Sample Comprehensive Smoke-Free Policy4

Disclaimer: This document is not intended to provide or convey in any manner legal advice. Please consult an attorney before adopting a new rule or amending your governing documents

**Findings:**

WHEREAS, the U.S. Surgeon General has determined that there is no risk-free level of exposure to secondhand smoke1

WHEREAS, the American Society of Heating, Refrigerating and Air Conditioning Engineers has issued a position document on tobacco smoke concluding that “the building and its systems can reduce only odor and discomfort but cannot eliminate exposure when smoking is allowed inside or near a building”2

WHEREAS, given the proven health risks associated with smoking and breathing secondhand smoke, the [governing body] (the “Board”) deems it advisable and in the best interest of all members of the Association to approve [amendment to the declaration, or a change to the Rules and Regulations], which prohibits smoking in all condominium units as well as all common areas

WHEREAS, housing that has been smoked in is deemed less desirable to families3

WHEAREAS, the cost of unit turnover and fire risk is higher when smoking occurs in units3

WHEREAS, nothing in federal law, including the Federal Fair Housing Act, prevents the imposition of smoking prohibitions in multi-unit dwelling buildings;

THEREFORE, the Board adopts the following smokefree policy:

**Purpose:**

The Board of [name of Association] adopts this policy to protect the residents of [community name] and their guests from the health risks of exposure to secondhand smoke.

The policy is also adopted to prevent the risks of injury to residents from fires associated with smoking.

**Definitions:**

(a) “Smoking” means inhaling, exhaling, burning, holding or carrying any lighted cigarette, cigar, cigarillo, pipe or other lighted smoking device for burning tobacco or any other plant product in any manner or in any form. Smoking also includes use of electronic cigarettes (electronic tobacco delivery systems) and hookahs

(b) “Electronic cigarette” means any electronic device that provides a vapor of liquid nicotine and/or other substances to the user as he/she simulates smoking. The term shall include such devices whether they are manufactured or referred to as e-cigarettes, e-cigars, e-pipes or under any product name.

(c) “Hookah” means glass or metal waterpipes shaped somewhat like a bottle with long, flexible hoses with tips that people put into their mouths to inhale tobacco smoke.

(d) “Plant Product” includes medical marijuana. Smoking marijuana by registered medical marijuana users is prohibited by the provisions of this Rule.

**Policy Provisions**

1. Smoking is prohibited throughout the property at [community name] including, but not limited to, the individual units and all indoor and outdoor common areas.
2. No owner shall smoke or allow smoking by guests including, but not limited to, friends, family members, contract workers, or occupant.
3. Smoking in violation of this policy shall result in a nuisance, pursuant to the governing documents of the Association.
4. Any owner who rents, leases or otherwise allows someone other than the owner to reside within or occupy the unit shall disclose to all persons who reside within the unit that smoking is prohibited at [community name].
5. The Board shall have the authority and power to enact regulations which deems necessary to enforce this policy, including a schedule of fines which may be imposed after notice and a hearing.

**Enforcement**

Violation of the smoke-free policy shall be enforced as are other use restrictions for the property.

**Citations**

1. US Surgeon General. [2006 Surgeon General's Report | Smoking & Tobacco Use | CDC](https://www.cdc.gov/tobacco/data_statistics/sgr/2006/index.htm).
2. ASHRAE. July 1 2020. ASHRAE Position Document on Environmental Tobacco Smoke. [pd\_environmental-tobacco-smoke-2020-07-1.pdf (ashrae.org)](https://www.ashrae.org/file%20library/about/position%20documents/pd_environmental-tobacco-smoke-2020-07-1.pdf)
3. American Nonsmokers; Rights Foundation. [Benefits of Smokefree Buildings Fact Sheet - American Nonsmokers' Rights Foundation | no-smoke.org](https://no-smoke.org/benefits-of-smokefree-buildings-fact-sheet/).
4. Adapted from Maryland Smoke Free Apartments. Sample Smoke-Free Policy. [LRC-MD-Model-Smoke-Free-Policy.pdf (mdsmokefreeapartments.org)](https://www.mdsmokefreeapartments.org/wp-content/uploads/2016/07/LRC-MD-Model-Smoke-Free-Policy.pdf)