

Landlord Disclosure of Secondhand Tobacco Smoke

A growing number of health-conscious renters are concerned about secondhand tobacco smoke seeping into their apartments from neighboring units. Based on the most current science, this smoke is especially dangerous for young children, pregnant women, the elderly, cancer survivors, and people with lung, heart, diabetes and other chronic conditions. As an intermediate step to explicitly prohibiting smoking in individual units, several cities have passed laws that require landlords to disclose to prospective tenants: the locations where smoking is and is not permitted on the property; and how drifting smoke complaints are handled.

Prospective renters will be able to make an informed decision about whether or not they want to live in a unit that is located over a smoking permitted unit. The process of establishing the disclosure information will also inform landlords as to the prevalence of smoking in their building and provide them with an opportunity, should they choose to, to establish new rules about smoking on their property. In 2007, 500 Oakland residents who participated in neighborhood organizations were polled as to their support for secondhand smoke laws and Landlord Disclosure registered a support level of 82%.

The intent of disclosure is to allow prospective tenants to know two things before deciding to rent an apartment:

- 1) How the apartment owner/management handles smoking-related complaints
- 2) Where the units which allow smoking are located and which if any of the units are designated non-smoking.

The cities of Oakland, Albany, Novato, Belmont, Dublin, and Martinez all have disclosure requirements. Below is the language from the Dublin ordinance.

From the City of Dublin Municipal Code, Chapter 5.56

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

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.

Smoking Prohibited in Common Areas

All of the cities that have passed landlord disclosure laws have also explicitly prohibited smoking in the common indoor and outdoor areas of apartments. Outdoor designated smoking areas may be established by the landlords but these areas generally may not be located within 20-25 feet of doorways, play areas, common paths, stairways, walkways, common balconies, etc.

For more information about Smoke-free laws in housing, please contact the Bay Area Smoke-Free Housing Project of the American Lung Association in California at (510) 638-5864, or visit the website at: www.casmokefreehousing.org