



- (b) “Electronic cigarette” means any electronic device that provides a vapor of liquid nicotine and/or other substances to the user as he/she simulates smoking. The term shall include such devices whether they are manufactured or referred to as e-cigarettes, e-cigars, e-pipes or under any product name.
- (c) “Hookah” means glass or metal waterpipes shaped somewhat like a bottle with long, flexible hoses with tips that people put into their mouths to inhale tobacco smoke.
- (d) “Plant Product” includes medical marijuana. Smoking marijuana by registered medical marijuana users is prohibited by the provisions of this Rule.

### **Policy Provisions**

1. Smoking is prohibited everywhere on the property at \_\_\_\_\_ including, but not limited to, the individual units and all indoor and outdoor common areas. ***[If you choose to provide an outdoor smoking area or area(s), specify location(s) here.]***  
***[Purpose: to establish the area of the property where the policy applies.]***
2. No owner shall smoke or permit smoking by any owner, occupant, agent, tenant, contract worker, household worker, guest, friend or family member.  
***[Purpose: to identify those parties to whom the policy applies.]***
3. Smoking in violation of this policy shall constitute a nuisance, pursuant to the governing documents of the Association.  
***[Purpose: to establish intrusion of secondhand smoke as a nuisance and to assist with actions against other occupants or against the Board.]***
4. All owners are required by law to provide to prospective buyers of their units a Resale Disclosure Certificate, in the statutorily prescribed form, together with the Association’s Articles of Incorporation, Bylaws, Declaration, Rules and Regulations, current budget and current financial statements. The Resale Disclosure Certificate must include a description of the smoking prohibition and a reference to the smoke-free policy. Owners selling their units must advise their real estate agents and prospective buyers of the smoking prohibition prior to the time that a purchase agreement for the unit is entered into.  
***[Purpose: to require disclosure of smoking policy in resale documents.]***
5. Any owner who rents, leases or otherwise allows someone other than the owner to reside within or occupy the unit shall disclose to all persons who reside within the unit that smoking is prohibited at \_\_\_\_\_.  
***[Purpose: to require disclosure of smoke-free policy to renters or other occupants of units.]***
6. The Board shall have the authority and power to enact rules and regulations which it deems necessary to enforce this policy, including a schedule of fines which may be imposed after notice and a hearing.  
***[Purpose: to reinforce the ability of the Board to enact rules and regulations to assist with implementation and enforcement of smoke-free policy.]***

7. This policy may be enforced in a court of law by any resident or the Association. If any resident or the Association is required to hire legal counsel to enforce this policy, the resident or the Association shall be entitled to recover attorney's fees and costs incurred, whether or not litigation has been commenced. The Association may collect attorney's fees and costs it incurs through the use of a special assessment levied against the owner of the unit and an assessment lien, if necessary.

***[Purpose: to define treatment of attorney's fees for action to enforce smoke-free policy.]***

***[Optional provision for "grandfathering" current smokers:***

Owners who purchased their units prior to implementation of this policy, and tenants who occupied a unit prior to implementation of this policy, may continue to smoke in their unit until the unit is sold, or for a tenant, until the end of the lease term. Upon termination of a smoking tenant's lease, the smoke-free policy would apply to the new lease, for the existing tenant or for a new tenant. Upon conveyance of title to a unit owned or occupied by a smoker, the unit shall become subject to the smoke-free policy and smoking would not be permitted.]

#### **Enforcement**

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

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<sup>i</sup> U.S. Department of Health and Human Services. The Health Consequences if Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General-Executive Summary, U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Coordinating Center for Health Promotion, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006.

<sup>ii</sup> American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc. ASHRAE Position Document on Environmental Tobacco Smoke. June 25, 2008.