also came from state, national and even international public health groups, supplying research, advocacy pressure and the promise of litigation support.



## Challenges and Responses

It is hard to be the first jurisdiction to pass a new type of tobacco policy. Beverly Hills faced many obstacles on their journey, including retailer opposition and the obvious threat of industry litigation. Many businesses, such as convenience stores, gas stations, cigar lounges and hotels, voiced concerns of negative impacts due to the ordinance. Some community stakeholders argued that a tobacco sales ban would reduce tourism and commerce in Beverly Hills (but provided no data to support this). The business community advocated an exemption for all existing businesses which include 3 cigar lounges, 2 grocery stores, 6 gas stations, 8 associated with hotels, and 9 convenience stores or pharmacies, totaling 28 tobacco retailers. Additionally, hotels believed they would lose some of their global clientele if they could not satisfy their needs vis-a-vis tobacco. After listening to the concerns, the city took the challenges head-on and adopted specific exemptions.

Under the ordinance, the City Council permits hotels to sell tobacco products to guests of the same hotel. However, sales must take place through a concierge or room service and are not to be displayed to the public. Furthermore, the city compromised with cigar aficionados, who voiced their support for the continuation of cigar lounges. The city received 203 letters (151 letters in support of a cigar lounge exemption, 32 letters in support of a ban, 20 letters in opposition to the ban), including one letter supporting the cigar exemption from avid cigar user, former California governor Arnold Schwarzenegger, and 1 petition from a local gas station with 136 signatures. At hearings, 118 speakers commented on related agenda items. The City Council made the decision to allow sales in three private cigar clubs, but only to members for use on the premises.



# Conclusion and Lessons Learned

Every jurisdiction is unique, and the most successful anti-tobacco campaigns are run by organizations who fully understand the impact of tobacco products in their community. By implementing change at a local level, these organizations are not only protecting their neighbors, but also creating an example for the rest of the country and the world to follow. While there can be no “script” for a successful phase-out campaign, the Beverly Hills campaign included several factors that may be illustrative for others.

## Engage in Community Outreach

Even with unanimous Council support, informed consent from constituents is vital. By engaging in community outreach, businesses understand the impact of forthcoming reforms and can adapt accordingly. Moreover, internal advocacy is crucial.

For instance, John Mirisch, councilmember and later mayor, was likely pivotal in the passing of the ordinance. He pushed back at opposition and found flaws in their arguments, encouraging strong support from the council members. Support by public advocates is also vital in countering opposition arguments.

## Plan to Phase It Out

Beverly Hills’ decision to phase out the sale of tobacco products is no longer unique, but they were the first. Other jurisdictions are beginning to take note of the health and financial toll that cigarette sales continue to carry for their communities. It is well known that tobacco use costs nearly half a million American lives each year, virtually all due to the use of combustible cigarettes. For perspective, there was no 12-month period in which COVID deaths overtook tobacco deaths. In addition, **each year, smoking costs the U.S. economy more than \$300 billion**, [2] with that broken down to nearly \$170 billion for direct medical care and more than \$156 billion in lost productivity from premature deaths and tobacco-



*Beverly Hills Mayor, John Mirisch, presenting at the National Conference on Tobacco or Health*

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2 Center for Disease Control and Prevention. “Smoking and Tobacco Use”

related illnesses. **In California alone, the total cost per person who smokes is \$2,208,472.00 over a lifetime.**<sup>[3]</sup>

In the future, as smoking rates continue to drop, retailers must change their business models, even in places lacking a sales ban. A phased-in approach that allows them time to develop new product lines will help mitigate losses.

## Students are Key

The future is in the hands of upcoming generations, and it is important to get them on board. These groups can make or break a phase-out initiative. Thus, it is crucial to illustrate to them the benefits of a tobacco-free lifestyle for not only themselves, but for everyone. Educating youth and encouraging them to become advocates is another key to success. In the case of Beverly Hills, a motivated group of high schoolers actively supported every stage of the campaign.

## Potential Obstacles Need to be Pointed Out

With any goal, challenges are neither requested nor desired, but they are always present. Failure to prepare for these obstacles may hinder both efficiency and efficacy. It is pivotal to address barriers proactively.

One of the biggest obstacles for Beverly Hills was retailer opposition, arguing that the ordinance would drastically impact their business. Beverly Hills took proactive measures by granting businesses time to adjust their business models, providing expert transition support and creating a mechanism to apply for hardship extensions. Moreover, hotels argued that their foreign clientele would not book rooms if they couldn't be sold tobacco, since smoking is so common in their home countries. Beverly Hills implemented a narrow hotel exemption to reduce opposition.

## Make it a Health and Safety Issue

"Tobacco is deeply harmful to human health and there can be no doubt that the production and marketing of tobacco is irreconcilable with the human right to health," said the Danish Institute for Human Rights. In order to help people who smoke to quit, it is imperative to build a truly tobacco-free society in which they are not exposed to tobacco products in almost every store and gas station. Beverly Hills should be proud to make the health of their citizens their top priority, in words and actions.

## Don't Let the Perfect be the Enemy of the Good

Rather than abolishing the entire effort due to opposition, Beverly Hills accepted limited exemptions to address public opposition. This decision can often be a hard call; in some situations, such as a bill becoming so watered down with exceptions that its impact is weak, it may be best to try again later.

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3 McCann, Adam. "The Real Cost of Smoking by State" (2021).

## For More Information, Contact:

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