

Smoke Free Lease Addendum Model Policy

Note: The purpose of this page is to provide background and guidance. The model lease addendum language appears on pages 2 and 3.

Background:

Attorney Douglas J. Carney, of Hanbery, Neumeyer & Carney, P.A., prepared the initial version of this model lease addendum. He received ongoing advice, consultation, and recommendations from a legal advisory committee that included attorneys who regularly advise property owners and managers, who serve as resident attorneys and advocates, or who advise public housing agencies. Representatives from Center for Energy and Environment and the Association for Nonsmokers-Minnesota were also on the committee. The modification about where smoking is allowed (Section 3) was included by Initiative for Smoke-Free Apartments. The addition of language addressing electronic cigarettes was added by Warren Orland of the Public Health Law Center.

As of June 2012, this version of the smoke free lease addendum is being used by several statewide smoke free housing advocates and property owners in multiple states.

Recommended Use:

Please copy the text from this document and paste it into your own letterhead or contract template. NOTE: You will have to edit any text that appears in ALL CAPS. This document is available as a PDF from www.SmokeFreeHomes.iowa.gov.



Smoke Free Lease Addendum

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

1. Purpose of No Smoking Policy. The parties desire to mitigate (i) the irritation and known health 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 higher costs of fire insurance for a non-smoke free building;

2. Definitions:

Smoking. The term "smoking" means inhaling, exhaling, breathing, or carrying any lighted or heated cigar, cigarette, or other tobacco product or plant product in any manner or in any form. Smoking also includes use of an electronic cigarette.

Electronic Cigarette. The term "electronic cigarette" means any electronic smoking device that provides a vapor of liquid nicotine and/or other substances to the user as she or he 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.

3. Smoke Free Complex. Resident agrees and acknowledges that the premises to be occupied by Resident and members of Resident's household have been designated as a smoke free living environment. Resident and members of Residents' household shall not smoke anywhere in the unit rented by Resident, or the building where the Resident's dwelling is located or in any of the common areas or adjoining grounds of such building or other parts of the rental community, nor shall Resident permit any guests or visitors under the control of Resident to do so. [IF YOU PROVIDE AN OUTDOOR SMOKING AREA, SPECIFY LOCATION HERE.]

4. Resident to Promote No Smoking Policy and to Alert Landlord of Violations. Resident shall inform Resident's guests of the no smoking policy.



Further, Resident shall promptly give Landlord a written statement of any incident where tobacco smoke is migrating into the Resident's unit from sources outside of the Resident's apartment unit.

5. Landlord to Promote No Smoking Policy. Landlord shall post no smoking signs at entrances and exits, common areas, hallways, and in conspicuous places adjoining the grounds of the apartment complex.

6. Landlord Not a Guarantor of Smoke Free Environment. Resident acknowledges that Landlord's adoption of a smoke free living environment, and the efforts to designate the rental complex as smoke free, do not make the Landlord or any of its managing agents the guarantor of Resident's health or of the smoke free condition of the Resident's unit and the common areas. However, Landlord shall take reasonable steps to enforce the smoke free terms of its leases and to make the complex smoke free. Landlord is not required to take steps in response to smoking unless Landlord knows of said smoking or has been given written notice of said smoking.

7. Other Residents are Third-Party Beneficiaries of Resident's Agreement. Resident agrees that the other Residents at the complex are the third-party beneficiaries of Resident's smoke free addendum agreements with Landlord. A Resident may sue another Resident for an injunction to prohibit smoking or for damages, but does not have the right to evict another Resident. Any suit between Residents herein shall not create a presumption that the Landlord breached this Addendum.

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

9. Disclaimer by Landlord. Resident acknowledges that Landlord's adoption of a smoke free living environment and the efforts to designate the rental complex as smoke free do not in any way change the standard of care that the Landlord or managing agent would have to a Resident household to render buildings and premises designated as smoke free any safer, more habitable, or improved in terms of air quality standards than any other rental premises. Landlord



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. Landlord cannot and does not warranty or promise that the rental premises or common areas will be free from secondhand smoke. Resident acknowledges that Landlord's ability to police, monitor, or enforce the agreements of this Addendum is dependent in significant part on voluntary compliance by Resident and Resident's guests. Residents with respiratory ailments, allergies, or any other physical or mental condition relating to smoke are put on notice that Landlord does not assume any higher duty of care to enforce this Addendum than any other landlord obligation under the Lease.

10. Effect on Current Residents. The no smoking policy implementation period will begin as new residents and current residents sign the no smoking lease addendum and will continue until all residents have signed. Residents may be exposed to secondhand smoke during the implementation period, but once all residents have signed the no smoking addendum, the entire [INSERT "building" OR "property" DEPENDING ON THE EXTENT OF THE POLICY] will be smoke free.

Landlord

Resident

