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| **Sample Tobacco/Smoke-Free Multi-Unit Housing****Policies and Procedures** |
| **Title: Tobacco Free Multi-Unit Housing Policy** | **Date Implemented:**  | **Approved by:** |

 **Findings**

WHEREAS, the U.S. Surgeon General has conclusively determined that there is no risk free level of exposure to secondhand smoke; 1 and

WHEREAS, given the proven health risks associated with smoking and breathing secondhand

Smoke, the Board deems it in the best interest of all members of the Association to approve [an amendment to the declaration, or a change to the Rules and Regulations] 4,

which prohibits smoking in all condominium units as well as the [indoor/outdoor] common elements; and

WHEREAS, nothing in federal law, including the Federal Fair Housing Act, prevents the

 imposition of smoking prohibitions in multi-unit dwelling buildings. THEREFORE,

 the Board of adopts the following smoke-free policy:

1. No owner shall smoke, or permit smoking by any occupant, agent, tenant, business invitee, guest, friend or family member.
2. Smoking in violation of this policy shall constitute a nuisance pursuant to the provisions of the governing documents of the Association.
3. 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 copies of 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, and 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.
4. Any owner who rents or 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 \_\_\_\_\_\_\_\_\_\_\_\_\_.
5. 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.

**Definitions**

1. Tobacco- For the purposes of this policy “tobacco” is to include any product containing, made, or derived from tobacco that is intended for human consumptions, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means or any component, part, or accessory of a tobacco products to include but not limited to: any lighted or unlighted cigarette, cigar, pipe, and any other smoking product, and spit tobacco, also known as smokeless, dip, chew, snus, and snuff, in any form including, “e-cigarette” and electronic nicotine devices (ENDs).
2. Smoking/ vaping - means inhaling, exhaling, burning, or carrying any lighted tobacco product, includes cigarettes, cigars, pipe tobacco, or any other lighted combustible plant material.
3. Exemption- Nicotine use: Only FDA approved cessation products are allowed. This includes: nicotine gum, nicotine lozenge, nicotine patch, pharmaceutical nicotine inhaler (this does not include any form of e-products) and nicotine nasal spray.
4. “Business invitee” shall include, but is not limited to, any contractor, agent, household worker, or other person hired by the association, owner, tenant or resident to provide a service or product to the association, owner, tenant or resident.
5. “Common elements” means the entire complex, except for the individual units and limited common elements. Common elements include, but are not limited to, lobbies, recreation or multi-purpose rooms, hallways, laundry rooms, stairs, elevators, swimming pools, barbeque areas, playgrounds, sidewalks, and grass and landscaped areas.
6. “Indoor area” means all space between a floor and a ceiling that is bounded by walls, doorways, or windows, whether open or closed, covering more than 50 percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent.
7. “Limited common element” means a portion of the common elements allocated by the declaration for the exclusive use of one or more, but fewer than all, of the units.

**Enforcement**

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

 By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 MANAGEMENT COMPANY (as agent for Owner)

 Date Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. 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**

The Board of Association adopts the policy below to protect the

residents of from the health risks of exposure to secondhand tobacco

smoke.

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

**Policy Provisions**

Smoking is prohibited everywhere on the property at, including,

but not limited to, the individual units, indoor and outdoor limited common elements, and in all indoor and outdoor common areas.

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 either 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.

 **Resources:**

