

## **Smoking Prohibition Ordinance & Multiple-Unit Housing Complexes**

[San Francisco Health Code, Article 19F, Sections 1009.21(f), (k), (o); 1009.22(f), (i)]

“Smoking” or “to smoke” means and includes inhaling, exhaling, burning or carrying any lighted smoking equipment for tobacco or any plant or other weed. (SFHC 19F Section 1009.21(s)).

Smoking of products that are not tobacco, plant or other weed, such as steaming stones, is not prohibited.

Multiple-Unit or Multi-Unit Housing Complex (MUHC) is defined as a public or private building, or portion thereof, containing 2 or more dwelling or other housing units including, but not limited to, a building with live/work units, apartment buildings, condominiums, senior citizen residences, nursing homes, housekeeping room/units, residential or single room occupancy hotels, and other multiple unit residential dwellings, group housing, or boarding facilities.

*[Pursuant to SFHC 19F 1009.22(k), if the owner or manager of MUHC complies with all of the requirements, smoking in a prohibited area will not be considered a substantial reduction in housing services that would qualify a tenant for a reduction in rent under SF Administrative Code Chapter 37]*

### **SMOKING IS NOT ALLOWED**

- **In enclosed common areas** of multi-unit residences including elevators, covered parking areas, lobbies, waiting areas, interior halls and stairwells; shared bathrooms, cooking, dining, lounge, laundry facilities and recreation areas; etc.
- Within 10 feet of a door or window located within the perimeter of an **outdoor common area** (i.e., an outdoor area where all residents have access and able to use)
- Around or near the building entry way, exit, operable doors or vents



### **SMOKING IS ALLOWED**

- At the curb of the street, sidewalk, or alley closest to the MUHC
- If there is no curb near the MUHC, at least 15 feet away from the building entrances, exits, and operable windows and vents
- Inside a residential unit when the front door is closed
- The private outdoor area(s) of a residential unit (e.g., balconies and private yards, etc.)
- The outdoor common area of the residential building that is greater than 10 feet from a door or window located within its perimeter

### **SMOKE MIGRATION**

There is no provision within SFHC Article 19F to enforce against secondhand smoke migrating from private units into enclosed common areas or other private units.

Residents may pursue this matter as a private nuisance and seek guidance from their health care provider, legal aid, or contact a community advocacy organization.

The intent of SFHC 19F is to protect residents from exposure to secondhand smoke, one of the leading causes of heart, lung, and cardiovascular diseases or cancers. Smoke free housing policies are the best protection from secondhand smoke exposure. Such policies simply require that smokers go outside to smoke. These policies do not prohibit smokers from living in a unit. There is no constitutional right to smoke; smoking is not protected under the Civil Rights Act of 1964 or any other Housing and Urban Development-enforced civil rights authorities.

San Francisco Department of Public Health strongly recommends that MUHCs that have adopted smoke-free policies enforce those policies through lease/occupancy agreements and/or home owner’s covenants, conditions and restrictions. Furthermore, DPH encourages more property owners to pursue smoke free housing policies, as codified by California Senate Bill SB332, by seeking legal counsel or guidance from a real estate or trade association professional

## **SFHC 19F REQUIREMENTS FOR MUHC**

Property owners or managers are required to comply with the following:

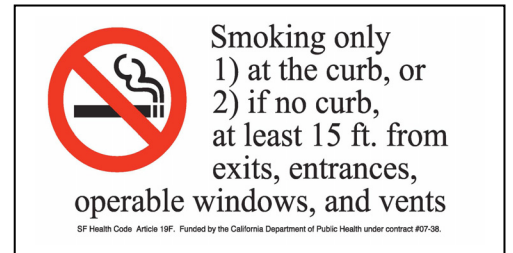
- Post a clear and prominent sign at each entrance to the premise no higher than 8 feet and no lower than 5 feet; and within 10 feet of the door or most appropriate place for visibility from outside:

The building entrance sign must include all of the following in letters no less than one half inch in height, the text should read:

**"Smoking only 1) at the curb, or 2) if no curb, at least 15 ft. from exits, entrances, operable windows, and vents"**

The international "No Smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a circle, with a diameter of at least three inches, with a bar across it.

A statement at the bottom of the sign that reads "SF Health Code Article 19F" in font no less than 1/8 inch in height;



*NOTE: Free building entryway signs may be available from DPH Tobacco Free Project. Please contact (415) 581-2448 and provide your name, mailing address, telephone or cell number, and the number of signs requested (up to 5 signs can be requested).*



- Remove any ashtray or ash receptacles from inside the premise;
- Post at least one (1) clear and prominent "No Smoking" sign in the lobby, elevator, or mailbox area;
- Additional "No Smoking" signs may be posted in any other area(s) where smoking is prohibited (e.g., exit doors, vents, loading docks; other enclosed areas; car port or garages with ceilings; shared bathrooms, laundry, recreation, or dining rooms; within 10 feet of a door or window within the outdoor common area; etc.);
- Request resident to refrain from smoking in prohibited areas when appropriate;
- When a property owner or manager receives a written complaint, post a notice for at least 10 days in the elevator, lobby, or mailbox area;
- When a property manager, owner, or staff observes smoking in a prohibited area, in addition to posting the 10-day notice, issue a written notice requesting the resident to the refrain from smoking within prohibited area; and
- Maintain a copy of the written notice to the resident for at least 1 year.

### **Building Entry Way Sign Verification**

Environmental Health staff will verify that building entry way signs are posted during the compliance inspection.

### **Complaints**

If residents are observed smoking inside shared common areas of the building, a complaint may be filed as follows:

- 311 (inside San Francisco) or (415) 701-2311 (outside San Francisco area code); or
- Environmental Health at EnvHealth.DPH@sfdph.org

All other complaints should be directed to the property owner or manager.