

Sample Language

17-1.5 DUTY OF PERSON, EMPLOYER, BUSINESS, LANDLORD, OR NONPROFIT ENTITY

e. Disclosure of Smoking Policy in New and Existing Multi-unit Housing

1. Every landlord of a Multi-Unit Residence shall maintain a list of designated nonsmoking Units, a list of designated smoking units, and a floor plan identifying the relative position of Smoking and nonsmoking Units. The floor plan also shall identify the location of any designated Smoking areas. At the time the lease is signed, the tenant shall also initial or sign that they received these documents. The list and plan shall be incorporated as exhibits into the lease signed by the Tenant and Landlord.

(3) The lease shall contain a clause or written notice stating that it is a material breach of the lease or agreement to (i) violate any law regulating smoking while on the premises, (ii) smoke in violation of a nonsmoking lease term, such as smoking in a nonsmoking Unit, or (iii) smoke in any Multi-Unit Residence Common Area in which smoking is prohibited by the Landlord; and

(4) The lease shall contain a clause or written notice stating that all lawful occupants of the Multi-Unit Residence are express third-party beneficiaries of the above required clauses.

a. The Rental Agreement terms required by subsection (a) are hereby incorporated by force of law into any lease or other agreement for the occupancy of a Unit in a Multi-Unit Residence made on or after the enactment date of the ordinance which adopted this section.

b. A Tenant who breaches the smoking regulations of a Rental Agreement or knowingly allows another Person to do so shall be liable to: (i) the Landlord; and (ii) to any lawful occupant of the Multi-Unit Residence who is exposed to secondhand smoke as a result of that breach. A Landlord shall not be liable to any Person for a Tenant's breach of smoking regulations if the Landlord has fully complied with section INSERT.

c. Failure to enforce any smoking regulation of a Rental Agreement on one or more occasions shall not constitute a waiver of the lease or agreement provisions required by this chapter and shall not prevent future enforcement of any such smoking regulation on another occasion.

2. All sellers of condominium units are required to disclose to prospective buyers in writing whether Smoking has been permitted in the Unit and the Smoking policies for the complex.

17-1.6 Secondhand Smoke as a Nuisance [This is amendment language]

Nonconsensual exposure to secondhand smoke within a Multi-Unit Residence, Multi-Unit Residence Common Areas and within buffer zones is a health hazard and a **nuisance**.

17-1.6 PENALTIES AND ENFORCEMENT. [change the number to 17-1.7]

Dublin, California

<http://www.codepublishing.com/ca/dublin.html>

5.56.055 Prohibition of smoking in multi-unit residences.

A. Multi-Unit Residences.

1. In every multi-unit residence, at least fifty percent (50%) of the units (including private outdoor spaces associated with such units, such as balconies, patios, and decks), must be designated as nonsmoking units by January 1, 2011;
2. Nonsmoking units must be contiguously grouped together both horizontally and vertically and physically separated from smoking units to the maximum extent practicable;
3. Landlords shall, within ninety (90) days of the effective date of the ordinance which adopted this section, notify each unit of its implementation schedule and plan for complying with this section;
4. Smoking is prohibited in nonsmoking units in multi-unit residences;
5. Landlords may designate a higher percentage of nonsmoking units or do so within an earlier time frame than required under subsection (A)(1) of this section.

B. Required Lease Terms.

1. Every lease or other agreement for the occupancy of a unit in a multi-unit residence shall, by January 1, 2011, include:
 - a. A clause stating that smoking is prohibited in the unit if the unit has been designated as a nonsmoking unit;
 - b. A clause stating that it is a material breach of the lease or agreement to (i) violate any law regulating smoking while on the premises; (ii) smoke in a nonsmoking unit; or (iii) smoke in any multi-unit residence common area in which smoking is prohibited by the landlord;
 - c. A clause stating that all lawful occupants of the multi-unit residence are express third-party beneficiaries of the above required clauses.**
2. The California Apartment Association's Form 34.0, Revised January 2007, meets the requirements for lease terms as outlined and is an option for use to comply with this section;

3. The lease or agreement terms required by subsection (B)(1) of this section are hereby incorporated by force of law into any lease or other agreement for the occupancy of a unit in a multi-unit residence made on or after January 1, 2011, and which does not fully comply with subsection (B)(1) of this section;

4. A tenant who breaches the smoking regulations of a lease or knowingly allows another person to do so shall be liable to: (i) the landlord; and (ii) any lawful occupant of the multi-unit residence who is exposed to secondhand smoke as a result of that breach. A landlord shall not be liable to any person for a tenant's breach of smoking regulations if the landlord has fully complied with subsection (B)(1) of this section;

5. Failure to enforce any smoking regulation of a lease or agreement on one or more occasions shall not constitute a waiver of the lease or agreement provisions required by this chapter and shall not prevent future enforcement of any such smoking regulation on another occasion.

C. Disclosure by Landlords of Multi-Unit Residences.

1. Every landlord shall maintain a list of designated smoking and nonsmoking units and a floor plan identifying the relative position of smoking and nonsmoking units. The floor plan also shall identify the location of any designated smoking areas. A copy of this list, floor plan, and a copy of any procedures for addressing smoking-related complaints shall accompany every new lease or other agreement for the occupancy of a unit in a multi-unit residence. If a copy of the list and floor plan is not so supplied, the unit subject to the lease shall be a nonsmoking unit.

Loma Linda, California

<http://municipalcodes.lexisnexis.com/codes/lomalinda/>

8.12.057 Required lease terms.

A. Every new lease or other agreement entered into after the effective date of this section for the occupancy of a unit in a multi-unit residence, other than a renewal of an existing lease to a tenant subject to Section 8.10.055(B), shall include:

1. A clause stating that smoking is prohibited in the unit, if the unit has been designated as a nonsmoking unit;
2. A clause stating that it is a material breach of the lease or agreement to: (a) violate any law or rule regulating smoking while on the premises; (b) smoke inside a nonsmoking unit or (c) smoke in any multi-unit residence common area in which smoking is prohibited by the landlord or by law; and

3. A clause stating that all lawful occupants of units in the multi-unit residence are third-party beneficiaries of the clauses required by subsections (A)(1) and (A)(2) of

this section.

B. The lease or agreement terms required by subsection A of this section are incorporated by force of law into any lease or other agreement for the occupancy of a unit in a multi-unit residence made on or after the effective date of this section which lease does not fully comply with subsection A of this section.

C. A tenant who breaches the smoking regulations included in a lease pursuant to subsection A of this section, or incorporated into a lease by subsection B of this section, or who knowingly allows another person to do so shall be liable to: (1) the landlord; and (2) to any lawful occupant of a unit in the multi-unit residence who is exposed to secondhand smoke as a result of that breach.

D. A landlord shall not be liable to any person for a tenant's breach of smoking regulations if:

1. The landlord has fully complied with subsection A of this section, and
2. Upon receiving a signed written complaint regarding prohibited smoking, the landlord provides a written warning to the offending tenant, stating that such tenant may be evicted if another complaint is received. Upon receipt of a second signed, written complaint against the offending tenant, the landlord may evict such tenant, but will not be held liable for the failure to do so.

E. Failure to enforce any smoking regulation of a lease or agreement on one or more occasions shall not constitute a waiver of the lease or agreement provisions required by this section and shall not prevent future enforcement of any such smoking regulation.

(Ord. 677 § 2 (part), 2008)

Belmont, California

<http://www.municode.com/resources/gateway.asp?pid=10411&sid=5>

Sec. 20.5-5. Required lease terms.

(a) For legal occupants on the effective date of this chapter, lease or rental agreement renewals for the occupancy of a unit in a multi-unit residence in which smoking is prohibited shall include:

- (1) A clause stating that smoking is prohibited in the unit if the unit has been designated as a non-smoking unit;
- (2) A clause stating that it is a material breach of the lease or agreement to (i) violate any law regulating smoking while on the premises; (ii) smoke in violation of a non-smoking lease term, such as smoking in a non-smoking unit; or (iii) smoke in any multi-unit residence common area in which smoking is prohibited by the landlord; and
- (3) A clause stating that all lawful occupants of the multi-unit residence are express third-party beneficiaries of the above required clauses.**

(4) A clause stating that terms (1)--(3) become effective fourteen (14) months after the effective date of this chapter, unless the landlord specifies an earlier effective date;

(b) For new tenants not in occupancy on the effective date of this chapter, every lease or other rental agreement for the occupancy of a unit in a multi-unit residence in which smoking is prohibited shall include:

(1) A clause stating that smoking is prohibited in the unit if the unit has been designated as a non-smoking unit;

(2) A clause stating that it is a material breach of the lease or agreement to (i) violate any law regulating smoking while on the premises; (ii) smoke in violation of a non-smoking lease term, such as smoking in a non-smoking unit; or (iii) smoke in any multi-unit residence common area in which smoking is prohibited by the landlord; and

(3) A clause stating that all lawful occupants of the multi-unit residence are express third-party beneficiaries of the above required clauses.

(c) The lease or agreement terms required by subsection (a) or (b) are hereby incorporated by force of law into any lease or other agreement for the occupancy of a unit in a multi-unit residence made on or after the effective date of the ordinance which adopted this section and which does not fully comply with subsection (a) or (b).

(d) A tenant who breaches the smoking regulations of a lease or knowingly allows another person to do so shall be liable to: (i) the landlord; and (ii) to any lawful occupant of the multi-unit residence who is exposed to secondhand smoke as a result of that breach. A landlord shall not be liable to any person for a tenant's breach of smoking regulations if the landlord has fully complied with subsection (a).

(e) Failure to enforce any smoking regulation of a lease or agreement on one or more occasions shall not constitute a waiver of the lease or agreement provisions required by this ordinance and shall not prevent future enforcement of any such smoking regulation on another occasion.

(Ord. No. 1032, § II, 10-9-07)