



SMOKE FREE MULTIFAMILY HOUSING FOR A HEALTHIER SANTA ROSA

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August 4, 2015



A Healthier Santa Rosa





Smoking Regulations: Background

- Intent: Provide smoke-free and vapor-free environments
- Adopted by City Council on July 7, 2015
- Attached multifamily residences (shared wall, floor, or ceiling)
- Definitions
 - **Units** are areas for exclusive use including patios, decks, private balconies
 - **Common areas** are enclosed or unenclosed



Smoking Regulations: Key Dates

October 6, 2015:

- Units on month-to-month lease smoke-free
- Owner-occupied units smoke-free
- New units smoke-free
- Indoor common areas smoke-free
- Outdoor common areas smoke-free (electronic cigarette vapor allowed)
- Medical marijuana if vaporized allowed in unit

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Smoking Regulations: Key Dates

October 6, 2015 to August 7, 2016

- All attached units transition to smoke-free



Implementation Schedule

DATE	ACTION
August 7, 2015	<ul style="list-style-type: none"> • Multifamily common areas • City parks and recreation lands • City owned properties and facilities • 75% hotel/motel rooms
September 11, 2015*	Outdoor service areas will be smoke-free
October 6, 2015	<ul style="list-style-type: none"> • Multifamily residences that are on a month-to-month lease/agreement or owner-occupied transition to smoke-free • All new units must be smoke free
October 7, 2015 – August 7, 2016	Smoke-free provisions added to leases and rental agreements as existing leases/agreements expire
August 7, 2016	All multifamily residences will be smoke-free



Landlord Responsibilities

- Month to month rental agreements: add lease language and go smoke-free (October 6, 2015)
- All units smoke-free (by August 7, 2016)
 - Add smoking prohibition at time of renewal
 - Sample lease language in ordinance
- Annual tenant notification (3 years)
- Notify tenant if there is a complaint
- Designated Smoking Area requirements
- Signs

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Designated Smoking Areas (DSAs)

- Must be 25' in any direction from window, door, vent, opening
- Must be 25' from unenclosed areas used by children
- Must be 25' from unenclosed recreation areas
- Must be 25' from property lines abutting residential uses
- Must have conspicuous signs and ash receptacles
- Should be maintained free of smoking refuse

DSAs are optional

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Smoking Regulations

Smoking Regulations in Sonoma County Cities and Unincorporated Sonoma County

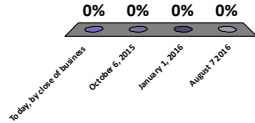
	Regulations	Cloverdale 2009	Sonoma 2002	Cotati 2004	Robson Park 2009	Sebastopol 2012	Petaluma 2012	Healdsburg 2014	Windor 2014	Unincorp. 2014	Santa Rosa 2013	
Smoke Free (Indoor Areas)	Resident multifamily rooms, units/apartments		30%	50%		70%	100%	50%			75%	75%
	City owned vehicles		X			X		X			X	X
	Public places					X		X		X	X (partial)	X
Smoke Free (Outdoor Areas)	Parks & recreation			X		X	X	X	X	X	X	X
	Public events				X (partial)	X	X	X (partial)	X (partial)	X	X (partial)	X
	20' from entrances, vestibules, vents & (buffer zones)					X	X	X	X	25 feet	25 feet	
Multi-Line (Partial Smoking)	Smoking & bars				X	X	X	X	X	X	X	X
	Service areas (i.e. bus stops, ATMs, movie rental)				X	X	X			X	X	X
Smoke-free corridors	Business townhouses					50%/75%	100%/100%	100%			100%/100%	100%/100%
	Outdoor common areas				X	X	X			X	X (partial)	X
No Smoking	Residence language				X	X					X	X
	Prohibit regulated areas or combustibles					X	X	X	X	X	X (partial)	X (partial)
	Marijuana smoking (banned on "Smoking" or "No Smoking" signs)	X	X	X	X		X	X	X	X	X	X
(N/A)		X								underway		

* = smoking allowed in freestanding stores only
Smoke-free corridors, business townhouses, existing/new unit's



All common areas must be smoke free by....

- A. Today, by close of business
- B. October 6, 2015
- C. January 1, 2016
- D. August 7, 2016

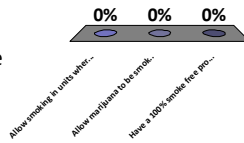


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Property owners/managers can decide to ...

- A. Allow smoking in units where smokers currently are renting
- B. Allow marijuana to be smoked by qualified patients
- C. Have a 100% smoke free property



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Why Should We Care?



How do you feel about saving \$550 to \$3500 for each unit that turns over?



Why Should We Care?



Causes cigarette burn damage to carpets, counters, etc.





Why Should We Care?

Poses fire hazard – (leading cause of residential fire deaths in US)





Why Should We Care?

The Monetary Impact

Cost to Rehabilitate a Unit Where Smoking is Prohibited vs. a Unit Where Smoking is Allowed

	Non-Smoking	Light Smoking	Heavy Smoking
General Cleaning	\$240	\$500	\$720
Paint	\$170	\$225	\$480
Flooring	\$50	\$950	\$1,425
Appliances	\$60	\$75	\$490
Bathroom	\$40	\$60	\$400
Total	\$560	\$1,810	\$3,515

Data reflects surveys from housing authorities and subsidized housing facilities in New England.



Secondhand Smoke is Deadly

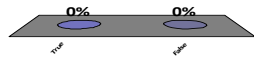
Per ASHRAE secondhand smoke cannot be controlled by ventilation or air cleaning and electronic smoking devices should be regulated the same as combustibles





With an unlimited budget, an HVAC system can be purchased that will eliminate second hand smoke.

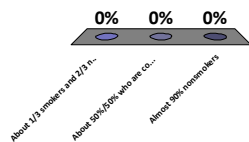
- A. True
- B. False





California population can be described as...

- A. About 1/3 smokers and 2/3 non smokers
- B. About 50%/50% who are concerned with smoke free housing
- C. Almost 90% nonsmokers





Existing Laws

- State smoke free workplaces
 - Managers office etc.
- Voluntary policy
 - Many places are smoke free already
 - Ordinance includes this right specifically
- SB 420 Medical Marijuana law
 - Cannot smoke where smoking isn't allowed
 - There is no reasonable accommodation that must be met
- **This ordinance Does NOT allow renters to be denied on the basis of being a smoker**

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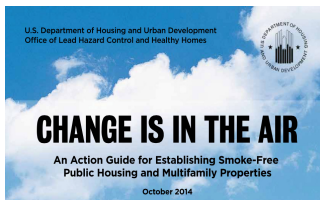
Other Smoke Free Multi-Family Policies in Sonoma County

- Rohnert Park
- Sebastopol
- Petaluma
- Sonoma County
- Discussions; Sonoma, Cotati



HUD Toolkit

- 2009 HUD recommendations
- 2012 toolkit
- BreatheEasy





Smoke as Nuisance

9-20.160 Secondhand smoke – declaration of nuisance. Secondhand smoke constitutes a nuisance. Notwithstanding any other provisions of this chapter, a private citizen may bring a legal action to abate secondhand smoke as a nuisance. For the purposes of this section, the definition of smoke does not include emissions from electronic smoking devices.



Guidelines for addressing drifting smoke

- Have they spoken to the smoker?
- Are there others that are also affected?
- Speak with the landlord
- Document the situation
- Write a letter to the landlord



All Found on BreatheEasy site

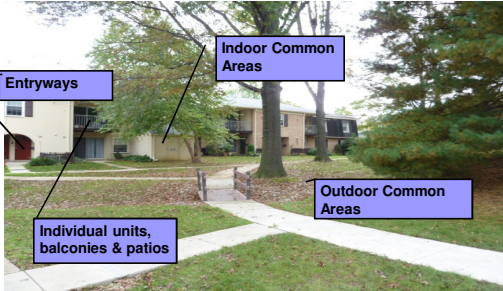


Guidelines for addressing drifting smoke

- Contact the Department of Health Services to request assistance and receive education.
- After attempt to resolve is exhausted, file complaint with Santa Rosa Code Enforcement
- Individual is in breach of their lease
- Enforcement information on BreatheEasy for individual legal action



Smoke-free Multi-Unit Housing Provisions Review







Steps To Convert Attached Housing

- Train employees
- Notify tenants of changes
- Amend leases
- Post signage
- Designate a smoking area (optional)
- Review complaint procedures



Successful Implementation strategies

1. Public education
2. Signage
3. Friendly educational/warning
4. Active enforcement when necessary



Smoke and Aerosol Travel

Exhaled particles can travel far distances within buildings and outdoors.

In multi-unit buildings, aerosols could potentially travel from patios, through open windows.





Santa Rosa Multi Unit Housing



Since ordinance passage



Resources



Technical Assistance



Cessation Services

Education Tools

- Public outreach to inform community of new law
- Smoke-free Sonoma County website







Summary of Policies Regulating Smoking in Multi-Unit Housing in Sonoma County

City of Santa Rosa – Chapter 9-20

- Smoking is prohibited in new attached residential units including balconies, porches and patios. Beginning August 7, 2016, smoking is prohibited in any existing attached unit.
- Beginning on October 6, 2015, smoking is prohibited in all indoor and outdoor common areas of multi-unit attached housing (i.e., apartments, condominiums, homeless shelter, senior citizen housing) of 2+ units, and in attached units that are owner occupied or are on a month to month lease. No ashtrays or ash cans may be present in these areas.
- May have an outside designated smoking area if meets criteria including being 25+ feet from property lines, areas where children play, or other units, windows, and doors.
- Smoking is prohibited within 25 feet of places in which smoking is prohibited (i.e. entryways, windows).
- Use of electronic smoking devices is allowed in outdoor common areas a reasonable distance from enclosed areas where smoking is prohibited and away from recreation areas.
- Qualified medical marijuana patients may use electronic smoking devices in a residence for marijuana.
- Every lease or other rental agreement must include lease terms (see ordinance for details).
- Signs – owners/managers must post no-smoking signs with the international no smoking symbol at every building (not required on individual units) and in outside common areas.

City of Petaluma – Chapter 8.20

- Smoking is prohibited in 100% of any new or existing units and indoor common areas (e.g., laundry rooms, lobbies) of multi-unit housing (i.e., apartments, condominiums, homeless shelter, senior citizen housing) with 2+ units including balconies, porches and patios
- Every lease or other rental agreement for must include lease terms making smoking where prohibited clearly a breach of the lease by tenants (see ordinance for details)
- Smoking is prohibited in all outdoor common areas (e.g., walkways, pools) other than possible designated smoking areas meeting criteria
- Smoking is prohibited within 20 ft. from places in which smoking is prohibited (i.e. entryways, windows)
- Signs – owners/managers must post no-smoking signs with letters no less than one inch in height with the international no smoking symbol (a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) indicating no smoking within 20 feet at entryways and in at least one other conspicuous point within that area.
- At least one sign in the no smoking areas must include a phone number for complaints. Signs not required at the entryways of individual units.
- Regulates smoking of tobacco, any other weed or plant, and electronic cigarettes.
- May have an outside designated smoking area if meets criteria (see Ordinance Matrix).

Sonoma County Unincorporated – Chapter 32

- Smoking is prohibited in 100% of any new or existing units including balconies, porches and patios.
- Smoking is prohibited in all indoor and outdoor common areas of multi-unit housing (i.e., apartments, condominiums, homeless shelter, senior citizen housing) of 2+ units. No ashtrays or ash cans may be present in these areas.
- Smoking is prohibited within 25 ft. from places in which smoking is prohibited (i.e., entryways, vents).
- Signs – owners/managers must post no-smoking signs with the international no smoking symbol at every building (not required on individual units) and in outside common areas.

- Regulates smoking of tobacco and nicotine products.
- Includes electronic cigarettes in public places (indoor and outdoor).
- Regulates smoking of tobacco and any other weed or plant.
- May have an outside designated smoking area if meets criteria.

Sebastopol – Chapter 8.04

- Smoking is prohibited in 100% of new and existing units, including balconies, porches and patios
- Smoking is prohibited in all indoor and outdoor common areas of multi-unit housing (i.e., apartments, condominiums, townhouses) of 2+ units. No ash trays or cans may be present in these areas.
- Smoking is prohibited within 20 ft from places in which smoking is prohibited (i.e., entryways, windows)
- Signs – owners/managers must post no-smoking or smoke-free signs with letters no less than one inch in height or the international no smoking symbol or any alternative signage approved by city manager at building entrances and in outside common areas.
- Regulates smoking of tobacco products and electronic cigarettes.
- Secondhand smoke is a nuisance.
- Required Lease Terms making smoking where prohibited clearly a breach of the lease and tenant responsible for visitors and service personnel– see ordinance for specific details.
- May have an outside designated smoking area if meets criteria.

Rohnert Park – Chapter 8.32

- Smoking is prohibited in minimum of 75% of any new units and 50% of any existing units, including balconies, porches and patios and shall be designated and maintained as non-smoking. Non-smoking units shall be grouped together.
- Existing tenants who smoke in the unit and have occupied the unit on June 1, 2009 are grandfathered in as a smoking unit until they voluntarily vacate.
- Smoking is prohibited in all indoor and outdoor common areas of multi-unit housing (i.e., apartments, condominiums, townhouses) of 2+ units. No ash trays or cans may be present in these areas.
- Smoking is prohibited within 20 ft from places in which smoking is prohibited (i.e., entryways, vents).
- Signs – owners/managers must post no-smoking signs with letters no less than one inch in height or the international no smoking symbol at building entrances and in outside common areas.
- Disclosure – applies to both new and existing multi-unit housing. Every owner/manager must maintain a list of designated non-smoking units and a site plan identifying the location of smoking and non-smoking units. The site plan must also identify the location of any designated smoking areas. A copy of this list and site plan must accompany every new lease or agreement for occupancy of a unit. If a copy of the list and site plan do not accompany the lease or agreement then the unit is a non-smoking unit.
- Regulates smoking of tobacco and any other weed or plant.
- May have an outside designated smoking area if meets criteria (see Ordinance Matrix).

For complete ordinances: www.sonoma-county.org/BreatheEasy



Santa Rosa's Smoking Laws for Multifamily Attached Residences

Frequently Asked Questions

(City Ordinance 4044)

On July 7, 2015, the Santa Rosa City Council approved Ordinance 4044. This ordinance includes smoking regulations that affect all attached multifamily housing in Santa Rosa. The ordinance defines smoking as "igniting, inhaling, exhaling, burning, vaping, operating, or carrying any lighted cigar, cigarette, pipe, hookah, electronic smoking device, tobacco product, or any other combustible substance including marijuana."

Which housing types are affected by the new smoking regulations?

The ordinance affects attached multifamily residences. These are defined in the ordinance as residential property containing two or more units with one or more shared walls, floors or ceilings, including but not limited to apartments, residential cooperatives, residential condominiums, duplexes, and other attached housing. "Multifamily residence" does not include: (1) A hotel or motel; (2) A mobile home park; (3) A campground; (4) A single family detached residence; (5) A single-family home with an attached or detached second dwelling unit as defined by Government Code Section 65852.2 when permitted pursuant to local ordinance and/or applicable state law; (6) Residential care facilities for seniors licensed by the State of California.

When do the new smoking regulations go into effect?

Beginning on **October 6, 2015**:

- The common areas of all multifamily attached housing units must be smoke free.
- All multifamily attached housing units that are rented/leased on a month-to-month basis must be smoke-free.
- Owner-occupied multifamily attached housing units must be smoke-free.
- All new multifamily attached housing units (new construction or rented/leased for the first time) must be smoke-free.

For units that are required to go smoke-free on October 6, 2015, please note that smoking, including use of electronic smoking devices, is prohibited inside of all buildings and units, within private use areas such as balconies or patios, and outside on the entire property.

Between **October 6, 2015** and **August 7, 2016**:

- For units with leases ending between October 6, 2015 and August 7, 2016, the lease must be amended at time of renewal to include smoking prohibitions.
- On August 7, 2016, all multifamily attached housing units affected the ordinance must be smoke-free.

Are there any exceptions to the smoking prohibitions?

Electronic Smoking Devices. Use of electronic smoking devices is allowed in outdoor common areas provided that the devices may not be used (1) within a reasonable distance (minimum of 25 feet) from enclosed areas where smoking is prohibited, such as residential buildings, (2) within 25 feet of unenclosed recreational areas that are primarily used by children, and (3) within 25 feet of unenclosed areas that have improvements that facilitate physical activity including playgrounds, tennis courts, swimming pools, and sports fields. There is also an exception

pertaining to medical marijuana use via electronic smoking devices by qualified patients inside their unit (California Health and Safety Code Section 11362.7).

Designated Smoking Areas. Property owners may establish a designated smoking area (unenclosed area where smoking is allowed) provided that it can be sited to comply with the following locational criteria:

- At least 25 feet in any direction from any operable doorway, window, vent or other opening into an enclosed area;
- At least 25 feet from unenclosed recreational areas that are primarily used by children;
- At least 25 feet from unenclosed areas that have improvements that facilitate physical activity including playgrounds, tennis courts, swimming pools, walking paths and sports fields;
- At least 25 feet from all perimeter property lines abutting residential to minimize the impacts of outdoor smoking on adjacent property owners

Designated smoking areas must be clearly identified by conspicuous signs, and have ash receptacles, such as ash trays or ash cans, within the area for proper disposal of smoking waste.

What is the landlord or property owner's role in implementing the ordinance?

Section 9-20.080 of the smoking ordinance provides details on requirements for landlords. The following brief summary is provided—however, review of the entire ordinance is recommended.

- Lease Language: Include in every lease or rental agreement for a multifamily residence a provision prohibiting any smoking within the unit, including exclusive use areas such as patios, balconies and porches, as well as in common areas and on the property as a whole, except in a designated smoking area (if established).
- Respond to Complaints: Landlord shall be prepared to respond to and address complaints from other tenants on the property of violations of the smoking prohibitions. Landlord is required to notifying each tenant who is the subject of a smoking complaint about the smoking laws as well as the fact that a complaint was lodged against the tenant. The landlord must encourage the tenant to comply with their lease and the law.
- Post signs: The ordinance has detailed requirements for sign installation.
- Annual Notification of Tenants: For the first three years following the adoption of the ordinance, annually send every tenant written information about the smoking laws, to include no smoking requirements and the location, if any, of a designated smoking area on the property.

Are there tools available to assist landlords and property owners to comply with the ordinance?

Yes. A variety of tools and techniques will be covered at the workshop aimed at property owners, landlords, and property managers. There are free materials and information, including landlord tool kits, on the Sonoma County Breathe Easy web site. These materials are being revised to reflect Santa Rosa's requirements and will be presented at the August 4 workshop.

For more information about the City of Santa Rosa's smoking ordinance, visit our web page at: www.srcity.org/breatheeasy

Smoking Regulations in Sonoma County Cities and Unincorporated Sonoma County

	<i>Regulations:</i>	Cloverdale 1989	Sonoma 1992	Cotati 1994	Rohnert Park 2009	Sebastopol 2011	Petaluma 2013	Healdsburg 2014	Windsor 2014	Unincorp. 2014	Santa Rosa 2015
Smoke Free Indoor Areas	Percent of hotel rooms smokefree		30%	50%		70%	100%	50%		75%	75%
	City owned vehicles		X			X		X			X
	Tobacco shops					X	f		X	X	X (partial)
Smoke Free Outdoor Areas	Parks & recreation			X		X	X	X	X	X	X
	Public events				X (partial)	X	X	X (partial)	X (partial)	X	X (partial)
	20' from entrances, windows, vents (i.e. bufferzones)					X	X	X	X	25 feet	25 feet
	Dining & bars				X	X	X	X	X	X	X
	Service areas (i.e. bus stops, ATMS, movie lines)				X	X	X			X	X
Multi-Unit Housing (MUH)	Smokefree condos duplexes townhouses				50%/75%	100%/100%	100%/100%			100%/100%	100%/100%
	Outdoor common areas				X	X	X			X	X (partial)
Miscellaneous	Nuisance language				X	X					X
	E-cigs regulated same as combustibles					X	X	X	X	X	X (partial)
	Marijuana smoking defined as "smoking"	X	X	X	X		X	X	X	X	X
TRL	Tobacco retailer licensing		X							underway	

F = smoking allowed in freestanding stores only

Smokefree condos, duplexes, townhouses: Existing%/New unit %



Smoke-free Multi-Unit Housing Implementation Checklist

- Hold a meeting with property employees to ensure understanding of new law, lease procedures, and enforcement.
- Order No Smoking signs
- Place No Smoking signs around the property for indoor and outdoor common areas and entryways
- Notify tenants that all common indoor and outdoor areas are now smoke-free (could be part of general notice about conversion of units or a separate notice)
- Optional: evaluate the size and layout of the property for a designated smoking area – move or remove ashtrays/ash cans
- Establish procedure for handling complaints, which includes the ordinance enforcement steps
- Send each tenant a written notice of the new policy and post notices in all common areas
- Have residents sign an agreement or lease addendum that outlines the new policy
- Include the no-smoking policy in all new leases
- Continue to educate tenants and let them know how to report violations
- Have information regarding cessation programs available
- Market property as being non-smoking or having non-smoking units

SAMPLE

**Letter to Residents:
Notice Regarding Smoke-Free Units and Common Areas**

[Date]

Dear Residents:

On July 7, 2015, the City of Santa Rosa passed Ordinance No. 4044 regulating secondhand smoke and emissions from electronic smoking devices (e-cigarettes). The ordinance established a variety of smoke-free spaces including apartment and condominium units; use of electronic smoking devices (e-cigarettes) is generally treated the same as smoking. As part of the city's efforts to reduce residents' exposure to tobacco smoke and emissions from electronic smoking devices, 100% of all attached housing units must be designated as smoke-free by August 7, 2016

Under the new law, beginning on October 6, 2015, residents and guests are not allowed to smoke **or use electronic smoking devices** **[Delete highlighted text if property has decided to allow use of electronic smoking devices in outdoor common areas]** in any enclosed or unenclosed common area including, but not limited to, halls and paths, lobbies and courtyards, elevators and stairs, community rooms and playgrounds, gym facilities and swimming pools, parking garages and parking lots, shared restrooms, shared laundry rooms, shared cooking areas, and shared eating areas. No Smoking signs have been posted to remind residents and guests of this new policy **[or details of law specific to your site]**. Please be reminded that these rules are in effect 24 hours a day. A link to the ordinance can be found at:
<http://www.sonoma-county.org/BreatheEasy>.

Electronic smoking devices may be used in outdoor common areas provided that use of electronic smoking devices is prohibited within 25 feet of buildings and recreation areas. **[Delete highlighted text if property has decided not to allow these devices in common areas]** Use of medicinal marijuana by qualified patients is allowed in units if electronic smoking devices are used. **[Delete highlighted text if property has decided not to medical marijuana vapor in units]**.

[For units rented/leased on a month-to-month basis:]

In order to comply with the new law, [Property Name] has developed a smoke-free lease addendum that will be in effect on October 6, 2015. Please sign the addendum and return a copy to the office by [state date].

[Optional]: A designated smoking area has been created for the convenience of smoking tenants and guests at [state area]. This is the only common area where smoking is allowed on the premise.]

Please note that the U.S. Surgeon General's finding that there is no safe level of exposure to secondhand smoke and the California Air Resources Board's decision to classify secondhand smoke as a toxic air contaminant has prompted jurisdictions across the state and country to reduce multi-unit residents' exposure to secondhand smoke.

For those wishing to quit smoking, please contact the Northern California Center for Well Being [or cessation provider in your area] for information on upcoming cessation classes. The Smokers' Helpline also provides free phone cessation services to all California smokers at 1-800-NO-BUTTS or www.californiasmokershelpline.org and at the American Lung Association's Lung Help Line at 1-800-LUNGUSA.

Thank you for your cooperation.

Sincerely,

[Management]

**RENTAL/LEASE AGREEMENT
ADDENDUM FOR TOBACCO SMOKE-FREE AREAS**

Page ____
of agreement

THIS AGREEMENT made and entered into between _____, "Owner/Agent"
and _____, "Resident".

Resident is renting from Owner/Agent the premises located at:

_____, **Unit #** (if applicable) _____
(Street Address)
_____, CA _____
(City) (Zip)

1. **Purpose:** The parties desire to mitigate (i) the irritation and known health effects of secondhand smoke; (ii) the increased maintenance, cleaning, and redecorating costs from smoking; (iii) the increased risk of fire from smoking; and (iv) the high costs of fire insurance for properties where smoking is permitted.
2. **Smoke Free Areas:** Resident agrees and acknowledges that each of the following areas of the property has been designated as a smoke-free living environment and Resident and members of Resident's household shall not smoke tobacco products in these areas, nor shall Resident permit any guest or visitor under the control of Resident to do so.

INSERT LANGUAGE SPECIFIC TO THE SANTA ROSA ORDINANCE HERE

Smoking of tobacco products is prohibited on the entire property, including individual units, common areas, every building and adjoining grounds.

Smoking of tobacco products is prohibited on the entire property except the following areas:

3. **Promotion of No-Smoking Policy:** Resident shall inform his or her guest of the Smoke-Free Areas. Resident shall promptly notify Owner/Agent in writing of any incident where tobacco smoke is migrating into Resident's unit from sources outside of Resident's Unit.
4. **Owner/Agent Not Guarantor of Smoke-Free Environment:** Resident acknowledges that Owner/Agent's adoption of Smoke-Free Areas, does not make the Owner/Agent the guarantor of the Resident's health or of the smoke-free condition of the areas listed in Section 3 above. However, Owner/agent shall take reasonable steps to enforce this addendum. Owner/Agent shall not be required to take steps in response to smoking unless Owner/Agent has actual knowledge or has been provided written notice.
5. **Other Residents Are Third Party Beneficiaries of this Addendum:** Owner/Agent and Resident agree that the other Residents of the property are the third party beneficiaries of this Addendum. A Resident may sue another Resident to enforce this Addendum but does not have the right to evict another Resident. Any lawsuit between Residents regarding this Addendum shall not create a presumption that the Owner/Agent has breached this Addendum.
6. **Effect of Breach:** A breach of this Addendum by the Resident shall be deemed a material breach of the Lease/Rental Agreement and grounds for immediate termination of the Lease/Rental Agreement by the Owner/Agent.



7. **Disclaimer:** Resident acknowledges that this Addendum and Owner/Agent's efforts to designate Smoke-Free Areas do not in any way change the standard of care that the Owner/Agent would have to any Resident household to render buildings and premises designated as smoke free any safer, more habitable, or improved in terms of air quality than any other rental premises. Owner/Agent 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. Owner/Agent cannot and does not warrant or promise that the Rental Premises or any other portion of the property including common areas will be free from secondhand smoke. Resident acknowledges that Owner/Agent's ability to police, monitor or enforce this Addendum is dependent in significant part on voluntary compliance by Resident and Resident's guests.
8. **Effect on Current Tenants:** Resident acknowledges that current Residents of the rental community under a prior Lease/Rental Agreement will not be immediately subject to the terms of this Addendum. As Residents move out, or enter into new Leases/Rental Agreements, this Addendum will become effective for their unit or new agreement.
9. This Addendum is incorporated into and is a part of the Rental Agreement/Lease to which it is attached.

The undersigned Resident(s) acknowledge(s) having read and understood the foregoing, and receipt of a duplicate original.

Date

Resident

Date

Resident

Date

Owner/Agent



Model Letters¹

Send Letters Warning Residents to Stop Smoking at Your Site

Here are three letters you can use when residents smoke at your site in violation of a no-smoking policy.

Use Model Letter #1 if a resident covered by a lease clause that bans smoking in her unit violates the lease clause. The letter reminds residents who've violated the clause that they're not allowed to smoke in their units or anywhere else in the building, tells them that you know they've been violating that rule, and warns them not to do it again. Show this letter to your attorney before you use it.

Letter #1:

[Insert date]

Dear John Resident:

Paragraph [insert par. # in lease] of your lease prohibits smoking in your unit, anywhere in the building, or within XX feet of the building. Yesterday, at approximately 3:30 p.m., a maintenance staff member on call in your unit observed cigarette stubs and ashes in ashtrays and smelled tobacco smoke in your unit. If you violate your lease again, we may take appropriate legal action, including terminating your lease and starting an eviction lawsuit against you. Thank you for your cooperation.

Yours truly,
Jane Manager

Use Model Letters #2 and #3 to enforce a house rule banning smoking in common areas.

Model Letter #2 politely but firmly reminds residents where they're not allowed to smoke, tells them that you know they've been violating that rule, and warns them not to do it again.

If that doesn't work, use the more forceful letter (Model Letter #3). Again, be sure to show these letters to your attorney before using them.

¹ This article appeared in the June 2003 issue of *Assisted Housing Financial Management Insider*. This monthly news service is published by Vendome Group, LLC, formerly Brownstone Publishing Co., and subscription information about all of Vendome's real estate tools can be found at www.vendomegrp.com.

Letter #2:

[Insert Date]

Dear John Resident:

It has come to our attention that at approximately 6:30 p.m. you were observed smoking on the patio of your unit. As I am sure you are aware, lease rules at XYZ Apartments [insert paragraph # in lease] prohibits smoking anywhere within the unit and within 20 feet of operable doors or windows. Please comply with this rule in the future by refraining from smoking in any area where smoking is not permitted. Thank you for your cooperation.

Yours Truly,
Jane Manager

Letter #3:

[Insert date]

Dear John Resident:

You are in violation of your lease [and house rules] because of your repeated instances of smoking in the building common areas. Despite the written warning you received on *[insert dates]*, you have continued to smoke in areas where the lease and house rules at XYZ Apartments prohibit smoking.

Violations of house rules are also violations of paragraph [insert par. # of lease] of your lease. If you violate the rules against smoking again, we will take appropriate legal action, including terminating your lease and starting an eviction lawsuit against you. Thank you for your cooperation.

Yours Truly,
Jane Manager

**SONOMA COUNTY
TOBACCO EDUCATION and
CESSATION PROGRAMS
2015**

American Lung Association in California

- Free quit smoking phone counseling and lung health questions, at 1-800-586-4872.
- *Freedom From Smoking*, cessation program online www.lung.org
- *Freedom from Smoking*, facilitator training available periodically - 1-800-LUNG-USA

Kaiser Permanente

HealthMedia Breathe online quit smoking program available to Kaiser members
www.kp.org/breathe

Santa Rosa Medical Center

401 Bicentennial Way, Santa Rosa
To register:
707-566-5277 or 707-393-4167

- *Freedom From Tobacco* - Evening classes meet once a week for six weeks.* Cost: FREE to members, \$80 for non-members.
- *Quit Tobacco Workshop* - Single session 3-hour classes on developing a cessation plan* Saturday and evening sessions. Cost: FREE for Kaiser members, \$30 for non-members.
- Individual counseling for adults, teens and pregnant women in English and Spanish.* Members only. No fee.

Petaluma Medical Offices

3900 Lakeville Highway, Petaluma
To register: 707-765-3485

- *Freedom From Tobacco* – Six Tuesday evenings 7:00-9:00 pm.* Cost: FREE for Kaiser members, \$90 for non-members.
- Prescription quit aids available

*Open to smokeless tobacco users

Northern California Center for Well-Being

365 Tesconi Circle, Suite B, Santa Rosa
To register 707-575-6043
www.norcalwellbeing.org
info@norcalwellbeing.org

- *Smoke-Free Babies* - Individual counseling for women pregnant through children age five. Teen services also available. Home visits provided throughout the county. Cost: FREE!
- *Smoking Cessation Classes* - Classes meet 8 times over 7 weeks.* Learn how to quit in a positive and supportive atmosphere. 40% of participants are still tobacco free 1 year after completion. Cost: Sliding scale based on income.
- *Quit Smoking for the last time! ONE SESSION workshop*. Develop a plan, learn about use of medications, and strategize to avoid relapse. Cost: Sliding scale based on income. Some insurances may cover costs. Classes hosted by worksites and agencies and taught by our expert facilitators.
- *Smoking Cessation Classes at Affordable Housing Complexes* – Provided at NO COST! Please call for more information.

American Lung Association's Freedom From Smoking

- Open to the public, Free of charge. Day and evening workshops. Bilingual classes coming soon. Call Catholic Charities 707-542-5426

Teen Cessation & Diversion Services

Rohnert Park - Tobacco Diversion class open to any youth in RP/Cotati. SCAYD 707-793-9030

Santa Rosa - Diversion & Cessation. Open to all youth. Drug Abuse Alternatives Center
Four 1 hour sessions, \$50. Call: 707-544-3295

*Open to smokeless tobacco users

**Sonoma County Department of Health Services
Health Policy Planning and Evaluation
Division**

490 Mendocino Avenue, Suite. 101, Santa Rosa
www.sonoma-county.org/BreatheEasy

For information on tobacco cessation class referrals, tobacco education, or to report a violation of tobacco laws call 707-565-6680.

California Smoker's Helpline

Help to quit by phone, FREE phone counseling and quit kits provided. Special programs for teens, pregnant women and chewing tobacco from the California Department of Public Health.

English	1-800-NO BUTTS
Spanish	1-800-456-6386
Chewers	1-800-844-CHEW
TDD/TTY	1-800-933-4833

www.californiasmokershelpline.org

Nicotine Anonymous Support Group

Ongoing support groups for anyone who wants to quit tobacco or needs support to stay tobacco-free. Speakers available for community groups on smoking cessation.

Monday nights in Petaluma from 7:00 - 8:00 pm, Church of Christ, 370 Sonoma Mountain Parkway. Contact: Terry at 707-664-9335.

Tobacco Related Web Sites

www.quitnet.com - Boston University's online smoking cessation program.

www.cancer.org - American Cancer Society's information on quitting smoking, and telephone cessation counseling.

www.quitsmoking.about.com - Quit smoking tips.

www.nobutts.org - California Smokers' Helpline online cessation resources.

TIPS TO PREPARE YOU TO STOP SMOKING

- Decide positively that you want to stop. Avoid negative thoughts about how difficult it might be.
- Develop strong personal reasons to stop in addition to your health and obligations to others. For example, think of all the time you waste taking cigarette breaks, rushing out to buy a pack, hunting for a light etc., or of all the money you'll save.
- List all the reasons you want to stop. Every night before going to bed, repeat one of the reasons 10 times.
- Begin to condition yourself physically: start a modest exercise program; drink more fluids; get plenty of rest; avoid fatigue.
- Have realistic expectations and be patient, you didn't learn to smoke in a day so don't expect to quit in a day.
- Understand that withdrawal symptoms are temporary and are healthy signs that the body is repairing itself from its long exposure to nicotine. Within 24 hours of abrupt smoking cessation, withdrawal symptoms may appear as the body begins its healing process.
- Relapses occur in the first week or two after stopping, when withdrawal symptoms are strongest. Willpower, family, friends, and any tips that work for you will help you get through this critical period successfully.
- Tell your family and friends that you're stopping and when. They can be an important source of support both before and after you stop.

TIPS TO USE JUST BEFORE STOPPING

- Practice going without a cigarette. Smoke 1 or 2 less cigarettes than usual; have your first smoke an hour later than usual.
- Make it difficult to get a cigarette - stop carrying them, buy only one pack at a time and don't buy cartons. Put them in a locker or your car, only smoke outside in designated smoking areas.
- Practice coping with the urge to smoke. Notice the urge and think about it - then choose not to smoke. Tell yourself you will wait 20 minutes - the urge to smoke will pass whether you smoke that cigarette or not.
- Think of stopping in terms of one day at a time.
- Don't empty your ashtrays. This will remind you of how many cigarettes you've smoked each day, and the sight and smell is very unpleasant.
- Collect all your cigarette butts in one large glass container as a reminder of your smoking.

TIPS FOR THE DAY YOU STOP

- Throw away all your cigarettes, matches, lighters, and ashtrays.
- Clean your clothes to rid them of the smell.
- Develop a clean, fresh, nonsmoking environment around yourself.
- Keep busy on the big day.
- Buy yourself a treat to celebrate.
- Stay away from other smokers.
- Remember that alcohol or other drugs will weaken willpower.

Sonoma County Tobacco Cessation Programs

2015

You don't have
to do it alone



This brochure was made possible in part with funds from Proposition 99, the Tobacco Tax.

**CONDADO DE SONOMA
PROGRAMAS EDUCATIVOS SOBRE EL
TABACO y PARA DEJAR DE FUMAR
2015**

**Asociación Americana del Pulmón en
California**

- Asesoramiento telefónico gratis para dejar de fumar y preguntas sobre la salud pulmonar, al 1-800-586-4872.
- *Freedom From Smoking*, programa por internet para dejar de fumar www.lung.org
- *Freedom from Smoking*, capacitación para facilitadores disponible periódicamente, llame al 1-800-LUNG-USA

Kaiser Permanente

HealthMedia Breathe programa por internet para dejar de fumar, sólo para miembros de Kaiser www.kp.org/breathe

Santa Rosa Medical Center

401 Bicentennial Way, Santa Rosa
Para inscribirse:
707-566-5277 o 707-393-4167

- *Freedom From Tobacco* - Clases en la tarde, una vez a la semana, por 6 semanas.* Costo: GRATIS para los miembros, \$80 para no miembros.
- *Quit Tobacco Workshop* - Clases de una sesión de 3 horas, desarrollan un plan para dejar de fumar* Sesiones en los sábados y en las tardes. Costo: GRATIS para miembros de Kaiser, \$30 para no miembros.
- Asesoramiento individual para adultos, adolescentes y mujeres embarazadas, en Inglés y Español.* Sólo para miembros. Gratis.

Petaluma Medical Offices

3900 Lakeville Highway, Petaluma
Para inscribirse: 707-765-3485

- *Freedom From Tobacco* – 6 martes en la tarde de 7:00-9:00 pm.* Costo: gratis para miembros de Kaiser, \$90 para no miembros.
- Recetas disponibles ayudas para dejar de fumar

***Abierta a los que usan tabaco sin humo**

Northern California Center for Well-Being

365 Tesconi Circle, Suite B, Santa Rosa

Para inscribirse: 707-575-6043

www.norcalwellbeing.org

info@norcalwellbeing.org

- *Smoke-Free Babies* - Asesoramiento individual para mujeres embarazadas o con bebés de hasta cinco años de edad. Servicios para adolescentes también están disponibles. Se proporcionan visitas a domicilio a través de todo el condado. Costo: ¡GRATIS!
- *Smoking Cessation Classes* - Las clases para dejar de fumar se reúnen 8 veces a lo largo de 7 semanas.* Aprenda a dejar de fumar en un ambiente positivo y de apoyo. 40% de los participantes todavía están libres de tabaco 1 año después de la finalización. Costo: escala móvil basada en ingresos.
- ¡Deje de fumar por la última vez! Taller de UNA SESIÓN. Desarrolle un plan para dejar de fumar, aprenda como usar medicamentos, y desarrolle estrategias para evitar una recaída. Costo: escala variable de honorarios basada en ingresos. Algunos seguros pueden cubrir los costos. Las clases son organizadas por nuestros expertos, en los lugares de trabajo y en agencias.
- *Clases para dejar de fumar en los complejos de viviendas asequibles* - ¡Proporcionadas gratis! Por favor llame para más información.

**Libre del Tabaquismo de la Asociación
Americana del Pulmón**

- Abierto al público. Gratis. Talleres de día y de noche. Las clases bilingües vienen pronto. Llame a Catholic Charities al 707-542-5426.

**Servicios para Adolescentes para Dejar de
Fumar y Distracciones de Ayuda**

Rohnert Park - Clase de técnicas de distracción para dejar de fumar, abierta a todos los jóvenes en RP/Cotati. SCAYD 707-793-9030

Santa Rosa - Distracción & Cesación. Abierta a todos los jóvenes. Centro de alternativas al abuso de drogas
Cuatro sesiones de 1 hora, \$50. Llame al: 707-544-3295

***Abierta a los que usan tabaco sin humo**

**Departamento de Servicios de Salud del
Condado de Sonoma, División de Evaluación y
Planificación de Políticas de Salud**

490 Mendocino Avenue, Suite 101, Santa Rosa

www.sonoma-county.org/BreatheEasy

Para información y referencias acerca de clases para dejar de fumar, educación acerca del tabaco, o para reportar una violación a las leyes del tabaco, llame al 707-565-6680.

Línea de Ayuda para Fumadores en California

Ayuda por teléfono para dejar de fumar, asesoramiento telefónico GRATUITO y kits de cesación suministrados. Programas especiales para adolescentes, mujeres embarazadas y tabaco de mascar del Departamento de Salud Pública de California.

Inglés	1-800-NO BUTTS
Español	1-800-456-6386
Masticadores	1-800-844-CHEW
TDD/TTY	1-800-933-4833

www.californiasmokershelpline.org

Grupo de Apoyo Nicotine Anonymous

Grupos de apoyo para cualquiera que quiera dejar de fumar o necesite ayuda para permanecer libre del tabaco. Oradores disponibles para grupos comunitarios sobre cómo dejar el hábito de fumar.

Los **lunes** en la tarde en Petaluma de 7:00 - 8:00 pm, Church of Christ, 370 Sonoma Mountain Parkway. Contacto: Terry – 707-664-9335.

Sitios Web Relacionados con el Tabaco

www.quitnet.com - programa por internet de Boston University para dejar de fumar.

www.cancer.org - información de la Sociedad Americana Contra el Cáncer acerca de cómo dejar de fumar, y asesoramiento telefónico.

www.quitsmoking.about.com - Consejos para dejar de fumar.

www.nobutts.org - recursos por internet de la Línea de Ayuda para Fumadores en California.

CONSEJOS PARA PREPARARLO PARA DEJAR DE FUMAR

- Decida con certeza que quiere parar. Evite pensamientos negativos acerca de lo difícil que podría ser.
- Desarrolle razones personales importantes para parar, además de por su salud y obligaciones para con los demás. Por ejemplo, piense en todo el tiempo que pierde tomando descansos para fumar, corriendo a comprar un paquete, buscando un encendedor, etc, o en todo el dinero que ahorrará.
- Haga una lista de todas las razones por las que desea parar. Todas las noches antes de irse a dormir, repita una de las razones 10 veces.
- Empiece a acondicionarse físicamente: inicie un programa de ejercicio moderado, beba más líquidos, descanse bien, evite fatigarse.
- Tenga expectativas realistas y sea paciente; no aprendió a fumar en un día, así que no espere dejar de fumar en un día.
- Entienda que los síntomas de abstinencia son temporales, y son signos saludables que el cuerpo se está reparando de su larga exposición a la nicotina. Dentro de 24 horas de dejar de fumar abruptamente, los síntomas de abstinencia pueden aparecer a medida que el cuerpo comienza su proceso de curación.
- Las recaídas se producen en la primera o segunda semana después de parar, cuando los síntomas de abstinencia son más fuertes. Fuerza de voluntad, la familia, los amigos y cualquier consejo que funcione para usted le ayudarán a pasar a través de este período crítico con éxito.
- Dígale a su familia y amigos que va a parar, y cuándo. Ellos pueden ser una fuente importante de apoyo, antes y después de que deje de fumar.

CONSEJOS PARA USAR JUSTO ANTES DE PARAR

- Practique estar sin un cigarrillo. Fume 1 o 2 cigarrillos menos que de costumbre; fume su primer cigarrillo una hora más tarde de lo normal.
- Haga difícil el conseguir un cigarrillo - deje de llevarlos, compre sólo un paquete a la vez, y no compre cartones. Póngalos en un gabinete o en su coche; sólo fume afuera en áreas designadas para fumar.
- Practique hacerle frente a la necesidad de fumar. Observe el deseo y piénselo - y decida no fumar. Dígase a sí mismo que va a esperar 20 minutos - el deseo de fumar pasará, si es que se fuma el cigarrillo o no.
- Tome el parar de fumar un día a la vez.
- No vacíe sus ceniceros. Esto le recordará cuántos cigarrillos ha fumado cada día, y la vista y el olor son muy desagradables.
- Ponga todas las colillas de cigarrillos en un recipiente grande de cristal, como recuerdo de que fumaba.

CONSEJOS PARA EL DÍA QUE PARE

- Bote todos sus cigarrillos, fósforos, encendedores y ceniceros.
- Lave su ropa para deshacerse del olor.
- Cree un ambiente limpio, fresco, no fumador a su alrededor.
- Manténgase ocupado en el gran día.
- Cómprese un regalo para celebrar.
- Manténgase alejado de otros fumadores.
- Recuerde que el alcohol u otras drogas debilitarán su fuerza de voluntad.



This brochure was made possible in part with funds from Proposition 99, the Tobacco Tax.

Programas para Dejar de Fumar en el Condado de Sonoma 2015

**Usted no tiene
Que hacerlo solo**

Sample Warning Letter

You can use this model warning letter to write your own letters to tenants who are smoking in violation of the lease and/or house rule.

Dear NAME OF RESIDENT,

As stated in your lease, NAME OF PROPERTY or COMPANY, our smoking policy is that (insert smoking policy from your lease).

On DATE and TIME, you were REPORTED/ OBSERVED (choose one) to be smoking in AREA in violation of the lease. *Add other information about the violation as appropriate.*

If you violate your lease again, we may take appropriate legal action, including terminating your lease and evicting you.

If you have a particular enforcement procedure of warnings, fines, notices, etc., describe it here.

If you have a designated smoking area, tell the tenant where it is and to remember to smoke in the designated area.

If you have questions or concerns, please contact us at CONTACT INFORMATION.

Thank you,

YOUR NAME & COMPANY

The Benefits of Smokefree Buildings:

Why a Smokefree Policy is a Good Decision for Multiunit Housing Providers

A smokefree building is a sound business decision. As a property owner, building manager, home owners' association, or condominium association, you have invested a lot of time, money, and hard work into your property. Making your properties smokefree can reduce your costs, risk, and liability, and it's attractive to residents.

Learn why you should get on board with the nationwide trend for housing providers to go smokefree.



Smokefree Policies Are Legal!

Property owners and managers can legally adopt smokefree policies for all types of housing! Whether you own or manage market-rate, affordable, or public housing, you can make your buildings smokefree.

You can adopt a smokefree policy in the same manner that you adopt other rules to regulate activities that present a risk to the building or impact other residents, such as rules that address pets or loud music.

Smokefree policies are not discriminatory. There is no constitutional right to smoke and people who smoke are not a protected class.¹

Smokefree building policies can limit your liability as a property owner or manager. Residents with health issues that are caused by or exacerbated by exposure to secondhand smoke may pursue legal action against property owners or managers if appropriate steps are not taken to resolve the problem.²

A smokefree building does not mean that people who smoke cannot live in the building, or that people who smoke must quit. It simply means that people cannot smoke inside the building or in other areas specified in the policy, such as on balconies and patios.

Resources are available from ANR at www.no-smoke.org/homes.html or by calling 510-841-3032.

Smoking In Your Building Is Expensive...

Reduce the cleaning and maintenance costs—and extra turn-over time—that comes with renovating a smoke-damaged unit after a resident who smokes has moved out.

A recent study found that costs in properties that allow smoking everywhere were nearly double that of smoking-related costs incurred at smokefree properties.³

Compared to smokefree units, cleaning and refurbishing costs can be up to \$3,000 more in units with heavy smoking.⁴

Maintenance and refurbishing expenses are not the only costs associated with allowing smoking in your building. Nationally, fires caused by cigarette smoking result in over \$300 million in property loss each year.⁵

Some property insurance companies offer a discount for buildings that have a smokefree policy. Ask your insurance carrier if you could qualify for a reduced rate if your building goes smokefree.

...and Dangerous!

Allowing smoking in your building can increase the risk of fire. An estimated 7,600 smoking-related fires occur in residential buildings each year in the US.⁶

Fires caused by smoking are the leading cause of residential fire deaths in the U.S., accounting for 14% of fire deaths in residential buildings.⁷

People who smoke are not the only victims of smoking-related fires. One in four casualties of smoking-related fires are the children, friends, and neighbors of the smoker who caused the fire.⁸

Secondhand Smoke Can Transfer In Buildings

Secondhand smoke can drift through buildings and enter common areas and units occupied by non-smokers through vents, doors, windows, hallways, electrical outlets, and through gaps around fixtures and walls.⁹

If smoking is allowed in your building, even in only a few units, residents and staff can be unwillingly exposed to secondhand smoke.

According to the U.S. Surgeon General, there is no safe level of exposure to secondhand smoke, and eliminating indoor smoking is the only way to protect non-smokers from the harmful effects of secondhand smoke exposure.¹⁰

Among the 62.7 million multiunit housing residents in the U.S. who do not allow smoking in their home, the Centers for Disease Control and Prevention (CDC) estimates that 44% to 46.2% of them are involuntarily exposed to secondhand smoke in their unit.¹¹

A recent national study found that 44% of multiunit housing residents who do not allow smoking in their home have experienced secondhand smoke drifting into their unit from elsewhere in or around their building in the last year, with 31% reporting that drifting smoke occurred “most of the time” or “often.”¹²

Retain Your Current Residents

Residents want smokefree housing policies. A 2012 study found that approximately 56% of multiunit housing residents around the U.S. would support the implementation of a smokefree policy for their building.¹³

More than 55% of New York State multiunit residents support a policy that prohibits smoking in all areas of their building. Support was higher among minorities and people with children.¹⁴

Over 90% of Fort Collins, CO and approximately 80% of Charleston, SC apartment residents currently residing in smoking-allowable buildings indicated that they would not move out of their current residence if it were designated as smokefree.^{15,16}

In fact, many of these residents indicated that they would be willing to give up other amenities in order to live in a smokefree building, such as a shorter commute time to work and other local services.^{17,18}

Smokefree building policies can appeal to your current residents as well as new potential residents in your market. Non-smokers are the majority in every state.¹⁹ Additionally, surveys show that many smokers already choose not to smoke inside, in order to protect the health of their families and to prevent damage to their belongings.²⁰

Attract New Residents

People increasingly want their living environment to be smokefree to protect their health, and are looking for smokefree housing options. Secondhand smoke is a cause of heart disease, heart attacks, asthma and other respiratory ailments, SIDS, lung cancer, and many other illnesses.²¹

A recent national survey found that nearly 30% of multiunit housing residents live in smokefree buildings. However, 56% would support a smokefree policy for their building.²² This indicates that there is more demand for smokefree housing than supply.

A Minnesota study found that 54% of multiunit residents would be very likely to choose a smoke-free building, all other things being equal, and 34% would be willing to pay more to live in one.²³

65% of Charleston, SC apartment residents would prefer to have a policy in their building that prohibited smoking in all indoor areas. However, only 9% of apartment residents in this survey reported living in a smokefree building.²⁴

High support for smokefree building policies along with the low prevalence of current smokefree policies could result in a large market opportunity for multiunit housing operators who implement smokefree policies in your area.

You have the opportunity to attract residents by promoting your smokefree policy as an amenity. Advertise your smokefree status in rental listings and on promotional materials.

More information is available from ANR at www.no-smoke.org/homes.html or by calling 510-841-3032.

¹ Graff, S.K. Tobacco Control Legal Consortium, *There is No Constitutional Right to Smoke: 2008*. 2nd edition, 2008. http://www.publichealthlawcenter.org/sites/default/files/resources/tclc-syn-constitution-2008_0.pdf

² Smoke-Free Environments Law Project. <http://www.tcsq.org/sfelp/home.htm>.

³ Ong, M.K.; et al, "[Estimates of smoking-related property costs in California multiunit housing](#)," *American Journal of Public Health* 102(3): 490-493, March 2012.

⁴ National Center for Healthy Housing. *Reasons to Explore Smoke-Free Housing*. Early Fall 2009. http://www.nchh.org/Portals/0/Contents/NCHH_Green_Factsheet_smokefree.pdf.

⁵ US Fire Administration. *Smoking-related fires in residential buildings (2008-2010)*, Volume 13, Issue 6, June 2012. <https://www.usfa.fema.gov/downloads/pdf/statistics/v13i6.pdf>.

⁶ *ibid*

⁷ *ibid*

⁸ United States Fire Administration. Smoking & Home Fires Campaign. Facts About Smoking and Home Fires. FA-309 June 2007. <https://www.usfa.fema.gov/downloads/pdf/smoking/GeneralAudienceFactSheet.pdf>

⁹ Repace, J. "Smoke Infiltration in Apartments." 2011.

http://www.repace.com/pdf/REPACE_Recent%20Advances_ISES%202011.pdf

¹⁰ U.S. Department of Health and Human Services. *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*. U.S. Department of Health and Human Services, Centers for

Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006. <http://www.ncbi.nlm.nih.gov/books/NBK44324/>.

¹¹ King, B.A.; et al, "[National and state estimates of secondhand smoke infiltration among U.S. multiunit housing residents](#)," *Nicotine and Tobacco Research* 15(7):1316-1321, July 2013.

¹² Licht, A.S.; et al, "[Attitudes, experiences, and acceptance of smoke-free policies among US multiunit housing residents](#)," *American Journal of Public Health* 102(10): 1868-1871, October 2012.

¹³ *ibid*

¹⁴ King, B.A.; et al, "[Multiunit housing residents' experiences and attitudes toward smoke-free policies](#)," *Nicotine and Tobacco Research* [Epub ahead of print], April 15, 2010.

¹⁵ Roswell Park Cancer Institute. Preferences and practices regarding secondhand smoke exposure and smoke-free policies in multiunit housing: A survey of multiunit housing residents living in Fort Collins, Colorado, 2012.

¹⁶ Roswell Park Cancer Institute. Preferences and practices regarding secondhand smoke exposure and smoke-free policies in multiunit housing: A survey of multiunit housing residents living in Charleston, South Carolina, 2012.

¹⁷ Roswell Park Cancer Institute. Fort Collins, Colorado, 2012.

¹⁸ Roswell Park Cancer Institute. Charleston, South Carolina, 2012.

¹⁹ Centers for Disease Control and Prevention. Tobacco Control State Highlights 2012.

http://www.cdc.gov/tobacco/data_statistics/state_data/state_highlights/2012/index.htm

²⁰ California: (find Adult Tobacco Use Survey) and Oregon: Campbell DeLong Resources, Inc. "Smoking practices, Policies, and Preferences in Oregon Rental Housing 2008." Tobacco Prevention and Education Program, Oregon Public Health Division. 2008. <http://www.smokefreehousinginfo.com/pdfs-docs/OregonStatewideRenterSurvey.pdf>

²¹ U.S. Department of Health and Human Services. *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006. <http://www.ncbi.nlm.nih.gov/books/NBK44324/>.

²² Licht, October 2012.

²³ Hewett, M.J.; et al, "[Secondhand smoke in apartment buildings: renter and owner or manager perspectives](#)," *Nicotine & Tobacco Research* 9(S1): S39-S47, January 2007.

²⁴ Roswell Park Cancer Institute. Charleston, South Carolina, 2012.

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1406 [FS-40]



**U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
Office of Healthy Homes and Lead Hazard Control**

SPECIAL ATTENTION OF:

Regional Directors; State and Area
Coordinators; Public Housing Hub
Directors; Program Center Coordinators;
Troubled Agency Recovery Center Directors;
Special Applications Center Director;
Public Housing Agencies;
Resident Management Corporations;
Healthy Homes Representatives

NOTICE: PIH-2009- 21 (HA)

Issued: July 17, 2009

Expires: July 31, 2010

Cross Reference:
24 CFR 903.7(b)(3)
24 CFR 903.7(e)(1)

Subject: Non-Smoking Policies in Public Housing

1. **Purpose.** This notice strongly encourages Public Housing Authorities (PHAs) to implement non-smoking policies in some or all of their public housing units. According to the American Lung Association, cigarette smoking is the number one cause of preventable disease in the United States. The elderly and young populations, as well as people with chronic illnesses, are especially vulnerable to the adverse effects of smoking. This concern was recently addressed by the Family Smoking Prevention and Tobacco Control Act, P.L. 111-31, signed by the President on June 22, 2009. Because Environmental Tobacco Smoke (ETS) can migrate between units in multifamily housing, causing respiratory illness, heart disease, cancer, and other adverse health effects in neighboring families, the Department is encouraging PHAs to adopt non-smoking policies. By reducing the public health risks associated with tobacco use, this notice will enhance the effectiveness of the Department's efforts to provide increased public health protection for residents of public housing. Smoking is also an important source of fires and fire-related deaths and injuries. Currently, there is no Departmental guidance on smoking in public housing.

2. **Applicability.** This notice applies to Public Housing.

3. **Background.** Secondhand smoke, which is also known as environmental tobacco smoke (ETS), is the smoke that comes from the burning end of a cigarette, pipe or cigar, and the smoke exhaled from the lungs of smokers. ETS is involuntarily inhaled by nonsmokers, and can cause or worsen adverse health effects, including cancer, respiratory infections and asthma. The 2006 Surgeon General's report on secondhand smoke identifies hundreds of chemicals in it that are known to be toxic. The report (*The Health Consequences of Involuntary Exposure to Secondhand Smoke*) is located at www.cdc.gov/tobacco/data_statistics/sgr/index.htm. Secondhand smoke causes almost 50,000 deaths in adult non-smokers in the United States each year, including approximately 3,400 from lung cancer and another 22,000 to 69,000 from heart disease.

Secondhand smoke exposure causes disease and premature death in children and adults who do not smoke according to the U.S. Environmental Protection Agency (EPA) www.epa.gov/smokefree/healtheffects.html.

There are over 1.2 million residents who reside in public housing. Residents between the ages of 0-17 represent 39 percent of public housing residents. Elderly residents over the age of 62 represent 15 percent of public housing residents. That accounts for at least 54 percent of public housing residents that could be at increased risk to the adverse effects of cigarette smoking. There are also a considerable number of residents with chronic diseases such as asthma and cardiovascular disease who are particularly vulnerable to the effects of ETS. Secondhand smoke lingers in the air hours after cigarettes have been extinguished and can migrate between units in multifamily buildings.

Based on data from the U.S. Fire Administration (USFA) of the Department of Homeland Security, there were an estimated 18,700 smoking-material fires in homes in 2006. These fires caused 700 civilian deaths (other than firefighters'), and 1,320 civilian injuries, and \$496 million in direct property damage www.nfpa.org/assets/files/PDF/OS.Smoking.pdf. In multifamily buildings, smoking is the leading cause of fire deaths: 26 percent of fire deaths in 2005 www.usfa.dhs.gov/downloads/pdf/publications/Residential_Structure_and_Building_Fires.pdf.

4. **Policy Discretion** PHAs are permitted and strongly encouraged to implement a non-smoking policy at their discretion, subject to state and local law. Some PHAs have established smoke-free buildings. Some PHAs have continued to allow current residents who smoke to continue to do so, but only in designated areas and only until lease renewal or a date established by the PHA. Some PHAs are prohibiting smoking for new residents. According to a state-funded anti-smoking group, the Smoke-Free Environment Law Project of the Center for Social Gerontology, there are over 112 PHAs and housing commissions across the country that have implemented non-smoking policies. PHAs should consult with their resident boards before adopting non-smoking policies at their projects.

5. **PHA Plans**. PHAs opting to implement a non-smoking policy should update their PHA plans. According to 24 CFR 903.7(e), their plan must include their statement of operation and management and the rules and standards that will apply to their projects when the PHA implements their non-smoking policy. PHAs are encouraged to revise their lease agreements to include the non-smoking provisions. If PHAs institute non-smoking policies, they should ensure that there is consistent application among all projects and buildings in their housing inventory in which non-smoking policies are being implemented.

6. **Indoor Air Quality (IAQ)**. According to the U.S. Green Building Council (USGBC), toxin-free building materials used in green buildings help combat indoor air pollution. Good IAQ includes minimizing indoor pollutants. As discussed above, ETS is known to be an indoor air pollutant; as a result it would be difficult for a PHA to achieve good IAQ in its buildings if residents are allowed to smoke, especially indoors. During construction or renovation of projects, PHAs should consider actions such as installing direct vent combustion equipment and fireplaces; providing for optimal, controlled, filtered ventilation and air sealing between living areas and garage or mechanical areas, and the use of paints and other materials that emit no or low levels of volatile chemicals (volatile organic compounds or VOCs). Since 65 percent of the public housing inventory was built prior to 1970, it would be hard for a PHA to implement retrofits that could improve IAQ significantly, unless renovation was scheduled. Also, if a PHA does conduct renovations to improve IAQ without also implementing a non-smoking policy, the IAQ benefits of the renovation would not be fully realized. A non-smoking policy is an excellent approach for those PHAs that are trying to achieve improved IAQ without the retrofit costs.

7. Maintenance. It is well known that turnover costs are increased when apartments are vacated by smokers. Additional paint to cover smoke stains, cleaning of the ducts, replacing stained window blinds, or replacing carpets that have been damaged by cigarettes can increase the cost to make a unit occupant ready. View the Sanford Maine Housing Authority case study at <http://www.smokefreeforme.org/landlord.php?page=Save+Money%2C%3Cbr%3ESave+Your+Building>.

8. Smoking Cessation National Support. Because tobacco smoking is an addictive behavior, PHAs that implement non-smoking policies should provide residents with information on local smoking cessation resources and programs. Local and state health departments are sources of information on smoking cessation; see the American Lung Association's (ALA's) Web page on State Tobacco Cessation Coverage www.lungusa2.org/cessation2 for information on cessation programs, both public and private, in all States and the District of Columbia. The National Cancer Institute's Smoking Quit Line can be called toll-free at 877-44U-QUIT (877-448-7848). Hearing- or speech-challenged individuals may access this number through TTY by calling the toll-free Federal Relay Service at 800-877-8339. PHAs that implement non-smoking policies should similarly be persistent in their efforts to support smoking cessation programs for residents, adapting their efforts as needed to local conditions.

9. Further Information For further information related to this notice, please contact Dina Elani, Director, Office of Public Housing Management and Occupancy Division at (202) 402-2071.

/s/

Sandra B. Henriquez
Assistant Secretary for Public and Indian
Housing

/s/

Jon L. Gant,
Director, Office of Healthy Homes and
Lead Hazard Control

Guidelines for Tenants Addressing a Drifting Smoke Issue

Are you experiencing drifting smoke or secondhand smoke, coming into your home from another apartment or outside area? There are several steps that are recommended for tenants. It is always best to resolve the problem in the simplest way possible.



Clarify your goals

Your main goal is clear—you want to, and have a right to, breathe smoke-free air. It will be helpful if you have some specific ideas about how you want the problem resolved.

Do your homework

Learn about the health impacts of secondhand smoke exposure and the benefits of a smoke-free apartment, and why smoke-free air is a benefit for tenants, landlords, and building owners alike.

Read your lease or agreement. Most leases contain language about the enjoyment of quiet and safe premises, implied warranty of habitability, nuisance, and rules about noise and other potential nuisances. Secondhand smoke is considered a nuisance.

Check the local ordinance laws that [regulate or prohibit smoking](#) in multi-unit housing. Even if there isn't currently a law in your area, there may be efforts underway to [track complaints about drifting smoke in housing](#), and to encourage landlords to make their buildings smoke-free.

Learn about applicable housing, tenants' rights, and disability laws. Contact tenant and housing rights organizations and local bar associations to learn if any local or state laws apply to your situation, especially if you have a health condition that is impacted by the secondhand smoke exposure.

Try to resolve the situation amicably

Talk to the smoker. Approach the situation positively. Roughly 80% of smokers report that they want to quit, and only 20% are successful. Most smokers want to do the right thing but may not realize the negative impact they are having on their neighbors. So, begin with the assumption that your neighbor and manager are interested in your health and well-being. Take a friendly, educational approach. Let the neighbor know that you are experiencing difficulty from their secondhand smoke, and that you are concerned about your health. Let them know that you are flexible and interested in working out a mutually satisfying solution. If you can identify who is creating the smoke, let them know that it is drifting into your apartment, that you are concerned about the possible health effects, and gently request that they take their smoking outdoors to a designated place away from the building.

Find allies. You may not be the only one affected by secondhand smoke in your apartment or condominium complex. Other tenants may be willing and interested in joining with you to find a solution. Find out if any of the other tenants have health problems that make them particularly susceptible to the hazards of secondhand smoke. When discussing the problem of seeping secondhand smoke with the landlord, owner, or management association, you are likely to have greater success with

many voices instead of one. As if fellow residents are willing to sign a petition, co-sign a letter, or even help host a meeting for all residents and management in support of making the building smokefree.

Other good allies may include voluntary health groups such as the [American Cancer Society](#), the [American Lung Association](#), and the [American Heart Association](#), [local tobacco control coalition](#) or [asthma coalition](#), and your [local health department](#).

Talk to your landlord. We recommend discussing the issue with your landlord. Don't assume that your neighbors or your landlord know much about the health effects of secondhand smoke. They don't live in your apartment and will not know about the problem unless you mention it to them. Ask them about any smoking policies in your building and request that they speak to your neighbor about the issue. Your landlord may not be aware that if there is an anti smoking ordinance affecting the property there may be certain landlord responsibilities included in the ordinance. These responsibilities usually include the responsibility to provide proper signage. If you do not know if there is a local anti smoking ordinance in your area, contact the Sonoma County Department of Health Services 707-565-6680 for more information.

Write a letter to your landlord. It is crucial to document all actions you take to address this problem. The landlord may be able to use your letter to explain to the smoker why your neighbor needs to change his or her behavior. Tell the landlord details about how the smoke affects you and is harmful to your health. Ask him or her for a specific solution, such as having the smoker go outside to smoke, making modifications to the apartment (if those would assist with the problem), or allowing you to change units to be away from the smoke. Keep a copy of this letter.

Federal and State Fair Housing Laws give disabled persons the right to a reasonable accommodation in the policies and practices of the Landlord or Management company. The accommodation must be reasonable and the needed for the accommodation must be related to disabling condition which is negatively affected by the secondhand smoke. An accommodation could include allowing you to move to another unit in the same complex that will be away from second hand smoke. See the Changelab Solutions document titled "[How Disability Laws Can Help Tenants Suffering from Drifting Tobacco Smoke](#)" for more information.

Get a note from your doctor and keep documentation. A letter from your physician lends credibility to your complaint that you are being negatively impacted by drifting secondhand smoke. It will also support a reasonable accommodation claim. If your first informal complaint to management is not addressed to your satisfaction, send a formal complaint, together with your physician's letter, both to the property owner and the offending neighbor. Again, indicate that you wish to resolve the situation amicably.

Document the situation. Write down what a typical day in your apartment is like regarding the secondhand smoke exposure. Many people state "the smoking is happening around the clock" or something similar, but it's helpful to be more specific. How many times a day does your neighbor smoke? What does this specifically look, feel, and smell like? Where do you think the smoke is coming from? What time of day you notice it? What does it smell like? What physical reactions do you or your family members have to the smoke? It is also important to write down the steps you took to resolve the situation. For example, write down when you spoke to your landlord, if the landlord sent a reminder letter to tenants smoke only in specific areas, etc. You can further document the situation through witnesses who may have been present and noticed the smoke, provided they are willing to come forward on your behalf.

Contact the County of Sonoma Department of Health Services. (preventioninfo@sonoma-county.org or (707) 565-6680) We are here to promote the health and well-being of the community. While we cannot force anyone to change their behavior, we can offer guidance and support that considers state laws as well as ordinances in effect for your area. Where there are no local ordinances protecting residents living in multiunit housing, you may want to consider contacting you local elected officials to discuss your interest/concerns.

Enforcement

Each city or county has different enforcement procedures. Most require that the above steps be considered and/or followed in order to request that an enforcement department be involved. Enforcement may occur through county officials, or the fire department, or city officials. Most will ask to see the documentation and any documents that have been gathered. Check [local ordinances laws](#) to see what the enforcement steps are for your city.

For those considering legal action: in certain circumstances individuals may choose to seek legal assistance. The County of Sonoma cannot provide legal advice or assistance. For help in locating an attorney, local resources include:

- Sonoma County Bar Association Lawyer Referral Service, (707) 546-5297
- Sonoma County Legal Services Foundation, (707) 546-2924

There are also various sources of free legal assistance in Sonoma County for those meeting income eligibility requirements, these include:

- California Rural Legal Assistance, (707) 528-9941
- Sonoma County Fair Housing, (707) 765-8488

ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA ROSA AMENDING
CHAPTER 9-20 OF THE SANTA ROSA CITY CODE PROHIBITING SMOKING IN AND
AROUND WORKPLACES, PUBLIC PLACES, AND PRIVATE PLACES – FILE NUMBER
ST14-004

THE PEOPLE OF THE CITY OF SANTA ROSA DO ENACT AS FOLLOWS:

Section 1. Chapter 9-20 of the Santa Rosa City Code is amended in its entirety to read as follows:

**“Chapter 9-20
Smoking Regulations**

9-20.010 Findings.

- (A) Second hand smoke has been repeatedly identified as a health hazard; and
- (B) There is no Constitutional right to smoke; and
- (C) The U.S. Surgeon General found there is no risk-free level of exposure to secondhand smoke. Separating smokers from nonsmokers, cleaning the air, and ventilating buildings cannot eliminate exposures of nonsmokers to secondhand smoke; and
- (D) The California Air Resources Board placed secondhand smoke in the same category as the most toxic automotive and industrial air pollutants by categorizing it as a toxic air contaminant for which there is no safe level of exposure; and
- (E) The California Environmental Protection Agency included secondhand smoke on the Proposition 65 list of chemicals known to the State of California to cause cancer, birth defects, and other reproductive harm; and
- (F) Exposure to secondhand smoke anywhere has negative health impacts, and exposure to secondhand smoke occurs at significant levels outdoors, as evidenced by the following:
 - (1) Levels of secondhand smoke exposure outdoors can reach levels attained indoors depending on the direction and amount of wind and number and proximity of smokers; and
 - (2) Smoking cigarettes near building entryways can increase air pollution levels by more than two times as compared with background levels, with maximum levels reaching the “hazardous” range on the U.S. EPA’s Air Quality Index; and
 - (3) According to a study, a person may have to move nearly 23 feet away from the source of the smoke to be completely free from exposure to secondhand smoke in outdoor places; and
- (G) Studies document that secondhand smoke transfers between attached units within a building and increases chemical contamination levels within nonsmoking units; and
- (H) Cigarette butts are a major and persistent source of litter, do not biodegrade, and are often cast onto sidewalks and streets, frequently ending up in storm drains that flow into creeks, rivers, and ultimately the ocean; and
- (I) Studies on electronic cigarettes’ vapor emissions and cartridge contents have found a number of dangerous substances including chemicals known to the State of California to cause cancer such as formaldehyde, acetaldehyde, lead, nickel, and chromium. Additional

substances include PM_{2.5}, acrolein, tin, toluene, and aluminum which are associated with a range of negative health effects such as skin, eye, and respiratory irritation, neurological effects, damage to reproductive systems, and even premature death from heart attacks and strokes.

(J) The U.S. Surgeon General found evidence that at high-enough doses nicotine has acute toxicity. In addition, nicotine exposure during fetal development, a critical window for brain development, has lasting adverse consequences for brain development, nicotine adversely affects maternal and fetal health during pregnancy, contributing to multiple adverse outcomes such as preterm delivery and stillbirth, and nicotine exposure during adolescence, a critical window for brain development, may have lasting adverse consequences for brain development.

(K) Several studies have concluded that vapor from electronic cigarettes may cause passive or secondhand inhalation of vapor by surrounding people; and

(L) There are no studies that prove that inhalation of vapor from an electronic cigarettes is not harmful to health, and the long-term health risks of the use of electronic cigarettes on device users and surrounding people remain unknown; and

(M) It is in the interest of the City of Santa Rosa to ensure that people living and working in Santa Rosa, and people visiting Santa Rosa, have the opportunity to experience a smoke-free and vapor-free environment if they desire.

9-20.020 Intent.

(A) To protect the public health, safety and general welfare by providing a smoke-free and vapor-free environment in public and private places where nonsmokers may be exposed to secondhand smoke and vapor; and

(B) To protect the public health, safety and general welfare; and

(C) To guarantee the right of nonsmokers to breathe smoke-free and vapor-free air, and to recognize that the need to breathe smoke-free and vapor-free air has priority over the desire to smoke or use vapor products.

9-20.030 Definitions.

The following words and phrases, whenever used in this Chapter, shall be construed as defined in this section:

“Business” means any sole proprietorship, partnership, joint venture, corporation, association, or other entity formed for profit-making purposes or that has an employee, as defined in this section.

"Common area" means every enclosed area or unenclosed area of a multifamily residence that residents of more than one (1) unit of that multifamily residence are entitled to enter or use, including but not limited to halls, paths, lobbies, courtyards, elevators, stairwells, community rooms, playgrounds, gym facilities, swimming pools, parking garages, parking lots, shared restrooms, shared laundry rooms, common cooking areas and shared eating areas.

"Designated smoking area" means a designated portion of an unenclosed area where smoking may be allowed. The smoking area must meet all of the following criteria:

(A) Must be located at least 25 feet in any direction from any operable doorway, window, vent or other opening into an enclosed area;

(B) Must be located at least 25 feet from unenclosed recreational areas that are primarily used by children;

(C) Must be located at least 25 feet from unenclosed areas that have improvements that facilitate physical activity including playgrounds, tennis courts, swimming pools, walking paths and sports fields;

(D) Must be clearly identified by conspicuous signs, and have ash receptacles, such as ash trays or ash cans, within the area for proper disposal of smoking waste.

“Dining area” means any area available to or customarily used by the general public, which is designed, established, or regularly used for consuming food or drink.

"Electronic smoking device" means an electronic and/or battery-operated device, the use of which may resemble smoking, which can be used to deliver an inhaled dose of nicotine or other substances. "Electronic smoking device" includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor. "Electronic smoking device" does not include any product specifically approved by the United States Food and Drug Administration for the use in the mitigation, treatment, or prevention of disease.

“Employee” means any person who is employed by any employer or hired as an independent contractor in consideration for direct or indirect monetary wages or profit, and any person who volunteers his or her services for a nonprofit entity.

“Employer” means any person, partnership, corporation or nonprofit entity, including a municipal corporation, who employs the services of one or more persons.

"Enclosed area" means all space between a floor and ceiling where the space is closed in on all sides by solid walls or windows that extend from the floor to the ceiling. An enclosed area may have openings for ingress and egress, such as doorways or passageways.

"Existing unit" means any unit that is not a new unit.

"Landlord" means any person who owns property rented for residential use, any person who lets residential property, and any person who manages such property, except that "Landlord" does not include a master tenant who sublets a unit as long as the master tenant sublets only a single unit of a multifamily residence.

"Multifamily residence" for purposes of this chapter means residential property containing two or more units with one or more shared walls, floors or ceilings, including but not limited to apartments, residential cooperatives, residential condominiums, duplexes, and other attached housing. "Multifamily residence" does not include:

- (1) A hotel or motel;
- (2) A mobile home park;
- (3) A campground;
- (4) A single family detached residence;
- (5) A single-family home with an attached or detached second dwelling unit as defined by Government Code Section 65852.2 when permitted pursuant to local ordinance and/or applicable state law;

- (6) Residential care facilities for seniors licensed by the State of California.

"New unit" means a multifamily residence that is issued a certificate of occupancy or final inspection on or after October 6, 2015, and also a unit that is leased or rented for the first time on or after October 6, 2015.

“Nonprofit entity” means any corporation, unincorporated association or other entity created for charitable, educational, political, social or other similar purposes, the net proceeds from the operations of which are committed to the promotion of the objects or purposes of the

organization and not to private financial gain. A public agency is not a “nonprofit entity” within the meaning of this section.

“Parks and recreational areas” means properties and areas owned or operated by the City and open to the general public for recreational purposes, including parks, gardens, playgrounds, picnic and barbeque areas, sporting facilities, including but not limited to bleachers, dugouts, ball fields, sport courts, golf courses, swimming pools, and nature trails for walking, running, and biking. The entire property, including parking areas, is included in this definition.

“Place of employment” means any area under the control of an employer that an employee or the public may have cause to enter in the normal course of operations, regardless of the hours of operation. Places of employment include, but are not limited to, indoor work areas, bars, restaurants, at least seventy-five percent (75%) of the guest rooms in any hotel and motel, vehicles used for business purposes, taxis, employee lounges and break rooms, conference and banquet rooms, bingo and gaming facilities, long-term health care facilities, warehouses, retail or wholesale tobacco shops, and private residences used as licensed child care or health care facilities when employees, children or patients are present during business hours. The places specified in subdivisions (d)(1)-(8), (12)-(14) of the Labor Code section 6404.5 are places of employment for purposes of this division and are regulated as specified in this chapter. The places specified in subdivision (d)(9)-(11) of the Labor Code are not places of employment for purposes of this chapter.

“Playground” means any park or recreational area designed in part to be used by children that has play or sports equipment installed or has been designated or landscaped for play or sports activities, or any similar facility located on public or private school property, or on City property.

“Public place” means any area in which the public is invited or in which the public is permitted, including, but not limited to: places of employment, banks, educational facilities, health facilities, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail stores, theaters and waiting rooms.

“Reasonable distance” means a distance that ensures that occupants of an area in which smoking is prohibited are not exposed to secondhand smoke created by smokers outside the area. This distance shall be a minimum of 25 feet.

“Residential care facility” means housing for seniors licensed by the State Health and Welfare Agency, Department of Social Services, typically for residents who are frail and need supervision. Services normally include three meals daily, housekeeping, security and emergency response, a full activities program, supervision in the dispensing of medicine, personal services such as assistance in grooming and bathing, but no nursing care.

“Restaurant” means any coffee shop, cafeteria, tavern, sandwich stand, soda fountain, private or public school cafeteria, and any other eating establishment, organization, club, boardinghouse or guest house, which gives or offers food for sale to the public, guests, patrons, members or employees.

“Retail tobacco store” means a retail store utilized primarily for the sale of tobacco products and accessories.

“Self-service display” means the open display of tobacco products or tobacco paraphernalia in a manner that is accessible to the general public without the assistance of the retailer or employee of the retailer.

“Service area” means any publicly or privately owned area, including streets and sidewalks, that is designed to be used or is regularly used by one or more persons to wait for or

receive a service or make a transaction, whether or not such service or transaction involves the exchange of money, such as but not limited to ATM lines, outdoor food vending, movie theater lines, and taxi cab stands. The term "service area" includes all bus stops and other transit facilities.

"Smoke" means the gases, particles, or vapors released into the air as a result of combustion, electrical ignition or vaporization, when the apparent or usual purpose of the combustion, electrical ignition or vaporization is human consumption of the byproducts. The term "smoke" includes, but is not limited to, tobacco smoke and vapors from electronic smoking device paraphernalia. "Smoke" does not include the byproducts of any device or product that has been approved for therapeutic purposes by the U.S. Food and Drug Administration (FDA).

"Smoking" means igniting, inhaling, exhaling, burning, vaping, operating, or carrying any lighted cigar, cigarette, pipe, hookah, electronic smoking device, tobacco product, or any other combustible substance including marijuana.

"Sports arena" means sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar places where members of the public assemble to engage in physical exercise, participate in athletic competition, or witness sports events.

"Tobacco paraphernalia" means cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other item designed for the smoking or ingestion of tobacco products.

"Tobacco product" means any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, bidis, or any other preparation of tobacco. Also includes any product or formulation of matter containing biologically active amounts of nicotine or synthetic nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, including but not limited to electronic smoking devices.

"Tobacco retailer" means any person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, tobacco products, or tobacco paraphernalia.

"Tobacco retailing" shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco, tobacco products, or tobacco paraphernalia sold, offered for sale, exchanged, or offered for exchange.

"Unenclosed area" means any area that is not an enclosed area.

"Unit" for the purpose of this chapter means a residential personal dwelling space, even where lacking cooking facilities or private plumbing facilities, and includes any associated exclusive use enclosed area or unenclosed area, such as, for example, a private balcony, porch, deck, or patio.

"Vending machine" means any electronic or mechanical device or appliance, the operation of which depends upon insertion of money, whether in coin or in paper bill, or other thing representative of value, which dispenses or releases tobacco products and/or tobacco accessories.

9-20.040 Prohibition of smoking in enclosed nonresidential places.

(A) Smoking shall be prohibited in the following places within the City except as provided in Section 9-20.080 of this chapter, and except in such places in which smoking is already prohibited by State or federal law in which case the State or federal law applies.

(1) All areas available to and customarily used by the general public and all businesses patronized by the public, including but not limited to, places of employment, retail stores, hotels and motels, pharmacies, banks, restaurants, offices, and all areas in enclosed shopping malls inside and outside of retail stores;

(2) Waiting rooms, hallways, wards, and rooms of health facilities, including but not limited to, hospitals, clinics, physical therapy facilities, doctors' offices and dentists' offices;

(3) Elevators, public restrooms, indoor service lines, buses, taxi cabs, and other means of public transit under the authority of the City and in ticket, boarding and waiting areas of public transit;

(4) Museums and galleries;

(5) Sports arenas and convention halls;

(6) Retail food establishments, including grocery stores;

(7) Restaurants;

(8) All places of employment.

(B) Smoking shall be prohibited within a reasonable distance (minimum of 25 feet), as defined in this chapter, from any main entrance into an area in which smoking is prohibited except while actively passing on the way to another destination and without entering or crossing any area in which smoking is prohibited.

(C) Notwithstanding any other provision of this chapter, any owner, operator, manager or other person who controls any property may prohibit smoking within the entire property, or any portion of the entire property.

(D) Notwithstanding any other provision of this chapter, electronic smoking devices may be used within existing retail tobacco stores for product sampling. New retail tobacco stores may allow use of electronic smoking devices for product sampling provided that the new store is in a freestanding building that does not share walls, floors, or ceilings with other tenant spaces. All retail tobacco stores shall post signs prohibiting people under 18 years of age from entering the establishment.

9-20.050 Prohibition of smoking in unenclosed nonresidential places.

(A) Smoking shall be prohibited in the following unenclosed places within the City except in such places in which smoking is already prohibited by State or federal law in which case the State or federal law applies:

(1) Parks and recreational areas, as defined in Section 9-20.030. Smoking may be allowed in designated smoking areas as authorized by the City Manager.

(2) Dining areas, subject to special permit exception as set forth in subsection (C) of this section.

(3) Old Courthouse Square, including any of the grass, fountain and seating areas located within the public square commonly known within the City as "Old Courthouse Square" located between Fourth Street on the northern boundary and Third Street on the southern boundary.

(4) Comstock Mall, consisting of pedestrian ways between the City's parking garage located on D Street, on the eastern boundary, Santa Rosa Avenue on the western boundary, First Street on the southern boundary and Third Street on the northern boundary, including but not limited to any fountains or benches within that area.

(5) The pedestrian walk way running north-south, between Fourth Street, on the southern boundary, and the Fifth Street public parking lot, on the northern boundary, named by the City as "Jeju Way."

(6) The City's downtown transit mall located between B Street on the western boundary and Santa Rosa Avenue on the eastern boundary.

(7) The City's Westside Transfer Station located on the corner of Marlow Road and College Avenue.

(B) Smoking shall be prohibited within a reasonable distance (minimum of 25 feet), as defined in this chapter, from any area in which smoking is prohibited except while actively passing on the way to another destination and without entering or crossing any area in which smoking is prohibited.

(C) With respect to privately owned unenclosed dining areas only, to the extent that smoking is not otherwise prohibited by State or federal law, the owner or operator of any such area may apply to the City for a one-day special event permit to allow for any event of which the use of tobacco products is an integral part.

9-20.060 Prohibition of smoking on and in City owned property

(A) Smoking shall be prohibited in all vehicles owned, leased or operated by the City. Smoking shall be prohibited in all enclosed areas owned, leased or operated by the City. Smoking shall be prohibited in all unenclosed areas owned by the City. Smoking may be allowed in designated smoking areas as authorized by the City Manager.

(B) The prohibition of smoking on and in public property does not apply to streets, alleys, and abutting sidewalks, except that smoking shall be prohibited within a reasonable distance (minimum of 25 feet) from any area in which smoking is prohibited except while actively passing on the way to another destination and without entering or crossing any area in which smoking is prohibited.

9-20.070 Prohibition of smoking in multifamily residences

(A) Smoking is prohibited in any new unit of a multifamily residence.

(B) Except as otherwise expressly provided herein, beginning August 7, 2016, smoking is prohibited in any existing unit of a multifamily residence.

(C) Beginning on October 6, 2015, smoking is prohibited in all common areas, except that a person with legal control over a common area, such as a landlord or homeowners' association, may designate a portion of the common area as a designated smoking area provided that at all times the designated smoking area complies with subsection (D) below.

(D) A designated smoking area shall comply with the requirements of Section 9.20-030. In addition, designated smoking areas for multifamily residential properties shall be located at least 25 feet from all perimeter property lines abutting residential to minimize the impacts of outdoor smoking on adjacent property owners; and

(E) No person with legal control over a common area in which smoking is prohibited by this article or other law shall knowingly permit the presence of ash trays, ash cans, or other receptacles designed for or primarily used for disposal of smoking waste within the area.

(F) Notwithstanding any other provision of this chapter, use of an electronic smoking device in a multifamily residence by a qualified medical cannabis patient as defined in California Health and Safety Code Section 11362.7 et. seq, as amended, is not prohibited by this ordinance.

(G) Notwithstanding any other provision of this chapter, use of electronic smoking devices is allowed in the outdoor common areas of attached multifamily residential developments provided that use of electronic smoking devices is prohibited (1) within a

reasonable distance from enclosed areas where smoking is prohibited, such as residential buildings, (2) within 25 feet of unenclosed recreational areas that are primarily used by children, and (3) within 25 feet of unenclosed areas that have improvements that facilitate physical activity including playgrounds, tennis courts, swimming pools, and sports fields.

9-20.080 Landlord compliance with smoking prohibition in multifamily residences

(A) Every landlord of a multifamily residence, as defined in this chapter, in order to demonstrate compliance with the applicable provisions in this chapter, shall at a minimum include in every lease or rental agreement for a multifamily residence a provision prohibiting any smoking within any such unit, including any exclusive use areas such as patios, balconies and porches, as well as in common areas and on the property as a whole, except in a designated smoking area consistent with this chapter. Such provision, which may be incorporated by amendment to house rules applicable to the property, shall (1) state that any violation of the smoking prohibition by, through or under the control of tenant be construed as a material breach of the lease or rental agreement, and (2) be included in any rental or lease agreement at the soonest date possible, but in no event later than August 7, 2016 for those multi-family units already in existence and occupied pursuant to a lease other than a month-to-month lease as of the effective date of the ordinance. Multifamily residences rented or leased on a month-to-month basis, and owner-occupied multifamily residences, shall be converted to nonsmoking at the soonest date possible, and no later than 60 days from the effective date of this ordinance.

(B) Compliance with the requirement set forth in (A) above shall not excuse the landlord of a multi-family unit from taking appropriate steps to ensure tenant compliance with this chapter. Landlord shall be prepared to respond to and address complaints from other tenants on the property of violations of the smoking prohibitions.

(C) For purposes of this section, appropriate steps shall include the following:

(1) Posting signs in compliance with the requirements of this chapter.

(2) Sending every tenant written information on an annual basis for the first three years following the adoption of this ordinance about the requirements of this chapter, to include no smoking requirements and the location, if any, of a designated smoking area on the property.

(3) Notifying each tenant who is the subject of a smoking complaint of the requirements of this chapter as well as the fact that a complaint was lodged against the tenant and encouraging compliance.

(D) So long as Landlord can demonstrate that it has implemented all of the appropriate steps towards compliance with this ordinance, Landlord shall not be found in violation of the ordinance.

9-20.090 Places where smoking is permitted.

Notwithstanding any other section of this chapter, smoking is permitted in the following locations within the City, unless otherwise provided by state or federal law, in which case state or federal law applies:

(A) Private residential property developed and occupied with single family detached housing, unless said residential property is used as a child care or a health facility. Nothing in this chapter shall require a person or entity who or which owns or controls a private residential property, including but not limited to a condominium association or homeowners' association to permit smoking and such a person may choose to prohibit smoking throughout the property he, she or it owns or controls.

(B) In up to 25 percent of guest rooms in any hotel or motel, if the hotel or motel permanently designates at least 75 percent of its guest rooms as nonsmoking rooms, appropriately signs nonsmoking rooms and permanently removes ashtrays and matches from them. Smoking rooms shall be segregated from nonsmoking rooms and not interspersed. Nothing in this ordinance shall require a hotel or motel to provide smoking rooms and the owner or operator of a hotel or motel may choose to prohibit smoking throughout the property or choose to designate more than 75 percent of guest rooms as nonsmoking.

(C) In designated smoking areas that meet the definition contained in Section 9-20.030 or otherwise expressly permitted in this ordinance.

9-20.100 Duty of employer, business, or nonprofit entity.

(A) No employer, business, or nonprofit entity shall knowingly or intentionally permit the smoking of tobacco products in an area which is under the employer's, business's, or nonprofit entity's control and in which smoking is prohibited.

(B) No employer, business, or nonprofit entity shall knowingly or intentionally permit the presence or placement of ash receptacles, such as, without limitation, ash trays or ash cans, within an area which is under the employer's, business's, or nonprofit entity's control and in which smoking is prohibited, including, without limitation, inside the perimeter of any reasonable smoking distance required by this chapter.

(C) Notwithstanding any other provision of this chapter, any employer, business, nonprofit entity, or other person who controls any area may declare that any part of such area in which smoking would otherwise be permitted is a nonsmoking area.

9-20.110 Tobacco self-service displays and tobacco samples prohibited.

(A) Tobacco Retailer shall post plainly visible signs at each point of purchase of tobacco products which state "THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER 18 YEARS OF AGE IS PROHIBITED BY LAW AND SUBJECT TO PENALTIES. VALID IDENTIFICATION MAY BE REQUIRED TO PURCHASE TOBACCO." The letters of these signs shall be at least one quarter inch high. Notwithstanding the foregoing, any sign or posting in compliance with Title 17, Section 6902(a) of the California Code of Regulations shall also be deemed to be in compliance with this section.

(B) It is unlawful for any person to display tobacco products or tobacco paraphernalia by means of a self-service display or to engage in tobacco retailing by means of a self-service display. Tobacco retailing by means of a vending machine is prohibited by this section.

(C) No person shall knowingly distribute or furnish without charge, or cause to be furnished without charge to the general public, cigarettes or other tobacco products, at any event open to the public, or in any public place including but not limited to, any right-of-way, mall or shopping center, park, playground and any other district, or any park district, except in retail tobacco stores.

9-20.120 Retaliation prohibited.

No person or employer shall discharge, refuse to hire, or in any manner, retaliate against any employee or applicant for employment because such employee or applicant exercises any rights afforded by this chapter.

9-20.130 Posting of signs.

(A) "Smoking" or "No Smoking" signs, whichever are appropriate, with letters of not

less than one inch in height, or the international “No Smoking” symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly, sufficiently and conspicuously posted in or outside of every building or other place where smoking is controlled by this chapter, by the owner, operator, manager or other person having control of such building or other place. Signs are not required inside the units of multifamily residences including private use areas. When a sign is posted on the exterior of a building to indicate no smoking, it shall include the distance limitations contained in this chapter.

(B) Every theater owner, manager or operator shall conspicuously post signs in the lobby stating that smoking is prohibited within the theater or auditorium, and in the case of motion picture theaters, such information shall be shown upon the screen for at least five seconds prior to the showing of each feature motion picture.

9-20.140 Interpretation.

This chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

9-20.150 Violations, penalties and enforcement.

(A) It is unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to the regulation under this chapter to fail to comply with its provisions.

(B) It is unlawful for any person to smoke in any area restricted by the provisions of this chapter.

(C) Any person who violates any provision of this chapter shall be guilty of an infraction, punishable by:

(1) A fine not exceeding \$100, for first violation;

(2) A fine not exceeding \$250, for a second violation of this chapter within one year;

(3) A fine not exceeding \$500, for each additional violation of this chapter within one year.

(4) Any peace officer shall have the authority to enforce the provisions of this chapter. Punishment under this chapter shall not preclude punishment pursuant to any provision of law proscribing the act of littering.

(D) Misdemeanors. Any person who violates any provision of this article in excess of three (3) times within one (1) year shall be deemed guilty of a misdemeanor.

(E) Each day that a violation of this article continues shall constitute a separate violation of this article.

(F) In addition to other remedies provided by this article or by other law, any violation of this article may be remedied by a civil action brought by the City, including, for example, administrative or judicial nuisance abatement proceedings, civil or criminal code enforcement proceedings, and suits for injunctive relief. In any such action, the City may seek reimbursement for the costs of any investigation, inspection or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and bringing administrative action under this article. The foregoing remedy shall be deemed nonexclusive, cumulative and in addition to any other remedy the City may have at law or in equity, including but not limited to injunctive relief to prevent violations of this article.

(G) Any owner, manager, operator or employer of any establishment controlled by this chapter shall have the right to inform persons violating this chapter of the appropriate

provisions thereof.

9-20.160 Secondhand smoke – declaration of nuisance

Secondhand smoke constitutes a nuisance. Notwithstanding any other provisions of this chapter, a private citizen may bring a legal action to abate secondhand smoke as a nuisance. Emissions from electronic smoking devices are not considered a nuisance for the purposes of this declaration.

9-20.170 Statutory severability

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The City Council hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unenforceable.”

Section 2. Environmental Determination. The Council finds that the adoption and implementation of this ordinance are exempt from the provisions of the California Environmental Quality Act pursuant to CEQA Guidelines section 15062(c)(2) in that the Council finds there is no foreseeable possibility that the implementation of this ordinance may have a significant effect on the environment.

Section 3. Effective Date. This ordinance shall take effect on the 31st day following its adoption.

This ordinance was introduced by the Council of the City of Santa Rosa on June 30, 2015.

IN COUNCIL DULY PASSED AND ADOPTED this _____ day of _____, 2015.

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: _____
City Clerk

APPROVED: _____
Mayor

APPROVED AS TO FORM:

City Attorney