

## **Smoke-Free Language for the Covenants, Conditions and Restrictions of Condominium and Townhouse Developments**

### **ENCLOSED COMMON AREA RESTRICTION**

- a.** No owner, family member, tenant, resident, guest, business invitee, or visitor shall smoke cigarettes, cigars, or any other tobacco product, marijuana, or illegal substance within the enclosed common area of the project.
- b.** Smoking shall be permitted within all other areas of the project unless it unreasonably annoys other residents. The resident of a unit shall take all reasonable precautions to ensure that smoke does not permeate or spread beyond the boundaries of his/her unit. If one resident's smoking annoys another or spreads beyond the boundaries of his/her unit, smoking may be prohibited within the unit as a nuisance upon written notification to the smoker and all remedies against the smoker may be pursued by a resident or the association as if the smoking was any other nuisance prohibited by these Covenants, Conditions and Restrictions.
- c.** "Enclosed common area" shall include, but is not limited to, the lobbies, halls, laundry rooms, stairs, elevators, recreation or multi-purpose rooms, garages, rest rooms, pool cabanas, and manager's office, if any.
- d.** "Smoking" shall include the inhaling, exhaling, burning, or carrying of any lighted cigarette, cigar or other tobacco product, marijuana, or illegal substance.
- e.** "Business invitee" shall include, but is not limited to, any contractor, agent, household worker, or other person hired by the owner, tenant or resident to provide a service or product to the owner, tenant, or resident.
- f.** Any owner who sells his unit shall specifically disclose to all potential buyers and realtors that smoking is prohibited within the enclosed common areas of the project. Any owner who rents or otherwise allows someone other than the owner to reside within or occupy the unit shall disclose to all persons who reside within his unit that smoking is prohibited in all enclosed common areas prior to their residency or occupancy.
- g.** Each owner is responsible for the actions of all other persons residing within or visiting his/her unit and shall be subject to disciplinary action or a court action for an injunction, or any remedies available for the violation of this section. This section may be enforced in a court of law by any resident or the association. If any resident or the association is required to hire legal counsel to enforce this section, the resident or the association shall be entitled to recover his/her or its attorneys fees and costs incurred, whether or not litigation has been commenced. The association may collect the attorneys fees and costs it incurs through the use of a special assessment levied against the owner of the unit and an assessment lien, if necessary.

#### **OUTDOORS COMMON AREA RESTRICTION**

**a.** No owner, family member, tenant, resident, guest, business invitee, or visitor shall smoke cigarettes, cigars, or any other tobacco product, marijuana, or any illegal substance within the enclosed or unenclosed common areas of the project.

**b.** Smoking shall be permitted within all other areas of the project unless it unreasonably annoys other residents. The resident of a unit shall take all reasonable precautions to ensure that smoke does not permeate or spread beyond the boundaries of his/her unit or exclusive use common area. If one resident's smoking annoys another or spreads beyond the boundaries of his/her unit, smoking may be prohibited within the unit as a nuisance upon written notification to the smoker and all remedies against the smoker may be pursued by a resident or the association as if the smoking was any other nuisance prohibited by these Covenants, Conditions and Restrictions.

**c.** "Common area" means the entire project, except for within the units. "Common area" shall include, but is not limited to, the spas, swimming pools, barbeque area, grass and landscaped areas, tennis courts, playgrounds, walkways, sidewalks, driveways, basketball courts, lobbies, halls, laundry rooms, stairs, elevators, recreation or multi-purpose rooms, storage rooms, garages, rest rooms, pool cabanas, and manager's office, if any.

**d.** "Smoking" shall include the inhaling, exhaling, burning, or carrying of any lighted cigarette, cigar or other tobacco product, marijuana, or any illegal substance.

**e.** "Business invitee" shall include, but is not limited to, any contractor, agent, household worker, or other person hired by the owner, tenant or resident to provide a service or product to the owner, tenant, or resident.

**f.** Any owner who sells his unit shall specifically disclose to all potential buyers and Realtors that smoking is prohibited within all common areas of the project. Any owner who rents or otherwise allows someone other than the owner to reside within or occupy the unit shall disclose to all persons who reside within his unit that smoking is prohibited in all common areas prior to their residency or occupancy.

**g.** Each owner is responsible for the actions of all other persons residing within or visiting his/her unit and shall be subject to disciplinary action or a court action for an injunction, or any remedies available for the violation of this section. This section may be enforced in a court of law by any resident or the association. If any resident or the association is required to hire legal counsel to enforce this section, the resident or the association shall be entitled to recover his/her or its attorneys fees and costs incurred, whether or not litigation has been commenced. The association may collect the attorneys fees and costs it incurs through the use of a special assessment levied against the owner of the unit and an assessment lien, if necessary.

**h.** The Board of Directors shall have the authority and power to enact rules and regulations which it deems necessary to enforce this restriction, including a schedule of fines which may be imposed after notice and a hearing.

**EXCLUSIVE USE COMMON AREA RESTRICTION**

- a.** No owner, family member, tenant, resident, guest, business invitee, or visitor shall smoke cigarettes, cigars, or any other tobacco product, marijuana, or illegal substance within the outside common area, enclosed common area or exclusive use common area of the project.
- b.** Smoking shall be permitted within the units unless it unreasonably annoys other residents. The resident of a unit shall take all reasonable precautions to ensure that smoke does not permeate or spread beyond the boundaries of his/her unit. If one resident's smoking annoys another or spreads beyond the boundaries of his/her unit, smoking may be prohibited within the unit as a nuisance upon written notification to the smoker and all remedies against the smoker may be pursued by a resident or the association as if the smoking was any other nuisance prohibited by these Covenants, Conditions and Restrictions.
- c.** "Outside common area" means the entire project, except for within the units. "Outside common area" shall include, but is not limited to, the spas, swimming pools, barbeque area, grass and landscaped areas, tennis courts, playgrounds, walkways, sidewalks, driveways, and basketball courts.
- d.** "Enclosed common area" shall include, but is not limited to, the lobbies, halls, laundry rooms, stairs, landings, elevators, recreation or multi-purpose rooms, storage rooms, rest rooms, pool cabanas, garages, and manager's office, if any.
- e.** "Exclusive Use Common Area" shall include, but is not limited to, patios, balconies, decks, garages, carports, storage rooms or spaces, parking spaces, doorsteps, stoops, and porches. This restriction shall apply whether the exclusive use common area is owned by the owner of the condominium or townhouse unit, by all owners as tenants-in-common, or by the condominium or townhouse association.
- f.** "Smoking" shall include the inhaling, exhaling, burning, or carrying of any lighted cigarette, cigar or other tobacco product, marijuana or illegal substance.
- g.** "Business invitee" shall include, but is not limited to, any contractor, agent, household worker, or other person hired by the owner, tenant or resident to provide a service or product to the owner, tenant, or resident.
- h.** Any owner who sells his unit shall specifically disclose to all potential buyers and Realtors that smoking is prohibited within all areas of the project, except within the unit. Any owner who rents or otherwise allows someone other than the owner to reside within or occupy the unit shall disclose to all persons who reside within his unit that smoking is prohibited in all areas other than within the unit prior to their residency or occupancy.
- i.** Each owner is responsible for the actions of all other persons residing within or visiting his/her unit and shall be subject to disciplinary action or a court action for an injunction, or any remedies available for the violation of this section. This section may be enforced in a court of law by any resident or the association. If any resident or the association is required to hire legal counsel to enforce this section, the resident or the association shall be entitled to recover his/her or its attorneys fees and costs incurred, whether or not litigation has been commenced. The association may collect the attorneys fees and costs it incurs through the use of a special assessment levied against the owner of the unit and an assessment lien, if necessary.

**UNIT RESTRICTION FOR EXISTING DEVELOPMENT**

- a.** No owner, family member, tenant, resident, guest, business invitee, or visitor shall smoke cigarettes, cigars, or any other tobacco product, marijuana or illegal substance anywhere within the boundaries of the project or complex. This prohibition shall include the outside common area, enclosed common area, exclusive use common area and units within the project.
- b.** "Smoking" shall include the inhaling, exhaling, burning, or carrying of any lighted cigarette, cigar or other tobacco product, marijuana, or illegal substance.
- c.** "Business invitee" shall include, but is not limited to, any contractor, agent, household worker, or other person hired by the owner, tenant or resident to provide a service or product to the owner, tenant, or resident.
- d.** Any owner who sells his unit shall specifically disclose to all potential buyers and Realtors that smoking is prohibited everywhere within the project, including within the units. Any owner who rents or otherwise allows someone other than the owner to reside within or occupy the unit shall disclose to all persons who reside within his unit that smoking is prohibited within all common areas and the unit prior to their residency or occupancy.
- e.** Each owner is responsible for the actions of all other persons residing within or visiting his/her unit and shall be subject to disciplinary action or a court action for an injunction, or any remedies available for the violation of this section. This section may be enforced in a court of law by any resident or the association. If any resident or the association is required to hire legal counsel to enforce this section, the resident or the association shall be entitled to recover his/her or its attorneys fees and costs incurred, whether or not litigation has been commenced. The association may collect the attorneys fees and costs it incurs through the use of a special assessment levied against the owner of the unit and an assessment lien, if necessary.
- f.** The Board of Directors shall have the authority and power to enact rules and regulations which it deems necessary to enforce this restriction, including a schedule of fines which may be imposed after notice and a hearing.
- g.** The restriction set forth in subparagraph "a" above shall not apply to owners, tenants, residents or occupants of units in which title was acquired by the owner prior to the enactment of the restriction and the owner, tenant, resident or occupant began occupying the unit prior to the enactment of the restriction ("existing units"). The restriction will be enforceable as to existing units once the unit is sold, transferred or conveyed to a new owner or the owner, a new tenant, resident or occupant begins to occupy the unit after the enactment of the restriction. The ability to smoke in a unit shall not be sold, transferred, or conveyed to any person who acquires title after the enactment of the restriction.

**UNIT RESTRICTION FOR A NEW DEVELOPMENT**

- a.** No owner, family member, tenant, resident, guest, business invitee, or visitor shall smoke cigarettes, cigars, or any other tobacco product, marijuana or illegal substance anywhere within the boundaries of the project or complex. This prohibition shall include the outside common area, enclosed common area, exclusive use common area and units within the project.
- b.** "Smoking" shall include the inhaling, exhaling, burning, or carrying of any lighted cigarette, cigar or other tobacco product, marijuana, or illegal substance.
- c.** "Business invitee", shall include, but is not limited to, any contractor, agent, household worker, or other person hired by the owner, tenant or resident to provide a service or product to the owner, tenant, or resident.
- d.** Any owner who sells his/her unit shall specifically disclose to all potential buyers and Realtors that smoking is prohibited everywhere within the project, including within the units. Any owner who rents or otherwise allows someone other than the owner to reside within or occupy the unit shall disclose to all persons who reside within his unit that smoking is prohibited within all common areas and the unit prior to their residency or occupancy.
- e.** Each owner is responsible for the actions of all other persons residing within or visiting his/her unit and shall be subject to disciplinary action or a court action for an injunction, or any remedies available for the violation of this section. This section may be enforced in a court of law by any resident or the association. If any resident or the association is required to hire legal counsel to enforce this section, the resident or the association shall be entitled to recover his/her or its attorneys fees and costs incurred, whether or not litigation has been commenced. The association may collect the attorneys fees and costs it incurs through the use of a special assessment levied against the owner of the unit and an assessment lien, if necessary.
- f.** The Board of Directors shall have the authority and power to enact rules and regulations which it deems necessary to enforce this restriction, including a schedule of fines which may be imposed after notice and a hearing.