File No. 121107 Committee Item No. 6
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development **Date** December 10, 2012

Board of Supervisors Meeting **Date** _____

Cmte Board

Cmte	Board	
☐	☐	**Motion**
☐	☐	**Resolution**
☒	☐	**Ordinance**
☒	☐	**Legislative Digest**
☐	☐	**Budget and Legislative Analyst Report**
☐	☐	**Legislative Analyst Report**
☐	☐	**Youth Commission Report**
☒	☐	**Introduction Form**
☒	☐	**Department/Agency Cover Letter and/or Report**
☐	☐	**MOU**
☐	☐	**Grant Information Form**
☐	☐	**Grant Budget**
☐	☐	**Subcontract Budget**
☐	☐	**Contract/Agreement**
☐	☐	**Form 126 – Ethics Commission**
☐	☐	**Award Letter**
☐	☐	**Application**
☐	☐	**Public Correspondence**

OTHER **(Use back side if additional space is needed)**

☐	☐	
☐	☐	
☐	☐	
☐	☐	
☐	☐	
☐	☐	
☐	☐	
☐	☐	
☐	☐	
☐	☐	

Completed by: Alisa Miller **Date** December 7, 2012
Completed by: _____ **Date** _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document can be found in the file.

[Health Code - Disclosing Landlord's Prohibition of Smoking in Residential Rental Units; Designating and Listing Units as Smoke Free or Smoking Optional]

Ordinance amending the San Francisco Health Code by adding Article 19M relating to multi-unit residential rental properties where less than 100 percent of the units are designated as smoke free, to require that owners designate each unit as either smoke free or smoking optional, and include that designation in residential vacancy listings; provide a list to a rental applicant showing the designation of units in the building as smoke free or smoking optional, before offering a unit to that applicant; disclose in writing to any rental applicant whether the landlord has designated the unit for rent as smoke free or smoking optional, prior to entering into a new lease or rental agreement; develop and maintain a master list available to all tenants that identifies the location of each smoke free unit and each smoking optional unit; and comply with a timeline and process to designate the units as smoke free or smoking optional (one year for owners of 50 units or less in the City, two years for owners of more than 50 units in the City).

NOTE: Additions are *single-underline italics Times New Roman font*; deletions are ~~*strike-through italics Times New Roman font*~~. Board amendment additions are double-underlined Arial font; Board amendment deletions are ~~strikethrough Arial font~~.

Be it ordained by the People of the City and County of San Francisco:

//

//

//

//

//

Section 1. The San Francisco Health Code is hereby amended by adding Article 19M, to read as follows:

Article 19M.

Disclosure to Prospective Residential Tenants of Whether a Unit is Smoke Free or Smoking Optional, and Informing Existing Residential Tenants Where Smoking is Optional

Sec. 19M.01. DEFINITIONS.

a. Multi-Unit Housing Complex. "Multi-Unit Housing Complex" means as defined in Health Code Article 19F at Section 1009.21.

b. Smoking or To Smoke. "Smoking or "to smoke" means and includes inhaling, exhaling, burning or carrying any lighted smoking equipment for tobacco.

Sec. 19M.02. DESIGNATION OF UNITS AS SMOKE FREE OR SMOKING OPTIONAL, DISCLOSURE TO PROSPECTIVE TENANTS AND TENANTS.

a. An owner or manager ("landlord") of a Multi-Unit Housing Complex with less than one hundred percent (100%) smoke free residential rental units shall:

1. Designate each residential unit as either smoke free or smoking optional, using the process and timeline provided in Section 19M.03 "Designation of Units as Smoke Free or Smoking Optional."

2. Include in residential vacancy listings the unit designation as smoke free or smoking optional.

3. Provide a residential rental applicant with a list showing the designation of units in the building as smoke free or smoking optional, before offering a unit to that applicant.

4. Disclose in writing to any residential rental applicant whether the landlord has designated the unit for rent as a smoke free unit or as a smoking optional unit, before entering into the new lease or rental agreement.

5. Develop and maintain a master list for tenants that identifies the location of each smoke free unit and each smoking optional unit. Notify tenants that this master list is available upon request in the leasing office or from building management.

Sec. 19M.03. PROCEDURE FOR DESIGNATION OF RESIDENTIAL RENTAL UNITS AS SMOKE FREE OR SMOKING OPTIONAL.

In compliance with Section 19M.02.a.1., owners of residential rental property in the City and County of San Francisco shall make an initial designation of each unit as either smoke free or smoking optional.

a. Property owners of 50 residential rental units or less in the City and County of San Francisco as of January 1, 2013, or their successor(s) in interest, shall finalize that initial designation no later than December 31, 2013.

Property owners of 51 or more residential rental units in the City and County of San Francisco as of January 1, 2013, or their successor(s) in interest, shall finalize that initial designation no later than December 31, 2014.

b. Property owners shall provide written notice to each existing residential tenant clearly stating the proposed initial designation of their unit as smoke free or smoking optional.

1. The proposed designation shall be smoke free, if the existing residential rental unit has a current lease designating the unit as smoke free.

2. The proposed designation shall be smoking optional, if the existing residential rental unit does not have a current lease designating the unit as smoke free.

3. Tenants in a unit with a proposed designation as smoking optional, may request that the property owner designate the unit as smoke free.

4. The property owner shall provide each existing residential tenant with at least 30 days to review the proposed designation and make comments, before finalizing the initial designation.

Sec. 19M.04. RELATIONSHIP OF HEALTH CODE ARTICLE 19M TO CERTAIN EXISTING LAW.

a. Health Code Article 19F. These Health Code Article 19M provisions are in addition to Health Code Article 19F provisions regarding smoke free common areas.

b. California Civil Code section 1947.5. This Health Code Article 19M is intended to be supplemental to, and not inconsistent with, California Civil Code section 1947.5.

Sec. 19M.05. INTENT, LIMITATIONS.

a. The designation and disclosure of residential rental units as smoke free or smoking optional pursuant to this Article 19M is intended to be an educative and informative tool for landlords, tenants, and prospective tenants.

b. The property owner's designation and disclosure of smoke free units under this Article 19M is not a guarantee that units designated as smoke free will be smoke free, or that the property will be free from secondhand smoke. Accuracy of the designations and disclosures is dependent in significant part on compliance by each residential tenant and any guests.

c. The provisions of this Article 19M do not create any right of action, or create any remedies or defenses or other means of legal redress.

d. The provisions of this Article 19M are in addition to any other rights of action or remedies or defenses or other means of legal redress that may be available to the tenant or the City.

//

//

//

//

//

Section 2. This Section is uncodified.

Effective Date and Operative Date.

a. Effective Date. This ordinance shall become effective 30 days from the date of enactment.

b. Operative Date. This ordinance shall become operative on its effective date or January 1, 2013, whichever is later.

Section 3. This Section is uncodified.

In enacting this Ordinance, the Board intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams, or any other constituent part of the Health Code that are explicitly shown in this legislation as additions, deletions, Board amendment additions, and Board amendment deletions, in accordance with the "Note" that appears under the official title of the legislation.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
Marie Corlett Blits
Deputy City Attorney

FILE NO. 121107

LEGISLATIVE DIGEST

[Health Code - Disclosing Landlord's Prohibition of Smoking in Residential Rental Units; Designating and Listing Units as Smoke Free or Smoking Optional]

Ordinance amending the San Francisco Health Code by adding Article 19M relating to multi-unit residential rental properties where less than 100 percent of the units are designated as smoke free, to require that owners designate each unit as either smoke free or smoking optional, and include that designation in residential vacancy listings; provide a list to a rental applicant showing the designation of units in the building as smoke free or smoking optional, before offering a unit to that applicant; disclose in writing to any rental applicant whether the landlord has designated the unit for rent as smoke free or smoking optional, prior to entering into a new lease or rental agreement; develop and maintain a master list available to all tenants that identifies the location of each smoke free unit and each smoking optional unit; and comply with a timeline and process to designate the units as smoke free or smoking optional (one year for owners of 50 units or less in the City, two years for owners of more than 50 units in the City).

Existing Law

The current San Francisco Municipal Code does not require landlord disclosure of whether a residential rental unit is a smoke free unit or a smoking optional unit.

Amendments to Current Law

This proposed ordinance would amend the San Francisco Health Code by adding Article 19M to require that residential owners of multi-unit properties where less than 100% of the units are designated as smoke free, must designate each unit as either smoke free or smoking optional ("the designation"), and:

- Include the designation in vacancy listings;
- Provide a list to a rental applicant showing the designation, before offering the unit to that applicant;
- Disclose the designation in writing to any rental applicant, prior to entering into a new lease or rental agreement; and,
- Develop and maintain a master list of the designations, that is available to all tenants.

Owners with 50 units or fewer residential rental units in the City will have one year to designate those units as smoke free or smoking optional, and owners of more than 50 units in the City will have two years to complete the designations.

Background Information

The stated intent of the legislation is as an educational and informative tool for landlords, tenants, and prospective tenants, regarding smoke free and smoking optional residential rental units.

The legislation would also further implement state legislation that went into effect January 1, 2012 (SB 332, adding California Civil Code §1947.5), that provides in pertinent part as follows:

> §1947.5
>
> . . . .
>
> (b)(1) Every lease or rental agreement entered into on or after January 1, 2012, for a residential dwelling unit on property on any portion of which the landlord has prohibited the smoking of cigarettes or other tobacco products pursuant to this article shall include a provision that specifies the areas on the property where smoking is prohibited, if the lessee has not previously occupied the dwelling unit.
>
> . . . ."

BOARD of SUPERVISORS

City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Delene Wolf, Executive Director, Rent Board
Barbara A. Garcia, Director, Department of Public Health

FROM: Alisa Miller, Clerk, Land Use and Economic Development Committee
Board of Supervisors

DATE: November 14, 2012

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Economic Development Committee has received the following proposed legislation, introduced by Supervisor Mar on November 6, 2012. This matter is being referred to your department informational purposes only and no additional action is required.

File No. 121107

Ordinance amending the San Francisco Health Code by adding Article 19M relating to multi-unit residential rental properties where less than 100 percent of the units are designated as smoke free, to require that owners designate each unit as either smoke free or smoking optional, and include that designation in residential vacancy listings; provide a list to a rental applicant showing the designation of units in the building as smoke free or smoking optional, before offering a unit to that applicant; disclose in writing to any rental applicant whether the landlord has designated the unit for rent as smoke free or smoking optional, prior to entering into a new lease or rental agreement; develop and maintain a master list available to all tenants that identifies the location of each smoke free unit and each smoking optional unit; and comply with a timeline and process to designate the units as smoke free or smoking optional (one year for owners of 50 units or less in the City, two years for owners of more than 50 units in the City).

If you do wish to submit any reports or documentation to be included as part of the file, please send those to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

☒ 1. For reference to Committee: Land Use

An ordinance, resolution, motion, or charter amendment.

☐ 2. Request for next printed agenda without reference to Committee.

☐ 3. Request for hearing on a subject matter at Committee:

☐ 4. Request for letter beginning "Supervisor _____ inquires"

☐ 5. City Attorney request.

☐ 6. Call File No. _____ from Committee.

☐ 7. Budget Analyst request (attach written motion).

☐ 8. Substitute Legislation File No.

☐ 9. Request for Closed Session (attach written motion).

☐ 10. Board to Sit as A Committee of the Whole.

☐ 11. Question(s) submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

☐ Small Business Commission ☐ Youth Commission ☐ Ethics Commission

☐ Planning Commission ☐ Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a different form.

Sponsor(s):

Mar

Subject:

Health Code – Disclosing Landlord's Prohibition of Smoking in Residential Rental Units; Designating and Listing Units as Smoke Free or Smoking Optional

The text is listed below or attached:

Please see attached.

Signature of Sponsoring Supervisor: _____

For Clerk's Use Only:

121107