



New Smoking Law Affects All Santa Monica Apartments And Condos

November 22, 2012: Santa Monica has passed a law with new smoking rules that affect all multi-unit housing units in the City.

1. ALL NEW OCCUPANCIES ARE NON-SMOKING

All units newly occupied since November 22, 2012, are non-smoking. So, people moving into Santa Monica apartments and condos after November 22 can't smoke in their units, nor can their guests.

2. ALL OWNERS MUST CONDUCT SURVEY BY 1/21/13

Before January 21, 2013, all landlords and condo homeowners' associations are required to conduct a survey of current occupants, who will designate their units "smoking" or "non-smoking." More details below.

WHAT PROPERTY OWNERS MUST DO:

1. Conduct a survey of the property, by 1/21/13.
2. Distribute the results to all current occupants (see timetable below).
3. Keep the results updated in the future (as people move out and units change).
4. Give the latest results to all future and prospective occupants.

Date	Action
1/21/13	Deadline for landlords and HOAs to give written notice to all occupants, to designate units either "smoking" or "non-smoking"
2/20/13	Deadline for occupants to designate units
3/22/13	Owners notify occupants of results
4/21/13	Occupants can make corrections/changes
5/21/13	Owners distribute final list to all occupants, plus City information sheet

(continued)

MORE QUESTIONS ABOUT THE SURVEY

Q: Do owners have to give their final results to the City, or the Rent Control Board? No. They just need to distribute them to all occupants at the property, then keep the results updated and available for giving out in the future.

Q: Is there a form owners can use for the survey? Yes. Go to smconsumer.org. Or, any simple form can be used to record the designations.

Q: What if a tenant refuses to answer the survey? There is no penalty. Their unit remains "undesignated" on the final results. This means that smoking is still allowed in that unit.

Q: What happens if a property owner refuses to conduct the initial survey and give out the required information? The owner can be prosecuted for violating the Municipal Code.

Q: What if a property is already smoke-free? Then there is no need to do the survey.

NO SMOKING IN "COMMON AREAS"

Prior Santa Monica law already prohibits smoking in common areas at multi-unit properties.

Q: What is considered a common area?

1. All indoor and outdoor locations accessible to and usable by occupants of more than one unit; and
2. All outdoor locations within 25 feet of a door, window, or vent. (This includes most balconies and patios.)

Q: What do building owners and condo HOAs have to do in common areas? Post at least one conspicuous sign in the common area notifying residents of the law and the remedy.

Q: Where can owners get a copy of the sign to post? Go to smconsumer.org.

Q: Can owners designate outdoor smoking areas? This is optional. But any designated smoking area must:

1. Be at least 20 feet from any indoor area or play area;
2. Have a clearly marked perimeter;
3. Be clearly marked with signs; and
4. Be less than 1/4 of the total outdoor area of the property.

VIOLATIONS AND ENFORCEMENT

Q: How is the law enforced? Mainly through communication. If that fails, and a person keeps smoking in a non-smoking unit after getting a written notice, the person may be taken to small claims court and is liable to pay damages starting at \$100. Any person can enforce the law.

Q: Are property owners required to enforce the law when someone violates it? No.

(continued)

Q: What if a guest smokes in a non-smoking unit? It's still a violation. The designation applies to the unit, not any particular person.

Q: Can a tenant be evicted for violating this law? No. But a tenant can still be evicted if the lease prohibits smoking.

OTHER QUESTIONS

Q: What about medical marijuana? If a unit is non-smoking, then medical marijuana can't be smoked inside. If a doctor specifically requests that a disabled occupant may smoke marijuana indoors, and the occupant can't take marijuana in non-smoked form, then the smoking might be permissible under the "reasonable accommodation" standard for disabilities. For more information call the City Attorney's Office, 310-458-8336.

Q: Is it OK to ask a new tenant whether they need medical marijuana and an accommodation for that? Probably not, due to privacy concerns. Typically it is up to the tenant to request an accommodation for a disability.

Q: Is there anywhere left to smoke at Santa Monica multi-unit properties? Yes. Smoking is allowed in outdoor areas that are not part of the common areas (most sidewalks, alleys, etc.). It is also allowed inside apartments unless they are designated non-smoking.

For more information go to smconsumer.org, or call the City Attorney's Office at 310-458-8336.