

# City of Manhattan Beach

## Smoke-Free Policy for Multi-Unit Housing



**Effective Date: May 5, 2017**



### Background and Purpose

The City of Manhattan Beach has adopted several ordinances to update its existing smoking regulations in an effort to protect public health and reduce pollution to the marine environment. As a coastal community, the public is concerned with the amount of cigarette debris that ends up on the beach and in the ocean. The City is also a member of the Blue Zones program, and has partnered with the Beach Cities Health District to implement smoke-free public places in the community and enact this smoke-free multi-unit housing policy.

According to the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, nonsmokers who live in multi-unit dwellings can be exposed to neighbors' secondhand smoke through doorways, cracks in walls, electrical lines, plumbing and ventilation systems.

**As of May 5, 2017, smoking will not be allowed in multi-unit properties with three (3) or more units.**

### Important Dates

**July 18, 2014:** The Smoke-Free Public Places ordinance (Ordinance 14-0008) became effective.

**October 20, 2015:** City Council adopts a smoke-free policy for Multi-Unit Housing, [Ordinance 15-0019](#). The City will coordinate with landlords and property owners over an 18-month implementation period before the ordinance becomes enforceable.

**November 5, 2016:** On or before this date, landlords and HOA Boards must provide all tenants and homeowners, respectively, with *proper notification that their units will become non-smoking as of May 5, 2017* (or an earlier date as determined by the landlord or HOA Board).

**May 5, 2017:** All multi-unit housing with 3 or more units in Manhattan Beach will be smoke-free, and non-smoking signage will be posted to notify tenants that the properties are non-smoking.

### Required Terms for Lease and HOA Rules

Landlords and HOA Boards are required to amend their leases and rules, respectively, to include the following terms relating to the smoking ban:

- 1) As of **May 5, 2017** (or an earlier date if a landlord or HOA Board chooses) it is a material breach of the lease, or violation of HOA rules, as applicable, to allow or engage in smoking in a unit;
- 2) It is a material breach of the lease, or violation of the HOA rules, as applicable, to engage in smoking in any common area.
- 3) It is a material breach of the lease, or violation of HOA rules, as applicable, to violate any of the smoking laws while anywhere on the property; and
- 4) **For leases only:** other occupants of the property are express third-party beneficiaries of the provisions of the lease concerning smoking

**After November 5, 2016:** Prior to the effective date of a new lease or of an amendment that extends the term; a Landlord shall provide a written notice clearly stating that as of May 5, 2017, smoking is prohibited in the rental complex. All rental properties will be required to include in their lease agreements language stating that all units are smoke-free as of May 5, 2017.

**HOAs will have until November 5, 2016:** To provide written notice to their homeowners, and amend their rules and regulations to include the smoke-free policy

For sample lease provisions, visit the link to the City's website provided in this brochure. Leases and HOA rules must be amended on the earliest possible date such lease or rules may be amended in accordance with applicable law, including providing the minimum legal notice.

**Property managers and HOAs will not be held liable for violations of the smoking ordinance if they follow the requirements** to include language on the smoke-free policy in their lease terms, or rules and regulations for HOAs **AND** post clear "No Smoking" signs in many locations throughout the multi-unit residence.

Any violations of these requirements of the ordinance will be prosecuted as an infraction or misdemeanor at the discretion of the City Prosecutor.

### Private Enforcement

**The City will not enforce individual complaints of smoking violations on multi-unit properties**, but will verify that the lease agreements, rules and regulations, and signage requirements have been met.

The ordinance is intended to be self-enforcing. Those responsible for outdoor areas in which smoking is prohibited shall not knowingly allow smoking in that area. In addition, they shall post clear and unambiguous “No Smoking” signs to make it obvious to a reasonable person that smoking is prohibited by this Ordinance. Property managers or individuals can download and post the City’s [Breathe Free MB logo](#) or [poster](#) from our website: [www.citymb.info](http://www.citymb.info).

Notwithstanding this requirement, the presence or absence of signage will not be a defense for the violation of any provision of the smoking regulations.

### City Review

#### **12-Month Review of Enforcement Activity**

12 months after full implementation of the Ordinance, the effectiveness of the private and limited City enforcement of the Ordinance will be reviewed and an informational memorandum will be submitted to the City Council.

### Frequently Asked Questions

#### **What is “Multi-Unit Housing”?**

Multi-Unit Housing includes all residential property containing three or more units. This includes but is not limited to apartments, condominiums and townhomes, stock cooperatives or planned developments.

#### **Does a “Unit” include individual patios and balconies? YES.**

A unit includes any exclusive-use area associated with that unit, such as, for example, a private balcony, porch, deck, or patio.

**Does the ordinance apply to private residential property? No, not unless it is a multi-unit property.** The outdoor public places ordinance does not apply to private residential property. However, multiple-unit dwellings, such as apartments, condominiums, and town homes that have 3 or more units on a property are included in the City’s [Multi-Unit Housing ordinance](#). Landlords or property managers of duplexes may create smoke-free properties if they choose.

#### **Are there any exceptions? YES.**

Smoking is only permitted in three areas in Manhattan Beach:

- Private residential property or a multi-unit housing property of 2 units or less, unless used as a child-care or healthcare facility
- Within a moving vehicle
- In up to 20% of designated hotel and motel guestrooms

If smoking within a vehicle in transit through or around the City, individuals do not have to put out their cigarettes at a traffic light or stop sign. However, the public is reminded that [littering is against the law](#) and disposal of cigarettes on the street could result in a citation.

#### **Does the City’s new smoking ordinance address electronic cigarettes? YES**

Electronic cigarettes are included in the City’s definition of smoking and are [prohibited wherever the use of cigarettes is prohibited](#), including outdoor public places.