

REVISED LEGISLATIVE DIGEST
(Amended in Committee – November 12, 2020)

[Health Code - No Smoking in Multi-Unit Housing Complexes]

Ordinance amending the Health Code to prohibit smoking inside all private dwelling units in multi-unit housing complexes containing three or more units and all common areas; remove the exception for child care facilities located in private homes; exempt smoking of medicinal cannabis for a medicinal cannabis patient who possesses a physician’s recommendation to smoke medicinal cannabis for medical purposes; require the Department of Public Health (DPH) to initiate a public information campaign to raise awareness of the smoking prohibition; require DPH to initiate the imposition of administrative penalties by issuance of a notice of violation in lieu of a citation; suspend the provision of the Health Code (mooted by this ordinance) which requires owners or managers of multi-unit housing complexes to provide certain disclosures regarding whether smoking is authorized in certain units; and affirm the Planning Department’s determination under the California Environmental Quality Act.

Existing Law

Article 19F of the Health Code regulates smoking in public places and certain residential settings. Local law prohibits smoking in enclosed and certain unenclosed common areas of multi-unit housing complexes containing 2 or more units, except that smoking is permitted 10 feet or more away from a door or window in an outdoor common area, a common hall open to the outdoors on at least one side, or a courtyard. Currently, smoking is prohibited in child care facilities except when located in private homes.

DPH is specifically charged with enforcement of Article 19F. DPH, property owners, and property managers are authorized to pursue injunctive relief to enforce Article 19F. DPH may also pursue administrative enforcement by initiating the imposition of an administrative penalty by service of a notice of violation or a citation in accordance with Chapter 100 of the Administrative Code.

Article 19M requires property owners or property managers of multi-unit housing complexes that maintain less than one hundred percent smoke free residential units to designate units as either smoke free or smoking optional, and provide certain disclosures regarding whether smoking is authorized in certain units.

Amendments to Current Law

The proposed ordinance would amend the Health Code to revise DPH’s regulation and enforcement of smoking by:

- Extending the smoking prohibition to all private dwelling units in multi-unit housing complexes containing three or more units and all common areas;
- Permitting smoking 15 feet or more away from a door or window in an outdoor common area;
- Removing the exception for child care facilities located in private homes;
- Requiring DPH to initiate the imposition of administrative penalties by service of a notice of violation in lieu of a citation; and,
- Eliminating a property owner or property manager's ability to pursue injunctive relief.

The proposed ordinance would require DPH to initiate a multilingual and culturally responsive public information campaign to raise awareness of the expanded smoking prohibition.

The proposed ordinance suspends Article 19M of the Health Code which requires owners or managers of multi-unit housing complexes to provide certain disclosures regarding whether smoking is authorized in certain units.

Background Information

On November 12, 2020, the Public Safety and Neighborhood Services Committee adopted the following amendments which amend the Health Code by:

- Prohibiting smoking in all common areas of multi-unit housing complexes with two or more dwelling units;
- Prohibiting smoking in child care facilities including those located in private homes;
- Exempting smoking of medicinal cannabis for a medicinal cannabis patient who possesses a physician's recommendation to smoke medicinal cannabis for medical purposes; and,
- Clarifying that landlords are not required to change terms of existing tenancies to prohibit smoking in multi-unit housing complexes.

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