

Model Smoke-Free Lease Addendum



Below you will find a **Model Smoke-Free Lease Addendum** which can be considered for addition to existing leases. Before utilizing this model language, property managers and/or owners should consult with their own legal counsel.

Resident and all members of Resident's family or household are parties to a written lease with Property Manager/Owner (the Lease). This Addendum states the following additional terms, conditions, and rules which are hereby incorporated into the lease. A breach of this Lease Addendum shall give each party all the rights contained herein, as well as the rights in the Lease.

1. Purpose of No-Smoking Policy. The parties desire to mitigate (i) the irritation and known health risks from secondhand smoke; (ii) the increased maintenance, cleaning, and redecorating costs from smoking; and (iii) the increased risk of fire from smoking.

2. Definition of Smoking. The term "smoking" means:

(a) the possession of any lighted or heated tobacco product in any form;
(b) inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or hookah that contains:

- (i) tobacco or any plant product intended for inhalation;
- (ii) shisha or non-tobacco shisha;
- (iii) nicotine;
- (iv) a natural or synthetic tobacco substitute; or
- (v) a natural or synthetic flavored tobacco product;

(c) using an electronic cigarette.

(d) using an oral smoking device intended to circumvent the prohibition of smoking in this chapter.

The definition of smoking comes from the Utah Indoor Clean Air Act §26-38-2. When using this definition, it will encompass more than "any lighted or heated tobacco product"

3. Smoke-Free Complex. Resident agrees and acknowledges that the premises to be occupied by Resident and members of Resident's household have been designated as a smoke-free living environment. Resident and members of Resident's household shall not smoke anywhere in the unit rented by Resident, the building where the Resident's dwelling is located or in any of the common areas or adjoining grounds of such building or other parts of the rental community, nor shall Resident permit any guests or visitors under the control of Resident to do so. *[If you provide an outdoor smoking area, specify where it is here]*

4. Resident to Promote No-Smoking Policy and to alert Property Manager/Owner of Violations. Resident shall inform Resident's guests of the no-smoking policy. Further, Resident shall promptly give Property Manager/Owner a written statement of any incident where secondhand smoke is migrating into the Resident's unit from sources outside of the Resident's apartment unit.

5. Property Manager/Owner to Promote No-Smoking Policy. Property Manager/Owner shall post no smoking and/or smoke free signs at entrances and exits, common areas, hallways, and in conspicuous places adjoining the grounds of the apartment complex.

6. Property Manager/Owner not a guarantor of smoke-free environment. Resident acknowledges that Property Manager/Owner's adoption of a smoke-free living environment, and the efforts to designate the rental complex as smoke-free, do not make the Property Manager/Owner responsible for smoke in any of its Resident's unit and the common areas. However, Property Manager/Owner shall take reasonable steps to enforce the smoke-free terms of its leases and to make the complex smoke-free. Property Manager/Owner is not required to take steps in response to smoking *unless* Property Manager/Owner knows of said smoking or has been given writing notice of said smoking.

7. Other Residents are Third-Party Beneficiaries of Resident's Agreement. Resident agrees that the other Residents at the complex are the third-party beneficiaries of Resident's smoke-free addendum agreements with Property Manager/Owner, meaning that Resident's commitments in this Addendum are made to the other Residents as well as to the Property Manager/Owner. 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 suit between Residents herein shall not create a presumption that the Property Manager/Owner breached this Addendum.

8. Effect of Breach and Right to Terminate Lease. A breach of this Lease Addendum shall give each party all the rights contained herein, as well as the rights in the Lease. A material breach of this Addendum by the Resident shall be a material breach of the lease and grounds for immediate termination of the Lease by the Property Manager/Owner.

9. Disclaimer by Property Manager/Owner. Resident acknowledges that Property Manager/Owner adoption of a smoke-free living environment, and the efforts to designate the rental complex as smoke-free, does not in any way change the standard of care that the Property Manager/Owner would have to a Resident household to render buildings and premises designated as smoke-free any safer, more habitable, or improved in terms of air quality standards than any other rental premises. Property Manager/Owner specifically disclaims any implied or express warranties that the building, common areas or Resident's premises will have any higher or improved air quality standards than any other rental property. Property Manager/Owner cannot and does not warranty or promise that the rental premises or common areas will be free from secondhand smoke. Resident acknowledges that Property Manager/Owner's ability to police, monitor, or enforce the agreements of this 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 Property Manager/Owner does not assume any higher duty of care to enforce this Addendum than any other Property Manager/Owner obligation under the Lease.

Resident

Date

Property Manager/Owner

Date

Optional Paragraph for existing rental communities that adopt "no-smoking policies:

10. **Effect on Current Residents.** Resident acknowledges that current residents residing in the complex under a prior lease will not be immediately subject to the smoke-free policy. As current residents move out, or enter into new leases, the smoke-free policy will become effective for their unit or new lease.

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