

Smoke-Free and Vape-Free Properties in Maryland: Colleges/Universities, State and County Boards of Education, Hospitals, and Housing

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Dear Fellow Marylander:

Tobacco use remains the leading cause of preventable death in the United States, killing more than 480,000 Americans each year, including 7,500 Marylanders. The CDC estimates that exposure to secondhand smoke results in more than 41,000 deaths each year. Specifically, 7,333 of these annual deaths are from lung cancer and 33,951 are from heart disease.

Boards of Education, institutions of higher education, hospitals, and landlords and homeowner associations, are uniquely positioned to implement and enforce strong policies aimed at limiting or eliminating the use and possession of tobacco products, including electronic smoking devices. Research suggests that smoke-free policies are associated with an increase in tobacco use cessation and tobacco use prevalence.

The Legal Resource Center (LRC) developed this set of Maryland surveys and model policies in collaboration with the Maryland Department of Health (MDH) to educate members of the public as to existing policies relating to tobacco use and possession in wide-ranging environments. It is also intended to assist Boards of Education, hospitals, colleges and universities, and landlords and homeowner associations navigate local and Maryland law and provide technical legal information to empower organizational change.

These resources are not intended to serve as legal advice; you should always confer with your county attorney or Assistant Attorney General on any particular legal questions. If you have any questions about the materials in this guide—or any questions about tobacco regulation—feel free to contact the LRC at (410) 706-0842 or publichealth@law.umaryland.edu.

Very truly yours,

Brooke Torton

Managing Director
Legal Resource Center for Public Health Policy, University of Maryland Francis King Carey School of Law

Clean Indoor Air Act Fact Sheet

What is the Clean Indoor Air Act?

The Maryland [Clean Indoor Air Act](#)¹ (CIAA) passed in 2007 and is intended to “protect the public and employees from involuntary exposure to environmental tobacco smoke in indoor areas.” It prohibits smoking in virtually all indoor workplaces in the state.

What does the Clean Indoor Air Act do?

The CIAA prohibits “smoking” in certain indoor areas in Maryland. “Smoking” is the “burning of a lighted cigarette, cigar, pipe, or any other matter or substance that contains tobacco.”² This does *not* include electronic smoking devices (ESDs) such as vape pens or electronic cigarettes because those products do not contain tobacco, only derivatives of tobacco such as nicotine.

Indoor areas where smoking is prohibited include³:

- Places accessible to the public, including bars and restaurants;
- Meetings open to the public;
- Government owned and/or operated mass transportation vehicles; and
- Places of employment.

Is indoor smoking permitted in any locations in Maryland?

Smoking is permitted in the following indoor areas⁴:

- Private homes and residences *unless* being used by a person licensed to provide day care or childcare;
- Private vehicles *unless* being used for public transportation of children, or health care or day care transportation;
- Up to 25% of a hotel’s or motel’s guest rooms⁵;
- Facilities of manufacturers, importers, wholesalers, or distributors of tobacco products or any tobacco leaf dealer or processor where employees congregate;
- Research or educational laboratories, for the purpose of conducting scientific research on the health effects of tobacco smoke;
- A retail tobacco business where the primary activity is the retail sale of tobacco products and accessories, and the sale of other products is “incidental.”
 - What do “primary” and “incidental” mean?
 - The CIAA does not define or describe when the sale of non-tobacco products is only “incidental,” or when the sale of tobacco products is the “primary activity.” Further, no clarification or interpretation has been provided by an entity with authority to do so, such as the state legislature, a Maryland court, or the Maryland Department of Health. However, it is

¹ MD Code, Health - General, §§ 24-501-24-511

² MD Code, Health - General, § 24-501

³ MD Code, Health - General, § 24-504

⁴ MD Code, Health - General, § 24-505

⁵ Some hotels and motels have gone further than the state law requirement, banned smoking entirely.

reasonable to believe that “incidental” refers to roughly 25-30% in retail sales while “primary” is more likely to mean 70-75%.

- What is the tobaccoist license and must retail tobacco businesses have one in order to permit smoking under the CIAA?
 - The tobaccoist license and retail tobacco businesses who permit indoor smoking are distinct concepts from one another. **In other words, a retailer need not obtain a tobaccoist license in order to permit indoor smoking.**
 - The tobaccoist license permits retailers of other tobacco products (OTP) like cigars and pipe tobacco, to operate with certain tax and purchasing benefits, and to deliver tobacco products to customers. To qualify for a tobaccoist license, a retailer must derive at least 70% of its revenues from the sale of OTP and tobacco-related accessories.⁶
 - Tobaccoist license requirements do not reference a “primary” purpose or “incidental” sales, nor make mention of indoor smoking.
 - The CIAA does not require licensed tobacco retailers who permit smoking indoors to obtain the tobaccoist license. It makes no mention of the tobaccoist license. It is likely that these retailers may choose to obtain the tobaccoist license given the benefits, however, it is not necessary to operate a licensed tobacco retailer who permits smoking indoors.
 - **Tobaccoists therefore are not necessarily exempted from the CIAA and cannot allow smoking indoors based solely on possession of a tobaccoist license. Pursuant to the CIAA, however, they may permit smoking so long as the sale of tobacco products is the primary retail activity and the sale of other items is incidental, whether or not they obtain the tobaccoist license.**
- Note: If a court or state agency does interpret “incidental” sales for purposes of the CIAA as sales 30% or less in sales, then tobaccoists would fall within the exception. However, because “incidental” remains undefined, the tobaccoist license requirements and the “incidental” exception to the CIAA are completely independent legal standards.

Does the CIAA require signage be displayed?

- The Act and accompanying Maryland Department of Health regulations require that signs be “prominently posted” and maintained to indicate whether smoking is prohibited or permitted in an indoor area.⁷
- Signs indicating that smoking is prohibited must say “NO SMOKING” in capital letters at least one inch tall and/or contain the [international symbol](#) for “No Smoking.” Where smoking is permitted, such as in designated hotel or motel rooms, the sign must say “SMOKING PERMITTED IN THIS ROOM,” in all capital letters at least one inch tall.
- The owner, operator, manager, or other person in control of the indoor area is responsible for the posting and maintenance of the signs.

What does enforcement of the Clean Indoor Air Act look like?

Enforcement of the CIAA is the responsibility of local health departments and the Department of Labor, Licensing, and Regulation (DLLR). Within the parameters discussed below, local health departments have significant autonomy to design and structure their own investigation and enforcement processes.

⁶ MD Code, Business Regulation, § 16.5-201

⁷ COMAR, 10.19.04.05 and 10.19.04.06

Anyone, including members of the public, who witness what they believe is a violation of the CIAA may file a [complaint](#)⁸ with the local health department where the purported violation occurred or with the DLLR. Upon receipt of a complaint, the responsible party in the jurisdiction [must](#) record and investigate the complaint.⁹ The result of the investigation [must](#) be documented and made available both to the establishment subject to investigation and to the public.¹⁰ If a violation is found, the establishment must be [notified](#) in writing and given time, amount determined by the health officer, to correct the violation. ¹¹If no satisfactory correction is made, monetary [penalties](#) may be imposed.¹² Members of the public may also contact the state’s Clean Indoor Air Help Line, **1-866-703-3266**.

Below please find available data on CIAA Enforcement from 2015 through 2019.

		Complaints	Letters of Reprimand Issued*	Fines Imposed/ Citations Issued
2015	DLLR	Not Reported	29	1 (\$500)
	LHD	51	Not Reported	0
2016	DLLR	Not Reported		
	LHD	76	Not Reported	0
2017	DLLR	5	5	0
	LHD	46	1	0
2018	DLLR		5	0
	LHD	36	Not Reported	
2019	DLLR	Not Reported	4	0
	LHD	28	Not Reported	1 (\$100)

*Most violations are corrected through cooperation with the agency and the establishment before formal enforcement action needs to be taken.

Local Clean Indoor Air Laws in Maryland

In addition to the state Clean Indoor Air Act, several counties and Baltimore City have also enacted similar laws. Although listed below, these laws may also be accessed by visiting mdtobaccolaws.org.

- *Baltimore City: Smoking is prohibited in enclosed areas open to the public and in enclosed areas which are places of employment. “Smoking” includes the use of traditional tobacco products or ESDs. Exceptions are made for hookah establishments and retail tobacco establishments who derive at least 75% of sales from non-cigarette tobacco products.*¹³
- *Baltimore County: Smoking is prohibited in public places and at public meetings. Smoking does not include the use of ESDs.*¹⁴

⁸ The complaint form may be accessed here:

https://health.maryland.gov/phpa/OEHFP/EH/Shared%20Documents/CIAA_Complaint_Form.pdf

⁹ COMAR, 10.19.04.07

¹⁰ COMAR, 10.19.04.08

¹¹ COMAR, 10.19.04.09

¹² COMAR, 10.19.04.10

¹³ Baltimore City Health Code, Title 12, §§12-105 – 12-107

¹⁴ Baltimore County Code, Article 13, Title 8, §§13-8-101 – 13-8-109

- *Cecil County: Tobacco use, which includes ESDs, is prohibited in any County Parks and Recreation owned or leased property.*¹⁵
- *Charles County: Smoking is prohibited in all enclosed public places. “Smoking” does not include the use of ESDs.*¹⁶
- *Frederick County: Smoking tobacco products is prohibited in public buildings owned or controlled by the county.*¹⁷
- *Harford County: Smoking is prohibited in county buildings. “Smoking” does not include ESDs.*¹⁸
- *Howard County: Smoking, including the use of an ESD, is prohibited within a distance of 15 feet from public places and enclosed public places of employment.*¹⁹
- *Montgomery County: Smoking and the use of ESDs is prohibited in any common area in a multiple-family residential dwelling. A law passed in 2019 prohibits smoking in outdoor serving areas, not including golf courses or eating and drinking establishments that have designated a smoking/vaping space in an outside seating area that is a rooftop or balcony.*²⁰
- *Prince George’s County: Smoking, which includes the use of ESDs, is prohibited in eating and drinking establishments.*²¹
- *Talbot County: Smoking is prohibited in all enclosed public places and workplaces. “Smoking” includes the burning of tobacco products, but not the use of ESDs.*²²

Note: Private businesses may enact and enforce policies more stringent than state or local laws.

This document was developed by the Legal Resource Center for Public Health Policy (LRC) at the University of Maryland Francis King Carey School of Law, with funding and support provided by the Maryland Department of Health. The LRC provides information and technical assistance on issues related to public health in Maryland. The legal information and assistance does not constitute legal advice or legal representation. For legal advice, please consult specific legal counsel. This information is current as of June, 2022.

¹⁵ Cecil County Code, Chapter 261, §§261-5 – 261-6

¹⁶ Charles County Code, Division 1, Chapter 127, §§127-1 – 127-6

¹⁷ Frederick County Code, Part I, Chapter 1-11, §§1-11-3 and 1-11-14

¹⁸ Harford County Code, Article II, §§149-8 – 149-15

¹⁹ Howard County Code, Title 12, Subtitle 12, §§12-601 – 12-608

²⁰ Montgomery County Code, Part II, Chapter 24, Article II, §24-9

²¹ Prince George’s County Code, Subtitle 19, Division 3, §§19-130 – 19-134

²² Talbot County Code, Chapter 159, §§159-4 – 159-11

Smoke Free Environments – Colleges & Universities

Colleges and universities statewide in Maryland continue to implement varying policies relating to limiting or eliminating the use of tobacco products (including electronic smoking devices) on campus. This survey examines policies at both public and private colleges and universities in the state to determine what, if any, limitations are placed on tobacco products. The schools selected for this analysis include all colleges and universities listed on the Maryland Higher Education Commission's [website](#). The policies were located and analyzed by visiting each institution's website and searching for policies and rules relating to tobacco products. If a policy could not be located, the LRC contacted the school directly to inquire and obtain a copy of the policy. If still unable to locate, this result is indicated in the survey below.

Name of Institution (County)	Public or Private	Prohibited Products			Areas Covered	Notes
		Combustible Tobacco Products	Smokeless Tobacco Products	Electronic Smoking Devices (ESDs)		
Allegany College of Maryland (Allegany)	Public	Yes	Yes	Yes	All property owned by the College including vehicles, parking lots, and personal vehicles on College property	Tobacco/nicotine cessation products are specifically exempted from the policy
Anne Arundel Community College (Anne Arundel)	Public	Yes	Yes	Yes	All property owned, operated, leased, or managed by the College including parking lots, college-owned vehicles, venues rented or controlled for College-sponsored activities	Tobacco/nicotine cessation products are specifically exempted from this policy
Baltimore City Community College (Baltimore City)	Public	Yes	Yes	Yes	All enclosed places and outdoors on campus property including parking lots and paths; private vehicles on campus property	
Bowie State University * (Prince George's)	Public	Yes	No	Yes	In all property owned, leased, or operated by the University including vehicles; outside buildings within 25 feet of building entrances, air intake ducts, or windows	The President of the University may designate areas where smoking is permitted

Capitol Technology University (Prince George's)	Private	Yes	No	Yes	On campus	
Carroll Community College (Carroll)	Public	Yes	Yes	Yes	College-owned or leased buildings, off-campus sites operated by the College, all College property including parking lots and vehicles	
Cecil College (Cecil)	Public	Yes	Yes	Yes	All College owned and leased properties and facilities including parking lots, entrance and exit ways, vehicles, and sidewalks	
Chesapeake College (Talbot)	Public	Yes	Yes	No	All buildings, grounds, and exterior open spaces including parking lots, on-campus sidewalks, and streets; all College-owned or leased vehicles	
College of Southern Maryland (Charles, St. Mary's, Calvert)	Public	Yes	Yes	Yes	All College locations including all buildings, facilities, indoor and outdoor spaces and grounds owned, rented, operated, and/or licensed by the College; includes parking lots, walkways, sidewalks, college vehicles, private vehicles parked or operated on College property	
Community College of Baltimore County (Baltimore County)	Public	Yes	Yes	Yes	In or on any College campus	Smoking/tobacco use permitted in designated smoking areas on campus or in private vehicles in parking lots outside the perimeter roadway
Coppin State University* (Baltimore City)	Public	Yes	Yes	Yes	On campus including inside residence halls and dining halls and within 50 feet of residence halls; smoking or tobacco products and ESDs are not allowed to be kept in any	Unclear whether smoking ESDs in outdoor areas is prohibited, only ESD possession inside buildings and facilities specifically prohibited

					University building or facility	
Frederick Community College (Frederick)	Public	Yes	Yes	Yes	College premises, College vehicles	Use of all tobacco products permitted in College parking lots
Frostburg State University* (Allegany)	Public	Yes	No	No	Any property owned, leased, or otherwise controlled or operated by the University including vehicles, walkways, and parking lots	The USM Hagerstown Center and One Technology Drive in Frostburg are not covered by the policy
Garrett College (Garrett)	Public	Yes	Yes	Yes	All College owned or leased property and in or near College buildings and entrances	Use of all tobacco products allowed in personal vehicles parked in campus parking lots, and in the Laker Hall parking lot
Goucher College (Baltimore County)	Private	Yes	Yes	Yes	All College owned or leased facilities, property, and vehicles, regardless of location including parking lots, wooded areas, and paths; personal vehicles while on campus	
Hagerstown Community College (Washington)	Public	Yes	Yes	Yes	All College owned or leased facilities and vehicles, regardless of location including walkways, building entrances, and parking lots	
Harford Community College (Harford)	Public	Yes	Yes	ESDs not specifically mentioned, but could fall into the “smoking device or equipment, or any item that stimulates smoking” categories included	All buildings and areas of the campus and off-campus sites supervised by the College	

				in the policy		
Hood College (Frederick)	Private	Yes	Yes	Yes	All College owned or leased facilities, property, and vehicles, regardless of location; all enclosed places; outdoors on all College campus property including parking lots, paths, and private vehicles while on campus	
Howard Community College (Howard)	Public	Yes	Yes	Yes	All College owned, leased, or controlled property including parking lots and garages; at College-sponsored activities; all College owned or private vehicles on a college owned, leased, or controlled property	
Johns Hopkins University (Baltimore City)	Private	Yes	No	No	Inside all facilities owned, leased, or operated by the University; all vehicles owned, leased, or operated by the University	The President, deans, and/or directors may designate outdoor areas as smoke free
Lincoln College of Technology (Howard)	Private	No information available	No information Available	No information Available	No information Available	
Loyola University of Maryland (Baltimore County)	Private	Yes	No	Yes	All University owned or leased property including parking lots, on-campus sidewalks, streets, driveways, and University-owned or leased vehicles	
Maryland Institute College of Art (Baltimore City)	Private	Yes	No	No	All indoor campus spaces and within 25 feet of buildings	
Maryland University of Integrative Health (Prince George's)	Private	Yes	Yes	Yes	Campus buildings, parking lots, grounds; private vehicles located on campus property	

McDaniel College (Carroll)	Private	Yes	No	Yes	Inside all campus housing location and within 25 feet of any building	
Montgomery College (Montgomery)	Public	Yes	Yes	Yes	All College-owned property, within leased College office and classroom space; all indoor and outdoor facilities including entrance steps and ramps, portable buildings, private vehicles, and campus bus stops; College-owned or leased vehicles; meetings or conferences sponsored by the College	
Morgan State University (Baltimore City)	Public	Yes	No	Yes	All property owned, leased, or operated by the University including parking lots and garages, on-campus sidewalks, streets, and driveways; all University-owned or leased vehicles	
Mount St. Mary's University (Frederick)	Private	Yes	Yes	Yes	All interior spaces on campus and property leased by the University; all outside property or grounds including walkways and patios; parking lots; vehicles leased, owned, or rented by the University	Specifically excludes cessation aids Exempts six designated smoking/tobacco use areas on campus, and Marianist-owned housing
Ner Israel Rabbinical College (Baltimore County)	Private	No information available	No information available	No information available	No information available	
Notre Dame of Maryland University (Baltimore County)	Private	Yes	No	Yes	All buildings on the University campus; all University vehicles	Smoking is permitted outside of and at least 30 feet away from any building, in designated smoking areas, and only where the activity will not block building entrances and will minimize

						others' exposure to second-hand smoke
Prince George's Community College (Prince George's)	Public	Yes	Yes	Yes	Largo campus and applicable extension centers; all enclosed places and outdoors including parking lots	
Salisbury University * (Wicomico)	Public	Yes	No	Yes	All leased or owned University buildings, exterior open spaces, parking lots and garages, on-campus sidewalks, streets, driveways; all University-owned or leased vehicles	
St. John's College, Annapolis (Anne Arundel)	Private	Yes	No	No	Follows state Clean Indoor Air Act– no smoking in any building on campus	Smoking permitted outside, but some entrances to buildings have been designated smoke-free
St. Mary's College of Maryland (St. Mary's)	Public	Yes	No	No	All state buildings and vehicles; all areas of all residential facilities	
St. Mary's Seminary & University (Baltimore City)	Private	Yes	No	No	All public and private areas inside the seminary building, including student dormitory rooms	Permitted at specific designated areas on campus
Stevenson University (Baltimore County)	Private	Yes	No	No	Inside all buildings on the Greenspring and Owings Mills campuses; within 15 feet of building entrances; space between Dawson Academic Center and Manuszak Center on the Greenspring Campus	
Towson University * (Baltimore County)	Public	Yes	No	Yes	All property owned, leased, or operated by the University including parking lots and garages, on-campus sidewalks, streets, and driveways; University-owned or leased vehicles	
University of Baltimore **	Public	Yes	No	No	Within all University vehicles and buildings, and within 15 feet of the	

(Baltimore City)					entrance to University buildings	
University of Maryland, Center for Environmental Science ** (Dorchester)	Public	Yes	No	No	All property owned, leased, or otherwise controlled or operated by the institution including vehicles and vessels	
University of Maryland, Eastern Shore ** (Somerset)	Public	Yes	No	No	Inside all institution buildings and state vehicles owned by the institution; all institution grounds and property including walkways and parking lots	Smoking is permitted in designated areas around the perimeter of campus
University of Maryland, Baltimore ** (Baltimore City)	Public	Yes	No	No	All institution owned, leased, or controlled buildings or facilities, whether or not located in the University District (within the borders of Saratoga St., Pratt St., Martin Luther King Jr. Blvd., and Eutaw St.); all institution owned or leased vehicles; in meetings, conferences, or training session hosted by any institution	Policy provides for designated smoking areas
University of Maryland, Baltimore County ** (Baltimore County)	Public	Yes	No	Yes	Smoking is prohibited in all institution buildings, enclosed facilities, and vehicles; all institution grounds and property including walkways and parking lots ESD use is prohibited in all institution buildings, enclosed facilities, and vehicles	
University of Maryland, College Park **	Public	Yes	No	Yes	All institution buildings and vehicles; all institutional grounds and property including walkways and parking lots	Smoking is permitted in designated areas

(Prince George's)						
Washington Adventist University (Montgomery)	Private	Yes	Yes	Yes	All use and possession on and off campus for all community members	
Washington College (Kent)	Private	Yes	Yes	Yes	All College buildings and outdoors within 25 feet of entrances and exits of College buildings; all outdoor areas	Smoking is permitted in designated areas around campus
Wor-Wic Community College (Wicomico)	Public	Yes	Yes	Yes	Within 25 feet of all buildings, in the lot in front of Brunkhorst Hall	Smoking is permitted in designated tobacco use or parking lot areas that are at least 25 feet from any building

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Tobacco-Free Colleges and Universities Policy

I. Purpose

[Insert college or university system] seeks to promote a healthy, tobacco-free environment for students, employees, and visitors. This policy establishes standards and requirements to provide a tobacco-free environment for all faculty, staff, students, and visitors.

II. Definitions

“Electronic smoking device” means a device that can be used to deliver aerosolized or vaporized nicotine, whether synthetic or derived from tobacco, to an individual inhaling from the device. This includes, but is not limited to: an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, a vape pen, any component, part, or accessory of such a device regardless of whether or not it is sold separately, including any substance intended to be aerosolized or vaporized during use of the device, and any other products which meet this definition.

“Electronic smoking device” does not include: a drug, device, or combination product authorized for sale by the U.S. Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act.

“Institution property” means any property owned, leased, or otherwise controlled or operated by an institution, including buildings, other structures and grounds, and vehicles owned or leased by the institution

“Tobacco product” refers to products that contain tobacco or nicotine, or a component or part used in a consumable product described in this paragraph. This includes, but is not limited to: cigarettes, non-combusted cigarettes, cigars, cigarillos, electronic smoking devices, pipe tobacco, chewing tobacco, dissolvable tobacco, snuff, snus, filters, rolling papers, pipes, and any other products which meet this definition.

“Tobacco product” does not include nicotine replacement therapy prescribed by a medical provider and coordinated and/or approved by school administration.

“Use” refers to human consumption or likely human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested in any other manner.

III. Policy

No person, including students, faculty, employees, visitors, volunteers, contractors, vendors, and all other persons shall possess, use, sell, or distribute tobacco products or electronic smoking devices on any institution property.

Tobacco product use on institution property will only be permitted for controlled research, educational, or religious ceremonial purposes, during a specific location and time and with prior approval of [insert college/university] administration.

IV. Enforcement

Signage providing notice of the tobacco-free policy will be conspicuously displayed at all [insert university/college] building entrances open to the public.

Faculty and employees who violate the policy will be subject to a fine and disciplinary procedures in accordance with the [insert college/university] Human Resource policies.

Students who violate the policy will be subject to a fine and disciplinary action through the [insert college/university and disciplinary body].

Visitors who violate the policy will be escorted off the property without notice.

Smoke-Free Environments- State and County Boards of Education

The State of Maryland and the County Boards of Education in Maryland continue to implement varying policies restricting the use and possession of tobacco products (including electronic smoking devices) on campus. This survey examines the State policy as well as each of the 24 jurisdictions to determine what limitations are placed on tobacco products. The policies were located and analyzed by visiting the State and County Boards of Education websites and searching for policies and rules relating to tobacco products.

Jurisdiction	Population	Prohibited Products		Prohibited Activities	Areas and Times Covered
		Non-Electronic Smoking Device Tobacco Products	Electronic Smoking Devices (ESDs)		
Statewide	All	Yes ²³	"Tobacco" defined broadly enough to encompass ESDs containing nicotine derived from the tobacco plant	Sale Use	In school buildings at all times; on school grounds during the official school day
Allegany	Students	Yes	Yes	Abuse Distribution Possession Sale Use	On school property; at school related activities
Anne Arundel	Students	Yes	Yes	Distribution Possession Sale Use	At all times on school property and at school sponsored activities regardless of where they take place
	Employees	Yes	Yes	Sale Use	In all system owned or leased buildings and vehicles; on all system owned or leased grounds
Baltimore County	Students	Yes	Yes	Possession Sale	In all school buildings, grounds, and in

²³ "Tobacco" is defined as "products derived from the tobacco plant that are smoked, chewed, sniffed, or otherwise consumed."
COMAR 13A02.04.02

				Use	connection with school sponsored activities
	Employees	Yes	Yes	Sale Use	On Board property or when attending school sponsored activities
Baltimore City	Students	Yes	Yes	Possession Use	In school buildings, on school grounds, during school sponsored activities, and in vehicles owned, leased, or contracted by the Board
	All	Yes	Yes	Sale Use	In all board owned or leased buildings and on school grounds at all times; at any school sponsored event; vehicles owned, leased, or contracted by the Board; within 50 feet of a school entrance, window, or air intake vent regardless of whether it's on school, public, or other property; in and within 50 feet of any playground, schoolyard, or athletic facility
Calvert	All	Yes	Yes	Sale Use	On school property at all times
Caroline	All	Yes ²⁴	"Tobacco" defined broadly enough to encompass ESDs containing nicotine derived from the tobacco plant	Sale Use	In all buildings, grounds, school vehicles and buses, whether owned or leased by the Board
Carroll	Students	Yes	Yes	Possession Use	On school premises and at school functions; on school or coach buses
Cecil	Students	Yes	Yes	Possession Use Sale Distribution	On school property; at school sponsored events

²⁴ "Tobacco" is defined as "products derived from the tobacco plant that are smoked, chewed, sniffed, or otherwise consumed." *Caroline County Board of Education Policy, V. 50.30.*

	Employees	Yes	"Tobacco" in any form	Sale Use	School buildings, whether owned or leased, at all times
Charles	Students	Yes	Yes	Possession Use	All school property
	All	Yes	Yes	Sale Use	In school buildings, on school grounds, and in school vehicles, at all times
Dorchester	All	Yes	Yes	Sale Use	Prohibited in school buildings at all times; prohibited in all school vehicles
Frederick	All	Yes	Yes	Distribution Possession Sale Use	At all times on school property, school grounds, school buildings, and school-sponsored events
Garrett	Students	Yes	Yes	Possession Use	In school buildings, on school grounds, on school buses, and during school sponsored activities
	All	Yes	"Tobacco" in any form	Sale Use	On school owned or leased properties, including buildings, grounds, or vehicles
Harford	Students	Yes	Yes	Consumption Possession Sale Use	On school property at all times
	Employees	Yes ²⁵	"Tobacco" defined broadly enough to encompass ESDs containing nicotine derived from the tobacco plant	Use	In all school buildings, office buildings, all other buildings, vehicles, and on all other Board property
Howard	Students	Yes	Yes	Possession Sale Use	On school property, at school-related activities, and on school trips including during transportation
	All	Yes	Yes	Sale Use	On school property, at school authorized activities, on school

²⁵ "Tobacco" is defined as "products derived from the tobacco plant that are smoked, chewed, sniffed, or otherwise consumed."
Harford County Public Schools Board of Education Policy, Tobacco-Free and Inhalant-Free School Environment

					trips including during transportation; products must not be visible to students
Kent	All	Yes ²⁶	"Tobacco" defined broadly enough to encompass ESDs containing nicotine derived from the tobacco plant	Sale Use	In school buildings at all times
Montgomery	Students	Yes ²⁷	Yes. The definition of tobacco includes "devices that simulate smoking."	Possession Sale Use	On school property at all times
	All	Yes	Yes. The definition of tobacco includes "devices that simulate smoking."	Sale Use	On school property at all times
Prince George's	Students	Yes	Yes	Possession Distribution Sale Use	On school property and at school sponsored events
	All	Yes ²⁸	"Tobacco" defined broadly enough to encompass ESDs containing nicotine derived from the tobacco plant	Sale Use	All school buildings, school buses, school vehicles, school equipment
Queen Anne's	Students	Yes	Yes	Sale Use Possession Purchase	All school property
	Employees	Yes	Unclear	Possession	All school property
St. Mary's	Students	Yes	Yes	Possession Use	All school property

²⁶ "Tobacco" is defined as "products derived from the tobacco plant that are smoked, chewed, sniffed, or otherwise consumed."
Kent County Public Schools Board of Education Policy, Tobacco-Free Schools

²⁷ Tobacco is defined as including "devices that simulate smoking." *Montgomery County Public Schools, Alcohol, Tobacco, and Other Drugs on Montgomery County Public Schools Property*

²⁸ "Tobacco" is defined as "products derived from the tobacco plant that are smoked, chewed, sniffed, or otherwise consumed."
Prince George's County Public Schools, Administrative Procedure No. 2300

				Sale	
	All	Yes	Yes	Sale Use	At all times in school buildings, central offices, warehouses, garages, school grounds, school system vehicles, or other buildings operated by the school
Somerset	Students	Yes	Yes	Possession Use	On school premises including all owned or leased land surrounding school buildings; school buses; school sponsored activities
	Employees	Yes ²⁹	"Tobacco" defined broadly enough to encompass ESDs containing nicotine derived from the tobacco plant	Sale Use	In school buildings and on school grounds at all times
Talbot	All	Yes	Yes	Sale Use Possession	All school property at all times
Washington	All	Yes	Yes	Possession Use	On school property, in buildings, vehicles, and on grounds owned by the Board
Wicomico	All	Yes	Yes	Possession Use	On school property
Worcester	Students	Yes	Yes	Possession Use	On school property
	Employees	Yes	Yes	Use	At all times when supervising students and during school sponsored activities not occurring on school grounds

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²⁹ "Tobacco" means products derived from the tobacco plant are smoked, chewed, sniffed, or otherwise consumed. *Somerset County Public Schools Board of Education Policy 700-6*

Tobacco-free Boards of Education Policy

I. Purpose

The Board of Education of (insert jurisdiction) recognizes the health and environmental hazards associated with the exposure to and use of all tobacco products and electronic smoking devices (ESDs). The purpose of this policy is to establish rules to prohibit the sale, use, possession, and distribution of tobacco products, including ESDs, in order to protect and promote the health of students, staff, and visitors.

II. Definitions

“Electronic smoking device” means a device that can be used to deliver aerosolized or vaporized nicotine, whether synthetic or derived from tobacco, to an individual inhaling from the device. This includes, but is not limited to: an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, a vape pen, any component, part, or accessory of such a device regardless of whether or not it is sold separately, including any substance intended to be aerosolized or vaporized during use of the device, and any other products which meet this definition.

“Electronic smoking device” does not include: a drug, device, or combination product authorized for sale by the U.S. Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act.

“School grounds” refers to [insert jurisdiction] owned or leased land that surrounds school property.

“School-sponsored events” includes any organized field trip, extracurricular activity, co-curricular activity, interscholastic sports event, or transportation involving students and sponsored by, supervised by, approved by, or otherwise under the jurisdiction of [the school system] or its agents or representatives regardless of when or where the activity takes place.

“School property” includes any property, vehicle, building, or grounds leased to, under the jurisdiction of, or owned by [the school system].

“Tobacco product” refers to products that contain tobacco or nicotine, or a component or part used in a consumable product described in this paragraph. This includes, but is not limited to: cigarettes, non-combusted cigarettes, cigars, cigarillos, electronic smoking devices, pipe tobacco, chewing tobacco, dissolvable tobacco, snuff, snus, filters, rolling papers, pipes, and any other products which meet this definition.

“Tobacco product” does not include nicotine replacement therapy prescribed by a medical provider and coordinated and/or approved by school administration.

“Use” refers to human consumption or likely human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested in any other manner.

“Vehicle” includes school buses, charter buses, personal vehicles parked, idling, or traveling on school property, and any vehicle used to transport students

III. Policy

The use, sale, possession, and distribution of tobacco products by any person (including students, parents, teachers, employees, visitors, contractors, and all other persons) on school property, school grounds, and at school-sponsored activity, whether or not on school property, is prohibited.

IV. Enforcement

A student who violates this section shall be subject to the procedures and disciplinary action described in the [insert jurisdiction] Student Code of Conduct.

All others who violate this section shall be referred to Human Resources for disciplinary action.

Smoke Free Environments – Hospitals

Hospitals in Maryland continue to implement varying policies relating to limiting or eliminating the use of tobacco products (including electronic smoking devices) on campus. This survey examines policies at hospitals in the state to determine what, if any, limitations are placed on tobacco products. The hospitals selected for this analysis include those with emergency rooms listed for purposes of the Maryland Department of Natural Resources Online Licensing and Registration System. The policies were located and analyzed by visiting each institution's website and searching for policies and rules relating to tobacco products.

Jurisdiction	Hospital	Designated areas	Prohibited Products			Areas Covered	Notes
			Combustible tobacco	Smokeless tobacco	Electronic Smoking Devices (ESDs)	Notes	
Allegany County	Western Maryland Health System	None	Yes	Yes	Yes	Tobacco-free campus	
Anne Arundel County	Anne Arundel Medical Center (AAMC)	None	Yes	Yes	Yes	Tobacco-free campus	Employees must remain tobacco-free
Anne Arundel County	Baltimore Washington Medical Center	None	Yes	Yes	Yes	Tobacco-free campus	
Baltimore City	Grace Medical Center (formally Bon Secours Hospital)	None	Yes	Yes	Yes	Tobacco-free campus; tobacco-free on adjacent and surrounding	

						hospital properties	
Baltimore City	Kennedy Krieger Institute - Broadway campus	None	Yes	Yes	Yes	Tobacco-free campus	
Baltimore City	Kennedy Krieger Institute - Fairmount campus	None	Yes	Yes	Yes	Tobacco-free campus	
Baltimore City	Kennedy Krieger Institute - Greenspring campus	None	Yes	Yes	Yes	Tobacco-free campus	
Baltimore City	Mount Washington Pediatric Hospital**	None	Yes	Yes	Yes	Tobacco-free campus	Policy unavailable online
Baltimore City	Harbor Hospital	None	Yes	Yes	Policy does not specify	Tobacco-free campus	
Baltimore City	Good Samaritan Hospital of Maryland	Designated smoking areas outside	Yes	Yes	Policy does not specify	Includes all areas inside of hospital buildings	
Baltimore City	Union Memorial Campus	None	Yes	Yes	Policy does not specify	Includes all hospital grounds, personal vehicles, and sidewalks surrounding the hospital	
Baltimore City	Saint Agnes Hospital	None	Yes	No	Yes	Smoke and vape-free campus	

Baltimore City	University of Maryland Medical Center**	Limited designated areas on University property and areas leased to third parties as may from time-to-time be approved by the President	Yes	No	Yes	Smoke and vape-free campus	
Baltimore City	The Johns Hopkins Hospital	None	Yes	Yes	Yes	Tobacco-free campus	Employees must remain tobacco-free
Baltimore City	Johns Hopkins Bayview Medical Center	None	Yes	Yes	Yes	Tobacco-free campus	
Baltimore City	Mercy Medical Center	None	Yes	No	Yes	Smoke and vape-free campus	
Baltimore City	Sinai Hospital of Baltimore	None	Yes	Yes	Yes	Tobacco-free campus	
Baltimore City	University of Maryland Medical Center Midtown Campus**	None	Yes	Yes	Yes	Tobacco-free campus	
Baltimore County	Northwest Hospital	None	Yes	Yes	Yes	Includes all buildings and grounds	
Baltimore County	Greater Baltimore Medical Center	Smoking is allowed in personal vehicles only	Yes	Yes	Yes	Tobacco-free campus	

Baltimore County	Saint Joseph Medical Center**	None	Yes	No	Yes	Smoke and vape-free campus	
Baltimore County	Franklin Square Medical Center	None	Yes	Yes	Yes	Tobacco-free campus	
Calvert County	Calvert Memorial Hospital	None	Yes	Yes	Yes	Tobacco-free campus	
Carroll County	Springfield Hospital Center	None	Yes	Yes	Yes	Tobacco-free campus	
Carroll County	Carroll Hospital Center	None	Yes	Yes	Yes	Tobacco-free campus	Employees must remain tobacco-free
Cecil County	Union Hospital of Cecil County	None	Yes	No	Yes	Smoke and vape-free campus	
Charles	Civista Medical Center	None	Yes	No	Yes	Smoke and vape-free campus	Policy not available online
Dorchester	Dorchester General Hospital	None	Yes	No	Yes	Smoke and vape-free campus	Policy not available online
Frederick	Frederick Memorial Hospital	None	Yes	No	Yes	Smoke and vape-free campus	Policy not available online
Garrett	Garrett County Memorial Hospital	None	Yes	Yes	Yes	Tobacco-free campus	
Harford	Upper Chesapeake Medical Center	None	Yes	Yes	Yes	Tobacco-free campus	

Harford	Harford Memorial Hospital	None	Yes	Yes	Yes	Tobacco-free campus, including any vehicles owned or operated by the hospital	
Howard	Howard County General Hospital	None	Yes	No	No	Smoke-free campus	
Kent	Chester River Hospital Center	Permitted in courtyard and designated spaces outside	Yes	No	No	Smoke-free campus	
Montgomery County	Suburban Hospital	None	Yes	No	No	Smoke-free campus, includes grounds and vehicles	
Montgomery County	Montgomery Medical Center	None	Yes	Yes	Does not specifically include ESDs, but could be included under “tobacco” or “tobacco simulation”	Tobacco-free campus	
Montgomery County	Shady Grove Adventis Hospital	None	Yes	Yes	Does not specifically include ESDs, but could be included under	Tobacco-free campus	

					“any type of tobacco product”		
Montgomery County	Washington Adventist Hospital	None	Yes	Yes	Does not specifically include ESDs, but could be included under “any type of tobacco product”	Tobacco-free campus	
Montgomery County	Holy Cross Hospital	None	Yes	Yes	Yes	Tobacco-free campus, including any vehicle on the grounds	
Prince George’s County	Southern Maryland Hospital Center	None	Yes	No	No	Smoke-free campus	
Prince George’s County	Fort Washington Medical Center	None	Yes	No	No	Smoke-free campus	
Prince George’s County	Doctors Community Hospital	None	Yes	No	No	Smoke-free campus	
Prince George’s County	UM Laurel Medical Center	None	Yes	Yes	Yes	Tobacco-free campus	Policy not available online
St. Mary’s County	St. Mary's Hospital	None	Yes	Yes	Yes	Tobacco-free campus, includes personal vehicles	

						parked on property	
Somerset County	McCready Memorial Hospital	None	Yes	Yes	Yes	Tobacco-free campus	
Talbot County	Memorial Hospital at Easton	None	Yes	No	Yes	Smoke and vape-free campus	Policy not available online
Washington County	Meritus Medical Center	None	Yes	Yes	Yes	Tobacco-free campus	
Worcester	Atlantic General Hospital	None	Yes	Yes	ESDs could be included under definition of "tobacco"	Tobacco-free campus	

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Tobacco-Free Hospital Policy

I. Purpose

[Hospital] is dedicated to providing its patients, visitors, staff volunteers and providers with a safe and healthy environment. [Hospital] is a 100% tobacco-free campus, effective [Date].

[Hospital] recognizes the US Surgeon General findings that tobacco use in any form, active or passive, is a significant health hazard. [Hospital] further supports American Hospital Association's findings which recommend that hospitals "serve as a role model of health for the community." [Hospital] recognizes that smoking and the use of tobacco products and electronic smoking devices on campus grounds is detrimental to the health and safety of everyone. This organization supports an environment where patients, visitors, staff, providers, and vendors are not exposed to the

harmful effects of secondhand smoke and are supported in efforts to live tobacco-free. Therefore, [Hospital] has adopted a 100% tobacco-free campus policy.

II. Definitions

“Electronic smoking device” means a device that can be used to deliver aerosolized or vaporized nicotine, whether synthetic or derived from tobacco, to an individual inhaling from the device. This includes, but is not limited to: an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, a vape pen, any component, part, or accessory of such a device regardless of whether or not it is sold separately, including any substance intended to be aerosolized or vaporized during use of the device, and any other products which meet this definition.

“Electronic smoking device” does not include: a drug, device, or combination product authorized for sale by the U.S. Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act.

“Tobacco product” refers to products that contain tobacco or nicotine, or a component or part used in a consumable product described in this paragraph. This includes, but is not limited to: cigarettes, non-combusted cigarettes, cigars, cigarillos, electronic smoking devices, pipe tobacco, chewing tobacco, dissolvable tobacco, snuff, snus, filters, rolling papers, pipes, and any other products which meet this definition.

“Tobacco product” does not include nicotine replacement therapy prescribed by a medical provider and coordinated and/or approved by school administration.

“Use” refers to human consumption or likely human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested in any other manner.

III. Policy

This policy prohibits the use of all tobacco products and electronic smoking devices:

- In all [Hospital] owned, leased, satellite, and affiliated buildings where any [Hospital] employees work.
- On all [Hospital] owned or leased grounds, and at all indoor and outdoor [Hospital] sponsored events.
- In all [Hospital] owned, leased or rented vehicles, on or off [Hospital] grounds.
- In all personal vehicles parked on [Hospital] owned, leased, or affiliated property.
- At all events hosted or organized by [Hospital].

The policy applies to all patients, visitors, volunteers, employees, providers, vendors, and contractors, including organizers of and attendees at public events, including but not limited to conferences, meetings, lectures, social events and/or cultural events using [Hospital] owned, leased and affiliated property.

IV. Enforcement

Signs that provide notice of the tobacco-free policy will be conspicuously displayed at all hospital entrances open to the public.

All [Hospital] employees are required to observe and promote compliance with the tobacco-free policy.

Enforcement and violation of this policy will follow the standard [Hospital] enforcement procedures.

Model Policies – Housing

Smoke-Free and Vape-Free Lease Addendum

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 and obligations contained herein, as well as the rights and obligations in the Lease.

1. Purpose of Smoke-Free and Vape-Free Policy. The parties desire to mitigate (i) the irritation and known health risks of secondhand smoke and vape exposure; (ii) the increased maintenance, cleaning, and redecorating costs of smoking and

vaping; (iii) the increased risk of fire from smoking; and (iv) the higher costs of fire insurance for builds that allow indoor smoking.

2. Definitions

“Smoking” means inhaling, exhaling, breathing, carrying, or otherwise using any lighted or heated tobacco product.

“Vaping” means the use of an electronic smoking device, by inhaling or ingesting vaporized nicotine, whether synthetic or derived from tobacco.

“Tobacco product” refers to a product that contains tobacco including, but not limited to: cigarettes, non-combusted cigarettes, cigars, cigarillos, pipe tobacco, chewing tobacco, dissolvable tobacco, snuff, snus, filters, rolling papers, pipes, and any other products which meet this definition.

“Electronic Smoking Device” means a device that can be used to deliver aerosolized or vaporized nicotine, whether synthetic or derived from tobacco, to an individual inhaling from the device. This includes, but is not limited to: an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, a vape pen, and any other products which meet this definition.

3. Smoke-Free and Vape-Free Complex. Tenant agrees and acknowledges that the premises to be occupied by Tenant and members of Tenant's household has been designated as a smoke-free and vape-free living environment. Tenant and members of Tenant's household shall not smoke or vape anywhere in the unit rented by Tenant, in the building where the Tenant'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 Tenant permit any guests or visitors under the control of Tenant to do so. [If an outdoor designated smoking or vaping area is provided, specify where it is here. The lease may limit smoking near entrances and windows, or implement a smoking restriction that covers 100% of the outdoor grounds (i.e., swimming pools, barbecue areas, courtyards, gardens, lawns, picnic areas, playgrounds, athletic courts, or parking lots). If intended to restrict smoking and vaping on balconies, patios, or any other outdoor area attached to a rental unit, the lease addendum should clearly state that restriction.]

4. Tenant to Promote Policy and to Alert Landlord of Violations. Tenant shall inform Tenant's guests and visitors of the no-smoking policy. Further, Tenant shall promptly give Landlord written notice of any incident where tobacco smoke or the smell of other prohibited vapor is migrating into the Tenant's unit from sources outside of the Tenant's unit.

5. Landlord to Promote Policy. Landlord shall post signage announcing the policy at entrances and exits, common areas, hallways, and in conspicuous places adjoining the grounds of the apartment complex.

6. Landlord Not a Guarantor of a Smoke and Vape-Free Environment. Tenant acknowledges that Landlord's adoption of a smoke-free and vape-free living environment, and the efforts to designate the rental complex as smoke-free and vape-free, do not make the Landlord or any of its managing agents the guarantor of Tenant's health or of the smoke-free and vape-free condition of the Tenant's unit and the communal areas. However, Landlord shall take reasonable steps to enforce the terms of its leases and to make the complex smoke-free and vape-free. Landlord is not required to take steps in response to smoking or vaping unless Landlord is put on notice of the presence of tobacco smoke or vapor from electronic smoking devices via agent, personal knowledge, and/or written notice by a Tenant.

7. Other Tenants are Third-Party Beneficiaries of Tenant's Agreement. Tenant agrees that the other tenants at the complex are the third-party beneficiaries of Tenant's agreements with Landlord, meaning that Tenant's commitments in this Addendum are made to the other Tenants as well as to the Landlord. A Tenant may sue another Tenant for an injunction to prohibit smoking or vaping or for damages but does not have the right to evict another Tenant. Any suit between Tenants 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 and obligations contained herein, as well as the rights in the Lease. A first violation of this Addendum will result in a verbal warning. A second violation will result in a written warning. A third violation will result in remediation (i.e., paying for repair costs associated with smoking-related damage, such as carpet or upholstery replacement and wall repainting; taking a cessation class). Any subsequent violation will be treated as a material breach of the Lease and grounds for immediate termination of the Lease by the Landlord with consequent Notice to Vacate. Landlord acknowledges that by declaring this building(s) or a portion of the building(s) to be smoke-free or vape-free, the failure to respond by Landlord to a complaint filed by the Tenant shall be treated as equivalent to a failure to respond for request for maintenance. Maryland law governing repair and deduct, the implied warranty of habitability, and the covenant of quiet enjoyment shall be understood to include the right to be smoke-free and vape-free contingent upon cooperation of both Tenant and Landlord. These provisions shall also be construed to result in a constructive eviction if Landlord fails to timely respond to Tenant's complaints regarding smoke or vapor from electronic smoking devices with the respective remedy reserved to the Tenant in such instance.

10. Disclaimer by Landlord. Tenant acknowledges that Landlord's adoption of a smoke-free and vape-free living environment, and the efforts to designate the rental complex as smoke-free and vape-free, does not in any way change the standard of care that the Landlord or managing agent would have to Tenant to render buildings and premises designated as smoke-free and vape-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 Tenant's premises will have any higher or improved air quality standards than any other rental property. Landlord cannot and does not warrant or promise that the rental premises or common areas will be free from secondhand tobacco smoke or vapor from electronic smoking devices. Tenant acknowledges that Landlord's ability to police, monitor, and enforce the agreements of this Addendum is dependent in significant part on voluntary compliance by Tenant and Tenant's guests. Tenants with respiratory ailments, allergies, or any other physical or mental condition relating to smoke or vapor are put on notice that Landlord does not assume any higher duty of care to enforce this Addendum than any other obligation under the Lease.

11. Effect on Current Tenants. Tenant acknowledges that current tenants residing in the complex under a prior lease will not be immediately subject to the policy. As current tenants move out, or enter new leases, the policy will become effective for their unit or new lease.

Landlord /s/ _____

Tenant s/s _____

Model Smoke-Free and Vape-Free Bylaw Amendment

Findings

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

WHEREAS, the American Society of Heating, Refrigerating and Air Conditioning Engineers has issued a position document on environmental tobacco smoke concluding that "the only means of effectively eliminating health risk associated with indoor exposure is to ban smoking activity;"

WHEREAS, given the proven health risks associated with smoking and breathing secondhand smoke, the [governing body] (the “Board”) deems it advisable and 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], which prohibits smoking and vaping in all condominium units as well as the [indoor/outdoor] communal areas; and

WHEREAS, nothing in federal law, including the Federal Fair Housing Act, prevents the imposition of smoking or vaping prohibitions in multi-unit dwelling buildings.

THEREFORE, the Board adopts the following smoke-free and vape-free policy:

Purpose

The Board of _____ Association adopts the policy below to protect the residents of _____ from the health risks of exposure to secondhand tobacco smoke and electronic smoking device nicotine vapor. The policy is also adopted to prevent the risks of injury to residents from fires associated with smoking.

Definitions

“Smoking” means inhaling, exhaling, breathing, carrying, or otherwise using any lighted or heated tobacco product.

“Vaping” means the use of an electronic smoking device, by inhaling or ingesting vaporized nicotine, whether synthetic or derived from tobacco.

“Tobacco product” refers to a product that contains tobacco including, but not limited to: cigarettes, non-combusted cigarettes, cigars, cigarillos, pipe tobacco, chewing tobacco, dissolvable tobacco, snuff, snus, filters, rolling papers, pipes, and any other products which meet this definition.

“Electronic Smoking Device” means a device that can be used to deliver aerosolized or vaporized nicotine, whether synthetic or derived from tobacco, to an individual inhaling from the device. This includes, but is not limited to: an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, a vape pen, and any other products which meet this definition.

Policy Provisions

1. Smoking and vaping is prohibited everywhere on the property of _____ including, but not limited to, the individual units and all indoor and outdoor communal areas. [If you choose to provide an outdoor smoking area or area(s), specify location(s) here.]
2. No owner shall smoke, vape, or permit smoking or vaping by any owner, occupant, agent, tenant, contract worker, household worker, guest, friend, or family member.
3. Smoking or vaping in violation of this policy shall constitute a nuisance, pursuant to the governing documents of the Association.
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 and vaping prohibition and a reference to this policy. Owners selling their units must advise their real estate agents and prospective buyers of the smoking and vaping prohibition prior to the time that a purchase agreement for the unit is entered into.

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 and vaping is prohibited at _____.

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.

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 using a special assessment levied against the owner of the unit and an assessment lien, if necessary.

8. [Optional provision for "grandfathering in" current residents who smoke or vape:
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 or vape in their unit until the unit is sold, or for a tenant, until the end of the lease term. Upon termination or expiration of a tenant's lease, the policy will apply to the new or renewed lease. Upon conveyance of title to a unit previously owned or occupied by a person prior to the implementation of the policy, the unit shall become subject to the smoke-free and vape-free policy and smoking and vaping will not be permitted.]

Enforcement

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

/S/ _____