



PUBLIC HEALTH  
LAW CENTER  
at Mitchell Hamline School of Law

# Enforcing a Smoke-Free Policy in Public Housing

*This document is intended for public housing agencies that have adopted a smoke-free policy. Managers of market-rate apartment buildings should refer to the companion fact sheet “Enforcing a Smoke-Free Policy in an Apartment Building.”*

## Introduction

As of July 2018, public housing authorities (PHAs) in the United States are required to provide a smoke-free environment for their residents, according to a rule issued by the U.S. Department of Housing and Urban Development (HUD). The smoke-free provisions apply to all indoor areas including resident units and 25 feet from the building. PHAs can go beyond the requirements of the HUD rule by prohibiting the use of e-cigarettes and/or prohibiting smoking in all outdoor areas of properties owned by the PHA.

According to a survey of the owners of multi-unit housing with smoke-free policies, the **overwhelming majority** of them did not experience an increase in staff time spent on managing the building after they put a smoke-free policy in place.<sup>1</sup>

However, the smoke-free policy should be enforced if violations occur. This fact sheet outlines some steps a manager should take to promote compliance as well as follow pursue in the case of a violation.

**Enforcing a  
smoke-free policy  
ensures happy  
residents and  
healthy homes.**

## Preparing to Enforce a Smoke-Free Policy


1. Make sure that the applicable PHA plan, lease and/or house rules contains a no-smoking provision.<sup>2</sup>
2. Consider adopting a graduated enforcement approach for the smoke-free policy, where the PHA has the right to terminate the lease as a last resort. Consider including an opportunity for residents to rectify their violation by attending a cessation class. Sample approaches to

<sup>1</sup> Hewett, M., D. Bohac, and J. Novacheck. “Secondhand Smoke.” *Environmental Tobacco Smoke*. Center for Energy and Environment, 2001. Web. Jan. 2013. [NEED UPDATED LINK]

<sup>2</sup> [25 C.F.R. § 965.655\(a\)](#).

graduated enforcement can be found in HUD's "[Change is in the Air](#)" implementation guide. (See pages 46-47.)

3. Provide your residents with proper notification of the smoke-free policy. Giving your residents enough time to prepare for the policy will help with compliance.
4. Engage residents throughout the implementation process. Tips for resident engagement can be found at [www.smokefreepublichousingproject.org](http://www.smokefreepublichousingproject.org).
5. Invest in compliance tools like building signage and in-unit reminders. Signage provides a constant reminder of the smoke-free policy and will also inform guests that the building is smoke free. Many state and local departments of health provide free signage for buildings that adopt smoke-free policies. Minnesota properties can access free or low-cost signage through [www.mnsmokefreehousing.org](http://www.mnsmokefreehousing.org)



**A graduated approach to enforcement is recommended.**

## If a Violation Occurs

1. Review and follow the enforcement procedures in the lease, addendum, and/or house rules.
2. PHA staff should document the instances of violations of the smoke-free policy by sending a Notice of Infraction or a letter to the resident reminding the resident of the terms of the lease, providing the resident a description of the violation(s) and recording the date(s) of the violation(s).
3. Educating all staff who work in and around the building is pertinent. Maintenance staff, resident service providers, caretakers, etc. may be in units and have stronger relationships with residents than management. These staff can also document policy violations to management and may be able to work with the resident to resolve the problem. Staff cannot open private spaces in the unit, but they can document signs of smoking they notice while in the unit for another purpose. Tools to educate other onsite staff can be found here: [www.smokefreepublichousingproject.org](http://www.smokefreepublichousingproject.org).
4. PHA staff sometimes asks what proof is acceptable to demonstrate that smoking has occurred, observing that it is difficult to witness activity that occurs in a private residence. Evidence short of witnessing smoking can constitute acceptable proof. This evidence can include: staff observing a lighted tobacco product, burn damage caused by smoking, cigarette smells, smoke clogged filters, smoke damage to walls, repeated reports to staff by third parties, clogged plumbing caused by smoking products, and evidence of ashes. Staff sometimes ask whether it is advisable to purchase a monitor that can detect smoke. This may not be the best approach because of the cost of the monitors and questions about their effectiveness. Further, if smoke monitors are used, they should likely be placed in every unit to ensure consistent treatment. That being said, a list of monitors can be found here: <http://mynsmokefreehousing.org/word/DevicesandTeststoDetectSmoking.htm>.

5. If multiple infractions occur and strategies for compliance are exhausted, PHA staff may wish to evict the resident. PHAs should confer with an attorney as to the proper procedure. Federal statutes spell out the procedures that must be followed if a PHA wishes to take this action.<sup>3</sup>
6. The PHA will have the burden of proving the lease violation allegations if an eviction action becomes necessary, so PHA staff should ensure evidence of violations is well-documented and talk with other residents to determine if they witnessed the lease violation and would be willing to testify in housing court.

## Additional Resources

Live Smoke Free has many resources to assist buildings with enforcing a smoke-free policy:

- **Notice of Infraction** form that managers can fill out and give to residents who violate the smoke-free policy
- **Notice of Smoking Incident** form residents can fill out to inform managers if other residents violate the policy
- **Model smoke-free lease addendum** language that can be tailored to each building
- **Smoke-free building signage** and in-unit reminders
- **Promoting Smoke-Free Policy Compliance** fact sheet
- **Foundations for a Successful Smoke-Free Policy: A Training for People who Work in Housing**
- **Resident Engagement Ideas** for Public Housing fact sheet



Free tools can help improve compliance and streamline enforcement.

All of these resources can be found on the following websites:

- [www.mnsmokefreehousing.org](http://www.mnsmokefreehousing.org)
- [www.sfpublichousingmn.org](http://www.sfpublichousingmn.org)
- [www.smokefreepublichousingproject.org](http://www.smokefreepublichousingproject.org)
- [www.publichealthlawcenter.org/topics/tobacco-control/smoke-free-tobacco-free-places/housing/public-subsidized-housing](http://www.publichealthlawcenter.org/topics/tobacco-control/smoke-free-tobacco-free-places/housing/public-subsidized-housing)

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<sup>3</sup> [42 U.S.C. § 1437d\(k\), \(l\)](#).