



Sunnyvale Multi-Unit Residence Smokefree Law

Frequently Asked Questions

What does "smoking" include?

Smoking includes the use of:

- Cigarettes, cigars, cigarillos, hookah and pipes
- Electronic smoking devices, such as e-cigarettes or vape pens
- Marijuana

What is a multi-unit residence?

A multi-unit residence includes any property containing two or more units, including:

- Apartments
- Condominiums
- Townhomes
- Duplexes, tri-plexes, four-plexes
- Long-term health care facilities and assisted living facilities
- Single room occupancy (SRO) facilities
- Homeless shelters

A multi-unit residence **does not** include:

- Single family homes (including homes with detached or attached accessory units)
- Hotels or motels
- Campgrounds
- Mobile homes

Where is smoking prohibited?

Smoking is prohibited in multi-unit residences, including:

- **Indoor common areas**, such as lobbies, halls, elevators, stairs, community rooms, gym facilities, laundry rooms, shared cooking and eating areas and parking garages
- **Outdoor common areas**, such as courtyards, paths, walkways, stairs, playground areas, swimming pool areas and parking lots
- **Inside any new or existing unit**, including private and shared balconies and patios

Where is smoking allowed?

For most multi-unit residences, the entire property must be smokefree. A designated smoking area may be created if it meets all of the following requirements:

- Be located in an unenclosed and clearly delineated area totaling not more than ten percent of the total unenclosed area of the multi-unit residence
- Be located at least 25 feet in any direction from any operable doorway, window, opening or vent
- Have receptacles designed for and primarily used for

disposal of tobacco waste and that are regularly maintained free of tobacco related litter

- Be at least 25 feet from and shall not include unenclosed areas primarily used by children or that facilitate physical activity including, for example, playgrounds and swimming pools

What are owners and managers required to do?

Under the law, owners, managers or others with control of multi-unit residences (e.g. homeowners' associations) are required to:

1. Post no-smoking signs in locations where smoking is prohibited. Signs are not required inside multi-unit residences. Signs shall include letters at least one inch in height and the international "No Smoking" symbol. If your property has a designated smoking area you must post signs reading "Smoking is Prohibited Except in Designated Areas" at each entrance to a location where smoking is permitted.



2. Keep common areas free from ashtrays or ashcans, except in designated smoking areas.
3. For rental housing, incorporate the smoking limits into the lease or rental agreement. Specifically, you must state that it is a material breach of the agreement to:
 - Allow or engage in smoking in the unit
 - Smoke in common areas except in an outdoor designated smoking area, if one exists, and
 - Violate any law regarding smoking while anywhere on the property

The lease must also include a clause allowing other tenants to enforce the smoking provisions. For example, a tenant could bring a lawsuit in small claims court against their neighbor for smoking in violation of the lease.

A tenant who breaches a smoking provision of a lease or other rental agreement for the occupancy of a unit in a multi-unit residence, or who knowingly permits any other person subject to the control of the tenant or present by invitation or permission of the tenant, shall be liable for the breach to: (i) the landlord; and (ii) any occupant of the multi-unit residence who is exposed to smoke or who suffers damages as a result of the breach.



Do you have a sample lease amendment that I can use for my property?

The Model Smokefree Lease Addendum from Americans for Nonsmokers' Rights (available at: <http://www.no-smoke.org/pdf/model-lease-addendum.pdf>) meets the requirements of the Sunnyvale ordinance.

Are condominiums and townhomes required to change governing documents, such as Covenants, Conditions & Restrictions (CC&Rs)?

Condominiums and townhomes are not required to amend the CC&Rs or house rules to prohibit smoking. Condominium or townhouse complexes that wish to specifically reference smoking in their CC&Rs or house rules may want to adapt the Model Smokefree Lease Addendum from Americans for Nonsmokers' Rights (available at: <http://www.no-smoke.org/pdf/model-leaseaddendum.pdf>).

Where can I get no-smoking signs to post on my property?

Property owners, managers and homeowners' associations may create their own signs that meet the requirements listed in the law. Or, free signs may be requested from the City, subject to availability. Contact Neighborhood Preservation at np@sunnyvale.ca.gov or 408-730-7610.

How will the law be enforced?

The City expects a high degree of compliance with the law once individuals are aware of the smoking limits. If you see a violation, talk to your neighbor to inform them of the law and ask them to stop smoking. If that doesn't resolve the problem, report the issue to your landlord, property manager or condominium association. For renters, smoking in violation of the law is also a violation of the lease and is subject to enforcement by the landlord or other tenants.

If you are not able to resolve the problem by talking with your neighbor, property manager or condominium association, you may report the potential violation to Neighborhood Preservation at np@sunnyvale.ca.gov or 408-730-7610. You should provide the unit number and any other pertinent information about the resident who is smoking, such as their name and contact information.

The City will begin by educating potential violators about the law and/or issuing warnings. If the problem continues, violators may be subject to fines and/or prosecution.

When and why was this law enacted?

In 2016, the City updated its smoking laws to prohibit smoking in most outdoor areas and in multi-family housing. The law aims to protect Sunnyvale residents, employees and visitors from the harmful effects of secondhand smoke. Smoking and secondhand smoke are dangerous and cause serious health problems for both the smoker and nonsmoker. They are especially harmful to those who are most vulnerable, such as the elderly, children, and unborn babies. Tobacco use and secondhand smoke cause heart disease, lung cancer, emphysema, and increase the risk of developing pneumonia, bronchitis, and ear infections in children. Tobacco use is the number one preventable cause of death and disease in the nation.

Where can I get more information?

This FAQ is intended only as a guide for general and easy reference. You can view the full law online at: <http://qcode.us/codes/sunnyvale/> (see Chapter 9.28 Regulation of Smoking). For additional information, contact Neighborhood Preservation at np@sunnyvale.ca.gov or 408-730-7610.