

STEP-BY-STEP GUIDE AND SAMPLE MATERIALS FOR
COLORADO OWNERS AND MANAGERS

Smoke-Free Multiunit Housing

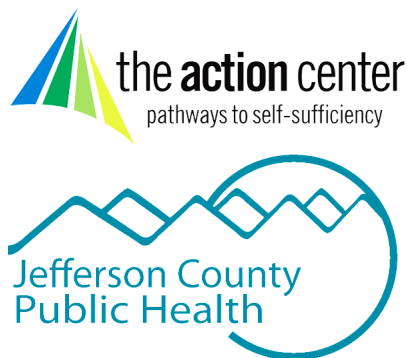


June 2014
Housing Toolkit



the action center
pathways to self-sufficiency





Smoke-Free Multiunit Housing: Step-by-Step Guide and Sample Materials for Colorado Owners and Managers

Tobacco Prevention Initiative
June 2014

Electronic copies of this publication can be found at:
www.JeffcoSmokeFreeHousing.com

Photo Credit: Metro West Housing Solutions

Disclaimer: This information is not intended to be legal advice. It is being provided free of charge by Jefferson County Public Health and The Action Center through a grant funded project, Jefferson County Multi-Family Smoke Free Project.* This information is intended for the education and support of those interested in smoke-free multi-unit housing with the understanding that Jefferson County Public Health and The Action Center are not engaged in, nor qualified to render legal advice. Jefferson County Public Health and The Action Center disclaim any liability to any person or entity for any loss or damage caused by errors, inaccuracies or omissions, or usage of this information. All risk of loss or damage is solely that of the user of this resource.

*For purposes of this information and related materials, reference to the "Jefferson County Multi-Family Smoke Free Project" is a reference to "Smoke-free Multiunit Homes for Low Income People in Jefferson County," the official name of the grant project at issue.



Dear Reader:

Jefferson County Public Health and The Action Center are working together to protect residents and housing providers from the dangers and loss caused by secondhand smoke exposure in multifamily housing. Through collaborative partnerships with experts in housing, human services, and tobacco prevention, this toolkit is being offered to assist attorneys/legal counsel and property owners in the adoption, implementing and enforcement of no-smoking policies for multifamily housing in Jefferson County.

The U.S. Surgeon General has warned that breathing secondhand smoke, even for a short time, is dangerous. Secondhand smoke is a leading cause of premature, preventable death for adults and causes serious illness and asthma in children. Smoking and secondhand smoke exposure result in enormous loss annually due to property damage, disease, and loss of life in multifamily dwellings. Tobacco smoke does not stay contained in individual apartments or outdoor areas; 54% of Colorado residents over the age of 18 living in multifamily dwellings report exposure to smoke and, in multifamily dwellings with children present, 60.5% report exposure (2011 Colorado Behavioral Risk Factor Surveillance System).

Property damage and risks to health caused by exposure to secondhand smoke are entirely preventable through comprehensive no-smoking policies which are implemented with thoughtful planning, effective support, and communication.

The good news is that smoke-free policies are not only one of the most effective approaches to reducing exposure, preventing youth initiation of tobacco, and supporting people with quitting, they are also legal, cost-saving and have been shown to consistently increase residents' overall satisfaction with their housing experience.

We've designed this toolkit to help you find success with policies to protect residents from secondhand smoke. The toolkit and related resources can assist you with policy planning and implementation to supporting the needs of people who smoke as well as those who don't. We've also included information about the health and safety hazards of smoking/vaporizing marijuana and how these concerns can be addressed legally through sound policy.

Whether you are a member of a local housing authority board, serve as legal counsel for property owners or tenants, are a resident of multifamily housing, or are a property owner or manager, this Toolkit has something for you and we hope that you will find it useful.

For more information about this toolkit and resources to support your efforts, visit www.jeffcosmokefreehousing.com or call 303-275-7535.

Mag Strittmatter
Executive Director
The Action Center

Mark Johnson, M.D., MPH
Executive Director
Jefferson County Public Health

TABLE OF CONTENTS

INFORMATION & STEP-BY-STEP GUIDANCE

Benefits of No-Smoking Policies Infographic

Frequently Asked Questions

Policy Adoption Timeline

Free Materials Request Form

Resident Smoke-Intrusion Log

Additional Resources

SAMPLE MATERIALS

Resident Survey

Resolution Smoke-Free Polic[ies] for [Properties]

Smoke-Free Housing Policy

Marijuana (Cannabis) Policy

Smoke-Free Provisions for Leases or House Rules
(Smoking and Marijuana)

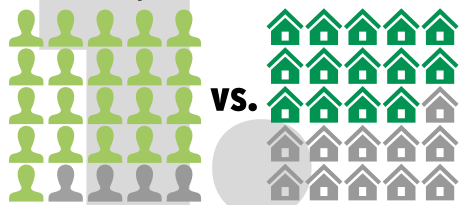
Letter Notifying Tenants about the Implementation of
Smoke-Free Policy

Warning or Infraction Letter



Fill Market Niche

A majority of Coloradans (**83%**) do not smoke and even more (87%) have no-smoking rules for their homes.¹



However, **only 56%** of properties in Jefferson County, CO reported having any kind of no-smoking policy.²



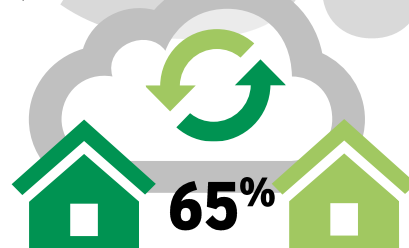
The U.S. Department of Housing and Urban Development (HUD) **strongly encourages** managers to implement no-smoking policies in their multifamily and section 8 housing properties.³

HUD Approves

Cleaner Air

Up to 65% of air can recirculate between homes in multiunit housing.⁴

The **only way** to eliminate secondhand smoke exposure is to ban smoking activity.⁵



9 Benefits of No-Smoking Policies in Multiunit Housing

Owners' Liability



Owners may be **more liable** by allowing smoking than by restricting it,⁶ especially if exposure to smoke impacts breathing, which is a protected activity by the **Fair Housing Act**.⁷

Smoking is **not a right protected** by the U.S. Constitution. No-smoking policies are legal and do not infringe on rights of individuals.⁸



No Right to Smoke

Prevent Fires

Cigarette smoking is a leading cause of fires in multiunit buildings.⁹



No-smoking policies reduce fires and may even **reduce your insurance** premiums.¹⁰

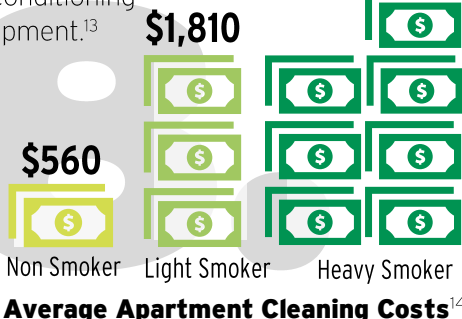
No-smoking policies can **include** marijuana



and vaporizers in language that prohibits use of tobacco products in private units and public areas.¹¹

Marijuana & E-Cigarettes

Save up to **five times** the cost of turnover¹² and lower the operating costs of heating and air-conditioning equipment.¹³



Save Money



Attract Residents

Prospective residents want smoke-free housing.

One survey found 81% of prospective residents were **immediately less interested** if they smelled smoke in an apartment.¹⁵

Want to know more?

Free information and resources to help you implement a smoke-free policy in your building are available. Visit www.JeffcoSmokeFreeHousing.com, email tobaccofree@jeffco.us, or call 303-275-7535



Citations

1. Community Epidemiology & Program Evaluation Group. Adult Tobacco Use and Exposure. Colorado 2012. Published February 2014.
2. Unpublished data from Jefferson County Multiunit Housing Owner/Manager Survey. Jefferson County Public Health. May 2014.
3. U.S. Dep't of Housing & Urban Development. Non-Smoking Policies in Public Housing, Notice: PIH-2009-21 (HA). July 17, 2009. www.hud.gov/offices/pih/publications/notices/09/pih2009-21.pdf.
4. Center for Energy and Environment. Reduction of Environmental Tobacco Smoke Transfer in Minnesota Multifamily Buildings Using Air Sealing and Ventilation Treatments. (Minneapolis, MN: 2004).
5. American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc. Environmental Tobacco Smoke Position Document. 2008. www.ashrae.org/docLib/20090120_POS_ETS.pdf.
6. Nat'l Multi-Unit Housing Council (NMHC). Property Management. Update: No Smoking Policies in Apartments. Feb. 2008. www.tcs.org/sfelp/S-F_NMHC.pdf.
7. Title 42 United States Code § 3602(h).
8. Samantha K. Graff. Tobacco Control Legal Consortium. There is No Constitutional Right to Smoke: 2008.
9. U.S. Fire Administration. "Residential Smoking Fires and Causalities." 2005.
10. Capital Insurance Group. Smoke-Free Credit. www.ciginfurance.com/insurance/liability/smoke-free-credit/
11. GASP of Colorado. "Can Marijuana be Regulated in Colorado's Multiunit Residential Buildings?". Accessed March 2014. <http://mysmokefreehousing.org/word/MJRegulationinMultiunitHousingMultiunitResidentialBuildings.htm>
12. Data reflects surveys from housing authorities and subsidized housing facilities in New England. Collected and reported by Smoke-Free Housing New England, 2009.
13. Jeff Burton. Controlling Environmental Tobacco Smoke. Occupational Health & Safety. 12, 22 (1998).
14. National Center for Healthy Housing, Reasons to Explore Smoke-Free Housing. 2009. www.nchh.org/Portals/O/Contents/NCHH_Green_Factsheet_Smokefree.pdf.
15. The Massachusetts Smoke-Free Housing Project. Market Demand for Smoke-Free Rules in Multi-Unit Residential Properties and Landlords' Experiences with Smoke-Free Rules. April 2009.



FREQUENTLY ASKED QUESTIONS:

POLICIES TO PROHIBIT SMOKING, MARIJUANA, E-CIGARETTES AND VAPORIZING

QUESTION	ANSWER
Are no-smoking policies legal?	Yes. Colorado's Clean Indoor Air Act allows owners and managers to make any part of their property no-smoking.
Are these policies discriminatory?	No. Smoking of any kind is NOT protected by Federal or Colorado law. Prohibiting smoking does not discriminate against smokers and does not violate any fair-housing regulations as people who smoke, by virtue of that status, are not a protected class.
What about recreational marijuana, vaporizers, or electronic cigarettes?	Can Prohibit. 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)
What about medical marijuana?	Can Prohibit. Under the Colorado Anti-Discrimination Act, owners and managers do not have to allow residents to use medical marijuana in private units as "reasonable accommodation." 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."
How do I define "smoking?"	No-smoking policies can use a broad definition of "smoking" inclusive of all activities involving tobacco, marijuana, hookah, vaporizing, and electronic cigarettes.
What's the bottom line?	Policies that prohibit smoking, including marijuana and vaporizers, are legally permissible and non-discriminatory.

Want to know more?

Free information and resources to help you implement a smoke-free policy in your building are available. Visit www.JeffcoSmokeFreeHousing.com, email tobaccofree@jeffco.us, or call 303-275-7535





POLICY ADOPTION TIMELINE

STEPS FOR POLICY IMPLEMENTATION

This sample timeline provides steps that can be adopted as managers and owners deem best for their property. Contact Jeffco Public Health for help adapting this guide to your property needs.

TIMELINE	ACTIVITIES	RESOURCES
PHASE I: PLANNING	ENGAGE RESIDENTS & STAFF <ul style="list-style-type: none"> □ Survey residents' opinions and needs as your property transitions to no-smoking and involve them in the process □ Hold a resident meeting to explain no-smoking policy, obtain feedback, and address concerns □ Educate maintenance staff, administration, and other key partners about no-smoking policies DEVELOP POLICY <ul style="list-style-type: none"> □ Use the included sample lease addendum or modify it to fit your policy; be sure to have a broad smoking definition □ Decide on plan for a quit-date or phase-in policy implementation, enforcement tools □ Have legal counsel review language of policy and lease agreements 	<p>Sample survey</p> <p>Request presentation from Jeffco Public Health</p> <p>Policy development assistance available</p> <p>Sample lease addendum</p>
PHASE II: PREPARATION	NOTIFY RESIDENTS <ul style="list-style-type: none"> □ Give residents notice of the date the policy will take effect through letters and flyers □ Begin implementing policy with new residents by having them sign a lease addendum as they move in POST SIGNAGE <ul style="list-style-type: none"> □ Free "No-Smoking" signs and flyers, cessation materials available from Jeffco Public Health □ Put up signs, flyers, banners to remind residents of new policy and effect date 	<p>Sample notification letter</p> <p><i>Note: notification can also be done by revising House Rules of the lease itself.</i></p> <p>Request free materials from Jeffco Public Health</p>
PHASE III: ACTION	PROMOTE NO-SMOKING POLICY <ul style="list-style-type: none"> □ On "in effect day," issue press release or host other policy recognition event, such as a celebration □ Update building advertisements to include new "no-smoking" amenity □ Take advantage of free property listing on www.mysmokefreehousing.com ENFORCE POLICY <ul style="list-style-type: none"> □ 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 	<p>Sample press release</p> <p>Sample enforcement language and violation letters</p>

Want to know more?

Free information and resources to help you implement a smoke-free policy in your building are available. Visit www.JeffcoSmokeFreeHousing.com, email tobaccofree@jeffco.us, or call 303-275-7535





MATERIALS REQUEST FORM

FREE OUTDOOR AND INDOOR SIGNS, STICKERS, AND WINDOW DECALS FOR BUILDINGS WITH NO-SMOKING POLICIES

MATERIALS

QUANTITY?

Signage

12"x 18" outdoor aluminum signs

- ☐ Smoke-Free Property (indoor & outdoor)
- ☐ Smoke-Free Building (indoor only)
- ☐ Smoke-Free (inclusive of marijuana & vaporizers)

8.5"x 11" indoor plastic signs

- ☐ Smoke-Free (English front, Spanish back)

4"x 5.125" vinyl window decal

- ☐ Smoking is not allowed within 15 feet of this entryway

4"x 5" sticker

- ☐ Smoke-Free

3'x6' banner (for temporary use only)

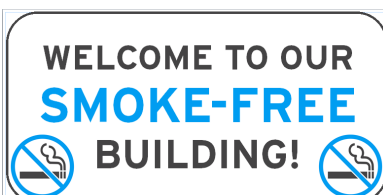
- ☐ Welcome to our Smoke-Free Building
- ☐ Welcome to our Smoke-Free Property

OUTDOOR/INDOOR SIGNS

DECALS/STICKERS



BANNERS



Please return form to:

Tobacco Prevention Initiative
Jefferson County Public Health
645 Parfet St, Lakewood CO 80215

Email: tobaccofree@jeffco.us

Phone: 303-275-7535

Fax: 303-271-5760

ADDITIONAL RESOURCES

COLORADO WEB RESOURCES

Jeffco Smoke-Free Housing.com

Tools for owners and managers interested in implementing no-smoking policies in multiunit 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 no-smoking policies. Call 303-275-7535 for more information.

MySmokeFreeHousing.org

Resources for housing providers to help implement no-smoking policies in residential buildings, including sample policies, fact sheets, signs, and more. MySmokeFreeHousing.com provides free listing of residential buildings in Colorado that have no-smoking policies for their entire building or property.

SmokeFreeColorado.org

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

TheActionCenterCO.org

Provides an immediate response to basic human needs and promote pathways to self-sufficiency for Jefferson County residents and the homeless. Support for tenants and landlords. Call 303-237-7704 for more information.

TOOLS & RESOURCES LIST

Resources & Tools for Smoke-Free Multi-Family Housing

Americans for Nonsmokers' Rights provides a selection of resources and tools developed by local, state, and national organizations to support smoke-free housing from a variety of approaches. <http://bit.ly/no-smokeMUH>

Regulating Smoking in Multi-Unit Housing

A brief summary of policy benefits, crucial elements, and important policy consideration by the Tobacco Control Legal Consortium. <http://bit.ly/regulatingMUH>

New York Landlord: Smoke-Free housing Toolkit

Toolkit designed to help adopt and enforce no-smoking policy for residential buildings or complexes by SmokeFree Housing NY. <http://bit.ly/NYCLandlord>

Going Smoke-Free: A Guide for Landlords

Toolkit designed by Allen County, Indiana to help landlords understand and implement no-smoking policies. <http://bit.ly/AC-landlord-guide>

HUD: Smoke-Free Housing

A toolkit for owners/management agents of federally assisted public and multi-family housing. <http://bit.ly/HUD-owners-guide>

Want to know more?

Free information and resources to help you implement a smoke-free policy in your building are available. Visit **www.JeffcoSmokeFreeHousing.com**, email tobaccofree@jeffco.us, or call 303-275-7535



SAMPLE MATERIALS

June 2014
Housing Toolkit

Electronic copies of this publication can be found at:

www.JeffcoSmokeFreeHousing.com

Disclaimer: This information is not intended to be legal advice. It is being provided free of charge by Jefferson County Public Health and The Action Center through a grant funded project, Jefferson County Multi-Family Smoke Free Project.* This information is intended for the education and support of those interested in smoke-free multi-unit housing with the understanding that Jefferson County Public Health and The Action Center are not engaged in, nor qualified to render legal advice. Jefferson County Public Health and The Action Center disclaim any liability to any person or entity for any loss or damage caused by errors, inaccuracies or omissions, or usage of this information. All risk of loss or damage is solely that of the user of this resource.

*For purposes of this information and related materials, reference to the "Jefferson County Multi-Family Smoke Free Project" is a reference to "Smoke-free Multiunit Homes for Low Income People in Jefferson County," the official name of the grant project at issue.

SAMPLE MATERIALS

RESIDENT SURVEY

Date _____

Dear Residents:

The [Property or Management Company] aims to [include part of mission statement here, i.e., "serve the community by making safe housing affordable"]. In an effort to provide a safe and healthy housing environment that will best meet the needs of all residents of [Property or Community], we need your opinion about smoking on the premises. Your opinions are valuable and will be considered if and when new policies are planned.

Please note that the information you provide is anonymous and will not be used against you.

Here is what we need you to do:

- Please complete this survey. **Do not write your name anywhere on the survey.**
- If you would like help filling out your survey, please call [Program Coordinator] at [phone number] or e-mail at [e-mail address].
- Please put your survey in the rent collection box in your manager's office no later than [date].

Resident Survey

1. How many years have you lived at [Property]? _____
2. Does anyone smoke inside your apartment? ☐ Yes ☐ No
If yes, how many occupants in your apartment smoke? _____
3. How often does anyone (occupant or guest) smoke in your apartment:
 - ☐ more than five times a day
 - ☐ 3-5 times a day
 - ☐ 1-3 times a day
 - ☐ once a week
 - ☐ no one smokes in my apartment

06/10/14

This Sample and the information included herein is not offered as and should not be construed as legal advice. It is intended for the educational use of participants in the Jefferson County Multi-Family Smoke Free Project. You should not act nor rely on this information without first seeking the advice of an attorney.

SAMPLE MATERIALS

4. Have you ever noticed the smell of tobacco smoke coming from another apartment or from outside the building? ☐ Yes ☐ No

If yes, did the smoke bother you? ☐ Yes ☐ No

5. Does any occupant in your apartment have a medical condition that is made worse by exposure to tobacco smoke? (Examples: heart or lung disease, asthma, allergies, eye irritation, emphysema, breathing difficulties) ☐ Yes ☐ No

6. Are you concerned about the health effects of secondhand smoke on you or someone else in your apartment? (Examples: infants/children, elderly) ☐ Yes ☐ No

7. **Which policies would you support? (CHECK ALL THAT APPLY.)**

☐ I would support a "Smoke-Free Policy" that **prohibits smoking anywhere on the property** (no smoking in individual apartments, nor anywhere else on the property)

☐ I would support a Policy that would **prohibit smoking in inside common areas** (hallways, stairwells, laundry room, lobby)

☐ I would support a Policy that would **prohibit smoking in all common areas** (recreation areas, playground, pool area, parking lot, hallways, stairwells, laundry room, lobby)

☐ I would support a Policy that restricted smoking on the property to **designated outdoor areas**

☐ I would support a Policy that **designated SOME buildings** on the property as "Smoking" and others as "Non-Smoking"

☐ I would support a Policy that would require people to **smoke at least twenty-five (25) feet from building entrances and window openings**

☐ I would support a Policy that would **prohibit smoking on balconies, porches and patios**

☐ **I would not support any Policy that restricts smoking.** I believe people should be allowed to smoke in residential apartments and anywhere on the property.

8. If certain buildings were designated as non-smoking, would you be interested in moving into a smoke-free building? ☐ Yes ☐ No

9. If certain buildings were designated as smoking, would you be interested in moving into a smoking permitted building? ☐ Yes ☐ No

06/10/14

This Sample and the information included herein is not offered as and should not be construed as legal advice. It is intended for the educational use of participants in the Jefferson County Multi-Family Smoke Free Project. You should not act nor rely on this information without first seeking the advice of an attorney.

SAMPLE MATERIALS

10. If [Property] prohibited smoking on the entire premises, but included one or more designated smoking areas outside, do you have an opinion on where a designated smoking area should be located? ☐ Yes ☐ No

If yes, please describe location: _____

11. If your building, including all individual apartments, became non-smoking, what would you do?

☐ I/we prefer to live in a smoke-free building

☐ I/we would smoke outside

☐ I/we would consider moving

☐ I/we would try to quit smoking

12. Would you be interested in participating in free quit smoking classes?

☐ Yes ☐ No

Are there other thoughts you have about smoking that you would like to share?

06/10/14

This Sample and the information included herein is not offered as and should not be construed as legal advice. It is intended for the educational use of participants in the Jefferson County Multi-Family Smoke Free Project. You should not act nor rely on this information without first seeking the advice of an attorney.

SAMPLE MATERIALS

RESOLUTION NO. _____

SMOKE-FREE POLIC[IES] FOR [PROPERTIES]

WHEREAS, the mission of the [Company/PHA] is to [“.....” include mission].

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) encourages, most recently in **NOTICE: H 2012-25**, owners and management agents participating in multifamily housing rental assistance programs to implement smoke-free housing policies in some or all of the properties they own or manage.

WHEREAS, the U.S. Surgeon General’s Report, *The Health Consequences of Involuntary Exposure to Tobacco Smoke*, has concluded that “there is no risk-free level of exposure to secondhand smoke” and that secondhand smoke (SHS) can migrate between units in multifamily housing, causing respiratory illness, heart disease, cancer, and other adverse health effects in neighboring families. The elderly, the young, and the disabled populations are especially vulnerable to the adverse effects of smoking. The Surgeon General’s Report further provides that SHS is linked to an increased likelihood of ear infections, acute respiratory infections, and severe asthma in children and Sudden Infant Death Syndrome (SIDS).

WHEREAS, the American Society of Heating, Refrigerating and Air-Conditioning Engineers has determined that there is currently no air filtration or other ventilation technology that can completely eliminate all the carcinogenic components in SHS and the health risks caused by SHS exposure, and recommends that indoor environments be smoke-free in their entirety.

WHEREAS, the American Lung Association considers cigarette smoking the number one cause of preventable disease in the United States.

WHEREAS, by reducing the public health risks associated with tobacco use, [these smoke-free policies] will enhance the effectiveness of federal and local efforts to provide increased public health protection for multi-unit residents.

WHEREAS, smoking poses a fire hazard. Smoke-free buildings reduce fires and fire-related deaths and injuries in housing and may also reduce insurance costs.

WHEREAS, making properties smoke-free is cost effective. Maintenance costs are higher in a smoking unit because of cigarette burn damage and residue left on walls.

WHEREAS, the [Company or PHA] Resident Advisory Board voted [list vote (i.e., unanimous)] on [date] to recommend approval of smoke-free policies for [Property(ies)] to the [...] Board.

6/9/2014

This Sample and the information included herein is not offered as and should not be construed as legal advice. It is intended for the educational use of participants in the Jefferson County Multi-Family Smoke Free Project. You should not act nor rely on this information without first seeking the advice of an attorney.

SAMPLE MATERIALS

WHEREAS, the [Company/PHA] Board desires to promote healthy and safe environments for its residents and employees as well as benefit from savings to operational costs.

NOW, THEREFORE, BE IT RESOLVED that the [Company/PHA] approves the attached smoke-free housing policies for the following multi-unit residential properties, [list properties].

Dated and approved this xx day of _____, 20__

[COMPANY OR PHA] BOARD
PRESIDENT:

[NAME]

ATTEST:

_____, Secretary

6/9/2014

This Sample and the information included herein is not offered as and should not be construed as legal advice. It is intended for the educational use of participants in the Jefferson County Multi-Family Smoke Free Project. You should not act nor rely on this information without first seeking the advice of an attorney.

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:

- 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.]
- 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.

06/09/14

This Sample and the information included herein is not offered as and should not be construed as legal advice. It is intended for the educational use of participants in the Jefferson County Multi-Family Smoke Free Project. You should not act nor rely on this information without first seeking the advice of an attorney.

SAMPLE MATERIALS

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

06/09/14

This Sample and the information included herein is not offered as and should not be construed as legal advice. It is intended for the educational use of participants in the Jefferson County Multi-Family Smoke Free Project. You should not act nor rely on this information without first seeking the advice of an attorney.

SAMPLE MATERIALS

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.

06/09/14

This Sample and the information included herein is not offered as and should not be construed as legal advice. It is intended for the educational use of participants in the Jefferson County Multi-Family Smoke Free Project. You should not act nor rely on this information without first seeking the advice of an attorney.

SAMPLE MATERIALS

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

06/09/14

This Sample and the information included herein is not offered as and should not be construed as legal advice. It is intended for the educational use of participants in the Jefferson County Multi-Family Smoke Free Project. You should not act nor rely on this information without first seeking the advice of an attorney.

Marijuana (Cannabis) Policy

[COMPANY]'S POLICY FOR [PROPERTY(IES)]

Introduction.

Due to the Federal prohibition of the manufacture, distribution, and possession of marijuana even when state law authorizes its medical and/or personal use, along with the increased risk of fire, increased maintenance costs, noxious odor, and the known health effects of marijuana, the [Company] hereby declares that it continues to have zero tolerance for marijuana use, as defined below. [Company]'s Marijuana Policy (the "Policy") for [PROPERTY/(IES)] (the "Properties") shall be strictly enforced for all residents.

Copies of this Policy shall be distributed to all current residents, new residents, applicants, and employees.

Background.

In Colorado, cannabis for medical use became legal on June 1, 2001. Colorado's Amendment 64 makes it legal under state law for people 21 years old or older to possess and cultivate certain amounts of marijuana for personal use. However, marijuana is regulated by both state **and** federal law, and the Federal Controlled Substances Act, 21 U.S.C. § 801, *et seq.* (the "CSA"), continues to prohibit the manufacture, distribution, and possession of marijuana even when state law authorizes its use. Under the Supremacy Clause of the U.S. Constitution, article VI, paragraph 21, federal law supersedes state law where there is a direct conflict of laws. Further, even if a person has a prescription for medical marijuana, the Federal Fair Housing Act states that a disability/handicap "does not include the current, illegal use of or addiction to a controlled substance" as defined in the CSA.

The Quality Housing & Work Responsibility Act of 1998 (Public Housing Reform Act), 42 U.S.C. § 13661 requires that public housing authorities and owners of other federally-assisted housing establish standards and lease provisions that prohibit admission into federally-subsidized programs based on the illegal use of controlled substances, including marijuana even where legalized by state law.

Definitions.

Marijuana: The term "marijuana" means any plant of the genus Cannabis which is a coarse bushy annual with palmate leaves and clusters of small green flowers. The plant yields tough fibers and narcotic drugs.

06/09/14

This Sample and the information included herein is not offered as and should not be construed as legal advice. It is intended for the educational use of participants in the Jefferson County Multi-Family Smoke Free Project. You should not act nor rely on this information without first seeking the advice of an attorney.

SAMPLE MATERIALS

Resident. The term “resident” means any tenant, resident, household member, 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. **Notice to Applicants.** All prospective residents and housing applicants will be informed that the Controlled Substances Act (“CSA”) lists marijuana as a Schedule I drug, and that the possession of marijuana or any other Schedule I drug, even if in possession of a current medical marijuana registration, will not be allowed in any of the Properties.
2. **Admission Prohibited.** Admission into any of the Properties is prohibited to a household with member(s) who is/are illegally using marijuana, or any other controlled substance.
3. **Marijuana Prohibition.** [Company] will adhere strictly to the federal law with regard to all use of marijuana or any other substance listed as a Schedule I drug under the CSA. Residents may not possess or be engaged in the cultivation, manufacturing, use of, or distribution of such drugs.
4. **Medical Marijuana is not a reasonable accommodation.** Federal nondiscrimination laws do not require public housing authorities or owners to allow marijuana use as a reasonable accommodation for disabilities.
5. **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.
6. **Lease Violation.** A breach of this Policy will be considered a lease violation which may result in termination of tenancy.
7. **Complaints.** If resident witnesses someone engaged in the use of marijuana in or on the Properties, resident is encouraged to report the violation to the Property Manager in as soon as possible. Management prefers that all complaints be in writing.
8. **Investigations.** Property Managers receiving a complaint will take appropriate measures to investigate and will take subsequent enforcement action, if necessary, as soon as possible. Property Managers are not required to take steps in response to illegal drug use or possession unless Property Managers have personal knowledge of the illegal use or possession or have been given written notice of the illegal use or possession.

06/09/14

This Sample and the information included herein is not offered as and should not be construed as legal advice. It is intended for the educational use of participants in the Jefferson County Multi-Family Smoke Free Project. You should not act nor rely on this information without first seeking the advice of an attorney.

SAMPLE MATERIALS

9. **Communication of Policy to Existing Residents.** This Policy shall be communicated by the Property Manager to all new and current residents.

- 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.

10. **Prohibition.** All [Company] employees and all new residents of the Properties and their guests are prohibited from possessing, cultivating, manufacturing, using, or distributing marijuana or any other Schedule I drug in or on the Properties, including individual apartment units.

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 a lease violation may be cause for termination of my tenancy.

I 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

06/09/14

This Sample and the information included herein is not offered as and should not be construed as legal advice. It is intended for the educational use of participants in the Jefferson County Multi-Family Smoke Free Project. You should not act nor rely on this information without first seeking the advice of an attorney.

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.

06/09/2014

This Sample and the information included herein is not offered as and should not be construed as legal advice. It is intended for the educational use of participants in the Jefferson County Multi-Family Smoke Free Project. You should not act nor rely on this information without first seeking the advice of an attorney.

SAMPLE MATERIALS

SAMPLE 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]

06/09/14

This Sample and the information included herein is not offered as and should not be construed as legal advice. It is intended for the educational use of participants in the Jefferson County Multi-Family Smoke Free Project. You should not act nor rely on this information without first seeking the advice of an attorney.

SAMPLE MATERIALS

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]

06/09/14

This Sample and the information included herein is not offered as and should not be construed as legal advice. It is intended for the educational use of participants in the Jefferson County Multi-Family Smoke Free Project. You should not act nor rely on this information without first seeking the advice of an attorney.