

RENTAL AGREEMENT ADDENDUM: NON-SMOKING INSTRUCTION SHEET

For use with ADD-009, Non-Smoking 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. 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 nonsmoking 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.

Civil Code 1947.5 authorizes a landlord of a residential dwelling unit to prohibit the smoking of tobacco products on the property, in a dwelling unit, in another interior or exterior area, or on the premises on which the dwelling unit is located. Landlords that adopt such policies are required to notice Residents and include language in rental agreements/leases executed on and after, and on and before, January 1, 2012, in this regard. The laws states that a landlord who prohibits smoking under this new authority is still subject to federal, state, and local requirements governing changes to the terms of a lease or rental agreement for tenants, as specified. Furthermore, its provisions do not preempt local ordinances in effect on or before January 1, 2012, or a provision of a local ordinance on or after January 1, 2012, that prohibits the smoking of cigarettes or other tobacco products.

Preparation of this Form:

A Notice of Change of Terms of Tenancy (MISC-001) is required to apply this policy to existing Residents on month-to-month Agreements. This policy cannot be implemented for Residents on a fixed term lease until the lease is renewed, unless the Resident agrees by signing the Agreement.

The Owner/Agent should check one of two options when filling out the Rental Agreement Non-Smoking Addendum (form AD-009), depending on whether smoking is or is not completely prohibited.

OPTION 1: This option prohibits smoking, both indoors and outdoors on the entire property.

"Smoking of tobacco products is prohibited on the entire property, including individual units, common areas, every building and adjoining grounds."

OPTION 2: This option would be checked if Owner/Agent for Owner wishes to allow smoking in certain specified areas. List the areas where smoking is permitted. For example: Smoking is allowed in Resident's unit, on a brick patio in Resident's back yard, in any outdoor area, except around the swimming pool, and at least five (5) feet from any entrance or window, etc.

"Smoking of tobacco products is prohibited on the entire property except the following areas....."

Pitfalls and Precautionary Notes:

While it is lawful to prohibit smoking on the property, refusing to rent to smokers as a class of persons may be unlawful, arbitrary discrimination.



Your use of any of these forms constitutes your representation that you have counseled with your personal attorney before using the form, and in using the form you are relying on your attorney's counsel and your own investigation, and not on any express or implied representation by SBRPA or any of its officers, directors, employees, or representatives.

Form ADD-009A
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