

INSTRUCTION SHEET (Form 34.0)

Tobacco Smoke-Free Areas Addendum

Purpose:

This form notifies Residents of the areas of the property where smoking of tobacco products is prohibited. Pursuant to this form, smoking may be prohibited on the entire property or in selected interior and/or exterior areas. This form also addresses responsibilities and liability with respect to smoking on the property. Understand that whether or not an owner chooses to prohibit smoking there may be legal consequences. Since this is a new trend in California's rental housing industry, the rights and obligations of Owners and Residents have not yet been litigated to the extent that there is legal precedent. For example: smoke drifting into a non-smoking resident's unit may result in a complaint regarding violation of the implied covenant of quiet enjoyment, whether or not a non-smoking policy is in place. Having a non-smoking policy may raise your resident's expectations and your duty to respond, resulting in possible legal action if it is not enforced.

A Notice of Change of Terms of Tenancy is required to apply this policy to existing month-to-month Residents. See CAA Form 5.0 - Notice of Changes of Terms of Tenancy (Other Than Monthly Rent). The policy cannot be implemented for Residents on a fixed term lease until the lease is renewed.

Preparation of the Form:

1. Insert a page number in the upper right hand corner, if this form is attached to the Rental/Lease Agreement
2. Fill in the location of the rental unit, including unit number and zip code.
3. The Owner/Agent should check one of two options—depending on whether smoking is or is not completely prohibited.
Option one: "Smoking of tobacco products is prohibited on the entire property, including individual units, common areas, ever building and adjoining grounds.
This option prohibits smoking, both indoors and outdoors on the entire property.
Option two: Smoking of tobacco products is prohibited on the entire property except the following areas:
This option should be checked if Owner/Agent wishes to allow smoking in certain specified areas. List the areas where smoking is permitted. For example: i.e., in Resident's unit, on brick patio in back yard, in any outdoor area, except around the swimming pool, at least five feet from any entrance or window, etc.

Pitfalls and Precautionary Notes:

1. While it is lawful to prohibit smoking on the property, refusing to rent to smokers likely constitutes unlawful, arbitrary discrimination.
2. This form has been prepared by the California Apartment Association to help members comply with applicable California and Federal law. The California Apartment Association, its local Chapters, and Divisions do not make any representation or warranty about the legal sufficiency or effect of this form. Consult with an attorney if you require assistance in completing the form or to determine if use of the form is appropriate or changes to the form are necessary in any particular situation.
3. The California Apartment Association does not sanction any CAA form that has been altered or changed in any way.



TOBACCO SMOKE-FREE AREAS ADDENDUM

Page _____
of Agreement

This document is an Addendum and is part of the Rental/Lease Agreement, dated _____ between _____ (Owner/Agent) and _____ (Resident) for the premises located at _____, Unit # (if applicable) _____, CA _____.

(Street Address) (City) (Zip)

- 1. Purpose:** The parties desire to mitigate (i) the irritation and known health effects of secondhand smoke; (ii) the increased maintenance, cleaning, and redecorating costs from smoking; (iii) the increased risk of fire from smoking; and (iv) the high costs of fire insurance for properties where smoking is permitted.
- 2. Smoke Free Areas:** Resident agrees and acknowledges that each of the following areas of the property has been designated as a smoke-free living environment and Resident and members of Resident's household shall not smoke tobacco products in these areas, nor shall Resident permit any guest or visitor under the control of Resident to do so.

Check one:

- Smoking of tobacco products is prohibited on the entire property, including individual units, common areas, every building and adjoining grounds.
- Smoking of tobacco products is prohibited on the entire property except the following areas:
- _____

- 3. Promotion of No-Smoking Policy:** Resident shall inform his or her guest of the Smoke-Free Areas. Resident shall promptly notify Owner/Agent in writing of any incident where tobacco smoke is migrating into Resident's unit from sources outside of Resident's Unit.
- 4. Owner/Agent Not Guarantor of Smoke-Free Environment:** Resident acknowledges that Owner/Agent's adoption of Smoke-Free Areas, does not make the Owner/Agent the guarantor of the Resident's health or of the smoke-free condition of the areas listed in Section 3 above. However, Owner/Agent shall take reasonable steps to enforce this addendum. Owner/Agent shall not be required to take steps in response to smoking unless Owner/Agent has actual knowledge or has been provided written notice.
- 5. Other Residents Are Third Party Beneficiaries of this Addendum:** Owner/Agent and Resident agree that the other Residents of the property are the third party beneficiaries of this Addendum. A Resident may sue another Resident to enforce this Addendum but does not have the right to evict another Resident. Any lawsuit between Residents regarding this Addendum shall not create a presumption that the Owner/Agent has breached this Addendum.
- 6. Effect of Breach:** A breach of this Addendum by the Resident shall be deemed a material breach of the Rental/Lease Agreement and grounds for immediate termination of the Rental/Lease Agreement by the Owner/Agent.
- 7. Disclaimer:** Resident acknowledges that this Addendum and Owner/Agent's efforts to designate Smoke-Free Areas do not in any way change the standard of care that the Owner/Agent would have to any Resident household to render buildings and premises designated as smoke free any safer, more habitable, or improved in terms of air quality than any other rental premises. Owner/Agent specifically disclaims any implied or express warranties that the building common areas or Resident's premises will have any higher or improved air quality standards than any other rental property. Owner/Agent cannot and does not warrant or promise that the Rental Premises or any other portion of the property including common areas will be free from secondhand smoke. Resident acknowledges that Owner/Agent's ability to police, monitor or enforce this Addendum is dependent in significant part on voluntary compliance by Resident and Resident's guests.



8. Effect on Current Tenants: Resident acknowledges that current Residents of the rental community under a prior Rental/Lease Agreement will not be immediately subject to the terms of this Addendum. As Residents move out, or enter into new Rental/Lease Agreements, this Addendum will become effective for their unit or new agreement.

The undersigned Resident(s) acknowledge(s) having read and understood the foregoing.

_____	_____	_____	_____
<i>Date</i>	<i>Resident</i>	<i>Date</i>	<i>Resident</i>
_____	_____	_____	_____
<i>Date</i>	<i>Resident</i>	<i>Date</i>	<i>Resident</i>
_____	_____		
<i>Date</i>	<i>Owner/Agent</i>		

