

Requirements for Multi-Unit Housing Complexes

Article 19F: Prohibiting Smoking in Enclosed Areas & Certain Unenclosed Areas, and Sports Stadiums



On April 24, 2010 a new ordinance (San Francisco Health Code Article 19F) that expanded protection from second hand smoke went into effect. The table below provides an overview of the new smoke free areas.

Venue	Expanded Protections
Dining areas	No smoking where food is served in outdoor dining areas of restaurants, cafes and coffee shops as of November 2010
Service Waiting Lines	No smoking within designated areas where customers are required to wait to do business including at ATMs, in ticket lines, movie theater lines, athletic event lines, concert event lines and at cab stands.
Building entrances	Smoking permitted at the curb outside of commercial, multi unit residential, and mixed use building entrances, exits and operable windows. If there is no curb, no smoking within 15 feet of private commercial, multi unit residential, and mixed residential building entrances, exits and operable windows.
Hotels and Motels	No smoking in lobby areas of tourist lodging facilities such as hotels, motels, youth hostels and bed and breakfast inns; 75% of hotel and motel guest rooms.
Bars and charity bingo games	No smoking in all bars and charity bingo games. Existing bars with Department of Public Health approved applications for owner operated exemptions that are not located in mixed use/residential buildings would be grandfathered in. Owner operated bars located in mixed use buildings have 24 months to re-locate to a commercial building. Smoking will not be permitted in any owner operated bar that opens after the adoption of the ordinance.* Existing bars in commercial establishments that have previously built Historically Compliant Semi Enclosed Smoking Rooms that meet Department of Public Health criteria may be grandfathered in.
Tobacco shops	No smoking in tobacco shops. Existing tobacco shops will be grandfathered in with the exception of tobacco shops that are located in mixed use/residential buildings.
Farmers Markets	No smoking at all farmers markets.
City/County vehicles, taxi cabs, motor vehicles for hire	No smoking permitted inside these vehicles.
Common areas in apartment buildings & Multi-unit residences such as SROs	No smoking in enclosed common areas of multi-unit residences including common halls, elevators, parking areas, lobbies, waiting areas, bathrooms, cooking, dining, lounge, laundry facilities and recreation areas. Tenant smoking in their private unit must keep front door of their private unit closed while smoking.

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What Are Minimum Requirements for Commercial, Residential & Mixed-Use Property Owners?	
What does a business have to do to comply with law?	<ol style="list-style-type: none"> 1. Post clear and prominent signs at each entrance to the premises. (Section 1009.22(i) (1) – P 15; L3) 2. Post clear and prominent "no smoking" signs in any area on the premises where smoking is prohibited. (Section 1009.22(i)(2) – P 15; L17) 3. Request any person smoking in areas where smoking is prohibited under this Article refrain from smoking. (Section 1009.22 (i) (3) – P 15; L 20) <p style="margin-left: 40px;">Remove any ashtrays from inside the premises. No persons, employer, business or non profit entity shall knowingly or intentionally permit the presence or placement of ash receptacles within an enclosed area where smoking is prohibited. (Section 1009.22 (i) (5) – P 16; L21)</p>
Are there any specific requirements for the no smoking signs?	There are specific requirements for the signs at each entrance. There are no specific requirements for the signs in other areas.
What about signage in other areas of a multi-unit residences?	The entry way signage requirements are the same for commercial, mixed-used, and multi-unit residential buildings. However for other areas of multi-unit housing complexes, the signs need only be posted in the common building lobby, common mailbox area, or common elevator. (Section 1009.22(i) (2) – P15; L18-19)
What are my responsibilities as a owner?	It is unlawful for the owner of any property, facility or establishment subject to this Article to permit any person to smoke in any area where smoking is prohibited by this Article. (Section 1009.22(h) – P 14; L 12)
Do I have to physically remove someone who is smoking on my premises?	No - a request that someone refrain from smoking does not require the physical ejection of a person from the premises. (Section 1009.22(i)(3) - P 16; L 16-18)
What about people who are not my tenants and are smoking in the entryway? Do I have to stop them from smoking?	No, this subsection does not require a property owner or manager of a multi-unit housing complex to enforce a smoking prohibition outside the building against persons who are not tenants of the building. Section 1009.22(i) (3) - P 16; L1-4
What if I don't see the person smoking, do I still have to ask them not to smoke?	If your multi-unit residential building has less than 16 units, you only have to make the request that a person refrain from smoking if you observe the person smoking in areas where smoking is prohibited under this Article. Section 1009.22(i) (3) – P 15; L21-24
What if I have more than 16 units in my building and don't observe the person smoking, how can I ask them to stop?	If you receive a complaint from another tenant or the Department of Public Health, you must post a notice requesting all tenants to refrain from smoking (see more specific detail in General Questions table below).
Do tenants have to have their door closed while smoking?	Yes, the entry/exit door must be closed when smoking occurs inside a private residential unit that adjoins an enclosed common area of a multi-unit housing complex.
Can one of my tenants file a petition for a reduction in housing services because of this ordinance?	No, if the owner or manager has complied with all the requirements in this Article, smoking in a multi-unit housing complex where prohibited under this Article shall not be considered a substantial reduction in housing services that would qualify a tenant for a reduction in rent under San Francisco Administrative Code Chapter 37. Section 1009.22 (k) - P 17; L 5-8

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Article 19F: Prohibiting Smoking in Enclosed Areas & Certain Unenclosed Areas, and Sports Stadiums



Signage Requirements for Building Entrances	
Where should the sign be posted?	No higher than 8 feet and no lower than 5 feet, and within 10 feet of the door or the most appropriate place for visibility from outside
What should the sign say?	<p>There are three (3) requirements:</p> <p>1) The text should read: "Smoking only 1) at the curb, or 2) if no curb, at least 15 ft. from exits, entrances, operable windows, and vents" <i>The letters are required to be no less than one half inch in height</i></p> <p>2) The international "No Smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a circle, with a diameter of at least three inches, with a bar across it</p> <p>3) A statement at the bottom of the sign that reads "SF Health Code Article 19F" in font no less than 1/8 inch in height.</p>
Are there any exceptions?	<p>Yes, persons that own, manage, or operate property that is LEED ("Leadership in Energy and Environmental Design") certified that has a smoking distance requirement greater than that specified in this ordinance shall post signs conforming to all the requirements in this Section that state that smoking only is allowed at that greater distance from the exists, entrances, and operable windows.</p> <p>Section 1009.22 (i) (1) - P 15; L 12-16</p>

GENERAL QUESTIONS	
What is the definition of a multi-unit housing complex?	<p>"Multi-Unit Housing Complex" means a public or private building, or portion thereof, containing two or more dwelling or other housing units. This definition includes, but is not limited to: 1) a building with live/work units, as defined in the Planning Code; 2) apartment buildings, condominiums, senior citizen residences, nursing homes, housekeeping room/units, residential or single room occupancy hotels, "other housing" as defined in the Planning Code, and other multiple unit residential dwellings, except as permitted under Section 1009.23(a) of this Article. "Other housing" as defined in the Planning Code includes (a) group housing, boarding (which covers rooming houses where lodging is provided without individual cooking facilities, by prearrangement for a week or more at a time and for six or more persons in a space not defined as a dwelling unit), (b) group housing for religious orders, (c) group housing for medical and educational institutions, (d) a hotel, inn or hostel; and (e) a motel, including an auto court, motor lodge, tourist court or other facility similarly identified.</p> <p>Section 1009.21(k) – P 7; L 19</p>
What do I have to do if I get a complaint from a tenant or the Department of Public Health?	<p>Upon receipt of a written complaint from a tenant or the Department of Public Health or when any person is observed smoking where smoking is prohibited, an owner or manager of a multi-unit housing complex must:</p> <ol style="list-style-type: none"> 1) Post a notice in the building lobby, common mailbox area, or common elevator for a period of not less than ten days, advising that a tenant has been observed smoking in a portion of the building where smoking is prohibited under San Francisco Health Code Article 19F requesting that all tenants refrain from smoking in those areas. 2) If there is no common building lobby, common mailbox area or common elevator, then the owner may provide notice to tenants in another reasonable manner. If the owner knows the identity of the tenant who was smoking in a prohibited area, the owner must additionally make the request to the tenant in writing, and keep a record of the request for a reasonable period of time. Section 1009.22(i)(3) – P16; L5-15

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Article 19F: Prohibiting Smoking in Enclosed Areas & Certain Unenclosed Areas, and Sports Stadiums

The San Francisco Health Code – Article 19F has been amended to expand protections from secondhand smoke. The table below provides an overview of the new smoke free areas.

Venue	Expanded Protections
Dining areas	No smoking where food is served in outdoor dining areas of restaurants, cafes and coffee shops as of November 2010
Service Waiting Lines	No smoking within designated areas where customers are required to wait to do business including at ATMs, in ticket lines, movie theater lines, athletic event lines, concert event lines and at cab stands.
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Hotels and Motels	No smoking in lobby areas of tourist lodging facilities such as hotels, motels, youth hostels and bed and breakfast inns; 75% of hotel and motel guest rooms.
Bars and charity bingo games	No smoking in all bars and charity bingo games. Existing bars with Department of Public Health approved applications for owner operated exemptions that are not located in mixed use/residential buildings would be grandfathered in. Owner operated bars located in mixed use buildings have 24 months to re-locate to a commercial building. Smoking will not be permitted in any owner operated bar that opens after the adoption of the ordinance.* Existing bars in commercial establishments that have previously built Historically Compliant Semi Enclosed Smoking Rooms that meet Department of Public Health criteria may be grandfathered in.
Tobacco shops	No smoking in tobacco shops. Existing tobacco shops will be grandfathered in with the exception of tobacco shops that are located in mixed use/residential buildings.
Farmers Markets	No smoking at all farmers markets.
City/County vehicles, taxi cabs, motor vehicles for hire	No smoking permitted inside these vehicles.
Common areas in apartment buildings & Multi-unit residences such as SROs	No smoking in enclosed common areas of multi-unit residences including common halls, elevators, parking areas, lobbies, waiting areas, bathrooms, cooking, dining, lounge, laundry facilities and recreation areas. Tenant smoking in their private unit must keep front door of their private unit closed while smoking.

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For Information in Chinese go to: www.SmokefreeSF.org

Para más información en Español vea: www.SmokefreeSF.org

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What does a business have to do to comply with law?	
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Are there any specific requirements for the no smoking signs?	There are requirements for the signs at each entrance. There are no specific requirements for the signs in other areas. See table below for specific signage requirements for no smoking signs at entrances.
What are my responsibilities as an owner?	It is unlawful for the owner of any property, facility or establishment subject to this Article to permit any person to smoke in any area where smoking is prohibited by this Article. (Section 1009.22(h) – P 14; L 12)
Do I have to physically remove someone who is smoking on my premises?	No - a request that someone refrain from smoking does not require the physical ejection of a person from the premises. (Section 1009.22(i)(3) - P 16; L 16-18)
What about people who are not my customers and are smoking in the entryway? Do I have to stop them from smoking?	No, this subsection does not require a property owner or manager of a business to enforce the smoking prohibition in Section 1009.22(d) outside a business by persons who are not patrons of the business. (Section 1009.22(i)(3) – P16; L1-8)
Are the signage requirements the same for multi-unit residences?	The entry way signage requirements are the same. However for other areas of multi-unit housing complexes, the signs need only be posted in the common building lobby, common mailbox area, or common elevator. (Section 1009.22(i) (2) – P15; L18-19)

Signage Requirements for Building Entrances	
Where should the sign be posted?	No higher than 8 feet and no lower than 5 feet, and within 10 feet of the door or the most appropriate place for visibility from outside
What should the sign say?	<p>There are three (3) requirements:</p> <ol style="list-style-type: none"> 1) The text should read: "Smoking only 1) at the curb, or 2) if no curb, at least 15 ft. from exits, entrances, operable windows, and vents" - <i>The letters are required to be no less than one half inch in height</i> 2) The international "No Smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a circle, with a diameter of at least three inches, with a bar across it 3) A statement at the bottom of the sign that reads "SF Health Code Article 19F" in font no less than 1/8 inch in height.
Are there any exceptions?	Yes, persons that own, manage, or operate property that is LEED ("Leadership in Energy and Environmental Design") certified that has a smoking distance requirement greater than that specified in this ordinance shall post signs conforming to all the requirements in this Section that state that smoking only is allowed at that greater distance from the exists, entrances, and operable windows. Section 1009.22 (i) (1) - P 15; L 12-16

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Article 19F: Prohibiting Smoking in Enclosed Areas & Certain Unenclosed Areas, and Sports Stadiums

Smokefree Outdoor and Sidewalk Dining Areas provision effective November 2010	
What does the law say?	Article 19F, Section 1009.22(a)(13) prohibits smoking in restaurants.
What is the definition of a restaurant?	"Restaurant" means every restaurant, coffee shop, cafeteria, cafe, luncheonette, sandwich stand, soda fountain, or other eating establishment serving food to the general public, including outdoor and sidewalk dining areas. This term also includes separate rooms within restaurants, either accessible from the restaurant or an outside door, and whether or not the room is used as a meeting room or banquet room or food or beverages are served in the room. This term also includes the areas adjacent to and serving the meeting or banquet room. (Section 1009.21 (r) - P9; L5)
Are there any exceptions?	Smoking will be allowed in outdoor and sidewalk dining areas of restaurants until six months after the effective date of this ordinance (October 25, 2010) (Section 1009.22(a) (13) – P 12; L 6-7)
What is the effective date of the ordinance?	April 25, 2010
What about people who are not my customers and are smoking in the entryway? Do I have to stop them from smoking?	No, this subsection does not require a property owner or manager of a business to enforce the smoking prohibition in Section 1009.22(d) outside a business by persons who are not patrons of the business. (Section 1009.22(i)(3) – P16; L1-8)

Exceptions	
Are there exceptions?	<ul style="list-style-type: none"> • Historically compliant semi-enclosed smoking rooms • Existing bars as of Dec 31, 2009 in commercial buildings with no employees • Existing bars as of Dec 31, 2009 in mixed used buildings with no employees that re-locate to commercial building within two years • Tobacco Shops in commercial buildings as of Dec 31, 2009 • Bar outdoor/side patios
What do I have to do if my business falls under these exceptions?	<p>An application must be submitted by July 30, 2010 for:</p> <ul style="list-style-type: none"> • Historically compliant semi-enclosed smoking rooms • Existing bars as of Dec 31, 2009 in commercial buildings with no employees • Existing bars as of Dec 31, 2009 in mixed used buildings with no employees that will re-locate to commercial building within two years • Tobacco Shops in commercial buildings as of Dec 31, 2009 <p>Down load an application from www.smokefreeSF.org</p>

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Requirements for Tobacco Shops

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<u>Venue</u>	<u>Expanded Protections</u>
Tobacco shops	<p>No smoking in tobacco shops. Existing tobacco shops as of December 31, 2009 in commercial building will be grandfathered in. You must submit an application July 30, 2010 to be eligible for this exception.</p> <p>A “Tobacco shop” means any tobacco retailer whose principal or core business is selling tobacco products, tobacco paraphernalia, or both, as evidenced by any of the following: 50% or more of floor area and display area is devoted to the sale or exchange of tobacco products, tobacco paraphernalia, or both; 70% or more of gross sales receipts are derived from the sale or exchange of tobacco products, tobacco paraphernalia, or both; or 50% or more of completed sales transactions include a tobacco product or tobacco paraphernalia. A “tobacco shop” cannot be located within or adjacent to a restaurant, bar or tavern, either as a room accessible from the restaurant, bar or tavern or from a separate entrance.</p> <p>Down load an application from www:smokefreeSF.org</p> <p><u>NOTE: Tobacco shops that are located in mixed use/residential buildings are not eligible to be grandfathered in.</u></p>
Dining areas	No smoking where food is served in outdoor dining areas of restaurants, cafes and coffee shops as of November 2010
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