

Strong Local Entryway Ordinances November 2005

With smoking banned in indoor workplaces in California since 1994, secondhand smoke lingering in the entryways of buildings has become a problem. Smoking around buildings can affect the indoor air quality of buildings as it drifts or is pulled in through doors, windows and ventilation systems. The smoke can also affect those with asthma and other respiratory problems who must pass through the area.

In response to this problem the California Legislature passed Assembly Bill 846, effective January 1, 2004. The law prohibits smoking within 20 feet of a main entrance, exit, or operable window of all city, county or State owned or leased buildings in the state (Government Code sections 7596-7598). With passage of this law the state recognized outdoor secondhand smoke as a problem that needs to be addressed.

More and more local communities are also passing laws to protect workers and the public from secondhand smoke near the entryways of buildings. The Center believes that a strong entryway ordinance must prohibit smoking within 20 feet from all entryways of all buildings open to the public.

The first seven ordinances below are currently the strongest ordinances in the state. They prohibit smoking within at least 20 feet from all of the entryways of all buildings open to the public, protecting both workers and the general public. However, each law listed accomplishes this in different ways. If your coalition is considering working on an entryway policy, The Center recommends that you contact the Technical Assistance Legal Center (TALC) at (510) 444-8252 for assistance and a copy of their model ordinance.

Also, please note that because local laws are continually being adopted and/or amended, this list may not be complete. If you are aware of changes or additional ordinances that should be included, please contact The Center.

For more information contact The Center at (916) 442-4299 or go to www.californialung.org/thecenter.

Community	Ordinance Language and Enforcement
City of Berkeley	<p>Smoking is prohibited:</p> <p>"Within 20 feet of any entrance, exit or air intake vent to any building that is open to the public, except while passing on the way to another destination. For purposes of this section, entrance or exit shall mean an opening into a building from a contiguous street, sidewalk, walkway or parking area, and 'air intake vent' shall mean an opening into a building that draws in air from the outside as part of a building ventilation system but shall not include windows, entrances or exits;" (Section 12.70.030(U))</p> <p>"All outdoor areas used for public seating in conjunction with any retail or food establishment in an exclusively pedestrian area that is enclosed on at least three sides, whether or not provided by or attached to a restaurant;" (Section 12.70.030(S))</p> <p>Enforcement: The Department of Health & Human Services is responsible for enforcement. Any person violating this law is guilty of an infraction.</p>

<p>City of Davis</p>	<p>“Smoking shall be prohibited in the following outdoor areas, and smoking, except while passing on the way to another destination, shall be prohibited within 20 feet of or close enough to the following areas for smoke to travel into an area or building, where smoking is prohibited, whichever is greater; . . .</p> <ul style="list-style-type: none"> • Entrances and exits to enclosed public areas, • Within the entryway of any enclosed public area, . . . • Any place where food and/or drink is offered for sale, . . . • Open windows of any enclosed public area;” (Section 34.02.010(X))
	<p>Enforcement: The city manager, his / her designees, the police chief, police officers, and the fire department all have the authority to enforce the law. Any person violating the law is guilty of an infraction and subject to the following fines:</p> <ul style="list-style-type: none"> • Up to fifty dollars for conviction of a first violation; • Up to two hundred dollars for conviction of a second violation; • Up to five hundred dollars for the conviction of a third or subsequent violation.
<p>City of Oakland</p>	<p>“Smoking outside of the work building shall occur at a minimum distance of 25 feet from the building entrance, exit, window and air intake vent of the building to insure that smoke does not enter the building and affect occupants therein.” (Section 8.30.060(B))</p>
	<p>Enforcement: The City Manager or his/her designee has the authority to enforce the law Any person who violates any provision of this chapter shall be guilty of an infraction, punishable by:</p> <ul style="list-style-type: none"> • A fine not exceeding one hundred dollars for a first violation; • A fine not exceeding two hundred dollars for a second violation within one year; • A fine not exceeding five hundred dollars for each additional violation within one year.
<p>County of Santa Barbara</p> <p>(The City of Goleta in Santa Barbara County has adopted this ordinance as well)</p>	<p>“Smoking shall be prohibited within twenty feet of any area or building where smoking is prohibited. Ashtrays or any receptacle used to dispose of burning tobacco products shall be prohibited within twenty feet of any building or area where smoking is prohibited. Except that, twenty-five percent of the outdoor seating sections of restaurants and one-hundred percent of the outdoor seating sections of bars may allow smoking with the following conditions:</p> <ul style="list-style-type: none"> • In the case of restaurants, smoking sections must be designated, the entire smoking section must be in the same area, and be located the furthest distance from the restaurant entrance, so as to minimize the chance of smoke entering the restaurant. • Smoking in the outdoor seating sections of restaurants or bars may only take place provided that smoke does not enter adjacent worksites or residences. The smoking section of these outdoor areas must be clearly marked with signs.” (Section 37-5(a))
	<p>Enforcement: The county health officer or his/her designee has the authority to implement and enforce the law and will aid municipalities within the county in their duties under similar ordinances. Any person or business that violates the law is guilty of an infraction, punishable by:</p> <ul style="list-style-type: none"> • A fine, not exceeding one hundred dollars, for the first violation; • A fine, not exceeding two hundred dollars, for a second violation within one year; • A fine not exceeding five hundred dollars, for each additional violation within one year.

City of Stockton	<p>“Smoking shall be prohibited within twenty (20) feet of all main entrances, exits, or operable windows to any building that is open to the public where smoking is prohibited, except while passing on the way to another destination. Ashtrays are not required. However, if present, ashtrays or any receptacle used to dispose of burning tobacco products shall be located 20 feet or the furthest reasonable distance from the main entrance, exit, or operable windows so as to minimize the chance of smoke entering through the main entrance, exit or operable windows of a building open to the public.</p> <ul style="list-style-type: none"> • Exemption for restaurants and bars: Restaurants may allow smoking in an outdoor seating area, provided that the smoking area is located the furthest reasonable distance from the main entrance, exit or operable windows so as to minimize the chance of smoke entering the restaurant. One-hundred percent (100%) of the outdoor seating area of bars may allow smoking, provided that reasonable efforts are made to minimize the chance of smoke entering the bar.” (Section 7-153) <p>Enforcement: A violation of this law shall be an infraction, punishable by:</p> <ul style="list-style-type: none"> • A fine, not exceeding one hundred dollars, for the first violation; • A fine, not exceeding two hundred dollars, for a second violation within one year; • A fine not exceeding five hundred dollars, for each additional violation within one year.
City of Woodland	<p>“Smoking shall be prohibited at all times in the following public places:</p> <ul style="list-style-type: none"> • Areas measuring a distance of 20 feet from the main entrance of a commercial building. <p>Exemptions to this ordinance:</p> <ul style="list-style-type: none"> • Bars with ABC License Type 40, 43, or 48 are exempt from the ordinance between the hours of 8:00 p.m. and 4:00 a.m. of the following day – an 8 hour period. • Restaurant/Bar with ABC License Type 41, 47, 51, 52, 57, or 69 are exempt from the ordinance after food service has ceased, but not before 8:00 p.m. of that day and lasting until 4:00 a.m. of the following day.” (Section 15-40(d)) <p>Enforcement: A violation of this law shall be an infraction, punishable by:</p> <ul style="list-style-type: none"> • A fine, not exceeding one hundred dollars, for the first violation; • A fine, not exceeding two hundred dollars, for a second violation within one year; • A fine not exceeding five hundred dollars, for each additional violation within one year.

Other Entryway Ordinances

While the ordinances listed below go beyond just city/county government buildings, they are not as strong as Berkeley, Davis, Goleta, Oakland, Santa Barbara, Stockton and Woodland. These ordinances show that local communities are taking the issue of smoke drifting through entryways seriously. But they are not “model” ordinances and contain problem areas listed below.

Community	Ordinance Language	Concern with Language
Calexico	<p>“Smoking shall be prohibited within twenty feet in the following public places and other public places similarly situated, including, but not limited to, the following areas: . . .</p> <ul style="list-style-type: none"> • All enclosed areas available to and customarily used by the general public and all areas of business establishments generally accessible to the public, including, but not limited to, the public area of retail stores, banks, and other offices.” (Section 8.58.030) 	<p>Although this ordinance appears to provide a 20 foot buffer around most public places, the language is unclear (“within twenty feet in the following public places”).</p>
Fremont	<p>“Smoking that is less than a reasonable distance from areas designated nonsmoking under this chapter shall be prohibited. Smoking shall be considered to be less than a reasonable distance from such an area under any of the following circumstances: . . .</p> <ul style="list-style-type: none"> • The smoking takes place outside a building containing one or more nonsmoking areas, in close proximity to any openable window or door, or any air intake duct of a heating, ventilating and air conditioning (HVAC) system through which air is recirculated into a nonsmoking area.” (Section 4-6105.5) 	<p>“Reasonable distance” is not defined as a specific number of feet. This makes it difficult to enforce the law.</p>
Marin County (Several cities in the county have adopted the same ordinance: Novato, San Anselmo, San Rafael, and Sausalito)	<p>“Smoking shall be prohibited in outdoor areas immediately adjacent to any entrance or exit of any building within which smoking is prohibited. For purposes of this section, entrance or exit shall mean an opening into a building from a contiguous street, sidewalk, walkway or parking area.” (Section 7.70.040(B))</p>	<p>“Immediately adjacent” is not defined as a specific number of feet. This makes it difficult to enforce the law.</p>
Palm Desert	<p>“No person shall smoke in a public place or place of employment, except in designated smoking areas.” (Section 8.36.030)</p> <p>“Public Place means: . . .</p> <ul style="list-style-type: none"> • Areas measured a distance of forty feet from the entrances and exits to enclosed city-owned public places. • Outdoor locations owned by the city which have a designated no smoking sign posted at their normal entrances and exits to such outdoor locations, including, but not limited to: <ul style="list-style-type: none"> • City-owned parks, playground, restrooms, baseball and soccer fields, excepting therefrom the golf course area of Desert Willow. • Outdoor public events including, but not limited to, 	<p>Does not cover all buildings; only public buildings and outdoor areas.</p>

	sports events, entertainment, speaking performances, ceremonies and fairs.” (Section 8.36.020(B)(2))	
Palo Alto	<p>“Smoking is prohibited in all service locations, except while passing through the service area on the way to another destination.” (Section 9.14.025)</p> <p>Service locations are: “Areas within twenty feet of the entrance or exit to an enclosed public place, except when the public place is closed, between ten p.m. and six a.m., or when the entrance or exit is for the exclusive use of employees and not accessible to the general public.” (Section 9.14.010(j)(3))</p>	Numerous exceptions, such as when places are closed, evenings, back entrances.
Rancho Cucamonga	<p>“Smoking is prohibited within an area measured twenty feet from the entrance of any city facility.</p> <p>“Any retail, nonprofit or service related business owner may choose to prohibit smoking within twenty feet of the entrance of said business by conspicuously posting a no smoking sign at or near the entrance to the business. Said sign shall reference this section and contain language similar to the following: ‘No smoking within twenty feet of the entrance, pursuant to RCMC Section 8.21.155.’ When posted in accordance with this provision, smoking within twenty feet of the entrance shall be prohibited.</p> <p>“It shall be the responsibility of any person smoking outside to ensure that smoke does not enter any buildings through open windows or doors.” (Section 8.21.155)</p>	Buildings other than city facilities may enact a voluntary 20 ft policy.
San Ramon	<p>“Smoking shall be prohibited in the following places within the city: . . .</p> <ul style="list-style-type: none"> • Outdoor areas that are not separated by a reasonable distance from any entrance or exit to a place where smoking is prohibited” (Section B6-73(A)(12)) 	“Reasonable distance” is not defined as a specific number of feet. This makes it difficult to enforce the law.