

## Transitioning to Smoke Free Housing at Your Property



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## Why go smoke-free?

- › Significant cost savings
  - Insurance
  - Clean-up costs
- › Increased safety
  - Fire risk
  - Damage
- › Reduced health risks
- › Tenant demand (competition)
- › Strong encouragement by HUD (it is legal)
- › Decreased legal liability and administrative issues due to second hand smoke (SHS) intrusions

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## Cost Savings

- › Reduce the costs of excessive wear and tear: cleaning and repairing carpets, furniture, fixtures, window treatments, priming and painting walls, and general maintenance
- › Lower utility bills and decrease the use of air-treatment systems — 30% less according to estimates by Marriott Hotels
- › Lower insurance premiums may be possible, negotiate with your insurance provider
- › Improves property values because there is less damage caused by smoking and discarded cigarettes
- › Maintenance costs even less when the policy covers the entire grounds

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## Cigarette Smoke Lingers



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## Cost of Unit Renovation

› Non-smoker's unit renovation= \$860

- › Cost of recent renovation of a "smoker's unit"
  - Labor \$1,842
  - Material 679
  - Total Co \$2,521

– Also see "Maintenance Corner", p. 2 of HUD 2009 newsletter attached to your materials

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## Safety

- ▶ **The National Fire Protection Agency and Colorado State Fire Chief's Association provide the following facts:**
  - Cigarettes are a leading cause of home fire fatalities in the United States, killing 700 to 900 people per year (smokers and non-smokers).
  - Cigarettes cause an average of 5% of Colorado residential fires.
  - In 2006, in Colorado, residential fires caused 39% of all residential fire fatalities, 7% of residential fire injuries, and 3% of all residential property loss.
  - Mattresses and bedding, upholstered furniture, and trash are the items most commonly ignited in smoking-material (such as cigarette, cigar or pipe) home fires.
  - There were 82,400 smoking-material structure fires in the United States in 1985.
  - The risk of dying in a home structure fire caused by smoking materials rises with age. Between 2002 and 2005, one-third (34 percent) of fatal smoking-material fire victims were age 65 and older.

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## Health

- ▶ Protect the health of your residents and workers — including staff and maintenance. **The Surgeon General has determined the following:**
  - **There is no Risk-Free level of exposure to Secondhand Smoke.**
  - Secondhand smoke causes lung cancer and contains more than 50 chemicals that can cause cancer. Secondhand smoke causes heart disease.
  - Secondhand smoke causes acute respiratory effects such as triggering cough, phlegm, wheezing and breathlessness.
  - Secondhand smoke can cause sudden infant death syndrome and other health consequences in infants and children. Exposed children are at an increased risk for acute respiratory infections, ear problems and more severe asthma.
  - Lung growth in children is slowed by smoke from parent's cigarettes.
  - **Separating smokers from non-smokers, cleaning the air and ventilating buildings cannot eliminate secondhand smoke exposure.**

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## Tenant Demand and Competition

- ▶ Selling point for renters (83% of Coloradans do not smoke)
- ▶ Increasing number of complaints about SHS infiltration in multi-unit dwellings
- ▶ Considerable number of residents with chronic diseases, such as asthma and cardiovascular disease, who are particularly vulnerable to the effects of SHS

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## Very few people are smoking Inside their homes anymore



- ▶ 84% do not allow smoking inside their own dwellings.
- ▶ Only 12% smoke inside regularly.

*85.4% of Colorado households reported having smoke-free home rules (2008 state survey).*

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## Smoke-Free Housing Gains Popularity



- ▶ In Colorado, more than 1,500 multiunit residential communities with 45,000 units have 100% no-smoking policies indoors. View the current list at [www.mysmokefreehousing.com](http://www.mysmokefreehousing.com)
- ▶ 27 Colorado Housing Authorities have implemented or are phasing in no-smoking policies!
  - 600+ buildings
  - 4,500+ units



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## HUD Memo

- ▶ The U.S. Department of Housing and Urban Development strongly encourages Public Housing Authorities to implement no-smoking policies in some or all of their public housing units. July 2009.
- ▶ HUS again encourages owners and management agents to implement smoke-free housing policies in some or all of the properties they own or manage. September 2010.

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## It is legal

- › No-smoking policies are legal in all 50 states
- › The Colorado Clean Indoor Air Act of 2006, for example, allows landlords to make any part of their property nonsmoking and prohibits smoking in all indoor common areas (CRS 25-14-206)
- › There is no constitutional “right to smoke”
- › Smokers are not a specially protected class of persons

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## ...even for Section 8

- › “Currently, there are no statutory or regulatory provisions governing smoking in Section 8 project-based subsidized properties. Owners of such properties are required to comply with applicable state and local laws, which would include any laws governing cigarette smoking in residential units and in common areas.
- › However, owners may adopt reasonable house rules that are related to the safety and habitability of the building and comfort of the residents. It is at the owner’s discretion to determine if a smoke-free policy would be applicable to their property.”

*Marcie D. LaPorte, Director, Denver Multifamily Hub at HUD*

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## Legal Liability and Administrative Burden

- › Spend less time dealing with smoking-related complaints
- › Spend less time and money in dealing with SHS-related reasonable accommodation requests
- › Landlords who continue to allow smoking on their property face potential lawsuits from residents exposed to SHS
- › State courts have ruled against apartment owners under various legal theories, such as breach of warranty of habitability, private nuisance, breach of covenant of quiet enjoyment, and eviction

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## GOAL OF NO-SMOKING POLICY

- › Save on unit turnover costs
- › Eliminate one fire risk
- › Protect tenants/children from dangerous 2<sup>nd</sup> hand smoke
- › Possible Tax - credit incentives for smoke-free affordable housing
- › Possible insurance savings



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## Steps to Implementing a No-Smoking Policy

- › Survey residents and consult resident board
- › Talk to other landlords
- › Educate residents
- › Develop policy
- › Communicate policy terms
- › Set up enforcement protocol
- › Advertise policy
- › Provide information about quitting smoking

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## SURVEYING TENANTS

- › Visit [mysmokefreehousing.com](http://mysmokefreehousing.com) for sample surveys
- › Physical survey posted on each tenant door with easy return instructions in hopes of getting good response.
- › Follow-up with education with newsletter, Q and A sessions, one-on-one sessions.

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## Consult Resident Board

- ▶ Consult with resident board before adopting non-smoking policy
- ▶ Powerful allies: get resident board on your side and use them as a tool to garnish support for policy

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## WHY DID I START SMOKING?

- ▶ Peer pressure



Anxiety



Socially Acceptable

- ▶ OK to smoke in your family



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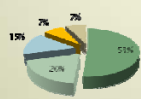
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## RESIDENT SURVEY RESULTS (support smoke-free buildings)

9. If your building, including all individual units, became non-smoking, what would you do?
- a. I/we prefer to live in a smoke-free building
  - b. I/we would smoke outside
  - c. I/we would consider moving
  - d. I/we would try to quit smoking
  - e. Other



Question 9 Ratekin



Question 9 Walnut Park



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**Talk to other landlords who have implemented no-smoking policies**

- › What did they do
- › What was the tenant response
- › How was it implemented
- › What did they wish they had done differently
- › How is the policy enforced

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**Educate residents about the dangers of SHS and how smoking increases fire risk**

- › There is no risk-free level of exposure to SHS
- › SHS cannot be controlled using ventilation or air-cleaning systems. Up to 50% of the air in multiunit housing may be re-circulated throughout an entire building
- › The only means of effectively eliminating the health risk associated with indoor exposure is to ban smoking activity

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**REMEMBER:**

- › It **is not** about the Smoker



- › It **is** about the Smoke, the fire and the litter



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## Develop Policy

- › How (House Rules/Lease)
- › Purpose
- › Definitions
- › Who does policy apply to
- › Include all indoor areas and units
- › Designate an outdoor smoking area
- › Consider a grandfather clause
- › Set an absolute quit date
- › Revise lease and/or house rules

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## Amending House Rules or Lease

- › Considerations:
  - HUD Lease? – Difficult to amend
  - House Rules – Notice Requirements (see HUD memo)
  - Look at Lease to determine whether a notice provision exists for changes/amendments to lease

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## Purpose

- › Safety
- › Health
- › Economics
- › Encouragement from HUD
- › Resident demand

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## Definitions

- › The term “smoking” means inhaling, exhaling, breathing, burning, carrying, or possessing any lighted cigar, cigarette, pipe, or other similarly lighted product in any manner or in any form.

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## Who does policy apply to

- › Current residents
- › Prospective residents
- › All household members
- › Guests
- › Staff

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## Include all indoor areas and units

- › Owners are not restricted from establishing smoke-free buildings, wings, floors, units, etc.
- › Policy must address: smoking in a tenant’s unit, common areas, playground areas, areas near any exterior window or door, and areas outside a tenant’s unit
- › Consider the layout of the property.
  - *Example:* Smoking shall not be permitted anywhere inside Walnut Park buildings including individual apartment units and balconies, entryways, and all common areas such as hallways, restrooms, elevators, stairways, laundry rooms, and all openings to the building including window and door openings.

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### Designate an outdoor smoking area

- › Involve residents in this process
- › Designate specific smoking areas and identify these areas with clear signage (unless a totally smoke-free policy is established)
- › Example:
  - Smoking outside the buildings shall be limited to individual patios and specific area(s) as designated on the attached site map and as identified with signs. Smoking shall not be permitted in any other outside areas of the property, including yards, all common areas, entry ways, playground areas, parking lots, and openings to the building (e.g. windows and doors).

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### Consider a grandfather clause

- › HUD's policies do *not* require the grandfathering of any resident
- › Local and state laws in Colorado do not address this issue
- › A grandfather policy must be clearly defined
- › Recommendation: implement policy upon lease renewal or on an established policy-change date

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### SET A QUIT DATE

- › Allow enough time for required public notice/advertising
- › Allow time for the minimum 60 day notice requirement
- › Consider the weather when setting the quit date - it is easier to accept smoking outdoors if the weather is pleasant.
- › Phase-in time should be no longer than six months

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## Phase In of Policy

- ▶ Example:
  - a. Effective on **[effective date of the Policy]**, all current residents, all employees, all guests, and all new residents of Walnut Park Apartments will be prohibited from smoking anywhere in the building, including in apartment units.
  - b. Any current resident as of **[effective date of the policy]** who is a smoker and who wishes to continue smoking in Resident's individual unit must complete a temporary 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 renewal, 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 **[six months]** from effective date of Policy).

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## Communicate policy to current and prospective tenants

- ▶ Implementation
  - New tenants
    - Policy (House Rules) must be provided to all new tenants
  - Existing tenants
    - Existing tenants must be notified of House Rule modifications 30 days prior to implementation if they have completed their initial lease term. If they have not completed their initial lease term, the tenant must be provided with **60 days** notice prior to the end of their lease term, of the change in the House Rules

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## NOTICING TENANTS

- ▶ The notice of the adopted policy should not be a surprise to the tenant population.
- ▶ Education sessions to inform the tenants should precede the policy effective date.
- ▶ A signed statement should be included in each tenant file acknowledging the new policy and a copy of the complete policy should be given to each household.

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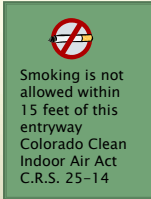
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## POSTING SIGNS/REMINDING TENANTS

- › Post signs to ensure that the new policy is well known among the tenants and for visitors to the property.
- › Maintain good sign placement.



<http://www.gaspforair.org/gasp/>



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## CONFORMING Lease & House Rules

- › Review Lease and House Rules to check for conflicts.
- › Where conflicts arise, amend.
- › Review state and local law to make sure policy does not conflict.

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## ADVERTISING POLICY

- › Follow the HUD policy manual for advertising requirements for each housing type.
- › Be aware of any local jurisdiction requirements for advertising a new policy in subsidized housing.

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### Dealing with New Applicants or Current Tenants who Smoke

- › Policy must NOT deny occupancy to any individual who smokes or to any individual who does not smoke who is otherwise eligible for admission
- › Management must NOT ask at the time of application or move-in whether applicant or any members of applicant's household smoke
- › MUST inform applicant of the policy
- › Management must NOT maintain separate wait-lists for smokers and nonsmokers
- › Must NOT ask, at recertification, whether tenant or any household members smoke
- › Must NOT require existing tenants to move out or to transfer

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### ENFORCING POLICY

- › Landlords are encouraged to take action to PREVENT problems with signage and newsletters.
- › Visit property and perform inspections to ensure compliance
- › No-Smoking policy is enforced same as any other house rule (repeated violations may constitute material noncompliance).
- › Documentation of all incidents is necessary in the unfortunate event of eviction due to repeat offenses.
- › Eviction is only a last resort for a tenant who willfully continues to break the no-smoking rule inside a unit.

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### Provide information about where to obtain help to quit smoking

- › Free smoking-cessation assistance:
  - Quitline: (800) QUIT-NOW;  
myquitpath.com

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## Additional Resources:

[Mysmokefreehousing.org](http://Mysmokefreehousing.org)

Resources for housing providers to help implement no-smoking policies in residential buildings, including sample policies, fact sheets, signs, and more

[www.mysmokefreehousing.com](http://www.mysmokefreehousing.com)

A listing of residential buildings in Colorado that have no-smoking policies for their entire building or property

[smokefreeColorado.org](http://smokefreeColorado.org)

provides information about the Colorado Clean Indoor Air Act, free signs, and other materials

[www.gasporair.org](http://www.gasporair.org)

Group to Alleviate Smoking Pollution (GASP of Colorado)

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## THANK YOU

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