

CLARK COUNTY SMOKE-FREE MULTI-UNIT HOUSING TOOLKIT



**SOUTHERN NEVADA HEALTH DISTRICT
OFFICE OF CHRONIC DISEASE PREVENTION
AND HEALTH PROMOTION
TOBACCO CONTROL PROGRAM**

TABLE OF CONTENTS

INTRODUCTORY LETTER.....	3
REASONS FOR SMOKE-FREE HOUSING POLICIES	4
MULTI-HOUSING RESIDENT SURVEY – FACT SHEET	6
MULTI-UNIT HOUSING SMOKE-FREE	7
POLICIES – LEGAL INFORMATION.....	7
LEGAL RESOURCES FOR SMOKE-FREE HOUSING	8
SMOKE-FREE POLICY ADOPTION CHECKLIST	9
OWNER/MANAGER – FREQUENTLY ASKED QUESTIONS	10
IMPLEMENTATION TIPS.....	11
HOW TO ENFORCE YOUR NO SMOKING RULE.....	13
SMOKING MARIJUANA IN MULTI-UNIT RESIDENTIAL SETTINGS.....	14
SELECT RESOURCE ORGANIZATIONS.....	19
TEMPLATES AND ADDITIONAL SMOKE-FREE HOUSING RESOURCES	23
MODEL NO-SMOKING POLICY LEASE ADDENDUM	24
TENANT SURVEY – SAMPLE ONE	26
TENANT SURVEY – SAMPLE TWO.....	27
RESIDENT NOTIFICATION LETTER – SAMPLE ONE	28
RESIDENT NOTIFICATION LETTER – SAMPLE TWO	29
SAMPLE LETTER TO RESIDENTS FOR	30
NON-RETURNED SMOKE-FREE LEASE ADDENDUMS.....	30
REPORT OF A SMOKING INCIDENT – ENGLISH	31
NOTICE OF INFRACTION – ENGLISH	32
RESIDENT COMPLIANCE LETTER – ENGLISH	33
REPORT OF A SMOKING INCIDENT – SPANISH	34
NOTICE OF INFRACTION – SPANISH	35
RESIDENT COMPLIANCE LETTER – SPANISH	36
SIGN SAMPLES	37



Dear Property Managers,

The Southern Nevada Health District is working with multi-unit housing communities throughout Clark County to help protect area residents from the dangers of secondhand smoke. One of the best ways to do this is through the voluntary adoption of smoke-free housing policies.

In addition to the health benefits for both residents and property staff, numerous additional benefits exist for properties that voluntarily adopt smoke-free housing policies. For instance, there are **significant financial benefits** to adopting smoke-free policies. Having a smoke-free policy in place helps to protect and maintain the value of your property by lowering the cost of refurbishment and repair. Additional advantages include significant savings through **reduced turnover costs** and **faster turnover of units** for new residents. Smoke-free policies can also help reduce health and fire risks that could leave you legally and financially vulnerable and **protect you from potential lawsuits** brought by residents exposed to unwanted secondhand smoke exposure.

Despite concerns to the contrary, smoke-free policies are legal, affordable, and easy to develop. According to the Department of Housing and Urban Development, “going smoke-free in your multi-unit buildings is one of the best moves you can make for your tenants and your bottom line.” Another benefit of making your community smoke-free is an **increase in marketing appeal**. Did you know that the majority of multi-unit housing residents are nonsmokers? In fact, a significant percentage of renters would prefer nonsmoking apartments and many would even pay more to live in smoke-free communities. However, despite increasing demand, few communities are completely smoke-free. Adopting smoke-free policies creates an opportunity for your property to attract these tenants. **Renters in Clark County also support smoke-free policies** for multi-unit housing communities. A 2015 survey of Clark County multi-housing residents found:

- 89.6% think that secondhand smoke is harmful to people who are exposed to it.
- 27.2 % were bothered by secondhand smoke coming from other balconies or through windows.
- 20.4% were bothered by secondhand smoke drifting into their apartments through shared ventilation.
- 11.2% admitted to having a disagreement with a neighbor regarding secondhand smoke infiltration.
- 68.5% would prefer to live in a smoke-free building if their communities were to offer them.
- 72.4% said that being able to live in a smoke-free building would be an appealing attribute when looking for a new apartment.

The Southern Nevada Health District can help you take advantage of the excellent opportunities associated with smoke-free policy adoption and can provide you with the resources needed to give your residents what they want. The materials provided are specifically designed to offer additional information for landlords, property managers, and other key decision makers about the benefits of smoke-free multi-unit housing properties and guidance on how to adopt these policies. The goal of providing these materials is to make it as easy as possible for you to work towards making your multi-unit housing properties smoke-free.

You can also visit www.gethealthyclarkcounty.org to:

- View the Smoke-Free Housing Directory, in which your property can be listed for FREE if one or more buildings in the community have each individual unit designated as smoke-free.
- Download free “No Smoking” signs for your community (available in both English and Spanish).
- Access free resources to help your residents and staff to quit smoking.

For more information or additional assistance, please call the Southern Nevada Health District Tobacco Control Program at (702) 759-1270 or e-mail TobaccoProgram@snhdmail.org.

In addition to the health benefits of adopting smoke-free policies for your multi-housing community, there are some other great reasons for doing so. As a manager of multi-unit housing, your concerns include the business aspects of operating your enterprise, maintenance of your property, keeping costs down, keeping your units occupied and your resident relations positive. According to the Department of Housing and Urban Development, “going smoke-free in your multi-unit buildings is one of the best moves you can make for your tenants and your bottom line.” Additional benefits of making your community smoke-free include lowering costs and increasing marketing appeal to the majority of multi-unit housing residents who are nonsmokers.

CONSUMER PREFERENCES

- Numerous surveys show a high demand for smoke-free apartment buildings.
- Several statewide surveys demonstrate that as many as 78% of residents, *including smokers*, would choose to live in a smoke-free complex.
- Nationwide, less than 21% of the general population smokes: it makes sense that a majority of residents want to live in a smoke-free environment.
- People know that secondhand smoke is harmful to their health and don't want the smell of someone else's smoke in their homes. The smell and residue are very difficult for residents to eliminate: instead of risking feeling ill and having their clothing and furniture absorb the smoke/smell, many people are more likely to look for someplace else to live.
- As the number of residences and businesses with smoke-free policies increases, people have come to expect buildings free from smoke damage and may not even consider a property with smoking in its past.
- A 2015 survey of Clark County multi-housing residents found that 68.5% of respondents would prefer to live in smoke-free building if their communities were to offer them.



REDUCTION OF LIABILITY

- Smoking is a leading known cause of residential fires, causing injury, death and millions of dollars in damages; it is the number one cause of fire deaths in the U.S.
- Smoke-free policies reduce health and fire risks that could leave you legally and financially vulnerable.
- Smoke-free policies protect you from potential lawsuits brought by residents exposed to unwanted secondhand smoke exposure.
- A 2015 survey of Clark County multi-housing residents found that 20.4% of respondents were bothered to some extent by secondhand smoke drifting into their apartments through shared ventilation and 27.2% of respondents were bothered by secondhand smoke coming from other balconies or through windows.



Information incorporated/modified from: the Oklahoma State Department of Health's *Smoke-Free Multi Unit Housing: A Healthy Business Decision Landlord Manual*, the U.S. Department of Housing and Urban Development's *Smoke Free Housing: A Toolkit for Owners/Management Agents of Federally Assisted Public and Multi-family Housing*, the State of Rhode Island Department of Health's *Smoke-Free Housing: A Rhode Island Landlord's Guide*, and SmokeFreeHousingNY.org's *New York Landlord Smoke-Free Housing Toolkit*

FINANCIAL SAVINGS

- Every time a resident vacates a unit, it has to be cleaned in preparation for a new tenant. Apartment turnover costs can be two to seven times greater when smoking is allowed, compared to the cost of maintaining and turning over a smoke-free unit.
- Smoke-free policies protect and maintain the value of your property by lowering the cost of refurbishment and repair.
- With a smoke-free property, you won't have to waste hundreds of hours and thousands of dollars on maintenance and restoration.
- Going smoke-free also protects and maintains the resale value of your property.
- A nonsmoking policy may qualify your property for a lower insurance rate. Some insurance companies give a credit or premium reduction to landlords if they don't allow smoking in their building(s).



EASE OF ENFORCEMENT

- Smoke-free policies are largely self-enforcing. Since tenants expect and tend to prefer a smoke-free environment, they will abide by the policy.
- A 2015 survey of Clark County multi-housing residents found that 62.7% of respondents said they would be likely to report violations of a smoke-free policy to management.
- In the same survey, 11.2% of respondents admitted to having a disagreement with a neighbor regarding secondhand smoke infiltration.
- Secondhand smoke complaints & requests for unit transfers drop following implementation of smoke-free policies.



INCREASED MARKETABILITY

- Despite increasing demands, few apartment buildings are completely smoke-free. Capitalize on this market gap by highlighting your smoke-free status when marketing your property.
- Approximately 75% of tenants want to live in a smoke-free environment. By including that your building is smoke-free, you can attract more attention to your listing.
- Advertising units as nonsmoking makes them more desirable to new residents who either don't smoke or don't wish to live in smoky conditions.
- A significant percentage of renters prefer nonsmoking apartments and many would even pay more to live in smoke-free housing.
- By telling their insurance company they live in a smoke-free building, residents may see their renters' insurance premiums reduced.
- 72.4% of respondents in a 2015 survey of Clark County multi-housing residents said that living in a smoke-free building would be an appealing attribute when looking for a new apartment.

For more information on adopting smoke-free policies for your multi-unit housing community, visit www.gethealthyclarkcounty.org, call the Southern Nevada Health District Tobacco Control Program at (702) 759-1270, or e-mail TobaccoProgram@snhdmail.org.

Multi-Housing Resident Fact Sheet

The Nevada Clean Indoor Air Act was passed in 2006 to protect Nevadans from secondhand smoke in the workplace. Additionally, the law removed preemption, allowing the local government to impose more stringent standards than those imposed by the State. Despite this, little has been done to ensure healthier environments are available in homes. Secondhand smoke infiltration at home was reported by 23% of Clark County Adult Tobacco Survey respondents in 2012.

This study was designed to measure the experience and opinions of Clark County multi-housing residents in relation to tobacco use. Of the 6000 eligible residents of multi-unit dwellings, 384 interviews were successfully completed between July 15 and August 19, 2015. A survey consisting of 33 questions regarding attitudes towards tobacco and e-cigarette use in multi-housing residences was administered over the phone to willing participants. The following factsheet provides a summary of the responses gathered from the multi-housing resident survey.

- **89.6%** of those who answered think that secondhand smoke is harmful to people who are exposed to it.
- **80.3%** agree with apartment communities having rules prohibiting smoking in **INDOOR** common areas.
- **33.3%** agree with apartment communities having rules prohibiting smoking in **OUTDOOR** common areas.
- **72.4%** of respondents said that living in a smoke-free building would be an appealing attribute when looking for a new apartment.
- **68.5%** of respondents would prefer to live in smoke-free building if their communities were to offer them.
- Yet only **14.2%** of those questioned currently live in communities where designated non-smoking buildings are an option.
- Only **13.8%** had tobacco or e-cigarette smokers, other than themselves, in their households.
- **20.4%** of those who responded were bothered to some extent by secondhand smoke drifting into their apartments through shared ventilation.
- **27.2%** of respondents were bothered by second hand smoke coming from other balconies or through windows.
- **4.3%** have experienced e-cigarette or vapor infiltration.
- **11.2%** admitted to having a disagreement with a neighbor regarding secondhand smoke infiltration.
- **62.7%** of those who answered said they would be likely to report violations of a smoke-free policy to management.
- Only **15.6%** think vapor from e-cigarettes is not harmful.



If you would like additional information on how to create a smoke-free environment in your multi-housing residence, please contact us at TobaccoProgram@snhdmail.org or call (702) 759-1270. You can also check out our website and other smoke-free apartment listings at www.gethealthyclarkcounty.org



MULTI-UNIT HOUSING SMOKE-FREE POLICIES – LEGAL INFORMATION



Are you reluctant to consider adopting no-smoking or smoke-free policies due to concerns about the legality of the issue? Here’s what you should know:

1. There is no law that prohibits designating areas or individual apartment homes as smoke-free.
2. People who smoke are not protected by state or federal anti-discrimination laws, nor are they considered disabled under state or federal disability rights laws.
3. Despite the common claim, there is no constitutional or other legal right to smoke.

SMOKE-FREE POLICIES ARE LEGAL:

It is legal to prohibit smoking at your properties. It is your property and you have the right to set reasonable rules to protect it. The Nevada Clean Indoor Air Act, NRS 202.2483, states:

“In areas or establishments where smoking is not prohibited by this section, nothing in state law shall be construed to prohibit the owners of said establishments from voluntarily creating nonsmoking sections or designating the entire establishment as smoke free.”¹

Under Nevada law, smoke-free policies are like any other lease provision, such as trash disposal or pet restrictions, and can be implemented and enforced just like any other lease policy, even inside individual units and outdoor areas.

ESTABLISHING A SMOKE-FREE POLICY IS JUST LIKE SETTING YOUR OWN RULES FOR PETS OR LOUD MUSIC. YOU ARE WELL WITHIN YOUR RIGHTS TO IMPLEMENT REASONABLE POLICIES THAT PROTECT YOUR PROPERTY AND TENANTS.

SMOKE-FREE POLICIES ARE NON-DISCRIMINATORY:

- You are not unlawfully discriminating against smoking tenants or violating a smoker’s fundamental right to privacy by banning smoking in common areas or individual units. All claims to the contrary have no legal basis.
- Smokers are not protected under any state or federal laws, and smoking is not a “protected category”² nor is addiction to nicotine considered a disability.³
- To help protect against any charges of discrimination or targeting smokers, you can focus on the activity of smoking and not on smokers. Smoke-free means “no smoking,” not “no smokers.”

SMOKE-FREE POLICIES DO NOT INFRINGE ON ANY INDIVIDUAL RIGHTS:

THERE IS NO LEGALLY RECOGNIZED “RIGHT TO SMOKE.”

There is no legally recognized “right to smoke.” When smoke-free laws, ordinances, or policies are debated, the claim of a “right to smoke” is frequently raised by those opposing the policies. However, courts have considered the argument that individuals have a right to smoke and have consistently found that no such right exists.⁴

THE LAW IS ON YOUR SIDE:

NON-SMOKING POLICIES ARE LEGAL IN THE STATE OF NEVADA.

For more information on adopting smoke-free policies for your multi-unit housing community, visit www.gethealthyclarkcounty.org, call the Southern Nevada Health District Tobacco Control Program at (702) 759-1270, or e-mail TobaccoProgram@snhdmail.org.



¹ NEV. ST. ANN. § 202.2483, subdiv. 4 (2010).

² Graff, *supra* note 1, at 3.

³ Brashear v Simms, 138 F. Supp. 2d 693 (D. Md. 2001)

⁴ Samantha K. Graff, Tobacco Control Legal Consortium, *There is No Constitutional Right to Smoke: 2008 2* (2d edition, 2008).

LEGAL RESOURCES FOR SMOKE-FREE HOUSING

ADDITIONAL INFORMATION ABOUT LAWS & POLICIES FOR MULTI-UNIT HOUSING COMMUNITIES

AMERICANS FOR NONSMOKERS' RIGHTS: LANDLORDS

A library of resources for landlords, property management companies, etc. for addressing the issue of secondhand smoke, learning more about the benefits of smoke-free communities, and adopting smoke-free policies.

For more information, visit:

<http://www.no-smoke.org/goingsmokefree.php?id=594>

AMERICANS FOR NONSMOKERS' RIGHTS: RESOURCES & TOOLS FOR SMOKE-FREE MULTI-UNIT HOUSING

A sheets of links to a variety of resources and tools for smoke-free multi-unit housing.

For more information, visit:

https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=6&cad=rja&uact=8&ved=0ahUKEwj-fzC99zNAhUK7GMKHVj-AZkQFghAMAU&url=http%3A%2F%2Fwww.no-smoke.org%2Fpdf%2FMUHresources.pdf&usg=AFQjCNFKazdFCYpHgyIzk1e_PFHh8uNY9A&sig2=8SxQgPRTsGvUxBES8IroiQ

CHANGE LAB SOLUTIONS: SMOKE-FREE HOUSING – RELATED PUBLICATIONS

Smoke-free housing resources, including policy and legal information.

For more information, visit:

<http://www.changelabsolutions.org/landing-page/smokefree-housing>



CLEAR GAINS: SMOKE-FREE POLICIES ARE LEGAL – Q&A

A Question and Answer sheet addressing common legal questions regarding smoke-free policies.

For more information, visit:

http://tobwis.org/files/download_file/7ea07eacb5aa20a

PUBLIC HEALTH LAW CENTER: HOUSING

Includes additional details and links to resources, such as: Market for Smoke-Free Housing, Secondhand Smoke and Multi-Unit Rental Apartments, Common Legal Issues of Strategies, Select Legislation, Key Resources, Select Research, and Key Links.

For more information, visit:

<http://publichealthlawcenter.org/topics/tobacco-control/smoke-free-tobacco-free-places/housing>

TOBACCO CONTROL LEGAL CONSORTIUM: TIPS AND TOOLS – REGULATING SMOKING IN MULTI-UNIT HOUSING

Fact sheet on regulating smoking in multi-unit housing, including a variety of policy details and links to additional resources.

For more information, visit:

http://publichealthlawcenter.org/sites/default/files/resources/tclc-guide-regulating-smoking-multiunits-2011_0.pdf

TOBACCO CONTROL LEGAL CONSORTIUM: THERE IS NO CONSTITUTIONAL RIGHT TO SMOKE – 2008

Clarifies legal questions and concerns regarding legal issues, specifically focused on discrediting the idea that smokers possess a legal right to smoke.

For more information, visit:

<http://mysmokefreehousing.org/pdf/Constitutional-right.pdf>

STEP ONE: "I'M THINKING OF ADOPTING A SMOKE-FREE BUILDING POLICY."

- Request or print your own Nevada Landlord Toolkit resources from www.gethealthyclarkcounty.org.
- Find out more about what your residents think about smoke-free policies. Distribute surveys to better understand their attitudes and opinions.

STEP TWO: "I'VE DECIDED TO ADOPT A SMOKE-FREE POLICY."

- Decide policy details and include them in the lease and/or lease addendum.
- Set a date for the policy change to take effect. Notify residents of the upcoming policy change with a tenant letter at least 3 – 6 months before implementing the smoke-free policy.
- Offer cessation options to those residents who wish to quit smoking. SNHD provides cessation resources to offer your tenants at www.gethealthyclarkcounty.org.
- Add a lease addendum with the smoke-free policy to all current leases and include the policy in all new leases.
- Send a reminder announcement to residents a few days prior to the policy's start date.
- Be prepared to enforce your smoke-free policy and treat violations in the same way you would enforce any other property policy. Inform residents that if they don't follow the policy, they are in violation of their lease's terms.

STEP THREE: "I HAVE A SMOKE-FREE COMMUNITY."

- Post "No Smoking" or "Smoke-free Area" signs in and around buildings to remind residents and guests of the policy.
- Make note of any violations that you, your staff, or your residents witness.
- Include "smoke-free" in property descriptions when advertising so that potential residents can find your building/complex.
- Advertise your property for free with the Southern Nevada Health District's Smoke-Free Housing Directory. E-mail tobaccoprogram@snhdmail.org or call (702) 759-1270 for more information.
- If your property insurer does not already provide a discount for smoke-free properties, suggest to the insurer that they do so. Point out that a property in which smoking does not occur represents a lower financial risk for insurers.

For sample resources and more information on adopting smoke-free policies for your multi-unit housing community, visit www.gethealthyclarkcounty.org, call the Southern Nevada Health District Tobacco Control Program at (702) 759-1270, or e-mail TobaccoProgram@snhdmail.org.



OWNER/MANAGER – FREQUENTLY ASKED QUESTIONS

1. What is considered a smoke-free dwelling or apartment?

A smoke-free apartment is one where smoking is not permitted in the unit and adjacent units sharing the same common air handling or HVAC system. This assures that cigarette smoke will not drift from one unit to another.

2. Is it illegal for a landlord or owner to designate units smoke-free?

It is legal for a landlord or apartment building owner or manager to designate rental units as smoke-free. Because increasingly renters prefer smoke-free properties, it is also an economic advantage for landlords and owners to market at least some properties as smoke-free. In some cases, residents are willing to pay a premium to rent smoke-free apartments.

3. What is the US Department of Housing and Urban Development's (HUD) position regarding smoke-free dwellings?

In July 2009, HUD issued PIH-2009-21, and in May 2012, issued PIH-2012-25, which strongly encourage PHAs to adopt smoke-free housing policies. On September 15, 2010, the Assistant Secretary for Housing issued Notice H 2010-21 to encourage owners and management agents in HUD's Multifamily Housing rental assistance programs to also implement smoke-free housing policies.

4. Don't individuals have a "right" to smoke in their homes if they choose?

There is no legal right to smoke. Smokers are not a protected class under the Civil Rights Act of 1964 or other federal law.

5. Why aren't all assisted housing, multi-family and rental apartments smoke-free?

Currently, there is no federal law requiring assisted housing to be smoke-free. The Smoke-Free Environments Law Project notes that as of January, 2011, there are at least 230 federally assisted properties in 27 states that have adopted smoke-free policies.

6. What is the landlord and/or owner's role in protecting residents from secondhand smoke?

Reasonable accommodation for a resident with a disability made worse by exposure to secondhand tobacco smoke may be required under the Fair Housing Act.

7. Won't a landlord's or owner's insurance protect him/her from liability for residents' injuries resulting from second-hand smoke?

If a resident is injured or made seriously ill by involuntary exposure to smoke and chooses to take legal action, insurance might not cover that liability, especially if there is a pollution exclusion in the owner's commercial general liability policy.

8. Why is there such concern about secondhand smoke in workplaces, public places and living spaces?

- According to the Centers for Disease Control and Prevention (CDC), approximately 50,000 deaths occur annually in the United States as a result of secondhand smoke-related illnesses, including from heart disease, asthma, lung cancer and other respiratory ailments.
- It is a Group A carcinogen – a substance known to cause cancer in humans for which there is no safe level of exposure.
- Increased risk of Sudden Infant Death Syndrome and middle ear infections in children have also been linked to second-hand smoke.
- According to the American Association of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE), the only means of effectively eliminating health risks associated with indoor exposure to tobacco smoke is to ban smoking activity.

KNOW THE FACTS

- Secondhand smoke is a known carcinogen with no established risk-free level of exposure.
- Unwanted secondhand smoke travels from unit to unit within multi-residence buildings, exposing **ALL** tenants (not just the smoker) to the dangers of secondhand smoke. Tobacco smoke cannot be adequately contained or vented; *prohibiting smoking is the only safe way to prevent exposure.*
- Breathing secondhand smoke places residents at greater risk for lung cancer, heart disease, asthma attack, breathing difficulties, as well as sinus and bronchial illnesses. Even pets can be made ill by secondhand smoke!
- Pregnant women, babies, children, the elderly, and those with chronic or short term illnesses are particularly vulnerable to secondhand smoke dangers and irritation.
- Tobacco smoke and product use significantly increases landlord cleaning and repair costs.
- Across the country, tenants are taking legal action against landlords that allow exposure to unwanted secondhand smoke exposure from others.
- Smokers are **NOT** a protected class under the 1964 civil rights law.
- Smoking is **NOT** a guaranteed right under the US constitution.
- Smoking is **NOT** a disability and not protected under the Americans with Disabilities Act.
- Landlords (under most conditions) have the right to adopt no-smoking policies.
- A no-smoking policy prohibits the act of smoking; it does **NOT** prevent smokers from living on the premises.

Including residents in the process can build support and help prepare everyone for the transition.

INVOLVE TENANTS AND STAFF

- Include tenants and building staff in discussions about smoke-free policy adoption.
- Provide them with the health and property value rationale for the policy.
- Discuss implementation ideas.
- Start by talking to residents about your plan to adopt a no-smoking policy. Chances are the majority of residents would *prefer* a smoke-free environment.
- Consider conducting a survey to get input from residents about their preferences.
- Assess how many residents smoke, smoke inside their residential unit, are bothered by secondhand smoke, favor a no-smoking policy, etc.
- Review the findings; responses may show valuable support for the policy and provide insight into successful policy construction and implementation.
- Educate all staff about the policy so they can answer questions for residents correctly.

HAVE A CLEARLY DEFINED POLICY WITH CLEAR IMPLEMENTATION DATES

- Decide exactly where smoking will be prohibited inside and outside of the residential building(s).
- Write these into the lease and lease addendums.
- Specify, through written communication, *exactly* when the new policy will be in place, giving adequate notice between policy notice and implementation. Make sure that every resident is aware.

COMMUNICATE WITH TENANTS THROUGHOUT THE IMPLEMENTATION PROCESS

- After you have reviewed the tenant survey results and made clear decisions about where, when, and how smoking will be prohibited, begin to let your residents know.
- It's important to begin communicating with residents both verbally AND in writing to give them adequate notice of the upcoming no-smoking policy.
- This will give people time to adjust and can improve compliance.
- Send a very positive letter to each resident about the new policy.
- Ensure that all building and maintenance workers are aware of the letters and how to respond to questions.
- Request a signed confirmation that residents have received and read the letters.
- Send a copy of the new lease addendum to all residents containing the new no-smoking policy.
- Provide a summary memo/Q&A of the new rules.
- Provide a follow-up letter to those who have not signed the initial letter or the new lease agreement when it is requested.
- Uniformly and promptly enforce your policies.

POST SIGNAGE

- Post signs in the lobby and all common areas to remind tenants of the policy.
- Signs are important for reminding visitors and work personnel that a no-smoking policy exists.

IDENTIFY PLACES WHERE SMOKERS CAN SMOKE

- *If* an outdoor smoking area is designated in the policy, choose a location where smoke will not drift into the building and clearly identify that outdoor area.

PROMOTE YOUR BUILDING

- Promote your smoke-free building on the Get Healthy Clark County Smoke-Free Housing Directory at <http://www.gethealthyclarkcounty.org/smoke-free-housing-directory/index.php>.
- Promote your building's smoke-free status in all advertising and with realtors.
- Place signs at the entrance announcing its smoke-free status.

PROVIDE RESOURCES FOR QUITTING

- Most smokers want to quit. Provide quit resources for residents who smoke. Some resources can be located at <http://www.gethealthyclarkcounty.org/live-tobacco-free/quit-resources.php>.

For more information on adopting smoke-free policies for your multi-unit housing community, visit <http://www.gethealthyclarkcounty.org/live-tobacco-free/sfree-apt-owners.php>, call the Southern Nevada Health District Tobacco Control Program at (702) 759-1270, or e-mail TobaccoProgram@snhdmail.org.

A no-smoking rule is just like any other rule you enforce.

TIPS FOR GETTING TENANTS TO COMPLY:

1. Advertise the units as non-smoking to attract tenants who either don't smoke or only smoke outside. Talk to prospective tenants about it when showing the property.
2. Put the no-smoking rule in the lease agreement and read through the rule with tenants as they sign their lease.
3. Post signs in the building and on the property.
4. Inform tenants that if they smoke in their units, they will be financially responsible for bringing the unit back to rentable condition, which could cost thousands of dollars.
5. Use the same warning/enforcement methods for smoking rule violations that you use for any other rule.
6. Visit the properties regularly and perform inspections, just as should always be done for all rentals.
7. Optional: Provide a designated smoking area outside, away from windows and doors (25 feet is a good distance).

TALKING TO YOUR TENANTS:

Giving your tenants advance notice about the no-smoking rule will help you gain compliance with the policy. You might want to go "over and above" your normal procedures for announcing rule changes. A little bit of extra work at the beginning could help you avoid headaches later on. Some landlords choose to survey their tenants to find out how many smoke inside their units, how many would prefer a no-smoking rule, and how many would want to move.

ADDITIONAL FREQUENTLY ASKED QUESTIONS

Q. What do I have to gain from a no-smoking rule?

A. A no-smoking rule will help protect your property from damage and fires. You will save money on turnover expenses because apartments will cost less to clean, repair, and repaint. As more people become aware of the health hazards of secondhand smoke, no-smoking is an amenity that tenants want.

Q. Is a no-smoking rule legal?

A. Yes. It is legal to prohibit smoking at your properties, inside and out. It is your property and you have the right to set reasonable rules to protect it. It is not discrimination to prohibit smoking. Keep in mind a no-smoking rule is *not* a no-smoker rule. Smoking is a behavior, not an inborn characteristic. It is not a disability and smokers are not a protected class. As when changing any rule, be sure to follow landlord-tenant law (give notice, have tenants sign their agreement with the rule change, apply it equally, etc.).

Q. Can I adopt a no-smoking rule in HUD-assisted housing?

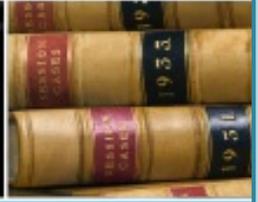
A. Yes. You can adopt a no-smoking rule for new tenants at HUD-assisted housing, *but* you may have to "grandfather" existing tenants until their leases renew. If you want to change the model lease, you will have to get HUD approval, but changes can be made to "House Rules" without HUD approval.

Q. Do no-smoking rules work only in higher end properties?

A. No. Many landlords are already enjoying success with no-smoking rules at all kinds of properties.

Q. My tenants are complaining about secondhand smoke. What can I do about it until the no-smoking rule goes into effect?

A. Ask tenants to smoke outside or away from the building. You could try to reduce the secondhand smoke drifting between your tenants' units by sealing the units off or by improving the ventilation, but be aware that neither will eliminate the problem.



SMOKING MARIJUANA IN MULTI-UNIT RESIDENTIAL SETTINGS

As a growing number of states consider legalizing medicinal and recreational marijuana, and wrestle with many related issues such as regulating use in public areas and workplaces, property owners and tenants are beginning to ask questions about use in different multi-unit residential settings. This fact sheet addresses a few common questions about smoking marijuana in multi-unit residences, including federally subsidized housing, and describes similarities between smoke-free tobacco and marijuana policies. For a more detailed discussion about overlaps between marijuana and tobacco control legislation, check out the Consortium's law synopsis, *Toking, Smoking & Public Health: Lessons from Tobacco Control for Marijuana Regulation*.



Q: Is secondhand marijuana smoke harmful?

A: Studies have only recently focused on the health effects of exposure to secondhand marijuana smoke.¹ The combustion of marijuana produces carcinogens and toxins, including many of the thousands of chemicals in tobacco smoke and fine inhalable particles that can trigger heart attacks and can also cause respiratory symptoms, such as coughing, phlegm and wheezing.² In fact, research has found that marijuana smoke contains higher levels of several toxic compounds than tobacco smoke.³ Moreover, heavy passive exposure to marijuana smoke can result in measurable concentrations of THC (the ingredient that produces marijuana's psychoactive effect) in nonusers' blood serum and urine.⁴

As just one indication of concern about the health impact of secondhand marijuana smoke, the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) recently updated its standards to include cannabis smoke (as well as emissions from electronic smoking devices) in its definition of "environmental tobacco smoke."⁵ ASHRAE's national air standards have long been cited by tobacco control advocates, along with the Society's position that the only way to effectively eliminate the health risks posed by indoor exposure to secondhand smoke is to prohibit smoking.

Q: Can tenants smoke marijuana in multi-unit apartment buildings if they live in states where medical or recreational marijuana is legalized?

A: Secondhand smoke, whether from tobacco or marijuana products, spreads throughout multiunit dwellings. Multi-unit residential property owners have the legal authority to make their properties smoke-free, which includes prohibiting the smoking of medically prescribed marijuana in individual units and common areas, even in jurisdictions in which the use of medical marijuana is permitted by state law.⁶

Q: What are the benefits of a smoke-free housing policy that includes the smoking of marijuana?

A: In addition to creating a healthier indoor environment, a smoke-free housing policy reduces turnover costs due to the need to renovate smoked-in units, lowers the risk of smoking-caused fires, and helps meet the needs and preferences of residents. Moreover, allowing the smoking of marijuana on the premises could generate resident complaints due to drifting smoke, result in false advertising complaints and even lead to Fair Housing Act complaints or lawsuits.⁷

Q: Can tenants in apartment buildings who are registered users of medical marijuana claim they are justified in smoking medically prescribed marijuana in their units because they are disabled? What about the claim that they are entitled to “reasonable accommodations” under the federal Fair Housing Act?

A: This is an interesting question. The Fair Housing Act prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, familial status and disability.⁸ For example, the Act requires housing providers to make “reasonable accommodations”⁹ in rules, policies, practices or services when necessary to give a disabled person an equal opportunity to use and enjoy a dwelling unit or common space.¹⁰ Under the Fair Housing Act, individuals are disabled if they have a physical or mental impairment that substantially limits one or more major life activities, have a record of such impairment, or are regarded as having an impairment.¹¹ Many individuals authorized to use medical marijuana would likely qualify as disabled under this definition.

The Fair Housing Act, however, states that a handicap “does not include current, illegal use of or addiction to a controlled substance”¹² as defined in the federal Controlled Substances Act.¹³ Although several states have passed laws legalizing its sale and use, marijuana continues to be categorized as a Schedule 1 drug under federal law (that is, a drug with high potential for abuse with no currently accepted medical use in treatment in the U.S.).¹⁴ Thus, it is a *federal offense* to possess or use marijuana.¹⁵ Because federal law supersedes state law, questions have naturally arisen about federal preemption of these state marijuana laws. In 2013, in an attempt to clarify the federal position on the enforcement of marijuana laws, the U.S. Department of Justice announced that the current administration would not prosecute individuals or organizations engaged in marijuana activities that are conducted in clear compliance with state and local narcotics laws that permit and regulate these activities.¹⁶ However, under a new administration, this policy could certainly change. Thus, even though the Fair Housing Act requires housing providers to make reasonable accommodations for persons with disabilities, marijuana’s current status as a Schedule 1 drug makes it unclear whether such a case brought under this federal civil rights law would succeed.¹⁷

Q: If a multi-unit property owner would like to adopt a policy that prohibits residents from smoking marijuana in their residences, and the property is in a state where medical or recreational marijuana use is legal, what other grounds could be used as a basis for the policy?

A: Depending on the jurisdiction, the housing association might be able to prohibit or otherwise restrict the smoking of marijuana on the property as a nuisance.¹⁸

Q: If a landlord or owner of a market rate property grants a tenant’s request to use medical marijuana on the premises, does that mean that other residents run the risk of being exposed to marijuana smoke?

A: A “reasonable accommodation” should not result in the potential exposure of others to secondhand marijuana smoke.¹⁹ Several methods for ingesting medical marijuana exist that would not expose other residents to marijuana

smoke, such as edibles, tinctures, beverages, oils, and pills.²⁰ Although each individual's medical situation is different, a middle ground might be reached for many marijuana users, in concert with advice from the prescribing physician.

Q: Can public housing authorities prohibit the smoking of marijuana in federalized subsidized housing?

A: Secondhand smoke, whether from tobacco or marijuana products, spreads throughout multiunit dwellings. Public and other subsidized housing owners have the same rights as owners of non-public housing to adopt smoke-free policies.²¹ These smoke-free policies may include a prohibition on smoking of medical marijuana. Moreover, the U.S. Department of Housing & Urban Development (HUD) explicitly states that if applicants for public or Section 8 housing are known users of marijuana (medical or otherwise), their applications must be denied.²² Also, if current residents request a reasonable accommodation to allow them to use medical marijuana in their unit, the request must be denied, as that may set an expectation that all residents in similar situations could expect an accommodation.²³ In a memo released January 20, 2011, HUD clarified that the Public Housing Reform Act allows (but does not compel) public housing authorities to terminate assistance for existing residents if they use a controlled substance.²⁴ Public housing authorities have discretion to determine those policies deemed most appropriate for their local communities, including denying assistance or terminating individual medical marijuana users, rather than entire households, for both applicant and existing residents. The U.S. Food and Drug Administration has approved for medicinal use drugs comprised of marijuana synthetics (such as Marinol and Cesament), which are not medical marijuana and are thus allowed in public housing and voucher programs.²⁵

Q: What are some basic guidelines for multi-unit residential property owners and housing authorities who would like to prohibit or restrict the smoking of marijuana on their property?

A: Below are a few basic considerations to keep in mind when implementing any smoke-free policy.²⁶

- Clearly define “smoking” and related terms in any lease and rental agreements in buildings designated as No-Smoking or Non-Smoking. If a property's smoke-free policy covers the smoking of marijuana, be explicit about what areas are smoke-free (for example, indoor common areas and residential units). Other areas covered under such a policy could include outside premises, such as walkways, parking lots, balconies, patios or decks of individual units, and areas near doorways, windows and air vents.
- Explain the rationale for the policy. Make sure that residents, guests, employees and others associated with a multi-unit property understand the health and fire risks related to smoking and exposure to secondhand smoke.
- Apply the smoke-free policy uniformly to all residents, guests and employees.
- Ensure that an effective enforcement plan is in place that describes the process for handling infractions.
- Prepare tenants and staff for implementation of the policy by providing announcements, educational material or presentations, staff training, signage, etc.

Q: Where can I get additional information about issues related to smoking marijuana and parallels between marijuana regulation and tobacco control policies?

A: The Consortium, and its parent organization, the [Public Health Law Center](#), have a [web page](#) containing several publications and resources on smoke-free housing, including resources that discuss concepts related to [condominiums, apartments and other multi-unit dwellings](#), [affordable housing](#), and [smoke-free housing disclosure policies](#). Many of these materials may be relevant for those seeking to regulate the use, marketing and sale of marijuana products. Marijuana-specific legal resources include the Consortium's law synopsis, “Smoking, Toking and Public Health: Lessons from Tobacco Control for Marijuana Regulation” (2015), two webinars sponsored by the Network for Public Health Law,

“Regulating Non-Medical Marijuana: Lessons Learned and Paths Forward” (2014), available at <http://bit.ly/VA2NSv> and “Expanding Medical Marijuana Laws: Current Policies and Implications for Public Health” (2014), available at <http://bit.ly/1Bulo1V>, and a Consortium webinar, “Palliative Care Versus Harmful Exposure: Secondhand Medical Marijuana Smoke in Multi-Unit Housing” (2013), available at <http://bit.ly/1JiKIPs>.

Contact Us

Please contact the Tobacco Control Legal Consortium at publichealthlawcenter@wmitchell.edu with any questions about the information included in this publication or to discuss local concerns you may have about issues relating to the regulation of marijuana and tobacco control.

Last updated: June 2015

Notes

- ¹ See, e.g., Matthew Springer and Stanton Glantz, *Marijuana Use and Heart Disease: Potential Effects of Public Exposure to Smoke* (April 22, 2015), available at https://tobacco.ucsf.edu/sites/tobacco.ucsf.edu/files/u795/glantz_MSHS_fact%20sheet_041115.pdf.
- ² *Id.*
- ³ David Moir et al., *A Comparison of Mainstream and Sidestream Marijuana and Tobacco Smoke Produced Under Two Machine Smoking Conditions*, CHEMICAL RESEARCH IN TOXICOLOGY (2008) available at <http://www.ukcia.org/research/ComparisonOfSmoke.pdf>.
- ⁴ Rosalie Liccardo Pacula et al., *Developing Public Health Regulations for Marijuana: Lessons from Alcohol and Tobacco*, 104 AM. J. PUB. HEALTH 1021, 1024 (2014).
- ⁵ American Society of Heating, Refrigerating, and Air Conditioning Engineers, Addendum to guidance on Ventilation for Acceptable Indoor Air Quality (Jan. 2015), available at <http://bit.ly/1PFjEs1>
- ⁶ Clifford E. Douglas, Smoke-free Environments Law Project, *Restricting the Use of Medical Marijuana in Multi-Unit Residential Settings: Legal and Practical Considerations* (2010), available at <http://www.mismokefreeapartment.org/MManalysis.pdf>.
- ⁷ See, e.g., 42 U.S.C. § 3601 *et seq.*
- ⁸ *Id.*
- ⁹ See generally U.S. Dep’t of Housing and Urban Development, People with Disabilities web page (HUD.Gov) (last visited May 1, 2015), available at http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/disabilities/sect504faq#anchor257647; see also U.S. Dep’t of Justice & U.S. Dep’t of Housing and Urban Development, Reasonable Accommodations under the Fair Housing Act (May 5, 2008) (Joint Statement), available at http://www.hud.gov/offices/fheo/disabilities/reasonable_modifications_mar08.pdf.
- ¹⁰ 42 U.S.C. § 3602 (h).
- ¹¹ 42 U.S.C. § 3602 (h); see also Douglas, *supra* note 6, at 4.
- ¹² 42 U.S.C. § 3602 (h).
- ¹³ 21 U.S.C. § 802.
- ¹⁴ *Id.*
- ¹⁵ See 21 U.S.C. §§ 841(a)(1); 844(a); 812(b)(1)(A)-(C).

- ¹⁶ U.S. Dep't of Justice, *Guidance Regarding Marijuana Enforcement* (Aug. 29, 2013), available at <http://www.justice.gov/iso/opa/resources/3052013829132756857467.pdf>. The U.S. Department of Justice's priorities are: "Preventing the distribution of marijuana to minors; preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels; preventing the diversion of marijuana from states where it is legal under state law in some form to other states; preventing stateauthorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity; preventing violence and the use of firearms in the cultivation and distribution of marijuana; preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use; preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and preventing marijuana possession or use on federal property." *Id.* at 1-2. ¹⁷ See Douglas, *supra* note 6, at 4.
- ¹⁸ *Pot May be Legal in Some States – But the Neighbors Don't Have to Like It*, U.S. NEWS & WORLD REPORT (July 25, 2014), available at <http://www.usnews.com/news/us/articles/2014/07/25/pot-may-belegal-but-homeowner-agreements-can-ban>.
- ¹⁹ Douglas, *supra* note 6, at 7.
- ²⁰ Rachel Ann Barry et al., *Waiting for the Opportune Moment: The Tobacco Industry and Marijuana Legalization*, 92 MILBANK QUARTERLY 207, 208-9 (2014), available at <http://bit.ly/1uUpJeb>.
- ²¹ HUD Notice PIH-2012-25, May 29, 2012 ("This notice strongly encourages Public Housing Authorities (PHAs) to implement non-smoking policies in some or all of their public housing units. . . . PHAs are permitted and strongly encouraged to implement a non-smoking policy at their discretion, subject to state and local law.").
- ²² See Memorandum from Helen R. Kanovsky, Medical Use of Marijuana and Reasonable Accommodation in Federal Public and Assisted Housing 2, Jan. 20, 2011, available at <http://www.scribd.com/doc/47657807/HUD-policy-Memo-on-Medical-Marijuana-in-PublicHousing#download>.
- ²³ *Id.*
- ²⁴ *Id.* at 10-11.
- ²⁵ U.S. Food & Drug Admin., FDA and Marijuana: Questions and Answers (last visited June 1, 2015), available at <http://www.fda.gov/NewsEvents/PublicHealthFocus/ucm421168.htm>.
- ²⁶ For more information on implementing smoke-free housing policies, see Tobacco Control Legal Consortium, *Creating Smoke-free Affordable Housing* (2015), available at <http://publichealthlawcenter.org/sites/default/files/resources/tclc-guide-creatingsmokefree-affordablehousing-2015.pdf>, and other smoke-free housing resources on the Public Health Law Center's housing [web page](#).

SELECT RESOURCE ORGANIZATIONS



NATIONWIDE TOBACCO QUITLINE

This nationwide toll-free telephone number connects you to counseling and information about quitting smoking in your state.

[1-800-QUIT-NOW](tel:1800QUITNOW)

HEALTH

American Academy of Pediatrics

Julius B. Richmond Center of Excellence

Department C, ETS, PO Box 927, Elk Grove Village, IL 60009 Phone: (847) 228-5005

www.aap.org/richmondcenter@aap.org

The mission of the AAP Julius B. Richmond Center of Excellence is to improve child health by eliminating exposure to tobacco and secondhand smoke. *See also* <http://www.kidslivesmokefree.org> and http://www2.aap.org/richmondcenter/Smoke_freeHousing.html.

American Cancer Society

1599 Clifton Rd, NE, Atlanta, GA 30329 Phone: (800) 227- 2345

www.cancer.org

The American Cancer Society (ACS) provides information learn about the health hazards of smoking and how to become an ex-smoker. Check online or call 1-800-227-2345 to find your local office.

American Heart Association

7272 Greenville Avenue, Dallas, TX 75231

Phone: (214) 373-6300

(800) 242-8721 (for local chapter)

www.americanheart.org

The American Heart Association (AHA) provides books, tapes, and videos on how smoking affects the heart and also has a guidebook on weight control in quit-smoking programs.

American Legacy Foundation

1001 G Street, NW, Suite 800, Washington, DC 20001

Phone: (202) 454-5555

www.americanlegacy.org

The American Legacy Foundation® develops programs that address the health effects of tobacco use, especially on vulnerable populations.

American Lung Association

1301 Pennsylvania Avenue, NW, Suite 800, Washington, DC 20004

Phone: (202) 785-3355

1-(800) LUNG-USA for local chapter

www.lungusa.org

The American Lung Association helps smokers who want to quit through its Freedom From Smoking® self-help quit-smoking program available online at www.ffsonline.org. The Lung Association also provides public information on the health effects of smoking on its website above or by calling 1(800) LUNG-USA.

Asthma and Allergy Foundation of America

1233-20th Street, NW, Suite 402, Washington, DC 20036 Phone: (202) 466-7643

(800) 727-8462

www.aafa.org

The Asthma and Allergy Foundation of America (AAFA) and its volunteers work to develop and implement public policies to improve the quality of life for people with asthma and allergies.

Public Health Institute

555 12th Street, 10th Floor, Oakland, CA 94607 Phone: (510) 285-5500

Fax: (510) 285-5501

www.phi.org

The Public Health Institute (PHI) is an independent, nonprofit organization dedicated to promoting health, well-being and quality of life for people throughout California, across the nation and around the world.

HOUSING AND LEGAL**The Centers for Social Gerontology Smoke-Free Environments Law Project**

2307 Shelby Avenue, Ann Arbor, MI 48103 Phone: (734) 665-1126

Fax: (734) 665-2071

www.tcsg.org/sfelp/home

The Smoke-Free Environments Law Project (SFELP) is a project that provides information, consultation and advice for businesses, government, and individuals in Michigan on policies and practices to protect employees and the general public from the harmful effects of environmental tobacco smoke.

Global Advisors on Smokefree Policy (GASP)

7 Cedar St., Suite A Summit, NJ 07901 Karen Blumenfeld, Esq. Executive Director

908-273-9368 phone

908-273-9222 fax

karen.blumenfeld@verizon.net

www.njgasp.org

Global Advisors on Smokefree Policy promotes 100% smokefree environments and provides customized technical assistance including up-to-date educational materials on the health, economic and environmental benefits of smokefree housing policies.

National Center for Healthy Housing

10320 Little Patuxent Parkway, Suite 500, Columbia, MD 21044

Phone: (877) 312-3046

www.nchh.org

The National Center for Healthy Housing is a nonprofit corporation dedicated to creating healthy and safe homes for children with a focus on indoor health hazards.

National Consumer Law Center

7 Winthrop Square, Boston, MA 02110-1245

Phone: (617) 542-8010

Fax: (617) 542-8028

www.nclc.org

The National Consumer Law Center is a nonprofit advocacy organization for economically disadvantaged Americans.

Public Health Law & Policy

2201 Broadway, Suite 502, Oakland, CA 94612

Phone: (510) 302-3380

Fax: (510) 444-8253

www.phlpnet.org

Public Health Law & Policy (PHLP) partners with government, advocates, and other community leaders to provide practical solutions to a wide range of public health problems.

Rental Protection Agency

Phone: (866) 828-9101

www.rentalprotectionagency.com

The Rental Protection Agency is the consumer protection agency for the rental industry and provides free resources for the remediation of landlord/resident disputes.

Tobacco Control Legal Consortium

875 Summit Avenue, St. Paul, Minnesota 55105 Phone: (651) 290-7506

www.tclconline.org

The Tobacco Control Legal Consortium is a network of legal programs supporting tobacco control policy change throughout the United States.

GOVERNMENT**Centers for Disease Control and Prevention****Office on Smoking and Health**

Mailstop K-50, 4770 Buford Highway, NE, Atlanta, GA 30341 Phone: (770) 488-5705

(800) 232-4636

www.cdc.gov/tobacco/osh

The Office on Smoking and Health, a program office within the Centers for Disease Control and Prevention (CDC), funds booklets on smoking topics such as relapse, helping a friend or family member quit smoking, the health hazards of smoking, and the effects of parental smoking on teenagers.

Information from the U.S. Department of Housing and Urban Development's *Smoke Free Housing: A Toolkit for Owners/Management Agents of Federally Assisted Public and Multi-family Housing*.

National Cancer Institute

Building 31, Room 10A24, 9000 Rockville Pike, Bethesda, MD 20892 Phone: (877) 448-7848

www.cancer.gov

The National Cancer Institute (NCI) website provides two key tools to help you quit smoking: *LiveHelp*, an online text messaging service, and the toll-free number to NCI's Smoking Quitline (877-44U-Quit). *Also see* "Clearing the Air, Quit Smoking Today," http://www.smokefree.gov/pubs/clearing-the-air_acc.pdf.

Smokefree.gov

www.smokefree.gov

The information and professional assistance available on this website can help to support both your immediate and long-term needs as you become, and remain, a nonsmoker.

United States Department of Housing and Urban Development

Office of Healthy Homes and Lead Hazard Control

451- 7th Street, SW, Room 8236, Washington, DC 20410

202-755-1785, Ext. 7698

www.hud.gov/lead

The office enforces HUD's lead-based paint regulations, provides public outreach and technical assistance to help protect children and their families from other health and safety hazards in the home.

United States Environmental Protection Agency (EPA)

Indoor Air Quality Information Clearinghouse

P.O. Box 37133, Washington, DC 20013-7133

Phone: (703) 356-4020 ▪ (800) 438-4318 www.epa.gov/smokefree

EPA has developed a number of free resources, including the *Smoke-free Homes Community Action Kit*, *Planning Guide for Pledge Events*, and *Local Programs Promoting Smoke-free Homes Booklets*, that are designed to help you start a local smoke-free homes program and educate the public about the health risks associated with exposure to secondhand smoke.

OTHER

Americans for Nonsmokers' Rights

Publications & Merchandise Order Form

2530 San Pablo Avenue, Suite J, Berkeley, CA 94702 (510)-841-3060

www.no-smoke.org

Americans for Nonsmokers' Rights is the leading national lobbying organization dedicated to nonsmokers' rights and protecting nonsmokers from exposure to secondhand smoke.

Rent Control and Drifting Smoke

(Article for Landlords) www.smokefreeapartments.org

Smoke-free Apartments is an on-line registry for apartment owners who have chosen to establish a total or partial non-smoking policy in their buildings.

Information from the U.S. Department of Housing and Urban Development's *Smoke Free Housing: A Toolkit for Owners/Management Agents of Federally Assisted Public and Multi-family Housing*.

TEMPLATES AND ADDITIONAL SMOKE-FREE HOUSING RESOURCES

Now you know the benefits of implementing smoke-free policies in your community, as well as how to implement and enforce them. The following section includes materials that you may find useful in developing and implementing your own smoke-free policies.

MODEL NO-SMOKING POLICY LEASE ADDENDUM	24
TENANT SURVEY – SAMPLE ONE	26
TENANT SURVEY – SAMPLE TWO.....	27
RESIDENT NOTIFICATION LETTER – SAMPLE ONE	28
RESIDENT NOTIFICATION LETTER – SAMPLE TWO	29
SAMPLE LETTER TO RESIDENTS FOR.....	30
NON-RETURNED SMOKE-FREE LEASE ADDENDUMS.....	30
REPORT OF A SMOKING INCIDENT – ENGLISH	31
NOTICE OF INFRACTION – ENGLISH	32
RESIDENT COMPLIANCE LETTER – ENGLISH	33
REPORT OF A SMOKING INCIDENT – SPANISH	34
NOTICE OF INFRACTION – SPANISH	35
RESIDENT COMPLIANCE LETTER – SPANISH	36
SIGN SAMPLES	37



MODEL NO-SMOKING POLICY LEASE ADDENDUM

Tenant and all members of Tenant's family or household are parties to a written lease with Landlord. This lease 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; and (iii) the increased risk of fire from smoking.

2. Definitions:

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

(Optional) **Electronic Cigarette.** The term "electronic cigarette" means any electronic 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. No-Smoking Complex. Tenant agrees and acknowledges that the premises to be occupied by Tenant and members of Tenant's household have been designated as a no-smoking living environment. Tenant and members of Tenant's household shall not smoke anywhere in the unit rented by Tenant, or 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. *[This section can be modified to indicate the areas in the complex that are smoking prohibited. If designated smoking areas are provided, those areas should be described here.]*

4. Tenant to Promote No-Smoking Policy and to Alert Landlord of Violations. Tenant shall inform Tenant's guests of the no-smoking policy. Further, Tenant shall promptly give Landlord a written statement of any incident where tobacco smoke is migrating into the Tenant's unit from sources outside the Tenant'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. Property Manager/Owner Not a Guarantor of Smoke-Free Environment: Resident acknowledges that Property Manager/Owner's adoption of a smoke-free living environment, and the efforts to designate the residential building/complex as smoke-free, do not make the Property Manager/Owner 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, Property Manager/Owner shall take reasonable measures to enforce the smoke-free terms of its leases and to make the *(designated areas of the)* building/complex smoke-free. Property Manager/Owner is not required to take steps in response to smoking unless Property Manager/Owner knows of said smoking or has been given written notice of said smoking.

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 no-smoking lease addendum with Landlord. *(In layman's terms, this means that Tenant's commitments in this lease addendum are made to the other Tenants as well as to Landlord.)* A Tenant may bring legal action against another Tenant related to the no-smoking lease addendum, but a Tenant does not have the right to evict another Tenant. Any legal action between Tenants related to this no-smoking lease addendum shall not create a presumption that the Landlord breached this no-smoking lease 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 lease addendum shall be a material breach of the lease and grounds for immediate termination of the lease by the Landlord. *[If the property management intends to use graduated enforcement, the enforcement steps should be specified in this document. The steps could start with a verbal warning, followed by written warning(s), and could include fines.]*

9. Disclaimer by Landlord. Tenant acknowledges that Landlord's adoption of a no-smoking policy and the efforts to designate the rental complex as no-smoking does not in any way change the standard of care that the Landlord or managing agent would have to a Tenant household to render buildings and premises designated as no-smoking 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 warranty or promise that the rental premises or common areas will be free from secondhand smoke. Tenant acknowledges that Landlord's ability to police, monitor, or enforce the agreements of this lease addendum is dependent in significant part on voluntary compliance by Tenant and Tenant's guests. Landlord shall take reasonable steps to enforce the no-smoking policy. 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. Tenants 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 lease addendum than any other landlord obligation under the Lease.

LANDLORD

TENANT

Optional Paragraph for Existing Rental Communities that Adopt "No-smoking Policies"

10. Effect on Current Tenants. Tenant acknowledges that current tenants residing in the complex under a prior Lease will not be immediately subject to the no-smoking Policy. As current tenants move out, or enter into new leases, the no-smoking policy will become effective for their unit or under the new lease.

RESOURCES

- Nevada Judiciary, Landlord Tenant Handbook:
http://nvcourts.gov/AOC/Committees_and_Commissions/Access_to_Justice/Documents/Landlord-Tenant_Handbook/
- Landlord Tenant Forms:
<http://www.nvsaa.org/index.php?src=gendocs&ref=StateofNevadaForms>
<http://nvcourts.gov/AOC/Templates/documents.aspx?folderID=10939>

TENANT SURVEY – SAMPLE ONE

(Date)

Dear Residents of **(Building/Complex/Community Name)**:

To protect their residents and property from the hazards of secondhand smoke, many residential buildings are adopting no-smoking policies. In Nevada, the smoking of tobacco products in most public places and indoor places of employment has been prohibited since the passage of the Nevada Clean Indoor Air Act in 2006. In order to ensure an environment where everyone can live and breathe smoke-free, **(Name of Property)** will be addressing the potential adoption of a no-smoking policy.

Please respond to the questions below so that we may review this issue with your input.

Please return your responses to **(Location on Property)** by **(Time)** on **(Date)** so we can consider your comments.

Please circle "Yes" or "No" for each question. Add any additional comments at the bottom.		
Are you a smoker?	YES	NO
<u>If Yes:</u> Do you smoke in your unit?	YES	NO
Do you allow guests or others to smoke in your unit?	YES	NO
Can you smell tobacco smoke from other units when in your apartment?	YES	NO
Can you smell tobacco smoke when in the hallway/common areas?	YES	NO
Would you be in favor of a smoke-free policy for this building? <i>(Smokers can still live in the building but cannot smoke in the building.)</i>	YES	NO

Comments:

TENANT SURVEY – SAMPLE TWO

Dear Valued Tenant:

The (**Name of Building Management or Property**) is interested in the safety and comfort of tenants, providing an enjoyable living experience for all. There has been a growing body of evidence, summarized in the 2006 U.S. Surgeon General report on secondhand smoke that confirms no risk-free level of exposure. According to the Surgeon General, secondhand smoke exposure can be particularly dangerous to children, adults and children with asthma, and people with heart or breathing problems.

We have decided to review our smoking policy to determine if it should be revised in light of these findings. We value your tenancy and would appreciate your input so that we can design a policy that is equitable to our residents and provides guidance as to where smoking will or will not be permitted. We believe a revised policy will reduce complaints from tenants and between neighbors about drifting secondhand smoke. All answers will be kept confidential.

Please fill in the blanks/circle “Yes” or “No” where appropriate.		
1. Number of years you have been a resident	_____ years	
2. Total number of people living in your unit	_____ people	
3. Number of children (under 18) living in your unit	_____ children	
4. Number of people who smoke that live in your unit	_____ people	
5. Does anyone living in the unit smoke in the unit?	Yes	No
6. Are visitors or workers allowed to smoke in your unit?	Yes	No
7. Have you experienced secondhand tobacco smoke drifting into your unit?	Yes	No
If Yes: Please describe where smoke is coming from, for example: hallway, adjacent patio, adjoining apartment, etc.		
8. Would you favor a policy to make this building smoke-free? <i>(Smokers can still live in the building but there will be no-smoking in any indoor area including common areas and private units.)</i>	Yes	No
9. Should there be a designated smoking area outside?	Yes	No
10. Please list any other areas of the building or grounds that you would like to see designated as smoke-free:		

Name: _____
(Please Print)

Unit Number: _____

Thank You.

Please return your completed form to (**Location on Property**) by (**Time**) on (**Date**) so we can consider your comments.

RESIDENT NOTIFICATION LETTER – SAMPLE ONE

(Date)

Dear Resident:

(Property Name) has decided to adopt a smoke-free policy in order to provide a healthier environment for all residents. The harmful effects of secondhand smoke, increased maintenance costs, and fire danger caused by indoor smoking are simply too great to ignore.

- As of (Date), (Property Name) will be smoke-free. This means that there will be no carrying or use of a lit tobacco product in indoor common areas or private areas of property. *(Owner may add outdoor areas such as balconies and terraces.)* This policy includes tenants as well as guests, maintenance personnel, and staff. Existing smokers who reside in this building will be “grandfathered,” and thus allowed to continue smoking in their units, until *(date depends on terms of lease and/or rules governing the type of housing)*, at which time they also must smoke outside.
- This policy was passed to protect the health of our residents, staff, and guests. Secondhand smoke is a Class A carcinogen, which means it is a cancer causing agent with no risk-free level of exposure. Secondhand smoke can travel through doorways, windows, wall joints, plumbing spaces, and even light fixtures, so secondhand smoke from one unit can adversely affect the health of residents in other units. In addition, fires caused by smoking-related materials are the number one cause of home fire deaths.
- If you or your family members are interested in more information on smoke-free living, please visit the following web-site: <http://www.getthehealthyclarkcounty.org/live-tobacco-free/index.php>. The web-site will also link you to a number of resources that can help if you are thinking about quitting smoking.

Please feel free to contact (Name of Employee/Property Manager) or myself if you have any questions. We will be happy to assist you in any way possible to work toward a smooth transition.

Sincerely,

(Name)

(Title)

RESIDENT NOTIFICATION LETTER – SAMPLE TWO

Dear Resident:

(**Property Name**) has decided to adopt a smoke-free policy in order to provide a healthier environment for all residents. The harmful effects of secondhand smoke, increased maintenance costs, and fire danger caused by indoor smoking are simply too great to ignore. A smoke-free policy for individual units will be phased in as leases are renewed.

Secondhand smoke is a serious health hazard. According to the 2014 Surgeon General’s Report *The Health Consequences of Smoking – 50 Years of Progress*, exposure to secondhand smoke leads to approximately 42,000 deaths per year. There is no risk-free level of secondhand smoke exposure; even brief exposure can be harmful to health. Secondhand smoke is also particularly dangerous to children and has been linked to Sudden Infant Death Syndrome (SIDS). In addition, smoking is the leading cause of residential fire-related deaths in the U.S.

This is an issue for the entire residential complex because tobacco smoke travels from unit to unit. Secondhand smoke can seep through outlets in walls and spread through air conditioning and heating systems. The remodeling required to prevent secondhand smoke transfer can be costly and ineffective. The only effective method to stop the spread of secondhand smoke is through the adoption of a no-smoking policy.

Smoking will not be prohibited in individual units until leases come up for renewal. *However*, all leases from this point forward will include a smoke-free addendum.

Please consider this letter as notice about the changes that will be taking place upon your next lease renewal. The intention of the new policy is to enable everyone to breathe clean, tobacco-free air.

*Please sign and return the bottom portion of this letter to management by (**Time**) on (**Date**).*

If you have any questions or concerns, please contact management.

Regards,

(**Name**)

(**Property Manager/Owner/Etc.**)

I understand and agree to abide by the policies contained in this letter.	
Name: (Please Print)	
Signature:	
Unit:	
Date:	

SAMPLE LETTER TO RESIDENTS FOR NON-RETURNED SMOKE-FREE LEASE ADDENDUMS

(Date)

(Building/Complex)

(Resident)

(Street Address)

(City, State, Zip)

Dear Resident,

Please be advised that (**Property Name**) previously (**mailed out, distributed, provided, etc.**) a Non-Smoking addendum to your lease, requesting for you to sign and return. We did not receive this signed document back.

I am advising you that the implementation of a smoke-free policy is still in effect.

Enclosed is another copy of the Non-Smoking addendum. Please review it and contact me at (**phone number**) with any questions or concerns you may have.

Please sign and return this document as soon as possible.

Thank you.

Sincerely,

(**Employee Name**)

Property Manager

(**Building/Complex**)

REPORT OF A SMOKING INCIDENT – ENGLISH

This notice is for a resident to inform management of a smoking-related incident.

Your Information:

Name: _____

Address: _____

Date of Incident: _____

Description of Incident:

- ____ 1. Smoke coming into rental unit
- ____ 2. Smoking observed in indoor common area
- ____ 3. Smoking observed in outdoor area
- ____ 4. Other: _____

Remarks/Detail Description:

Please submit this form to the rental office.

Resident

Date

NOTICE OF INFRACTION – ENGLISH

Property: _____

Date: _____

Resident: _____

Unit

No: _____

Please be advised that we have recorded one of the following incidents in your tenant record:

1. Infraction of property regulations described in Rules and Regulations
2. Violation of term(s) of your lease

One of the above was committed on _____ by:
____ you, ____ your children, or ____ a visitor or guest to your apartment.

Description of Incident:

- ____ 1. Destruction of property
- ____ 2. Disturbing or harassing other residents
- ____ 3. Excessive noise from your unit
- ____ 4. Drunk and disorderly
- ____ 5. Illegal activities on the premises
- ____ 6. Failure to maintain unit in clean and sanitary condition
- ____ 7. Smoking in unit
- ____ 8. Smoking in common areas
- ____ 9. Leaving garbage, trash or other obstruction in common area
- ____ 10. Allowing unauthorized person to live in unit
- ____ 11. Failure to allow management or maintenance in unit
- ____ 12. Unauthorized alteration or addition to property
- ____ 13. Breach of building security
- ____ 14. Other: _____

Remarks:

Failure to comply with your lease terms or with the Rules and Regulations may be cause for termination of your lease.

If you have questions regarding this matter, please call or stop by the rental office.

Manager

Date

RESIDENT COMPLIANCE LETTER – ENGLISH

Dear *[Name of Resident]*,

As of *[Date]*, all new or renewed leases included a smoke-free addendum. Our policy includes *[insert smoke-free policy language]*.

Our office was notified that on *[Date]* at approximately *[Time]*, you *[or if needed, someone from your unit]* were noticed to be in violation of the smoke-free policy stated in the lease by *[_____]*.

It is our responsibility to ensure that all residents and guests adhere to the smoke-free policy, and our office will take appropriate enforcement steps to do so.

[Insert specific language on enforcement steps including those in the lease or lease addendum and other established procedures.]

As a reminder, smoking is allowed in the following areas: *[insert any designated smoking areas]*

OR

As a reminder, smoking is not allowed on any part of the property, both indoors and out.

We are committed to providing information and resources to residents who wish to quit. Call 1-800-QUIT NOW for free quitting assistance or visit <http://www.gethealthyclarkcounty.org/live-tobacco-free/quit-resources.php> for additional resources for quitting smoking. *[Optional: We have additional quit resources and pamphlets available in the property office.]*

If you have any questions or concerns, please contact us at *[insert contact information]*.

Thank you for your cooperation,

[Property Manager/Owner]

REPORT OF A SMOKING INCIDENT – SPANISH

Este aviso es para un residente de informar a la gestión de un incidente relacionado con el tabaquismo.

Su información:

Nombre: _____

Dirección: _____

Fecha del incidente: _____

Descripción del incidente:

_____ 1. Humo de cigarro entrando a la unidad

_____ 2. Fue observado fumando en las áreas comunes

_____ 3. Fue observado fumando dentro del edificio

_____ 4. Otro: _____

Observaciones / Descripción detallada:

Porfavor entregue esta hoja de regreso a la oficina.

Residente

Fecha

NOTICE OF INFRACTION – SPANISH

Propiedad: _____

Fecha: _____

Residente: _____

Unidad

#: _____

Para tomar en cuenta por usted que nuestro record indica que usted ha sido multado con lo siguiente:

1. Infraccion de algunos de los terminus del contrato
2. Violacion del contrato de arrendamiento

Una de las siguientes cosas ocurrio _____ por:
____ usted, ____ sus hijos , o ____ algun visitante o invitado a su propiedad en renta.

Descripcion del Incidente:

- ____ 1. Destruccion de la propiedad
- ____ 2. Molestando o incomodando otros residentes
- ____ 3. Ruido excesivo en la propiedad
- ____ 4. Alcohol y desorden
- ____ 5. Actividades en los alrededores de la propiedad
- ____ 6. Incumplimiento en mantener limpia la propiedad o los alrededores
- ____ 7. Fumar dentro de la propiedad
- ____ 8. Fumar en los alrededores de la propiedad en donde esta prohibido
- ____ 9. Dejar o tirar basura en lugares prohibidos o en areas comunes
- ____ 10. Permitir la entrada a personas no autorizadas
- ____ 11. Incumplir con las reglas del contrato o no permitir el arreglo de la propiedad
- ____ 12. Hacer cambios o modificaciones a la propiedad sin previo aviso o autorizacion
- ____ 13. Romper o alterar la seguridad del edificio
- ____ 14. Otros: _____

Para destacar:

Incumplir algunas o todas las reglas de su contrato puede significar el cancelamiento de su contrato definitivo.

Si usted tiene dudas o preguntas sobre este incidente pongase en contacto con la oficina..

Manager

Fecha

RESIDENT COMPLIANCE LETTER – SPANISH

Estimado [*Nombre del ocupante*],

A partir de [*Fecha*], todos nuestros contratos incluidos los nuevos se volverán libres de humo. Nuestras políticas incluyen [*propiedades libres de humo*].

Nuestra oficina fue notificada que en el día [*Fecha*] aproximadamente [*Hora*], usted [o alguien de su casa] fue descubierto fumando en [*lugar o area*] lo cual esta prohibido en el contrato.

Es nuestra responsabilidad informarles que todos los residente y visitantes adquieran una política de libre de humo nuestra oficina tomara las medidas necesarias para hacer cumplir esta nueva ley.

Como recordatorio , fumar esta permitido en las siguientes areas: [*informe de las areas en las cuales puede fumar*]

O

Como recordatorio le informamos , fumar no esta permitido en ninguna area ni adentro del edificio ni afuera en areas communes.

Estamos comprometidos a proporcionar ayuda a los residentes que deseen dejar de fumar. Llame al 1-800-QUIT NOW para asistencia gratis en como dejar de fumar o visite la pagina visit <http://www.gethealthyclarkcounty.org/live-tobacco-free/quit-resources.php> en donde encontrara tips para dejar de fumar. [*Opcional: tenemos informacion adicional para lograr de fumar en folletos disponibles en nuestra oficina.*]

Si tiene dudas o preguntas, porfavor comuniquese con nosotros [*información de contacto*].

Gracias por su cooperacion,

[manager de la propiedad/propietario]

SIGN SAMPLES

Once you have decided to go smoke-free, tell the world! Signs are an easy and effective way to catch the attention of renters seeking smoke-free living and help remind existing tenants of the new smoke-free policy and designated areas.

Below are samples of 8 ½" x 11" signs available for landlords and property managers to print and post on their smoke-free buildings and properties. Printable versions can be found at:

<http://www.gethealthyclarkcounty.org/live-tobacco-free/nciaa-no-smoking-signs.php>.

