

# Marijuana and Your Rental

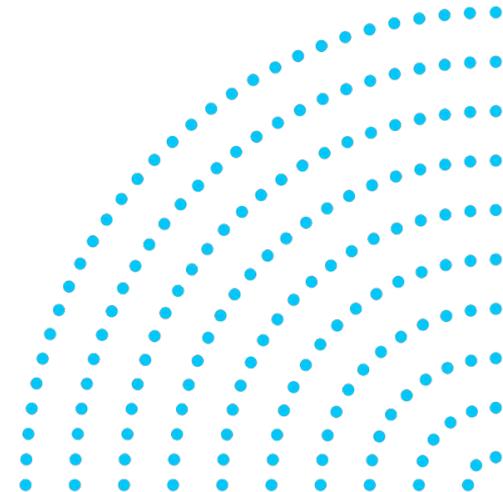
A webinar from TurboTenant

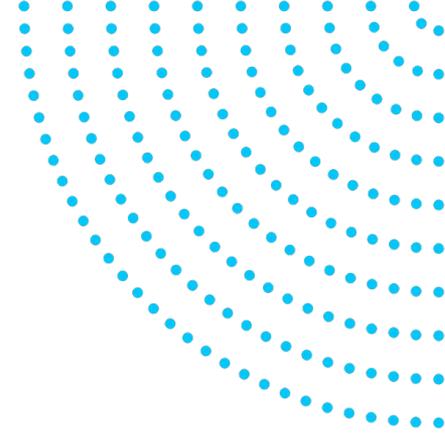


# Key Takeaways

## You'll learn:

- How the legality of marijuana impacts you as a landlord
- How to screen for marijuana users
- What to do if you think your tenant is smoking marijuana





# **Current Marijuana Landscape**

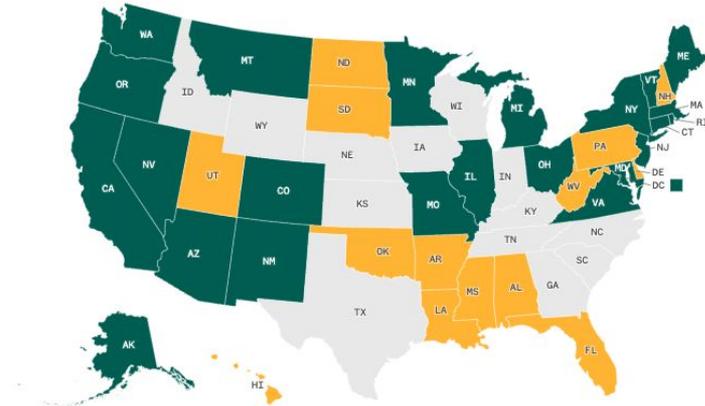
# The Basics

- Federally a Schedule I drug
- 38 states, three territories, and D.C. allow *medical* marijuana
- 24 states, two territories, and D.C. allow *recreational* marijuana

**America's marijuana map**

Places that allow marijuana for medical and recreational use.

■ Medical ■ Recreational and medical ■ Legalization pending



- American Samoa
- Guam
- Northern Mariana Islands
- Puerto Rico
- U.S. Virgin Islands

**Notes**

Data does not include CBD/Low THC programs;  
Data current as of April 2, 2024

Source: National Conference of State Legislatures  
Graphic: Danica Jefferies / NBC News



**Do you have a rental in a state  
where marijuana is legal?**

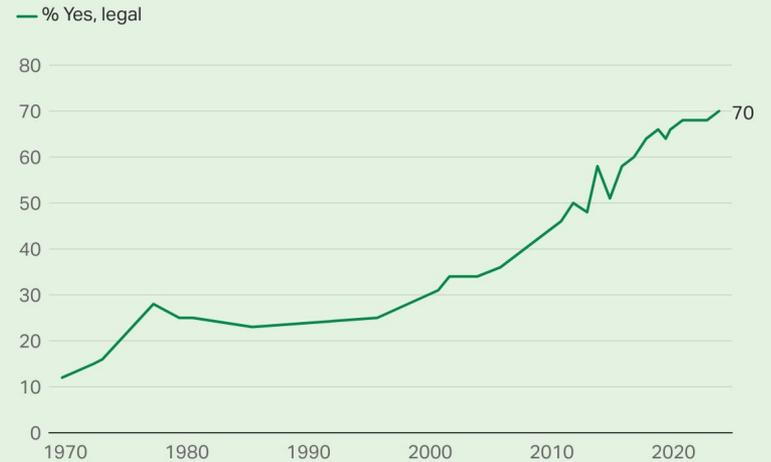


# Weed in America

- 17% of Americans reported that they smoke marijuana
- 50% have tried marijuana
- 70% think the use of marijuana should be legal

**Americans' Support for Marijuana, 1969-2023**

Do you think the use of marijuana should be legal, or not?



GALLUP

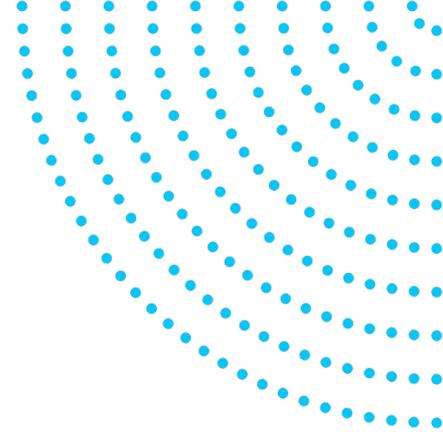
# The Future of Marijuana in America

- **The MORE Act:** legalize cannabis federally
- **States Reform Act of 2023 + STATES Act:** remove cannabis' classification, defer enforcement authority to the states
  - Treat it more like alcohol
- *Bills still have a long way to go before a decision is made*





## **Marijuana in Rentals**



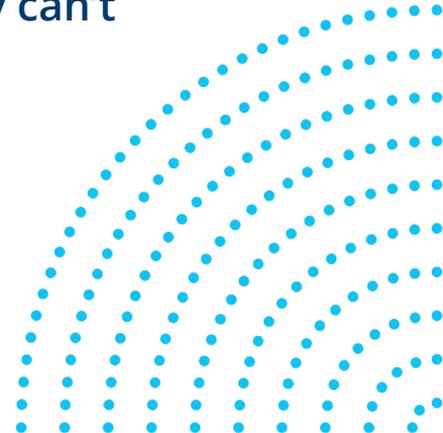
# Federal Housing and Cannabis



- Public Housing Agencies (PHAs) cannot make reasonable accommodations for medical marijuana
  - HUD does not have the discretion to admit users of marijuana, even medical marijuana, the HUD-assisted programs

# Privately Owned Rentals

- Marijuana isn't legalized in any form in your state?
  - Its use falls into the "illegal activity" portion of your lease
  - Could add extra language for protection
- Some form of marijuana is legal?
  - Add language to your lease to let tenants know they can't smoke in or on the property

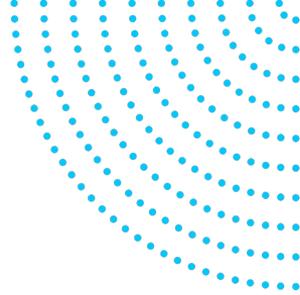




**Does your lease agreement  
have specific verbiage  
re: marijuana?**



# Updating Your Lease With TurboTenant



Protect your property with a binding update to your lease, *free for Premium members*:

1. Sign into your TurboTenant account.
2. Enter your [lease details](#) and [tenant information](#) if you haven't already.
3. Navigate to the **Forms** tab and click **Start Addendum**.
4. Select the lease for which you'd like to create an addendum, then click **Continue**.
5. Complete the short form, then click the **Review and E-Sign** button. *Read through the PDF preview.*
6. Click **Finalize and E-sign** to set up e-signatures.
7. Set up e-signatures, then click **Send for Signature**.

# Example Lease Language – Illegal

From [NAR](#):

“Usage of cannabis and any other federally prohibited drug is not allowed on the premises. Further, tenants and their guest(s) may not engage in any illegal drug-related activity, including but not limited to medical cannabis on or near the premises.

Landlord may terminate this agreement if tenant and/or guests engage in such activities. If this provision is violated, tenants will be subject to charges, damages, and eviction. Tenant forfeits their security deposit if there is any evidence of cannabis use on the premises.”

# Example Lease Language – Legal

## From NAR - three options:

1) “The use of tobacco and cannabis in accordance with state law is allowed on the Premises. Prior written consent of the landlord is required before medical cannabis may be grown on the premises.

2) This is a nonsmoking residence. No smoking, including medical marijuana, inside the home or on the premise is permitted. However, consuming medical marijuana with a vaporizer or in cannabis edibles, tonics, or concentrates is permitted.

3) No recreational or medical marijuana may be grown or consumed on the premises by the tenant(s) or guest(s) without the prior written consent of the landlord.”

# Lease Language in Action

This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

Under federal law, specifically the Controlled Substances Act (CSA), marijuana is still categorized as a Schedule I substance. This means that under federal law, the manufacture, distribution, or possession of marijuana is strictly prohibited. Because the U.S. Department of Housing and Urban Development is controlled by the federal government, it agrees that the manufacture, distribution, or possession of marijuana, whether prescribed for medical reasons or not, is a criminal offense and will not be protected under the fair housing laws. Therefore, landlords are not required to accommodate the manufacturing, distribution, possession or use of marijuana by a tenant for medical or recreational purposes. Disabled tenants who are registered medical marijuana users, however, should not feel discouraged to request reasonable accommodations if the need arises.

The Premises listed above follow and comply with federal law regarding marijuana and is, and will continue to be, a drug free community. Possession, use, manufacture or sale of any illegal substance, including marijuana, or marijuana concentrate by the Resident and/or Resident's occupants, guests or invitees is a substantial violation of the Lease Contract and will result in immediate termination of Resident's possession of the dwelling. If you have any questions or concerns about this policy, please speak to management.

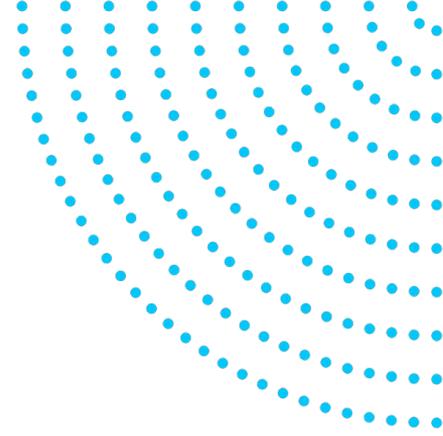
By signing below, Resident acknowledges his or her understanding of the terms and conditions as stated above, and his or her agreement to comply with those terms and conditions.



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## **Marijuana and Your Tenants**



# Should landlords care if their tenant use cannabis?

- Comes down to a matter of opinion - let's go over the most common forms of marijuana:
  - **Smoking:** typically the most offensive due to odor, increased fire risk, and overall impact to the rental - *makes sense to have specific lease language w/ your preferences*
  - **Edibles:** unlikely to cause damage to your rental or bother neighbors
  - **Topicals:** also unlikely to negatively impact the rental or neighbors





**Do you care if your tenants use  
cannabis (outside of smoking)?**



# Alcohol vs. Marijuana

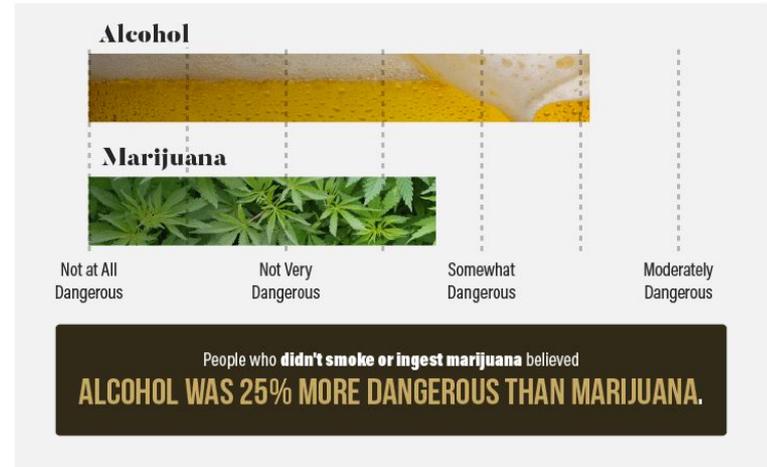
- Alcohol is commonly accepted in rentals without question
  - But dependence on alcohol could cause more negative impacts to your rental than marijuana dependence
  - Heavy alcohol imbibement can lead to:
    - Disruptive behavior
    - Damage to the property
    - Missed rent payments
    - Violence
    - Death



# Alcohol vs. Marijuana, pt. 2

- Heavy marijuana use:
  - Doesn't necessarily impact your tenant's ability to pay rent or maintain the property
  - Biggest issue is secondhand smoke/increased fire risk

## PERCEIVED DANGER OF ALCOHOL AND MARIJUANA



Source: Survey of 1,004 People

..... CREATED BY: AMERICAN ADDICTION CENTERS

# Marijuana and Tenant Screening

- **Start with your listing:** Clearly spell out your smoking policy and allow applicants to self-qualify
  - “No smoking of tobacco or cannabis permitted anywhere on the premises.”
- **Leverage your pre-screener:** Premium landlords can customize the pre-screener to ask if applicants expect to smoke marijuana in/on the premises

## Custom Questions

Are you a student?

Do you expect to smoke marijuana in/on the premises?

Are you okay with pets?

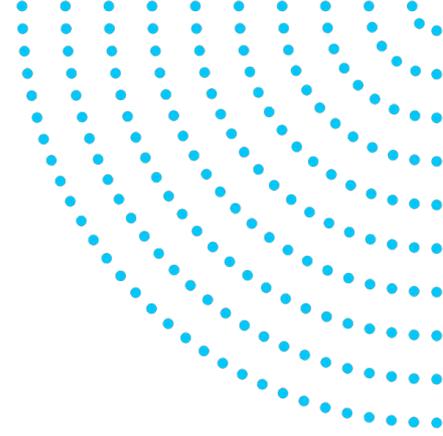
# Denying Marijuana Users

- **Disqualify applicants who don't align with your criteria:** You're allowed to deny applicants who smoke marijuana
  - Tight market and an otherwise great tenant?
    - Ask if they're willing to switch to a less odorous method, like edibles





## **Marijuana and Rentals FAQs**



# FAQs

**1) Does my existing no-smoking policy automatically include marijuana?**

- a) If there are no forms of marijuana legal in your state, your illicit activities clause should cover you - but explicitly add “no marijuana” for extra protection**
- b) If some form of marijuana is legal in your state, make sure your no-smoking clause calls cannabis out directly**

# FAQs

**2) Can landlords refuse to allow tenants to smoke marijuana, even if recreational marijuana is allowed in that state?**

- a) Yes - federal law supersedes state law**
- b) No specific protections for usage under the Fair Housing Act**
  - i) You could receive an accommodation request - do your due diligence!**

# FAQs

**3) Can landlords refuse medical marijuana in a state where it's legal even if an accommodation is requested?**

- a) To avoid HUD trouble, investigate every accommodation request**
- b) No outright bans - look for compromises:**
  - i) Designating an outdoor area for smoking**
  - ii) Not allowing smoking due to impact but allowing odorless marijuana usage**



# FAQs

**4) Does my tenant have a legal right to grow marijuana in the rental if our state allows growing?**

- a) Check your local state laws, but likely not:
  - i) E.g., the Marijuana Enforcement Division overseen by CO's Dept. of Revenue states "rental property owners have the right to ban the possession and use of marijuana products on their properties."****
  
- b) Lean on your lease**

# FAQs

## 5) What if I think my current tenant is smoking marijuana?

- a) **Gather evidence (while following the law)**
- b) **Review your lease**
- c) **Communicate with your tenant**
- d) **Consider mediation**
- e) **Pursue eviction as a last resort**



Streamline every part of  
rental property management  
by going **Premium**



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- Unlimited e-signatures
- Professional forms pack,  
including drug-free  
housing addendum