



COLORADO SMOKE-FREE MULTI-UNIT HOUSING RESOURCE PACKET



COLORADO
Department of Public
Health & Environment



DENVER
PUBLIC HEALTH.

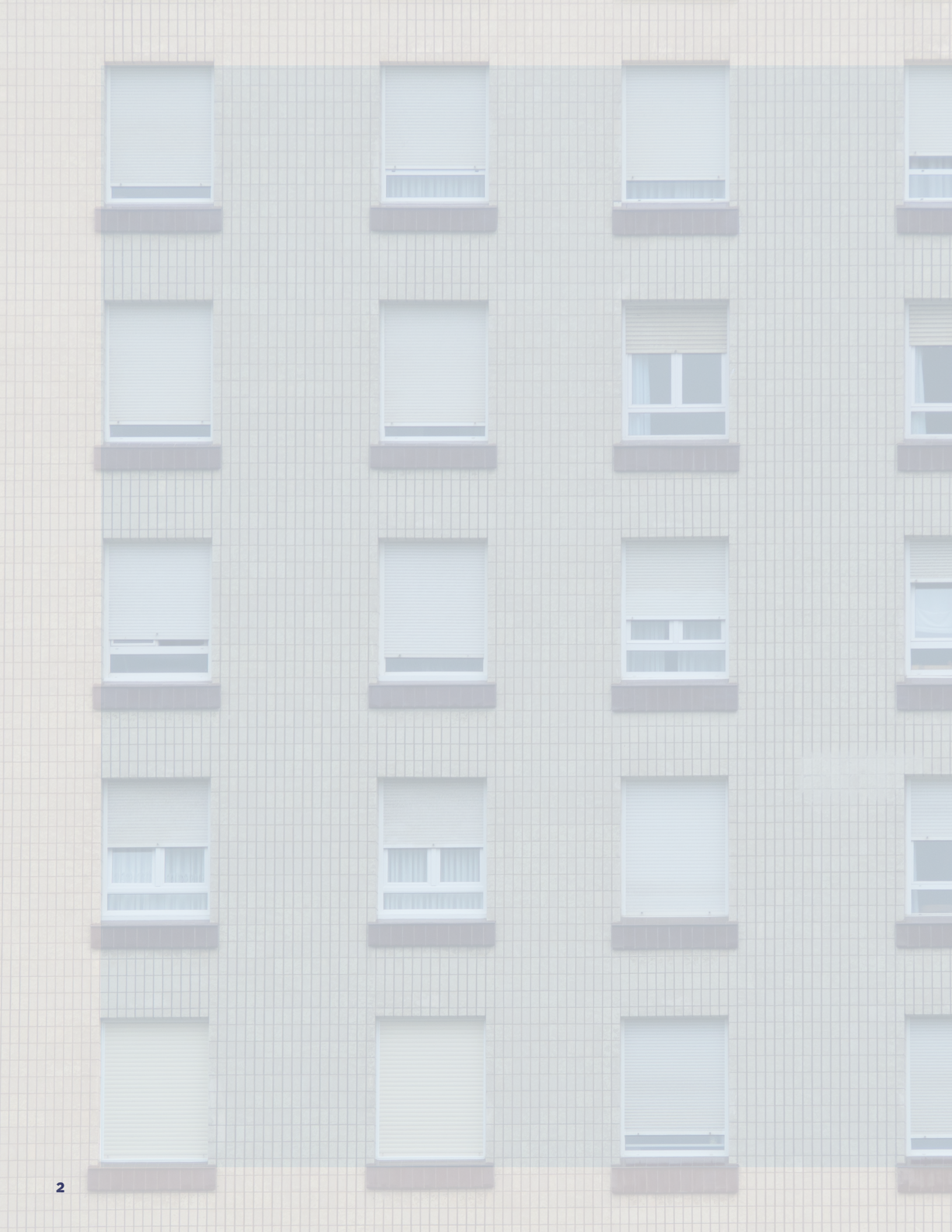


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INTRODUCTION

Thousands of Coloradans are exposed to secondhand smoke in their own homes every day due to smoking in multi-unit housing properties like apartments and townhomes. This not only can cause health problems among residents, but the smoke trapped indoors can damage residences¹, which requires extra care and cost to clean up

As a property manager or owner, you have the power to protect lives and preserve the quality of your properties – by implementing a smoke-free policy at your multi-unit housing property.

This guide provides a number of tools, resources and templates to help you successfully implement a smoke-free policy at multi-unit housing properties you own or manage.



If you are a **private property owner or manager** with questions about implementing a smoke-free policy, please begin at page 5.



If you are a **public housing manager** with questions about implementing a smoke-free policy, please begin at page 7.



If you are a private or public housing manager or owner and are **ready to implement a smoke-free policy**, you can skip to page 10 for guidance and support for this phase.

PRIVATE PROPERTY MANAGERS AND OWNERS

As a private property manager or owner, you have the power to establish a smoke-free policy at any of your multi-unit housing properties. Over the following pages, we provide information on the benefits of a smoke-free policy – both to you and to your residents – and a list of frequently asked questions and answers to help you make an informed decision about whether to implement this type of policy.

BENEFITS OF A SMOKE-FREE POLICY

ATTRACT RESIDENTS

Prospective residents want smoke-free housing. **One survey found that 90% of respondents, including current smokers, support no-smoking policies and say that living in a no-smoking building is important when choosing a place to live.**²



MEET MARKET DEMAND

83% of Coloradans do not smoke⁴ and **87%** have no-smoking rules in their homes.⁵



REDUCE SECONDHAND SMOKE EXPOSURE

Smoke-free policies can create a safer, healthier environment for your residents, contractors and staff. **No level of exposure to secondhand smoke is safe, according to the U.S. Surgeon General.**⁷



SAVE MONEY



Adopting a smoke-free policy could save you significant turnover costs, as well as the money it takes to remediate a unit once a smoker has moved out. Consider this:

The average cost to rehab a two-bedroom unit:
Smoking: **\$5,500 - \$12,000**
Non-Smoking: **\$500 or \$2,500**³



PREVENT FIRES

Cigarette smoking is a leading cause of fires in multi-unit properties.⁶ Implementing a smoke-free policy may reduce your insurance premiums.



SMOKING BANS ARE LEGAL

No-smoking policies are not discriminatory. Smoking is not a specially protected liberty or privacy right in the United States.⁸

“**Secondhand smoke flows between units through air filtration systems and other means. It cannot be contained.**⁹ The only way to eliminate secondhand smoke exposure is to ban smoking activity.”

FREQUENTLY ASKED QUESTIONS FOR PRIVATE PROPERTY MANAGERS AND OWNERS

Q: Why should I implement a smoke-free policy?

A: Smoke-free policies are a win for everyone. As a property owner or manager, you reduce costs spent on apartment remediation, can prevent smoking-related fires and can attract more residents. It also protects residents from the health risks caused by exposure to secondhand smoke – which can travel from unit to unit.

Q: Is a smoke-free policy legal in Colorado?

A: Yes. The Colorado Clean Indoor Air Act prohibits smoking in all indoor common areas and allows housing providers to prohibit tobacco or marijuana smoking in all or any part of their property, both indoors and outdoors. Smoke-free policies have been implemented in more than 5,600+ multi-unit residential buildings in Colorado. There is no legal or constitutional right to smoke tobacco or marijuana. Smoke-free policies are not discriminatory and do not violate fair housing regulations. People who smoke are not a protected class according to federal or state law. An attorney should be consulted when drafting smoke-free policy language for leases, addendums, or house rules. The Model Policy Standards for Smoke-free Multi-unit Housing may be found http://bit.ly/CDPHE_MUHModelPolicy

Q: How do I define “smoking”?

A: No-smoking policies can use a broad definition of “smoking” including all activities involving tobacco, nicotine, marijuana, hookah, vaporizing and electronic cigarettes. Please see the Model Policy Standards for Smoke-free Multi-unit Housing here for more http://bit.ly/CDPHE_MUHModelPolicy

Q: What about medical marijuana?

A: Property owners and managers do **not** have to allow residents to use medical marijuana in private units. The Federal Fair Housing Act, Section 504 of the Rehabilitation Act, and Americans with Disabilities Act do not consider medical marijuana users to be “disabled” or “handicapped.”

Q: What about recreational marijuana, vaporizers or electronic cigarettes?

A: These products emit some of the same toxic or cancer-causing chemicals as tobacco smoke and may cause health problems for adults and children when drifting into adjoining units.

Owners and managers may prohibit smoking of any kind (including marijuana, vaporizing and e-cigarettes) on the property by setting policies and posting notice to that effect in accordance with Federal and Colorado law. (Amendment 64 Section 6(d); CRS 25-14-204)

Q: What is known about how tobacco smoke travels within buildings?

A: There is no safe level of exposure to secondhand tobacco smoke, according to the U.S. Surgeon General. Research has clearly demonstrated that in multi-unit buildings, tobacco smoke travels from unit to unit and into common areas such as hallways and lobbies,¹⁰ which are required by law to be non-smoking areas – even in buildings that permit smoking in individual apartments. Research has shown that implementing a smoke-free policy can significantly lower tobacco smoke contaminants. In addition, implementing a smoke-free policy can reduce complaints from residents who are exposed to secondhand smoke.¹¹

Q: How can I help residents in my building who want to quit smoking?

A: A new policy often motivates smokers to try to quit. Housing providers are encouraged to partner with their local and state health departments and tobacco-prevention organizations to help residents who want to quit. Information on additional quit resources can be found on page 14.

Q: What’s the bottom line?

A: Policies that prohibit smoking, including marijuana and vaporizers, are legal and non-discriminatory.

PUBLIC HOUSING MANAGERS

As a public housing manager, you may already be aware of the new federal requirement to implement a smoke-free policy at all public housing residences across the country. This mandate comes after the U.S. Department of Housing and Urban Development (HUD) passed a policy that requires all public housing authorities (PHAs) across the country to implement smoke-free policies by July 31, 2018. You can learn more about this policy at <https://www.hud.gov/smokefreepublichousing>.

In this section, we will share some of the benefits of enacting a smoke-free policy in multi-unit housing properties, and answer some frequently asked questions about this new HUD ruling.

BENEFITS OF A SMOKE-FREE POLICY

The U.S. Department of Housing and Urban Development (HUD) requires public housing authorities to implement non-smoking policies in their multi-family and Section 8 housing properties.¹² Here are the benefits of those implementations:

SAVE MONEY

Adopting a smoke-free policy could save you significant turnover costs, as well as the money it takes to remediate a unit once a smoker has moved out. Consider this:

The average cost to rehab a two-bedroom unit:
Smoking: **\$5,500 - \$12,000**
Non-Smoking: **\$500 - \$2,500**¹³



REDUCE SECONDHAND SMOKE EXPOSURE

Smoke-free policies can create a safer, healthier environment for your residents, contractors and staff. **No level of exposure to secondhand smoke is safe, according to the U.S. Surgeon General.**¹⁵



“**Secondhand smoke flows between units through air filtration systems and other means. It cannot be contained.**¹⁷ The only way to eliminate secondhand smoke exposure is to ban smoking activity.”

REDUCE OWNERS' LIABILITY

No-smoking policies are not discriminatory and do not violate fair housing regulations. People who smoke are not a protected class according to federal or state law.¹⁴



PREVENT FIRES

Cigarette smoking is a leading cause of fires in multi-unit properties.¹⁶

Implementing a smoke-free policy may reduce your insurance premiums.



ATTRACT RESIDENTS

Prospective residents want smoke-free housing. **One survey found that 90% of respondents, including current smokers, support no-smoking policies and say that living in a no-smoking building is important when choosing a place to live.**¹⁸

FREQUENTLY ASKED QUESTIONS FOR PUBLIC HOUSING MANAGERS

Q: What is the 2018 HUD ruling? Does it apply to me?

A: The HUD ruling requires **each public housing agency administering public housing to implement a smoke-free policy to implement a smoke-free policy on their premises.** If you already have a smoke-free policy, continue reading to see how this mandate may impact you under the question: What about agencies that already have smoke-free policies - will they be grandfathered in?

Q: When does the HUD ruling go into effect? What do I have to do by then?

A: The mandate requires all public housing authorities across the country to implement smoke-free policies by July 31, 2018.

Q: What is known about how tobacco smoke travels within buildings?

A: There is no safe level of exposure to secondhand tobacco smoke, according to the U.S. Surgeon General. Research has clearly demonstrated that in multi-unit buildings, tobacco smoke travels from unit to unit and into common areas such as hallways and lobbies¹⁹, which are often designated as non-smoking areas even in buildings that permit smoking in individual apartments. Research has shown that implementing a smoke-free policy can significantly lower tobacco smoke contaminants. In addition, implementing a smoke-free policy can reduce complaints from residents who are exposed to secondhand smoke.²⁰

Q: When will Public Housing Authorities (PHAs) need to be fully smoke-free?

A: HUD requires that all public housing be smoke-free by July 31, 2018. This allows time for PHAs to engage residents, develop policies, and solicit public comment on how to best implement the rule, get Board approval and amend residents' leases. HUD strongly encourages all PHAs to get started so there is time to complete all the steps. HUD has resources on its website at www.hud.gov/healthyhomes, including toolkits for both managers and residents. Also, the latest HUD guidance "Change is in the Air" (<http://portal.hud.gov/hudportal/documents/huddoc?id=smokefreeactionguide.pdf>) has a step-by-step action plan for PHAs to follow.

Q: What about agencies that already have smoke-free policies – will they be grandfathered in?

A: Many of the PHAs in Colorado have "partial" smoke-free policies that include only certain buildings or spaces. The new HUD rule requires that PHAs include all living units, indoor common areas, and PHA administrative office buildings. (In brief, it requires all public housing indoor areas to be smoke-free). The smoke-free policy must also extend to all outdoor areas within 25 feet of housing and administrative office buildings. Policies that do not meet these minimum requirements will need to be updated by July 31, 2018.

Q: Are these policies discriminatory?

A: No. Smoking of any kind is not protected by federal or Colorado law. There is no constitutional right to smoke. Smoke-free policies do not violate the Fair Housing Act. Prohibiting smoking does not discriminate against smokers and does not violate any fair-housing regulations as people who are not considered a protected class.

Q: How do I define "smoking"?

A: The HUD rule is restricting the use of cigarettes, cigars, pipes and hookah waterpipes. We recommend smoke-free policies use a broad definition of smoking inclusive of all activities involving tobacco, marijuana, hookah, vaporizing and electronic cigarettes.

Q: What about medical or recreational marijuana?

A: Property owners and managers do not have to allow residents to use medical marijuana in private units. The Federal Fair Housing Act, Section 504 of the Rehabilitation Act, and Americans with Disabilities Act do not consider

medical marijuana users to be “disabled” or “handicapped.” Additionally, if a housing provider receives federal funding, they must prohibit marijuana use of any kind since it is federally illegal under the Controlled Substances Act.

Q: What about electronic smoking devices such as vaporizers or electronic cigarettes?

A: These products emit some of the same toxic or cancer-causing chemicals as tobacco smoke and may cause health problems for adults and children when drifting into adjoining units.

Owners and managers may prohibit smoking of any kind (including marijuana, vaporizing, e-cigarettes) on the property by setting policies and posting notice to that effect, in accordance with federal and Colorado law. (Amendment 64 Section 6(d); CRS 25-14-204)

Q: Are housing authorities required to build outdoor shelters for smokers?

A: PHAs are not required to build shelters for their residents. The Colorado Clean Indoor Air Act prohibits smoking areas in an enclosed area.

Designated smoking areas (DSAs) must be 25 feet from building and if a PHA decides

to implement a DSA, HUD recommends appropriate wellness and safety features, such as appropriate seating and shade. If a PHA chooses to designate a smoking area for residents, it must ensure that the area is accessible for persons with disabilities, in accordance with a PHA’s obligations under section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act, and the Fair Housing Act. This may include a flat or paved pathway, ramp and adequate lighting depending on the need and area selected. HUD encourages PHAs to include DSAs in future capital needs planning.

Q: How can I help residents in my building who want to quit smoking?

A: A new smoke-free policy often helps people decide to try to quit smoking. Housing providers are encouraged to partner with their local and state health departments and tobacco-prevention organizations to help residents who want to quit. Information on additional quit resources can be found on page 14.

Q: What’s the bottom line?

A: Policies that prohibit smoking, including marijuana and vaporizers, are legally permissible, non-discriminatory and good for everyone.



IMPLEMENTING A SMOKE-FREE POLICY

Congratulations! You are ready to implement a smoke-free policy at the multi-unit housing residences you own or manage. In the following pages, we share a proposed Policy Adoption Timeline and provide sample materials for you to use to help implement a smoke-free policy at your property.

POLICY ADOPTION TIMELINE

PHASE 1:

Engage Residents & Staff

- Survey residents' opinions and needs as your property transitions to smoke-free and involve them in the process.
- Hold resident meetings to explain smoke-free policy, obtain feedback, and address concerns.
- Educate maintenance staff, administration, and other key partners about smoke-free policies.

Develop Policy

- Use the included sample policy or modify it to fit your needs; be sure to have a broad definition of smoking.
- Decide on a plan for implementing and enforcing the policy; identify the needed tools and resources.
- Have legal counsel review language of policy and lease agreements.

PHASE 2:

Notify Residents

- Give residents ample notice of the date the policy will take effect through letters and flyers.
- Offer resources and support for smoking cessation (preferably at least three months prior to policy start date).
- Begin implementing a smoke-free policy with new residents by having them sign a lease addendum as they move in.

Post Signage

- Provide residents with information on proven programs and resources for quitting smoking, see page 14.
- Put up signs, flyers and banners to remind residents of the new policy and effect date and areas that must be smoke-free. See page 15.

PHASE 3:

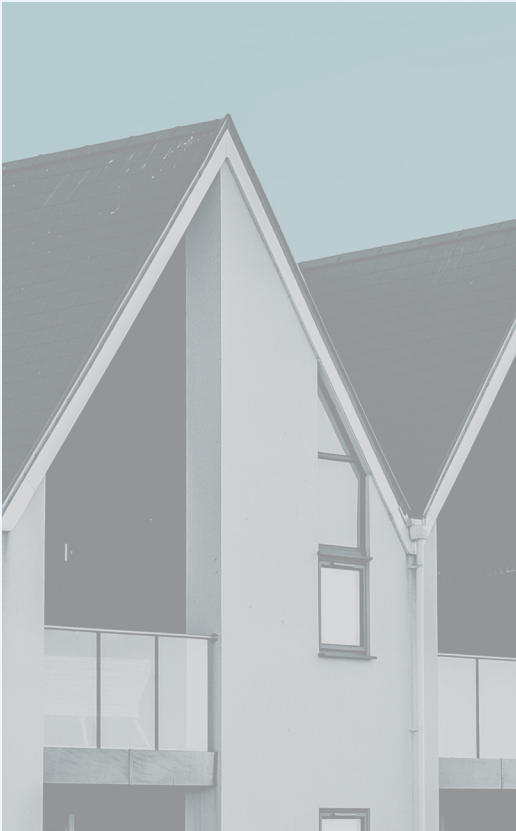
Promote Smoke-Free Policy

- On "in effect day" host a policy recognition event, such as a celebration.
- Update building advertisements to include new "smoke-free" as an amenity.
- Take advantage of free property listing on www.mysmokefreehousing.com.

Enforce Policy

- Visit the property and perform inspections to ensure compliance.
- Establish a complaint system that protects resident anonymity.
- Send violation notification to residents out of compliance and enforce as you would any other lease agreement violation.

Modified with permission from Jefferson Public Health Department



SUPPORT MATERIALS

In the Appendix of this toolkit you will find a number of sample materials to help with the implementation of your smoke-free policy. These materials include:

- Smoke-free Housing Policy
- Smoke-free Provisions for Leases or House Rules
- Resident Survey
- Documentation Log
- Warning Letter

These materials have been approved by the Colorado Department of Public Health and Environment to use in supporting the implementation of a smoke-free policy at public or private multi-unit housing residences.

EDUCATING YOUR RESIDENTS

In order to successfully implement a smoke-free policy, it is important to educate residents about the new policy, what it means for them and their family, the benefits, and the consequences if they do not follow the rule. In this section, we provide a list of frequently asked questions that residents might ask, and responses to each, as well as a list of smoking cessation resources for residents, and communications materials for you to use to support and educate on the implementation of the policy.

FREQUENTLY ASKED QUESTIONS RESIDENTS MAY ASK

Q: Is a smoke-free policy legal in Colorado?

A: Yes. The Colorado Clean Indoor Air Act prohibits smoking in all indoor common areas and allows housing providers to prohibit tobacco or marijuana smoking in all or any part of their property, both indoors and outdoors. Smoke-free policies have been implemented in 5,600 buildings and 40 public housing authorities in Colorado. There is no legal or constitutional right to smoke tobacco or marijuana. Smoke-free policies are not discriminatory and do not violate fair housing regulations. People who smoke are not a protected class according to federal or state law. And the U.S. Department of Housing and Urban Development (HUD) passed a policy that requires all public housing authorities across the country to implement smoke-free policies by July 31, 2018.

Q: Why is my building implementing a smoke-free rule?

A: There is no safe level of exposure to secondhand tobacco smoke, according to the U.S. Surgeon General. Research has clearly demonstrated that in multi-unit buildings, tobacco smoke travels from unit to unit and into common areas such as hallways and lobbies,²¹ which are often designated as non-smoking areas even in buildings that permit smoking in individual apartments. Research has shown that implementing a smoke-free policy can significantly lower tobacco smoke contaminants.

Q: When will the policy be in effect?

A: The U.S. Department of Housing and Urban Development (HUD) requires that all public housing be smoke-free by July 31, 2018.

Q: Are these policies discriminatory?

A: No. Smoking of any kind is not protected by federal or Colorado law. There is no constitutional right to smoke. Smoke-free policies do not violate the Fair Housing Act.

Q: How is “smoking” defined in smoke-free policies?

A: In order to provide a healthy environment our policy defines smoking as the act of burning, heating, activation or carrying of any device, including, but not limited to a cigarette, cigar, pipe, hookah, or electronic smoking device, electronic cigarette, vape pen, e-hookah or similar device.

Q: What about medical marijuana?

A: The policy prohibits smoking of marijuana in multi-unit housing properties.

Q: Why are electronic smoking devices included in a no-smoking policy?

A: These products emit some of the same toxic or cancer-causing chemicals as tobacco smoke and may cause health problems for adults and children when drifting into adjoining units.

Q: Are housing authorities required to build shelters for smokers?

A: Public Housing Authorities are not required to build outdoor smoking shelters for their residents.

“Owners and managers may prohibit smoking of any kind (including marijuana, vaporizing, e-cigarettes) on the property by setting policies and posting notice to that effect in accordance with federal and Colorado law.”

Q: Where can I smoke?

A: Your property may have a designated smoking area, but you should talk to your property manager directly.

Q: What happens if I get caught smoking inside?

A: Talk to your property manager to find out about the rules and the enforcement policy.

Q: Do I have to quit smoking if I live in public housing?

A: No, you do not have to quit smoking altogether, but you cannot smoke inside. For this reason,

many find the implementation of a smoke-free policy to be motivating to consider quitting.

Q: Can you help me quit smoking?

A: Yes! We have resources available to you at no cost. The Colorado QuitLine is a free, confidential telephone coaching service that connects people to one-on-one personalized coaching. The QuitLine offers free coaching as well as free nicotine patches, gum or lozenges for those who qualify. Web, text and email support are also available at no cost. The QuitLine is available to all residents, regardless of insurance status.

RESOURCES

COSmokeFreeHousing.org

Provides resources and information to help implement smoke-free policies in multi-unit housing settings. Includes information about upcoming housing provider trainings and legal trainings centered around smoke-free policy in multi-unit housing.

JeffcoSmokeFreeHousing.com

Includes tools for owners and managers interested in implementing smoke-free policies in multi-unit housing, resources and solutions for residents experiencing secondhand smoke intrusion and legal materials to support attorneys, mediators, and their clients understand the rights and legality of smoke-free policies.

MySmokeFreeHousing.org

Supplies resources for housing providers to help implement smoke-free policies in residential buildings, including sample policies, fact sheets, signs and more. MySmokeFreeHousing.com provides free listing of residential buildings in Colorado that have smoke-free policies for their entire building or property.

ADDITIONAL TOOLS AND RESOURCES LIST:

HUD: Smoke-Free Housing

The US Department of Housing and Urban Development has created several toolkits to assist owners/management agents and residents to implement smoke free policies.

<http://bit.ly/HUD-owners-guide>

Live Smoke Free

Tools for managers and owners interested in implementing smoke-free policies. Live Smoke Free provides research and support, tobacco smoke facts, smoke-free policy benefits and additional information supporting smoke-free policies. mnsSmokeFreeHousing.org

Public Health Law Center

Resources and information around smoke-free housing and select legislation. Includes links to external sources and facts sheets.

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

RESOURCES TO HELP RESIDENTS WHO WANT TO QUIT SMOKING

Though a smoke-free policy does not mean people must quit smoking, this type of policy works best when incentives and support are provided to those who are considering quitting. Property owners and managers who provide residents with information on proven programs and resources for quitting smoking not only increase their chances of success, but also demonstrate that the well-being of all residents is important.

CESSATION RESOURCES

The **Colorado QuitLine** is a free, confidential telephone coaching service that connects people to quit tobacco with one-on-one personalized coaching. The QuitLine offers free coaching as well as free nicotine patches, gum or lozenges for those who qualify. Web, text and email support are also available at no cost. The QuitLine is available to all residents, regardless of insurance status. To reach the QuitLine, residents can call 1-800-QuitNow or visit www.coquitline.org. Additionally, these cessation resources can support residents as they work to quit smoking:

RESOURCES	TYPE OF RESOURCE	AUDIENCE	COST	INFORMATION
Asian Smoker's Quitline	Phone Coaching		Free	Visit: asiansmokersquitline.org or call: Cantonese or Mandarin: 1-800-838-8917 Korean: 1-800-556-5564 Vietnamese: 1-800-778-8440
Smoke-Free TXT	Mobile	Adults & young adults	Free	Visit Smokefree.gov/SmokeFreeTxt to sign up
quitSTART	Mobile	Teens	Free	Available for download on iTunes and Android.
American Lung Association (ALA) Freedom From Smoking (FFS)	Group	All	\$350 to train facilitator; \$6 per participant thereafter (for book and CD that support course)	Requires someone to be trained as facilitator; reasonable upfront cost as well as participant materials; builds sustainability; Contact ALA for upcoming trainings at COinfo@Lung.org or http://www.lung.org/stop-smoking/join-freedom-from-smoking/become-a-facilitator.html
Nicotine Anonymous	Online, telephonic, face to face	All	Free	https://nicotine-anonymous.org/
BABY & ME – Tobacco Free Program	Face to Face	Pregnant women meeting program criteria	Free	Find a Colorado location: http://www.babyandmetobaccofree.org/find-a-location/
Medicaid Cessation Benefits	Varies	Varies	Varies	Counseling services and medications are available at low or no cost. Talk to your provider.
This Is Quitting	Mobile App	Young adults	Free	A free app available on Android and Apple OS with advice and challenges from fellow and former smokers. Social and text support available. www.thisisquitting.com

ENFORCEMENT

Implementing a smoke-free policy can lead to little change if the policy is not properly enforced. Below you'll find the recommended approach to effectively enforce a smoke-free policy in the residence you manage or own.

Sample Five-Step Initial Enforcement Policy

- 1st Complaint:** Manager visits with a casual knock-and-talk style, informs resident of complaint and provides copy of the policy and cessation resources.
- 2nd Complaint:** Manager delivers written copy of the complaint. Cessation resources are offered again.
- 3rd Complaint:** Manager sends written copy of complaint with added requirement for private conference to discuss plans to remediate future complaints.
- 4th Complaint:** Private conference with resident and written agreement to comply, possible mediation.
- 5th Complaint:** Manager consults legal for further enforcement action, possibly eviction.

Make sure all visits and actions are documented.

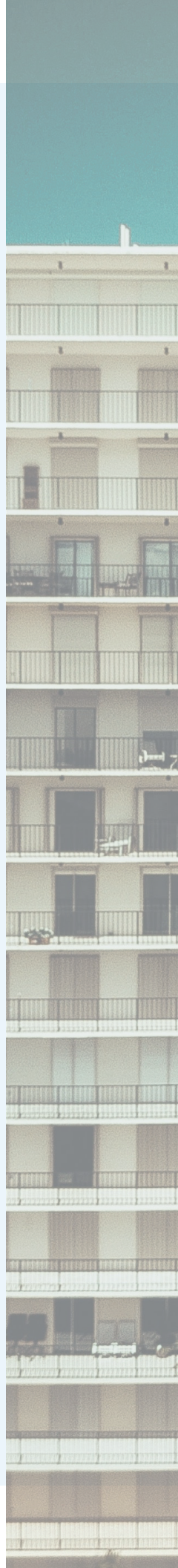
The purpose of these policies are to protect all residents – non-smokers and smokers alike from the harms of secondhand smoke exposure. They are not intended to cause people to lose housing. Eviction should only be considered if all other enforcement strategies have been unsuccessful.

CONTACT US:

If you have any questions or need support regarding implementing, educating about or enforcing a smoke-free policy in your multi-unit housing property, contact the tobacco control and prevention team at your local health department.

Denver Public Health
601 Broadway MC: 2800
Denver, CO 80203
(303) 602-3684
DPH.TobaccoTeam@dhha.org

Thank you to Boulder County Public Health Department, Jefferson County Public Health Department and Denver Public Health for resources and content shared within this resource packet.





APPENDIX (SUPPORT MATERIALS)

- Smoke-free Housing Policy
- Smoke-free Provisions for Leases or House Rules
- Resident Survey*
- Documentation Log*
- Warning Letter*
- Resources for Property Managers

* Shared with permission from Boulder County Public Health

SAMPLE SMOKE-FREE HOUSING POLICY

[Property Owner's] Smoke-Free Housing Policy for [Property/ies]

Purpose.

Due to the increased risk of fire, increased maintenance costs, and the known health effects of secondhand smoke, the [Property Owner] hereby declares that a smoke-free housing policy (the "Policy") shall be enforced at [Property/ies].

Definitions.

Smoking: means the act of burning, heating, activation or carrying of any device, including, but not limited to a cigarette, cigar, pipe, hookah, or electronic smoking device, electronic cigarette, vape pen, e-hookah or similar device, by any other product name or descriptor, that results in the release of smoke, vapors, fumes or aerosols when the apparent or usual purpose of the burning, heating or activation of the device is human inhalation.

Electronic Smoking Device: means any device that when activated emits a vapor, aerosol, fume or smoke or can be used to deliver nicotine or any other substance to the person inhaling from the device, including, but not limited to e-cigarettes, e-cigars, e-pipes, vape pens, e-hookahs, inhalant delivery systems or any other similar product by any other name or descriptor. An electronic smoking device includes any component, part or accessory of such device whether or not sold separately, regardless of nicotine content or any other substance intended to be vaporized or aerosolized for human inhalation during the use of the device.

Smoke: means the emissions or release of gases, particles, vapors or aerosols into the air from burning, heating or activation of any device, including, but not limited to a cigarette, electronic smoking device, e-cigarette, vape pens, e-hookahs or any other product by any name or descriptor when the apparent or usual purpose of burning, heating or activation of the device is human tasting and inhalation.

Resident: The term "resident" means any tenant, occupant, household member, and/or family member who reside at [Property/ies].

Rules and Regulations.

All residents, employees, contractors, business visitors, invitees, and guest must abide by the following rules and regulations:

- 1. Prohibition of Smoking Inside the Buildings.** Smoking shall not be permitted anywhere inside individual apartment units, or in any buildings at the [Name of Property/ies] including all common areas (such as entryways, hallways, restrooms, elevators, stairways, and laundry rooms). Smoking shall be prohibited within 25 feet of all buildings and individual apartment units, entryways, windows and door openings.
- 2. Prohibition of Smoking in Most Areas Outside the Buildings.** Smoking outside the building(s) shall be limited to specific area(s) as identified with signs located at the respective property. Smoking shall not be permitted within 25 feet of any other outside areas of the [Name of Property/ies], including individual decks, patios or porches, balconies, yards, common areas or adjoining grounds of buildings, entryways, playground areas, and parking lots.
- 3. Proper Disposal of Smoking Materials.** Smoking related products must be properly extinguished and disposed of in a safe manner. Residents, for example, may not throw cigarette butts on the ground.
- 4. Compliance by Resident's Guests.** Resident is responsible for informing guests, invitees and business visitors of this Policy and for ensuring resident's guests', invitees' and business visitors' compliance with this Policy.
- 5. Lease Violation.** A violation of this Policy will be considered a lease violation. Repeated violations of this Policy may result in termination of tenancy and possible financial costs to remediate damage created by smoke odor or residue in resident's apartment unit.

This Sample and the information included herein are intended to provide general guidance only. They should not be relied upon as a substitute or replacement for legal counsel or advice. Read the disclaimer below. You should not act nor rely on this information without first seeking the advice of an attorney.

6. Complaints. If resident witnesses someone smoking or smells smoke from a tobacco, marijuana, or other plant product in any place within the interior of any building or if resident witnesses someone smoking somewhere other than the designated smoking area in violation of this Policy, resident is encouraged to report the violation to the property manager as soon as possible. [Property Owner] prefers all complaints be reported in writing.

7. Investigations. Property managers receiving a complaint will seek the specific source of the reported smoke and will take appropriate enforcement action as soon as possible. Property managers are not required to take steps in response to smoking complaints unless property managers have personal knowledge of said smoking or have been given notice of said smoking.

8. Communication of Policy. This Policy shall be communicated by the property manager to all current residents and employees of the property at least sixty (60) days prior to its effective date and at the time of employment for all new employees, and prior to the signing of a lease by any new resident. a) New residents shall be given two (2) copies of this Policy. After review, the resident must sign one copy and return the executed copy to the property manager prior to moving in. The signed copy shall be placed in the resident's file. b) Upon adoption of the Policy, all current residents not exempt from the Policy shall be given two copies of the Policy. After review, resident must sign one copy and return the executed copy to the property manager within ten (10) days. The signed copy shall be placed in the resident's file.

9. Phase In of Policy.

a) Effective [date TBD] (the "Effective Date"), all [Property Owner's] residents and their guests will be prohibited from smoking anywhere in any of the buildings located on the Property/[ies], including individual apartment units. b) All RESIDENTS will be required to comply with this Policy, regardless of their move-in date on [date].

10. Disclaimer. Resident acknowledges that [Property Owner's] adoption of this Policy and its efforts to designate any of the Properties as smoke-free do not in any way change the standard of care that the property manager would have to a resident to render buildings designated as smoke-free any safer, more habitable, or improved in terms of air quality standards than any other rental premises. [Property Owner] specifically disclaims any implied or express warranties that any building, common area, or resident's individual apartment unit will have any higher or improved air quality standards than any other rental property.

[Property Owner] cannot and does not warrant or promise that any building or individual residential unit located at any of the Properties will be free from secondhand smoke.

11. Effective date. The effective date of this Policy shall be _____.

Resident Certification.

I have read and understand this Policy, and I agree to abide by its provisions.

I understand that failure to comply with this Policy may constitute a lease violation and that repeated lease violations may be cause for termination of my tenancy.

I acknowledge that [Property Owner's] adoption of this Policy does not make [Property Owner] or any of its managing agents the guarantor of my health or of the smoke-free condition of any of the properties. I further acknowledge that property manager's ability to monitor, or enforce the agreement of this Policy is dependent in significant part on voluntary compliance by residents of the Properties.

Resident signature: _____

Apartment number: _____ Date: _____

Adopted: Date TBD

This sample policy should not be construed as legal advice. An attorney should be consulted when adopting a smoke-free policy.

SAMPLE SMOKE-FREE PROVISIONS FOR LEASES OR HOUSE RULES

Smoking Prohibition:

The [[Residence] or, [Property]] [is, [in its entirety, a smoke-free dwelling] or [list where smoking is prohibited]]. Resident, all household members and guests, and all other persons under Resident's control, shall not smoke or permit smoking anywhere inside the Residence [or, on the Premises]. The term smoking is defined as the act of burning, heating, activation or carrying of any device, including, but not limited to a cigarette, cigar, pipe, hookah, or electronic smoking device, electronic cigarette, vape pen, e-hookah or similar device, by any other product name or descriptor, that results in the release of smoke, vapors, fumes or aerosols when the apparent or usual purpose of the burning, heating or activation of the device is human inhalation.

Resident acknowledges that he or she is responsible for all damages caused by or related to the violation of this smoke-free provision, including, but not limited to costs associated with deodorizing, sealing, and painting the walls, ceiling repair, and replacement of the carpet and pads.

Marijuana Prohibition For Public Housing:

No Resident, nor any of Resident's household members, guests, nor any other person under Resident's control, shall engage in or facilitate any drug-related criminal activity on or near the Property. "Drug-related criminal activity" means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use a controlled substance as defined in Section 10 of the United States Controlled Substances Act (21 U.S.C. § 802). Marijuana is a regulated and prohibited substance under federal law. The use, cultivation, possession, distribution and sale of marijuana on the Property are prohibited. Any behavior of the type described in this [list paragraph no.] will be cause for termination of this Lease.

This Sample and the information included herein are intended to provide general guidance only. They should not be relied upon as a substitute or replacement for legal counsel or advice. Read the disclaimer below. You should not act nor rely on this information without first seeking the advice of an attorney.

SAMPLE RESIDENT SURVEY

In an effort to meet the needs of all the residents in your community, we would like to hear from you about tobacco smoke where you live. The results will be used to help management determine the best way to provide the safest and healthiest housing for all residents. Your participation and your opinions are valuable to us. Your privacy is also important to us, so please do not put your contact information on this form. This survey is voluntary and not required, but your thoughts will help us as we consider how best to address smoking on the property. The survey should only take about 3 minutes to complete. Please complete this survey by mm/dd/yy and return to _____. Thank you!

- | | | | |
|---|------------|-----------|------------------|
| 1. Do you ever smoke tobacco products? (Tobacco products include cigarettes, cigars, hookah, pipes, cigarillos, cloves, e-cigarettes, etc.) | Yes | No | Sometimes |
| 2. If so, where do you smoke? Mark all that apply | | | |
| a. In your unit | | | |
| b. On the patio | | | |
| c. In the parking lot | | | |
| d. On the grounds | | | |
| e. Other (please specify): _____ | | | |
| 3. Do you live with anyone else that smokes tobacco products? | Yes | No | |
| 4. Do you let people smoke inside your home? | Yes | No | |
| 5. Do you have youth (18 years or younger) living with you? | Yes | No | |
| 6. Are you or do you have anyone over the age of 65 living with you? | Yes | No | |
| 7. Do you or someone you live with suffer from chronic illness such as asthma, chronic bronchitis, heart disease, diabetes, cancer, autoimmune disease, COPD? | Yes | No | |
| 8. Have you ever had tobacco smoke drift into your home from another unit or from outside? | Yes | No | |
| 9. Have you complained about tobacco smoke drifting into your home? | Yes | No | |
| 10. Do you think secondhand smoke is harmful to your health? | Yes | No | |
| 11. Do you think smoking poses a risk to your unit? | Yes | No | |
| 12. Do you think smoking poses a risk to residents? | Yes | No | |
| 13. Would you prefer to live in a building where smoking is not allowed inside including individual units? | Yes | No | Unsure |
| 14. Would you support a smoke-free property including the grounds and all units? | Yes | No | Unsure |
| 15. Would you prefer to live in a community with designated smoking areas? | Yes | No | Unsure |
| 16. What would you do if your community implemented a no-smoking rule for the entire property including all individual units? | | | |
| a. Would smoke outside | | | |
| b. Would consider moving | | | |
| c. Would try and quit smoking | | | |
| d. Would not change anything | | | |
| e. Other (please explain): _____ | | | |

SAMPLE DOCUMENTATION LOG

Having a protocol in place to handle complaints and violations will help with enforcement. Below is an example of one way to document smoke-related complaints or violations and can help guide and organize evidence and follow-up. A blank copy of a log like this can be also be given to residents who are experiencing secondhand smoke drift into their unit and aren't sure where it's coming from.

Violation or Complaint Details	Date	Time	Follow-up Details	Date
Maintenance staff noticed ash-trays and cigarette butts in unit 2A when replacing an air filter.	01/28/18	12:00pm	Management met with residents of unit 2A to review smoke-free policy. Gave verbal warning.	01/30/18
Received complaint from unit 1B of smoke drifting into bathroom through vent.	01/30/18	3:30pm	Sent maintenance to inspect unit 1B - smelled smoke. Need to determine where it's coming from. Asked resident to log when, where, and how often smoke drifts.	02/04/18

Sample Warning Letter

WARNING OR INFRACTION LETTER

(Recommendation: Serve this letter with a Demand for Compliance or Possession)

Tenant Name:

Date:

Address:

Dear _____:

Re: First Violation of [Property's] No-Smoking Policy

This letter is to remind you that smoking is not permitted in your apartment unit or [include other areas where smoking is prohibited]. [An outdoor smoking area has been designated [insert location]]. You agreed to abide by [Property's] nosmoking policy on [[date] or [when you signed the lease/house rules]].

[On [date], we received a complaint of second-hand smoke infiltrating [the hallway outside your unit]. [On [DATE], the smell of second-hand smoke was detected [location of detection]].

You must take immediate steps to ensure that you, any household members, guests or visitors of your residence refrain from smoking in your apartment or [include other areas where smoking is prohibited] in accordance with the [Lease or House Rules or No-Smoking Policy].

This is your first warning. Should there be any further incident with respect to smoking in your unit or anywhere else on the premises where smoking is prohibited, we will serve you with a Notice to Quit, which will terminate your tenancy. We would be happy to discuss this issue with you further. Feel free to contact us.

[Company, PHA, or Community] strives to offer residents a clean and safe living environment. Because exposure to second-hand smoke is a health hazard, we expect your cooperation in respecting our no-smoking policy.

Sincerely,

[Landlord/Property Manager], [Company]



Denver Public Health does not guarantee that the information and Samples contained in this resource packet are accurate or complete. The information contained herein is general in nature, and may not apply to particular factual or legal circumstances. This information and the samples included herein do not constitute legal advice and should not be relied upon as such. No attorney-client relationship is created by use of these forms and agreements. The authors and Denver Public Health, and all of its affiliates disclaim any implied warranties.

SOURCES:

- ¹This is sometimes referred to as thirdhand smoke -- the residual nicotine and other chemicals left on indoor surfaces by tobacco smoke. This residue is thought to react with common indoor pollutants to create a toxic mix including cancer causing compounds, posing a potential health hazard to nonsmokers — especially children. (Source: What is thirdhand smoke, and why is it a concern? Mayo Clinic. <https://www.mayoclinic.org/healthy-lifestyle/adult-health/expert-answers/third-hand-smoke/faq-20057791>)
- ²Group to Alleviate Smoking Pollution, Impact of Smoke-Free Housing Policies: Insights and Advice for Housing Providers and Managers. Accessed May 8, 2018 <http://mysmokefreehousing.org/pdf/ImpactofSmoke-FreeHousingPolicies.pdf>
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- ⁴Colorado Department of Public Health and Environment, 2016 Behavioral Risk Factor Surveillance System. Accessed April 18, 2018 at https://public.tableau.com/shared/KJ62RFQMB?:display_count=yes
- ⁵Colorado Department of Public Health and Environment, 2015 Colorado Adult Tobacco Use and Exposure: The Attitudes and Behavior Survey (TABS). Accessed April 18, 2018 <https://www.colorado.gov/pacific/cdphe/tobacco-data-and-reports>
- ⁶Nation Fire Protection Association <https://www.nfpa.org/Public-Education/By-topic/Top-causes-of-fire>
- ⁷The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General. U.S. Surgeon General. <https://www.surgeongeneral.gov/library/reports/secondhand-smoke-consumer.pdf>
- ⁸Graff, Samantha. There is No Constitutional Right to Smoke: 2008. Tobacco Control Legal Consortium Saint Paul Minnesota <http://www.publichealthlawcenter.org/sites/default/files/resources/tclc-syn-constitution-2008.pdf>
- ⁹U.S. Department of Housing and Urban Development, Smoke-Free Public Housing. Retrieved May 8, 2018 from <https://www.hud.gov/smokefreepublichousing>
- ¹⁰King BA, Travers MJ, Cummings KM, Mahoney MC, Hyland AJ. Prevalence and predictors of smoke-free policy implementation and support among owners and managers of multiunit housing. *Nicotine Tob Res* 2010;12(2):159-63. 10.1093/ntr/ntp175
- ¹¹Young W, Karp S, Bialick P, Liverance C, Seder A, Berg E, et al. Health, Secondhand Smoke Exposure, and Smoking Behavior Impacts of No-Smoking Policies in Public Housing, Colorado, 2014-2015. *Prev Chronic Dis* 2016;13:160008. DOI: <http://dx.doi.org/10.5888/pcd13.160008>.
- ¹²Smoke-Free Public Housing. U.S. Department of Housing and Urban Development. <https://www.hud.gov/smokefreepublichousing>
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- ¹⁴Colorado Guide: Establishing No-Smoking Policies in Multi-unit Housing. (n.d.). Retrieved April 25, 2018 from <http://mysmokefreehousing.org/pdf/CO-SmokeFreeHousingGuide.pdf>
- ¹⁵The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General. U.S. Surgeon General. <https://www.surgeongeneral.gov/library/reports/secondhand-smoke-consumer.pdf>
- ¹⁶Nation Fire Protection Association <https://www.nfpa.org/Public-Education/By-topic/Top-causes-of-fire>
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