

**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.1.	Definitions.
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Editor's Note:

For clarity and consistency, the editor has adjusted and/or corrected the designation of subdivisions of various sections within this Article.

SEC. 19M.1. 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.

(Added by Ord. 12-13, File No. 121107, App. 2/5/2013, Eff 3/7/2013)

SEC. 19M.2. DESIGNATION OF UNITS AS SMOKE FREE OR SMOKING OPTIONAL, DISCLOSURE TO TENANTS AND PROSPECTIVE TENANTS.

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

- (a) Designate each residential unit as either smoke free or smoking optional, using the process and timeline provided in Section 19M.3 "Procedure for Designation of Residential Units as Smoke Free or Smoking Optional."
- (b) Include in residential vacancy listings the unit designation as smoke free or smoking optional.
- (c) Provide a residential rental applicant with a list showing the designation of units in the building that are smoking optional, before offering a unit to that applicant.
- (d) 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.
- (e) Develop and maintain a master list for tenants that identifies the location of each smoking optional unit. Notify tenants that this master list is available upon request in the leasing office or from building management.

(Added by Ord. 12-13, File No. 121107, App. 2/5/2013, Eff 3/7/2013)

SEC. 19M.3. PROCEDURE FOR DESIGNATION OF RESIDENTIAL RENTAL UNITS AS SMOKE FREE OR SMOKING OPTIONAL.

In compliance with Section 19M.2(a), 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) (1) 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.
- (2) 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.

(Added by Ord. 12-13, File No. 121107, App. 2/5/2013, Eff 3/7/2013)

SEC. 19M.4. 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.

(Added by Ord. 12-13, File No. 121107, App. 2/5/2013, Eff 3/7/2013)

SEC. 19M.5. 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.

(Added by Ord. 12-13, File No. 121107, App. 2/5/2013, Eff 3/7/2013)