

**COMPLAINT RE: PROHIBITED SMOKING IN MULTI-UNIT RESIDENCE  
(Berkeley Municipal Code 12.70.035)**

On the following date and time at the address listed below, I, the Complainant, witnessed a violation of **BMC 12.70.035** (prohibited smoking in a unit or common area of a multi-unit residence) as follows:

Date of Alleged Violation:

(mm/dd/yyyy)

Time of Alleged Violation:

AM

PM

(hour:minutes)

Please provide all known information about the alleged person responsible for the smoking violation (tenant(s)/owner/occupant) below.

Name of Alleged Violator (if known):

Address of Alleged Violator:

(Street Address - include unit/apt number)

(City)

(Zip Code)

Is the multi-unit residence a duplex (2 units):

(Yes or No)

Location of violation where the smoke is coming from. Note: This must be in the same multi-unit residence as where the Complainant resides, e.g. hallway, common area, another unit, etc.

Complaint - Describe the violation and your observations. It is recommended but not necessary to attach evidence such as photos of smokers, statements from 3rd party witnessed, etc. in support of your complaint.

### **Acknowledgment of Complaint**

**I acknowledge the following:**

1. I am a resident in a multi-unit residence within the City of Berkeley.
2. This Complaint **is not confidential** and may be shared with the person responsible for the alleged violation.
3. This Complaint **is not confidential** and is a public information document that is available to the general public when requested.
4. If this is the 2nd complaint submitted within 6 months from the initial complaint (for a total of two complaint forms, one from two separate units) the complaint meets the criteria to forward to the City of Berkeley Code Enforcement staff for further action.
5. If an administrative citation is issued, and the recipient(s) appeals, I will be called to testify at an administrative appeal hearing. I agree to make myself available to testify and understand that if I fail to testify, the citation may be dismissed.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Complainant's Full Name

Complainant's Signature

Executed in Berkeley, California on the following date and time:

AM PM

(mm/dd/yyyy)

(hour:minutes)

Complainant's Address:

(Street Address - include unit/apt number)

(City)

(Zip Code)

Please note that a copy of your complaint will also be sent to your Landlord/Property Manager **if and only if** you provide the contact information below:

Landlord/Property Owner's Name:

Landlord/Property Owner's Address:

(Street Address - include unit/apt number)

(City)

(State)

(Zip Code)

Complaint forms are accepted online, by mail, and in-person at the following address: **"City of Berkeley Tobacco Prevention Program, 1947 Center St, 2nd floor, Berkeley, CA 94704."** Complaint forms can be filed online at: <https://cityofberkeley.iotform.com/203656480701049>. Please refer to the **Berkeley Tobacco Prevention Website** for more information on *Smoking Laws in Berkeley* and *Prohibited Smoking in Multi-Unit Residence Complaint Form Information Sheet*.

As of November 10, 2020, the city of Berkeley City Council amended Berkeley Municipal Code (BMC) Chapter 12.70 Sections 12.70.020 V, 12.70.035 E and 12.70.037 C to be in accordance with California Health and Safety Code. Ordinance No. 7,736-N.S. amending BMC Chapter 12.70 to update Section 12.70.020 Definitions section V and repealing Section 12.70.035.E and 12.70.037.C and **adjusting the definition of "smoke" or "smoking" to include medical cannabis** to align with the State of California Health and Safety code. Per the City Clerk the amendments took effect on December 17, 2020. For more information, [\*\*click here.\*\*](#)

***Please provide your phone number and email address to receive confirmation that your form has been received.***

Complainant's Phone Number

Complainant's Email

## **PROHIBITED SMOKING IN MULTI-UNIT RESIDENCE COMPLAINT FORM** **INFORMATION SHEET**

As of November 10, 2020, the city of Berkeley City Council amended Berkeley Municipal Code (BMC) Chapter 12.70 Sections 12.70.020 V, 12.70.035 E and 12.70.037 C to be in accordance with California Health and Safety Code. Ordinance No. 7,736-N.S. amending BMC Chapter 12.70 to update Section 12.70.020 Definitions section V and repealing Section 12.70.035.E and 12.70.037.C and **adjusting the definition of "smoke" or "smoking" to include medical cannabis** to align with the State of California Health and Safety code. Per the City Clerk the amendments took effect on December 17, 2020. For more information, [click here](#).

1. Complaint forms can be submitted online at:  
<https://cityofberkeley.jotform.com/203656480701049>  
Forms can also be submitted by mail or dropped off in person at the following address: "City of Berkeley Tobacco Prevention Program, 1947 Center Street, 2<sup>nd</sup> Floor, Berkeley, CA 94704"
2. Please fill out the complaint form as completely as possible. **Incomplete forms will be returned and delay the processing of your complaint.**
3. To file a complaint, you must live in the same building as the responsible person. See Berkeley Municipal Code Section 12.70.035 (C): The tenant(s) of a unit, or owner-occupant(s) of an owner-occupied unit, shall be deemed the person(s) responsible for the violation where the violation was caused by the tenant(s) or owner-occupant(s) of the unit, or one or more persons subject to the control of, or present by invitation or permission of, the tenant(s) or owner-occupant(s).
4. Please identify the alleged person who is responsible for the violation. If the violation is by a renter ("tenant") or owner-occupant in your building, list the tenant or owner-occupant by name and address, including unit number. If the violation is by a visitor/guest of a tenant or owner-occupant, list the tenant or owner-occupant.
5. If it is the 1st complaint, or the last complaint was submitted more than 6 months ago, a notice will be sent to the person(s) responsible with a summary of the ordinance and information about the health effects of second hand smoke.
6. The 2nd complaint must be made by another unit in the same building. If the building is a duplex (two-unit building), then the 2nd complaint can be made by the same resident who submitted the 1st complaint.
7. If a 2nd complaint has been filed within 6 months of the initial complaint and meets criteria (see #6), information about the person(s) responsible is sent to the City Enforcement team and a citation may be issued. ***Please note the issuance of a citation is a discretionary process based on the City's resources, competing time constraints, and whether it is clear that the complaints are being filed in good faith.*** If the 2nd complaint is submitted more than 6 months from the initial complaint, then the process will restart and this 2nd complaint will be treated as the 1st complaint, and a notice will be sent to the alleged violator.
8. Appeal process: If an administrative citation is issued, and the recipient(s) appeals, you will be called to testify at an administrative appeal hearing. If you fail to testify, the citation may be dismissed.
9. The City encourages complainants to address the issue with their landlord first, if possible. Please understand that alternative options for enforcement exist – such as small claims court.
10. For more information, please visit [www.cityofberkeley.info/smoke-free\\_MUH](http://www.cityofberkeley.info/smoke-free_MUH) or call 510-981-5330. You may also refer to our "Smoke free laws in Berkeley" brochure for additional information.

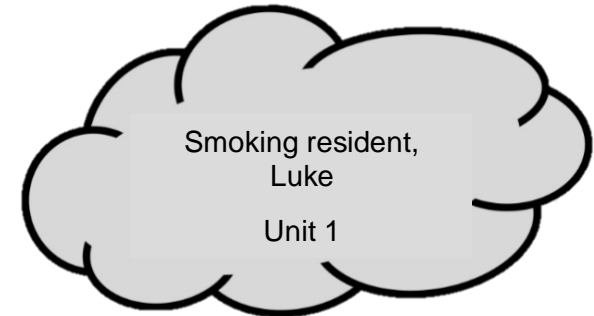
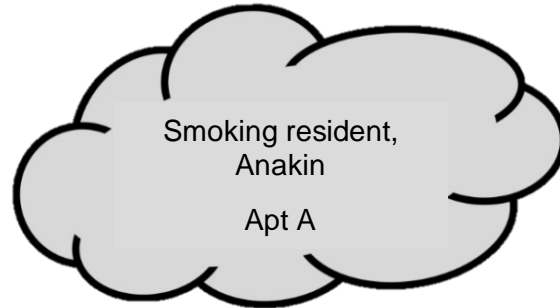
# Smoking In Multi-Unit Housing Complaint Process

## Process for Multi-Unit Residence (more than 2 units)

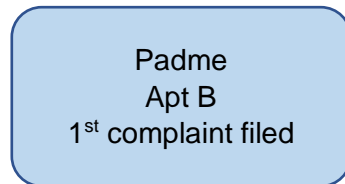
## Process for a Duplex

### Note:

All complaints must be filed from the same multi-unit housing property site



### Option A

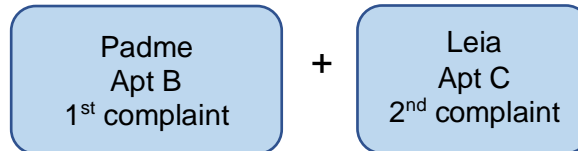


### Result A

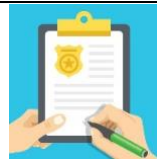


Notice mailed to alleged smoker

### Option B

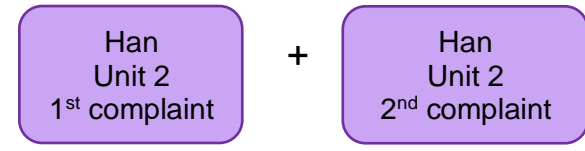


### Result B



Citation from city

### Option C



### Result C



Notice mailed + Citation from City

*An initial complaint is filed from an individual in a multi-unit residence. A notice is mailed by the city to the person allegedly responsible for the smoking violation.*

*A 2<sup>nd</sup> complaint is filed by another individual in another unit of the same multi-unit residence. The 2<sup>nd</sup> complaint is submitted within 6 months from the initial complaint. City Enforcement will be informed of the alleged violation and a citation may be issued.*

*A 2<sup>nd</sup> complaint is filed by the same individual who filed the initial complaint. The 2<sup>nd</sup> complaint is submitted within 6 months from the initial complaint. City Enforcement will be informed of the alleged violation and a citation may be issued.*