
MODEL SMOKEFREE HOUSING PROPERTY LEASE ADDENDUM

Date: _____ Property Name: _____ Apartment/Unit Number: _____

Resident Name(s): _____

Resident Address: _____

The Resident and all members of Resident’s family or household are parties to a written Lease with the **[landlord, property manager]**. This Addendum states the following additional terms, conditions, and rules which are hereby incorporated into the Lease through this Addendum. A breach of this Lease Addendum shall give each party all the rights contained herein, as well as the rights in the Lease.

SECTION I. FINDINGS.

[Name of housing organization] has elected to adopt a smokefree property policy for all **[name of housing organization]** owned and operated rental facilities. **[Name of housing organization]** finds that:

WHEREAS, the **[name of housing organization]** cares about the health, welfare and safety of all residents and rental facilities;

WHEREAS, numerous studies have concluded that exposure to secondhand commercial tobacco smoke is a serious health hazard that can cause disease in healthy nonsmokers including cancer, heart disease, and respiratory diseaseⁱ and is responsible for over 41,000 deaths annually nationwide;ⁱⁱ

WHEREAS, secondhand commercial tobacco smoke is particularly hazardous to elderly people and children, causing or exacerbating asthma, cardiovascular disease, respiratory disease and infections, cancer and SIDS (sudden infant death syndrome);ⁱⁱⁱ

WHEREAS, the 2006 U.S. Surgeon General’s Report, The Health Consequences of Involuntary Exposure to Tobacco Smoke, states secondhand smoke exposure causes disease and premature death in children and adults who do not smoke, exposure of adults to secondhand smoke has immediate adverse effects on the cardiovascular system, and “there is no risk-free level of exposure to secondhand smoke;”^{iv}

WHEREAS, homes are the main places where babies, children, and teens are exposed to secondhand smoke. Almost 7 million U.S. middle and high school students (about 25%) reported breathing secondhand smoke in their homes in 2019;^v

WHEREAS, while the concentration of outdoor commercial tobacco smoke depends on several factors such as density of smokers and wind conditions, studies have shown that outdoor tobacco smoke is detectable between 23 and 29.5 feet away from the source;^{vi}

WHEREAS, e-cigarette aerosol contains harmful and potentially harmful chemicals such as ultrafine particles, volatile organic compounds, cancer-causing chemicals, heavy metals, and nicotine. Exposure to e-cigarette aerosol has not been proven to be safe;^{vii}

WHEREAS, while there is very little data on the health consequences of breathing secondhand marijuana smoke, there is concern that it could cause harmful health effects, including among children;^{viii}

WHEREAS, the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE) has determined there is currently no air filtration or other ventilation technology that can completely eliminate the carcinogenic components in secondhand smoke;^{ix}

WHEREAS, thirdhand smoke or the residual contamination from commercial tobacco smoke and e-cigarette aerosol^x remains in the environment after the product has been used, and contains cancer-causing substances that can be inhaled, absorbed or ingested by facility inhabitants;^{xi}

WHEREAS, secondhand and thirdhand smoke can harm the health of pets living in a unit. Exposed pets may develop allergies, respiratory infections, heart problems, or cancer;^{xii}

WHEREAS, property damage from commercial tobacco smoke increases maintenance, cleaning, and decorating costs. Apartment turnover costs are 2 to 7 times greater when smoking is allowed in a unit, studies show;^{xiii}

WHEREAS, smoking is one of the leading causes of home fire fatalities in the United States. In 2018, these fires caused about 390 deaths and \$319 million in property damage;^{xiv}

THEREFORE, the **[name of housing organization]** adopts this smokefree housing policy for **[name of housing complex]** located at **[address]**.

SECTION II. DEFINITIONS.

1. “Smoking” or “To Smoke” includes inhaling, exhaling, burning, lighting, or carrying any lighted or heated cigar, cigarette, pipe, or any other lighted or heated tobacco or plant product intended for inhalation, whether natural or synthetic, in any manner or in any form, including the use of an electronic smoking device and marijuana. The term does not include the use of traditional, sacred tobacco as part of an Indigenous practice or a lawfully recognized religious, spiritual, or cultural ceremony or practice.

2. “Electronic Smoking Device” means any device, regardless of whether it contains nicotine, used to deliver nicotine or another substance in any manner for the purpose of inhaling vapor or aerosol from the device. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor.
3. “Resident” means someone living in or staying in **[name of housing complex]**.
4. “Employee” means property manager, owner, landlord, representative, or worker of **[name of housing organization]**.
5. “Guest” means someone visiting or staying in **[name of housing complex]**.

A comprehensive definition of smoking includes the use of electronic cigarettes and lighted or heated tobacco, nicotine, or other plant products, including hookah and marijuana. Such a definition helps ensure that the policy is interpreted, implemented, and enforced in ways that effectively protect the entire community within a building or complex.^{xv} Multi-unit residential property owners have the legal authority to make their properties smokefree, which includes prohibiting the smoking or vaping of recreational or medically prescribed marijuana in individual units and common areas, even in jurisdictions in which the use of marijuana is permitted by state law.^{xvi}

SECTION III. SCOPE OF SMOKEFREE PROPERTY POLICY.

Resident agrees and acknowledges that the premises to be occupied by Resident and members of Resident’s household have been designated as a smokefree living environment. Employees, Resident, members of Resident’s household, and any guests under control of the Resident will not smoke anywhere:

- a) In the unit rented by Resident, including any associated balconies, decks, or patios;
- b) In the common areas of the property, including, but not limited to, lobbies, hallways, stairwells, elevators, laundry rooms, community rooms, community bathrooms, or offices; or
- c) On the outdoor grounds of the property, including, but not limited to, entryways, playgrounds, pool areas, walking paths, or sitting areas.

SECTION IV. RESIDENT TO PROMOTE SMOKEFREE PROPERTY POLICY AND ALERT EMPLOYEE OF VIOLATIONS.

Resident will inform Resident’s guests of the smokefree policy. Resident will also promptly give Employee a written statement of any incident where Resident observes smoking not allowed by this policy or believes smoke is migrating into the Resident’s unit from sources outside the Resident’s unit.

SECTION V. EMPLOYEE TO ENFORCE SMOKEFREE PROPERTY POLICY.

Employee will post no-smoking signs at entrances and exits, common areas, and in conspicuous places adjoining the property grounds. Employee will also take reasonable steps to promptly remedy known and reported violations of the smokefree policy. Employee is not required to take steps in response to smoking unless Employee knows of the violation. Resident may notify Employee of violations by **[preferred method(s) of receiving complaints]**. Evidence of smoking may include, but is not limited to, witnessing smoking or Employees observing a lighted or heated smokable product, burn damage caused by smoking, tobacco or marijuana smells, smoke clogged filters, smoke damage to walls, repeated reports to Employees by third parties, clogged plumbing caused by smoking products, and evidence of ashes.

SECTION VI. OTHER RESIDENTS ARE THIRD-PARTY BENEFICIARIES OF RESIDENT'S AGREEMENT.

Resident agrees that other Residents of the rental community are third-party beneficiaries of Resident's Smokefree Lease Addendum with Employee. A Resident may sue another Resident for an injunction to prohibit smoking or for damages but does not have the right to evict another Resident. Any lawsuit between Residents does not create a presumption that the Employee breached this Lease Addendum.

SECTION VII. EFFECT OF BREACH AND RIGHT TO TERMINATE LEASE.

Resident acknowledges that a breach of this Lease Addendum may render Resident liable to Employee for the costs to repair Resident's unit due to damage from smoke odors or residue. A breach of this Lease Addendum is a breach of the Lease and grounds for immediate enforcement action, including potential termination of the Lease by the Employee.

SECTION VIII. VIOLATION ENFORCEMENT.

- a) The first violation shall result in a verbal warning and reminder of the smokefree policy.
- b) The second violation shall result in a verbal warning and provision of smoking cessation resources and materials, such as the Montana Tobacco Quit Line.
- c) The third violation shall result in a written warning and provision of smoking cessation resources and materials, such as the Montana Tobacco Quit Line.
- d) The fourth violation shall result in a notice to vacate with an option to remedy/cure, and provision of smoking cessation resources and materials, such as the Montana Tobacco Quit Line.
- e) The fifth violation may result in a 10-day notice to vacate without the option to remedy



or cure.

SECTION IX. DISCLAIMER BY EMPLOYEE.

1. Resident acknowledges that Employee’s adoption of a smokefree living environment and the efforts to designate the premises as smokefree do not in any way change the standard of care that Employee or its managing agents owes a Resident and do not ensure that the smokefree designated buildings and premises are any more safe, habitable, or improved in terms of air quality standards than any other rental premises. Employee specifically disclaims any implied or express warranties that the building, common areas, or Resident’s premises will have any higher or more improved air quality standards than any other rental property. Employee cannot and does not warranty or promise that the rental premises or common areas will be free from secondhand smoke. Employee and its managing agents are not the guarantor of Resident’s health or the smokefree condition of the premises.
2. Resident acknowledges that Employee’s ability to police, monitor, or enforce the agreements of this Lease Addendum is dependent in significant part on voluntary compliance by Resident and Resident’s guests. Residents with respiratory ailments, allergies, or any other physical or mental condition relating to smoke are put on notice that Employee does not assume any higher duty of care to enforce this Lease Addendum than any other Employee obligation under the Lease.

SECTION X. EFFECTIVE DATE.

1. This Lease Addendum shall be communicated to all current Employees and Residents **[30, 60, 120]** days prior to its effective date, and at the time of employment for all Employees and prior to admission and/or prior to the signing of any new Lease agreements. This policy is effective as of **[effective date]**.
2. Upon adoption of the policy, all new and current Residents will be given a copy of this Lease Addendum. Upon adoption of the policy, all current Residents will sign the Smokefree Housing Property Lease Agreement Addendum. A signed copy will be placed in the Resident’s file and a copy given to the Resident.

Resident Acknowledgement: I have read and understand the above Smokefree Property Policy and I agree to comply fully with the provisions provided therein.

Resident(s) Name: _____

Resident(s) Signature: _____



Date: _____

Employee Name: _____

Employee Signature: _____

Date: _____

ADDITIONAL RESOURCES TO ASSIST WITH SUPPORTING NICOTINE DEPENDENCE OR ADDICTION RECOVERY

Many free resources are available to help Montanans overcome nicotine dependence or addiction.

Montana Tobacco Quit Line

Call 1-800-QUIT-NOW (1-800-784-8669) or visit www.quitnowmontana.com

- For all Montanans and ALL types of tobacco (smokeless, cigarettes, e-cigarettes, etc.)
- FREE Nicotine Replacement Therapy (NRT), FREE or reduced-cost prescription medication (for Montanans over 18)
- FREE quit coaching, FREE personalized quit plan
- Visit www.quitnowmontana.com for more information, to enroll online or to chat online with a coach

Specialized Quit Line programs

My Life, My Quit is a youth program for Montanans under 18 who want to quit any form of tobacco including vaping. My Life, My Quit offers CONFIDENTIAL enrollment and coaching, FREE coaching through text, chat, or phone by coaches specially trained to work with youth, and on-line enrollment. Text “Start” to 36072, call 1-855-891-9989 or visit mylifemyquit.com.

The Young Adult Program is for Montanans 18-24 who want to quit tobacco with FREE coaching through text, chat, or phone. Coaches are specially trained to work with young adults. Text “Start” to 36072 for live text coaching, visit quitnowmontana.com for live chat coaching, or call 1-800-QUIT-NOW for live phone coaching.

The American Indian Commercial Tobacco Quit Line connects American Indian callers with an American Indian coach, providing culturally appropriate cessation services. Call 1-855-5AI-QUIT or enter through 1-800-QUIT-NOW and ask for an American Indian coach. Visit MTAmericanIndianQuitLine.com.

The Quit Now Montana Pregnancy Program connects pregnant women with a dedicated female quit coach, offers cash incentives for completed coaching calls, and FREE NRT when approved by doctor. Call 1-800-QUIT-NOW (1-800-784-8669) or visit quitnowmontana.com.

- ⁱ Centers for Disease Control and Prevention. Secondhand Smoke (SHS) Facts, https://www.cdc.gov/tobacco/data_statistics/fact_sheets/secondhand_smoke/general_facts/index.htm January, 2021.
- ⁱⁱ Centers for Disease Control and Prevention. Smoking & Tobacco Use, Fast Facts, https://www.cdc.gov/tobacco/data_statistics/fact_sheets/fast_facts/index.htm#beginning May, 2020.
- ⁱⁱⁱ Mayo Clinic. Secondhand smoke: Avoid dangers in the air, <https://www.mayoclinic.org/healthy-lifestyle/adult-health/in-depth/secondhand-smoke/art-20043914> March, 2020.
- ^{iv} U.S. Department of Health and Human Services. The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General. Rockville, MD: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Coordinating Center for Health Promotion, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006.
- ^v Centers for Disease Control and Prevention. Secondhand Smoke, https://www.cdc.gov/tobacco/basic_information/secondhand_smoke/index.htm March, 2021.
- ^{vi} Cho, H et al. (2014). Outdoor tobacco smoke exposure at the perimeter of a tobacco-free university.64:8, 863-866
- ^{vii} Centers for Disease Control and Prevention. About Electronic Cigarettes (E-cigarettes), https://www.cdc.gov/tobacco/basic_information/e-cigarettes/about-e-cigarettes.html November, 2020.
- ^{viii} American Lung Association. Marijuana and Lung Health, <https://www.lung.org/quit-smoking/smoking-facts/health-effects/marijuana-and-lung-health> December, 2020.
- ^{ix} Centers for Disease Control and Prevention. Ventilation Does Not Effectively Protect People Who Don't Smoke from Secondhand Smoke, https://www.cdc.gov/tobacco/data_statistics/fact_sheets/secondhand_smoke/protection/ventilation/index.htm September, 2020.
- ^x Goniewicz, M. L., & Lee, L. (2015). Electronic cigarettes are a source of thirdhand exposure to nicotine. Nicotine & tobacco research : official journal of the Society for Research on Nicotine and Tobacco, 17(2), 256–258. <https://doi.org/10.1093/ntr/ntu152>
- ^{xi} Mayo Clinic. What is thirdhand smoke, and why is it a concern? <https://www.mayoclinic.org/healthy-lifestyle/adult-health/expert-answers/third-hand-smoke/faq-20057791> August, 2020.
- ^{xii} U.S. Food and Drug Administration. Be Smoke-free and Help Your Pets Live Longer, Healthier Live, <https://www.fda.gov/animal-veterinary/animal-health-literacy/be-smoke-free-and-help-your-pets-live-longer-healthier-lives> April 1, 2021.
- ^{xiii} U.S. Department of Housing and Urban Development, Office of Healthy Homes and Lead Control. Smokefree Housing: A Toolkit for Owners/Management Agents of Federally Assisted Public and Multi-family Housing, 2012, <https://www.hud.gov/sites/documents/pdfowners.pdf>
- ^{xiv} U.S. Fire Administration. National Fire Incident Reporting System, Residential and nonresidential building fire and fire loss estimates by property use and cause (2003-2018).
- ^{xv} Public Health Law Center. Regulating Smoking in Multi-unit Housing. <https://www.publichealthlawcenter.org/sites/default/files/resources/Regulating-Smoking-in-MUH.pdf> May 2021.
- ^{xvi} Public Health Law Center. Marijuana in Multi-unit Residential Settings. <https://www.publichealthlawcenter.org/sites/default/files/resources/Marijuana-in-Multi-Unit-Residential-Setting-2019-1.pdf> August 2019.