

INSTRUCTION SHEET (Form 34.0)

Tobacco Smoke-Free Areas

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 Lease/Rental 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.

