

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

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

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

18 Be it ordained by the People of the City and County of San Francisco:
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1 Section 1. The San Francisco Health Code is hereby amended by adding Article 19M,
2 to read as follows:

3 Article 19M.

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

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7 Sec. 19M.01. DEFINITIONS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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8 Sec. 19M.05. INTENT, LIMITATIONS.

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

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

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

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

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1 Section 2. This Section is uncodified.

2 Effective Date and Operative Date.

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

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

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8 Section 3. This Section is uncodified.

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

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15
16 APPROVED AS TO FORM:
17 DENNIS J. HERRERA, City Attorney

18 By: _____
19 Marie Corlett Blits
20 Deputy City Attorney