

File No. 100671

Committee Item No. 6

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: City Operations & Neighborhood Ser. Date: June 28, 2010

Board of Supervisors Meeting

Date _____

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Completed by: Victor Young

Date June 24, 2010

Completed by: Victor Young

Date _____

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

1 [Smoking Prohibition Signage Requirement.]

2
3 **Ordinance amending San Francisco Health Code Section 1009.22 to clarify signage**
4 **language requirement.**

5 NOTE: Additions are *single-underline italics Times New Roman*;
6 deletions are ~~*strike-through italics Times New Roman*~~.
7 Board amendment additions are double-underlined;
8 Board amendment deletions are ~~striketrough normal~~.

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

9 Section 1. The San Francisco Health Code is hereby amended by amending Section
10 1009.22, to read as follows:

11 **SEC. 1009.22. PROHIBITING SMOKING IN BUILDINGS, CERTAIN VEHICLES, CERTAIN**
12 **UNENCLOSED AREAS, AND ENCLOSED STRUCTURES CONTAINING CERTAIN USES**
13 **AND CERTAIN AREAS OF SPORTS STADIUMS.**

14 (a) Smoking is prohibited in buildings and enclosed structures, throughout the building
15 or structure and in the common areas, such as the elevators, hallways, stairways, restrooms,
16 conference and meeting rooms, and eating and break rooms, and certain unenclosed areas
17 that contain any of the facilities or uses set forth below.

18 (1) Facilities owned or leased by the City and County of San Francisco; every
19 commission, department or agency, with jurisdiction over such property shall adopt
20 regulations or policies implementing the provisions of this Article; provided, however, with
21 respect to facilities located outside the City and County of San Francisco, the regulations or
22 policies shall prohibit smoking in enclosed areas during all times;

23 (2) Facilities in which the business of any governmental body or agency is
24 conducted, including hearing rooms, courtrooms or places of public assembly;

- 1 (3) Polling places;
- 2 (4) Health facilities, including, but not limited to, hospitals, long term care
- 3 facilities; doctors' and dentists' offices, inpatient rooms, and outpatient examination and
- 4 treatment rooms;
- 5 (5) Educational facilities;
- 6 (6) Business establishments;
- 7 (7) Nonprofit establishments, except that persons qualifying under California
- 8 Health and Safety Code Section 11362.7 et seq. to use medical marijuana may smoke
- 9 medical marijuana on the premises of a Medical Cannabis Dispensary with a valid permit
- 10 issued by the Department of Public Health under Article 33 of the Health Code;
- 11 (8) Aquariums, galleries, libraries and museums;
- 12 (9) Child care facilities, except when located in private homes;
- 13 (10) Facilities used for exhibiting motion pictures, drama, dance, musical
- 14 performance, lectures, or other entertainment;
- 15 (11) Sports arenas; provided, however, that Subsection (b) shall govern sports
- 16 stadiums as defined in that subsection;
- 17 (12) Convention facilities;
- 18 (13) Restaurants, except that smoking will be allowed in outdoor and sidewalk
- 19 dining areas of restaurants until six months after the effective date of this ordinance;
- 20 (14) Bars and Taverns, except for historically compliant semi-enclosed smoking
- 21 rooms, the portion of an outdoor patio at least ten feet away from the entry, exit or operable
- 22 window of the bar or tavern, or as specified in Section 1009.23(c) or 1009.23(d);
- 23 (15) Tourist Lodging Facilities;
- 24 (16) Homeless Shelters, including, but not limited to, the sleeping areas of
- 25 those buildings;

1 (17) Tobacco Shops, except as specified in Section 1009.23(e);

2 (18) Facilities used to conduct charity bingo games pursuant to Penal Code
3 Section 326.5, during such times that persons are assembled in the facility in connection with
4 such games; and,

5 (19) Farmers Markets, whether on public or private property.

6 (b) No owner, manager, or operator of a sports stadium shall knowingly or intentionally
7 permit, and no person on the premises shall engage in, the smoking of tobacco products in
8 any enclosed or open space at a sports stadium except in (1) ramps outside seating areas, (2)
9 private suites and corridors to private suites, and (3) areas designated for parking. Any portion
10 of a sports stadium used as a bar, restaurant, or service area shall be governed by the
11 provisions of this Article. For purposes of this subsection, a sports stadium means a facility
12 which has a seating capacity of at least 30,000 people.

13 (c) Smoking is prohibited at all times in taxicabs and other motor vehicles for hire as
14 defined in the Police Code, whether owned or leased by the driver, whether or not occupied
15 by one or more passengers, and whether or not in operation.

16 (d) Smoking is prohibited in service waiting areas, which are defined as any area
17 designed to be or regularly used by one or more persons to receive or wait to receive a
18 service, enter a public place, or make a transaction, whether or not such service includes the
19 exchange of money, such as ATMs, bank teller windows, telephones, ticket lines, movie
20 theater lines, concert lines, athletic event lines, performance event lines and cab stands, and
21 including the ticketing, boarding and waiting areas of public transit systems, including bus,
22 train, trolley and cable car stops and shelters.

23 (e) Notwithstanding Police Code Section 121(d) or any other provision of law, smoking
24 outside entrances, exits and operable windows and vents of all buildings is only permitted at
25 the curb of the nearest street, sidewalk or alley. If there is no curb within fifteen feet of the

1 building, smoking is prohibited within fifteen feet of entrances, exits, and operable windows
2 and vents of any building.

3 (f) Smoking is prohibited in enclosed common areas of multi-unit housing complexes,
4 as defined in Section 1009.21(k), including, but not limited to, private apartment buildings,
5 residential hotels, including Single Resident Occupancy hotels, SF Housing Authority
6 buildings, HUD housing, senior housing, and condominiums. Enclosed common areas are
7 those areas accessible to and usable by residents of different units and include but are not
8 limited to common halls, elevators, covered parking areas, lobbies, waiting areas, interior
9 stairwells and bathrooms, cooking, dining, lounge, laundry facilities, recreation and lobby
10 areas, except that smoking is permitted ten feet or more away from a door or window in an
11 outdoor common area within the perimeter, a common hall open to the outdoors on at least
12 one side, or courtyard of any multi-unit housing complex. Except for purposes of ingress and
13 egress, the entry doors of private residential units shall be closed at any time that smoking is
14 occurring within an individual dwelling unit of either a multi-unit housing complex or a mixed-
15 use building where the door opens into an area where smoking is prohibited under this
16 Section.

17 (g) Smoking is prohibited in all vehicles owned by the City and County of San
18 Francisco.

19 (h) It is unlawful for any person to smoke in any area where this Article prohibits
20 smoking. It is unlawful for the owner of any property, facility or establishment subject to this
21 Article or if a different person has the right to possession or management of such property,
22 facility or establishment, for that person to permit any person to smoke in any area where
23 smoking is prohibited by this Article, and the owner or manager had or should have had actual
24 or constructive knowledge acquired by due diligence of the smoking. This subsection does not
25 require a property owner or manager of a business to enforce a smoking prohibition outside

1 the business against persons who are not patrons of the business, or a property owner or
2 manager of a multi-unit housing complex to enforce a smoking prohibition outside the building
3 against persons who are not tenants of the building.

4 (i) Any person who owns, operates or manages property is required to take the
5 following steps to prevent smoking on that property where it is prohibited under this Code:

6 (1) Post clear and prominent signs at each entrance to the premises no higher
7 than 8 feet and no lower than 5 feet, and within 10 feet of the door or the most appropriate
8 place for visibility from outside, that read "Smoking only 1) at the curb, or 2) if no curb, at least
9 15 ft. from entrances, exits, entrances, and operable windows, and vents" in letters no less than
10 one half inch in height and include 1) the international "No Smoking" symbol, consisting of a
11 pictorial representation of a burning cigarette enclosed in a circle, with a diameter of at least
12 three inches, with a bar across it, and 2) a statement at the bottom of the sign that reads "SF
13 Health Code Article 19F" in font no less than 1/8 inch in height. Persons that own, manage, or
14 operate property that is LEED ("Leadership in Energy and Environmental Design") certified
15 that has a smoking distance requirement greater than that specified in this ordinance shall
16 post signs conforming to all the requirements in this Section that state that smoking only is
17 allowed at that greater distance from the exists, entrances, and operable windows.

18 (2) Post clear and prominent "no smoking" signs in any area on the premises
19 where smoking is prohibited. For multi-unit housing complexes, the signs need only be posted
20 in the common building lobby, common mailbox area, or common elevator.

21 (3) Request that any person smoking in areas where smoking is prohibited
22 under this Article refrain from smoking. But this subsection does not require a property owner
23 or manager of a multi-unit housing complex of less than 16 units to make the request that a
24 person refrain from smoking unless the owner or manager observes the person smoking in
25 areas where smoking is prohibited under this Article, nor does this subsection require a

1 property owner or manager of a business to enforce the smoking prohibition in Section
2 1009.22(d) outside a business by persons who are not patrons of the business, or a property
3 owner or manager of a multi-unit housing complex to enforce a smoking prohibition outside
4 the building by persons who are not tenants of the building.

5 Upon receipt of a written complaint from a tenant or the Department of Public Health or when
6 any person is observed smoking where smoking is prohibited, an owner or manager of a
7 multi-unit housing complex must post a notice in the building lobby, common mailbox area, or
8 common elevator for a period of not less than ten days, advising that a tenant has been
9 observed smoking in a portion of the building where smoking is prohibited under San
10 Francisco Health Code Article 19F, and requesting that all tenants refrain from smoking in
11 those areas. If there is no common building lobby, common mailbox area or common elevator,
12 then the owner may provide notice to tenants in another reasonable manner. If the owner
13 knows the identity of the tenant who was smoking in a prohibited area, the owner must
14 additionally make the request to the tenant in writing, and keep a record of the request for a
15 reasonable period of time. For purposes of this subsection, a request that someone refrain
16 from smoking does not require the physical ejection of a person from the premises.

17 (4) Notify existing tenants of a multi-unit housing complex, within 90 days of the
18 effective date of this legislation, of the smoking prohibitions contained in this Article.

19 (5) Remove any ashtrays from inside the premises. No persons, employer,
20 business or non profit entity shall knowingly or intentionally permit the presence or placement
21 of ash receptacles within an enclosed area where smoking is prohibited.

22 The duties described in Sections (1)—(5) of this Section are baseline requirements and
23 are not the only responsibilities of owners or managers to prevent smoking in multi-unit
24 housing complexes.

1 (j) Violation of any part of this Article is not grounds for eviction of residential tenants.

2 (k) If the owner or manager has complied with all the requirements in this Article,
3 smoking in a multi-unit housing complex where prohibited under this Article shall not be
4 considered a substantial reduction in housing services that would qualify a tenant for a
5 reduction in rent under San Francisco Administrative Code Chapter 37.

6 APPROVED AS TO FORM:

7 DENNIS J. HERRERA, City Attorney

8
9 By:


10 CECILIA T. MANGOBA
Deputy City Attorney

FILE NO:

LEGISLATIVE DIGEST

[Smoking Prohibition Signage Requirement.]

Ordinance amending San Francisco Health Code Section 1009.22 to clarify signage language requirement.

Existing Law

Currently, Section 1009.22(i)(1) requires signs at the entrances to all buildings that read: "Smoking only at the curb or at least 15 ft. from exits, entrances, and operable windows."

Amendments to Current Law

The proposed ordinance would amend the signage requirement to read: "Smoking only 1) at the curb or 2) if no curb, at least 15 ft. from entrances, exits, operable windows, and vents."

Background Information

On March 16, 2010, the Board of Supervisors passed Ordinance No. 58-10. This ordinance prohibited smoking in many additional locations in San Francisco, including outside entrances, exits, operable windows and vents of all buildings. Property owners are required to post signs regarding the smoking prohibitions in Section 1009.22(e). This proposed amendment would clarify these requirements.