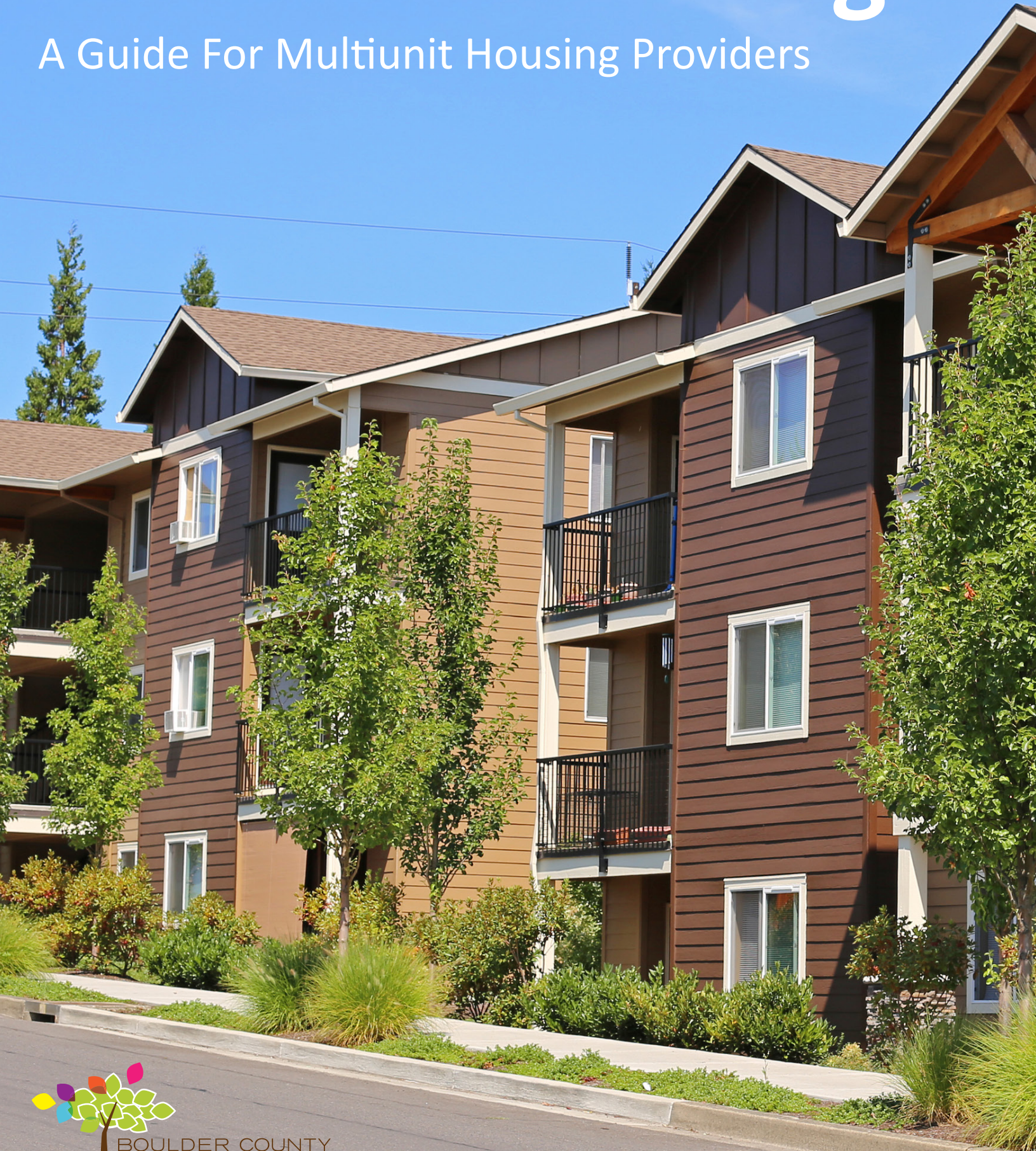


Smoke-Free Living

A Guide For Multiunit Housing Providers



BOULDER COUNTY
PUBLIC HEALTH
Opportunity for a healthy life.

Contents

Advantages of Smoke-Free Multiunit Housing.....	4
Understanding the Problem	5
Ingredients for Success	6
Policy	
Communication	
Enforcement	
Consequences	8
Resources	9
Websites	9
Sample Resident Survey	10
Sample Smoke-Free Housing Policy	11
Sample Smoke-Free Housing Policy (Lease/House Rules Provisions)	15
Outdoor & Indoor Signage Templates	16
Resident Notification Letter	17
Sample Documentation Log	18
Warning and Infraction Letter	19

Disclaimer/Acknowledgement

The Boulder County Public Health Tobacco Education and Prevention Partnership (TEPP) Program provides education and technical assistance on issues related to tobacco and public health. TEPP does not provide legal representation or legal advice. This document should not be considered legal advice or a substitute for obtaining legal advice from an attorney who can represent you. We recommend consulting with your legal counsel before implementing any policy or procedure.

8 Advantages of Smoke-Free, Multiunit Housing

Smoke-free. Better for business. Better for health.



It Reduces Property Damage
Every year, over 7,000 smoking-related fires occur in residential buildings.



It's Allowed by Law
The Colorado Clean Indoor Air Act allows owners and managers to implement smoke-free policies on their properties.



It's Non-Discriminatory
Smoke-free policies do not violate the Fair Housing Act, and housing providers are not required to make accommodations for individuals that smoke.



It Saves Money
It costs more to remediate or turn over a unit where smoking has occurred.



It Protects Health
There is no safe level of exposure to secondhand smoke. Secondhand smoke can cause heart disease, lung cancer, and stroke.



It's Trendsetting
Over 120 multiunit properties in Boulder County have implemented smoke-free policies.



It Increases Demand
Almost 90% of Boulder County adults do not smoke, and many prefer smoke-free environments.

It Clears the Air
In a multi-unit building, up to 65% of air is shared. Smoke-free policies protect tenants from smoke intrusion.



Understanding the Problem

Every housing facility is unique, and owners and property managers can experience a range of issues related to smoking. The first step, before making any changes, is to clearly identify the problem. Consider the following questions:

- Are you inundated with complaints from residents about secondhand smoke drifting into their units?
- Have you recently experienced a smoking-related fire?
- Do you manage disabled or senior housing and are concerned about smoke-free policy compliance?
- Are residents who smoke upset or having difficulty complying with your smoke-free policy?
- Are residents threatening legal recourse related to secondhand smoke exposure?
- Are you unsure about how to enforce a smoke-free policy?

Regardless of what you're experiencing, understanding the problem can help you consider solutions and set goals; plan and develop a resolution; and communicate changes with your housing community.

Finding a Solution

More often than not, problems related to smoking in multiunit housing can be remedied with a close look and some revisions to one or more of the following:

- Policy (e.g. a smoke-free policy is needed or an existing policy needs updating or clarification).
- Communication (e.g. residents don't know or understand the rule, residents don't understand the protocol, or residents feel their concerns are unimportant).
- Enforcement (e.g. there is no protocol in place, staff doesn't know the protocol, or enforcement isn't consistent).

This toolkit provides you with tools, tips, and ideas to help you problem-solve and identify solutions that will set you up for success in creating and maintaining a smoke-free environment for your residents!



Policy



Communication



Enforcement



Ingredients for Success

Policy

Adopting, implementing, or updating a smoke-free policy has many benefits and can reduce exposure to secondhand smoke, reduce fire risk, lessen smoke damage, and support those who want to quit smoking. A written smoke-free policy will set a standard for your property, and help with communication and enforcement, regardless of staff and resident turnover. Before you implement a new policy or make updates, consider the following:

- **Authority.** Identify what you have authority to control and who needs to be involved in making the decision. Connecting with everyone who would need to plan, review, or provide input will be helpful as you develop and navigate adopting your policy. Owners, management, legal counsel, and perhaps a board of directors or other essential staff are examples of who should be involved in the development of your smoke-free policy and plan.
- **Involvement.** Involve people who would be impacted by a policy change in the conversation. Solicit feedback from residents and staff by conducting a survey, holding resident and staff meetings, or sending out notices. Involving them in the process can help gauge support, identify barriers, and get buy-in for a policy change.
- **Scope.** Determine what your policy will say, what it will restrict or allow, and who it will apply to. Making the policy easy to understand, having clear definitions, and providing contact information will help residents and staff understand what is expected of them.



Communication

Communicating with your residents and staff about the policy is not only a key component of policy adoption, but it will also help with enforcement. Think about how you communicate other rules or policies with your residents and staff. Here are a few things to consider:

- **Lease Signing.** Bring attention to your smoke-free policy when leases are signed, and provide reminders when they are renewed. Consider doing this for all of your rules and regulations, not just your smoke-free policy.
- **Signage.** Place smoke-free signs on the property that are easy to understand and are located in high-traffic areas and commonly used spaces like entryways, stairwells, and indoor and outdoor common recreational areas. Simply placing signs on your property will help with compliance.
- **Mailings and meetings.** There are many ways to inform residents about your policy. For example, include it in your newsletter, pass out flyers, host a healthy homes resource fair, have a resident meeting, or advertise your smoke-free property on mysmokefreehousing.com.
- **Support.** Support residents and have talking points.
 - Smoke-free environments naturally provide a supportive environment for those who want to quit smoking. Provide quit resources for residents who are interested in quitting. This helps to show that you care.
 - Remember, a smoke-free policy isn't about the smoker – everyone is welcome. A smoke-free policy is about restricting smoke and providing a healthy and safe environment for everyone.



Enforcement

Enforcement is often the most difficult component of any policy, but it doesn't have to be. Having a policy in place and effectively communicating will help with enforcement. The following are tips to help make enforcement even easier:

- **Have a protocol** in place for noncompliance. Your protocol for smoke-free noncompliance should be the same as for any other lease or rule violation. Be transparent, and communicate your protocol with residents and staff. Not every housing entity will have the same protocol, and some protocols can be dependent on the type of housing you own or manage. Examples include:
 - Notice to comply.
 - Verbal notice, written warning, mandatory meeting, and eviction notification.
 - Fee for damage.
- **Look for evidence** of noncompliance and document, document, document. Consider the following to help gather evidence:
 - Determine what is considered as evidence for other types of violations.
 - Document and keep track of written or verbal complaints and violations, think about how to maintain safety and comfort when providing complaints, and refer to your protocol for follow-up procedures.
 - Document your observations during an inspection. For example, look for nicotine and tar residue on the walls, a strong tobacco or marijuana smell, visible ashtrays or cigarette burns in the carpet.
- **Be consistent** and respond promptly to complaints.
 - Picking and choosing when you enforce can be viewed as unfair and possibly discriminatory.
 - If residents complain and managers don't follow-up, residents can feel unheard or uncared for, especially if they are experiencing severe, adverse health effects.
 - If those who smoke feel that they can't comply, help them problem-solve. Think about ways to help them be compliant, like identifying a space where they can easily access outdoors or providing information about ways to quit if they're interested.
 - Have a dialogue to help them understand concerns or barriers, or refer to mediation services to help problem-solve.

A note about marijuana and e-cigarettes

Many smoke intrusion complaints are related to marijuana. Though Colorado legalized marijuana, it is still illegal federally. Depending on the type of housing you own or operate, marijuana use may already be restricted. If not, you can include marijuana in your lease language and restrict smoking.

Electronic smoking devices also emit a by-product. Though their emission is not the result of combustion, they produce aerosol/vapors that contain nicotine, flavoring, and other chemicals. The long-term health implications of secondhand exposure are not yet known, but it is possible for someone to be exposed passively to the contents in vapor. Additionally, e-cigarettes can be a vessel for marijuana and illegal substances. Allowing e-cigarette use may make smoke-free policies difficult to enforce, contradict smoke-free norms, or make it difficult to detect drug use. These devices also typically use lithium batteries, which have overheated and caused fire and injury.

Consequences

We know that housing providers want to offer the best housing environment for their residents. In turn, residents deserve a healthy, safe, and habitable space. Smoke-free policy adoption, effective communication, and consistent enforcement can help reduce owner/manager liability. Consider the following:



Policy

Not having a policy can result in:

- More time and money spent on addressing smoking-related complaints, remediation, and maintenance.
- Resident turnover; unhappy residents won't stay.
- Fire damage from discarded materials in planters, smoking while on oxygen, or residents falling asleep while smoking.
- Severe health risks, including impacts to pregnant women, children, persons that are immunocompromised, and older adults. Secondhand smoke can cause asthma, heart attack, and stroke.



Communication

Not communicating about your policy or your protocol can result in:

- Desperation, agitation/frustration, and threats of legal action from residents who are exposed.
- Residents claiming they didn't know there was a policy.



Enforcement

Not enforcing your policy can result in potential lawsuits. In certain situations, not accommodating individuals who have severe, adverse health complications due to exposure to secondhand smoke may be considered a violation of the Fair Housing Act or the Americans with Disabilities Act. Not enforcing a policy consistently may also be viewed as unfair and even discriminatory.

Resources

Many properties across the county, state, and country are working to address smoking in their units. Below are a few websites that provide samples and tools that may be helpful to you.

Policy

The following organizations have many resources related to adopting a smoke-free policy, including model policy language; policy toolkits and guidelines; resident support resources; and enforcement tools, including sample warning letters and notices.

- Group to Alleviate Smoking Pollution (GASP): mysmokefreehousing.org.
- Department of Housing and Urban Development (HUD): hud.gov; type "smoke free" in the search box.

The City of Boulder and the City of Longmont offer resources for housing providers, including model lease language. The sample smoke-free policies included in this toolkit may be used in conjunction with resources provided by these cities.

- City of Boulder Landlord/Tenant Handbook: bouldercolorado.gov; type "landlord handbook" in the search box.
- City of Longmont's Crime-Free Multi-Housing Program: longmontcolorado.gov; type "crime free housing" in the search box.

Communication

- **Signage:** Templates to create smoke-free signs for your property are available for download at BoulderCountyTobacco.org; click on "Smoke-Free Housing."
- **Support:** Boulder County Tobacco Education and Prevention Partnership (TEPP) staff can provide support and resources for you and your residents. Email healthinfo@bouldercounty.org with any questions, or help with the following:
 - Tenant survey design and analysis.
 - Presentation on smoke-free policy benefits and policy implementation.
 - Facilitation of resident meetings related to smoke-free policy.
 - Education and links to help residents quit tobacco.
- **Advertising:** Many prospective tenants specifically look for a smoke-free property. List your property at mysmokefreehousing.com.

Enforcement

- **Enforcement Advice:** Americans for NonSmokers' Rights (ANR): www.no-smoke.org/pdf/MUHenforcement.pdf
- **Legal Considerations:** Group to Alleviate Smoking Pollution (GASP): mysmokefreehousing.org/pdf/LiabilityRisksforHousingProviders.pdf
- **Mediation Services**
 - City of Boulder: bouldercolorado.gov; type "mediation services" in the search box.
 - City of Longmont: longmontcolorado.gov; type "mediation program" in the search box.





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.)

YesNoSometimes
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?

YesNo
4. Do you let people smoke inside your home?

YesNo
5. Do you have youth (18 years or younger) living with you?

YesNo
6. Are you or do you have anyone over the age of 65 living with you?

YesNo
7. Do you or someone you live with suffer from chronic illness such as asthma, chronic bronchitis, heart disease, diabetes, cancer, autoimmune disease, COPD?

YesNo
8. Have you ever had tobacco smoke drift into your home from another unit or from outside?

YesNo
9. Have you complained about tobacco smoke drifting into your home?

YesNo
10. Do you think secondhand smoke is harmful to your health?

YesNo
11. Do you think smoking poses a risk to your unit?

YesNo
12. Do you think smoking poses a risk to residents?

YesNo
13. Would you prefer to live in a building where smoking is not allowed inside including individual units?

YesNoUnsure
14. Would you support a smoke-free property including the grounds and all units?

YesNoUnsure
15. Would you prefer to live in a community with designated smoking areas?

YesNoUnsure
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): _____

Thank you for your time!



Sample Smoke-Free Housing Policy

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: The term “smoking” means inhaling, exhaling, breathing, burning, [vaping], carrying, or possessing any lighted, ignited, or [electronically-operated] cigar, cigarette, pipe, or other product or similarly lighted product in any manner or in any form.

Resident: The term “resident” means any tenant, occupant, household member, and/or family member who resides at any of the Properties.

Rules and Regulations.

All residents, employees, business visitors, invitees, and guests 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 Properties 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.

[No resident, including those who have signed an exemption form, shall have any type of smoking product burning when any employee or representative of [Property Owner] enters the resident’s apartment unit.]
2.

Prohibition of Smoking in Most Areas Outside the Buildings.

Smoking outside the buildings 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 Properties, including individual decks, patios or porches, balconies, yards, common areas or adjoining grounds of buildings, entry ways, playground areas, and parking lots.

3. **Proper Disposal of Smoking Materials.** Smoking-related products must be properly 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.
6. **Complaints.** If resident witnesses someone smoking or if resident smells smoke from a tobacco, marijuana, or other plant product in any place within the interior of any building on any of the Properties or if resident witnesses someone smoking on the grounds somewhere other than the designated smoking area, resident is encouraged to report the violation or the odor to the Property Manager as soon as possible. [Property Owner] prefers that 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 Owner] at least sixty (60) days prior to its effective date and at the time of employment for all new employees, and prior to admission and/or prior to the signing of a lease for 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 Property Manager shall place the signed copy in the resident's file.
 - b. Upon adoption of the Policy, all current residents of the Properties covered by this Policy shall be given two copies of the Policy by the Property Manager. After review, resident must sign one copy and return the executed copy to the Property Manager within ten (10) days. The Property Manager shall place the signed copy in resident's file.

9. Phase In of Policy.

- a. Effective [date TBD] (the "Effective Date"), all [Property Owner's] employees and all new residents of the Properties and their guests will be prohibited from smoking anywhere in any of the buildings located on the Propert[ies], including individual apartment units.
 - b. As of the Effective Date, any current resident who is smoking in resident's individual unit and who wishes to continue to smoke in resident's individual unit must complete a smoking exemption form which will allow resident to smoke in resident's individual apartment and in the designated smoking area(s) only. This exemption will continue only until the date of resident's lease recertification, or until 90 (ninety) days after the adoption date of this Policy, whichever time is longer.
 - c. 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 resident 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 police, monitor, or enforce the agreements of this Policy is dependent in significant part on voluntary compliance by the residents of the Properties.

Resident Signature: _____

Apartment Number: _____ Date: _____

Adopted: Date TBD

Sample Smoke-Free Housing Policy

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]]. Tenant, all of Tenant's household members and guests, and all other persons under Tenant's control, shall not smoke or permit smoking anywhere inside the Residence [or, on the Premises]. The term "smoking" is defined as inhaling, exhaling, breathing, burning, carrying, or possessing any lighted cigar, cigarette, pipe, or other product or similarly lighted product in any manner or in any form, [including "vaping" with e-cigarettes or vaporizers]. Tenant is responsible for all damages caused by or related to smoke, including, but not limited to, deodorizing, sealing, and painting the walls, ceiling repair, and replacement of the carpet and pads.

Marijuana Prohibition

No Tenant, nor any of Tenant's household members, guests, nor any other person under Tenant'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.



Sample Smoke-Free Policy Implementation Letter

IMPLEMENTATION OF SMOKE-FREE POLICY

Company
Address

Date

Dear Resident:

In order to provide a healthier environment for our residents, [Company] has decided to make [[our buildings, including individual units] or [the property, in its entirety (outside and inside)]] completely smoke-free. [The common areas in your building are already smoke-free (including entryways, hallways, laundry room, recreation areas, etc.)] If you are a resident who smokes, you are welcome to continue living in [the Community or the apartment], so long as you refrain from smoking [[while inside the building] or [while on the property]].

The smoke-free policy will be phased in [[as leases are renewed] or [thirty days from the date of this notice] or [date]]. We anticipate the transition to becoming a smoke-free [building or property] to be completed by [date all residents will be phased in, including residents initially exempt from the smoke-free policy, if applicable].

A copy of [Property's] smoke-free policy is attached. All residents and guests will be required to follow this policy. Please inform your guests, invitees, and all other occupants of your unit of this policy. You will be held responsible if your guest, invitee, or any occupant of your unit violates the no-smoking rules.

Please review, sign and return the policy to management no later than [date]. If you have any questions about this policy, please contact [Project Coordinator or Property Manager] at [list contact information].

Thank you for your cooperation,

[Property Manager/Owner]



Outdoor & Indoor Signage

Free Customizable Templates for Buildings with Smoke-Free Policies

Signage is an important component of policy enforcement and compliance. The templates below can be customized with information specific to your property or policy. Consider adding your property name, website, or management contact information.

Templates can be downloaded and provided to a sign vendor of your choice. Visit BoulderCountyTobacco.org to view and download a template or call 303.413.7567 for assistance.



AVAILABLE SIZES

8.5" x 11" (1 per page)



8.5" x 5.5" (2 per page)



4.25" x 5" (4 per page)



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 ashtrays and cigarette butts in unit 2A when replacing an air filter.	01/28/16	12:00pm	Management met with residents of unit 2A to review smoke-free policy. Gave verbal warning.	01/30/16
Received complaint from unit 1B of smoke drifting into bathroom through vent.	01/30/16	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.	02/04/16



Sample Warning Letter

WARNING OR INFRACTION LETTER

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

Tenant Name
Address

Date

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] no-smoking 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]

Tobacco Education and Prevention Partnership

BoulderCountyTobacco.org

303.413.7567

