Missouri Smoke-free Housing Toolkit

MISSOURI DEPARTMENT OF
HEALTH &
SENIOR SERVICES

Missouri Department of Health and Senior Services
Tobacco Prevention and Control Program
P.O. Box 570
Jefferson City, MO 65102-0570
866-726-9926
An EO/AA employer: Services provided on a nondiscriminatory basis.
Hearing- and speech-impaired citizens can dial 711.

Parts of this toolkit were adapted for Missouri with permission from Indiana's Smoke-Free Housing Indiana Toolkit, Your Guide to Implementing a Smoke-Free Policy at Your Facility.

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Getting Started

Congratulations on making a choice that is better for your residents, employees and property!

This toolkit offers general guidance on implementing a smoke-free policy in your rental properties. Smoke-free housing policies protect the health of your community from secondhand smoke and keep your property free of thirdhand smoke. While this toolkit contains some useful sample language, please note that it is general guidance not legal advice. For legal advice or representation, please contact an attorney in your area familiar with landlord-tenant laws.

Know Your Property Type

Start by identifying the type of property or properties where you will adopt comprehensive smoke-free policies. There are different rules and considerations for different types of housing.

Market Rate Housing

- Property owners can create a smoke-free policy by writing it into the lease at the time the unit is initially rented or when the lease is renewed.
- Provide notice of any new renewal terms at least 60 days before the end of the existing year-to-year lease and at least 30 days before the end of month-to-month leases.
- In the absence of local laws requiring greater advance notice, we recommend giving residents 60-90 days' notice of the change of the lease renewal terms to ensure an equitable transition and to make the change easier for residents.
- For current yearly leases that have not expired, property owners can ask current tenants to sign a lease addendum to add the smoke-free policy if they agree; property owners cannot add terms to an existing lease unilaterally before its expiration. For this reason, when trying to add a smoke-free addendum mid-lease term, the property owner should talk about the new policy with tenants to explain why this change is necessary and beneficial for all residents of the housing property.
- Local government may have additional requirements, including minimum notice, for landlords who wish to change the terms of existing leases or lease renewals.

Section 8 Voucher Program

- Properties participating in the voucher program must follow state and local legal requirements if they want to amend leases to include smoke-free provisions.
- The property owner must wait for the lease to expire and add the smoke-free addendum to the lease upon renewal.
- It is best practice to provide notice of any new renewal terms at least 60 days in advance of the expiration of the existing lease to ensure an equitable transition and make the change easier for residents. With a month-to-month agreement, a property manager can add a smoke-free policy and make the policy effective no sooner than 30 days after providing this notice.

Public Housing Authorities

In 2018, The United States Department of Housing and Urban Development (HUD) required all HUD residences to adopt a smoke-free policy. Cigarettes and cigars cannot be smoked in buildings on HUD properties, including offices, residences and common areas, or within 25 feet of any buildings on HUD property. Electronic cigarettes were not required to be included in the policy. However, Public Housing Authorities may also prohibit the use of these products in their facilities.

Steps to Smoke-free

1. Assess Resident Readiness
2. Draft a Policy
3. Create a Timeline for Change
4. Promote the Policy
5. Implement and Enforce the New Policy

STEP 1

Assess Resident Readiness

Surveying residents can help you develop a policy that fits the needs of your residents and property.

Resident responses will also help you identify areas where you might need additional communication and preparation. To encourage response, consider entering residents who answer the survey into a prize drawing.

Sample Tenant Survey

Date

Dear Residents of *(building/complex/community)*:

To protect residents from the dangers of secondhand smoke, many rental properties are adopting smoke-free policies. An increasing number of workplaces, organizations and communities in Missouri are smoke-free. To provide a healthy home where everyone can live and breathe smoke-free air, *(name of property)* is considering the adoption of a no-smoking policy.

Please answer the questions below so that we can consider your input on smoke-free policies.

Please slide responses under the office door *(or provide other means of response)* by the evening of *(due date)*.

Please circle 'yes' or 'no' and add comments at the bottom.

Do you smoke or vape? (ie. Cigarettes, e-cigarettes, or vape pens)	**YES**	**NO**
If yes, do you smoke in your unit?	**YES**	**NO**
Do you allow guests/family members or others to smoke or vape in your unit?	**YES**	**NO**
Can you smell smoke or vape aerosol from other units when in your apartment?	**YES**	**NO**
Can you smell smoke or vape aerosol when in the hallway/common areas?	**YES**	**NO**
Would you support a smoke-free policy for this building? *(meaning people who smoke can still live in the building but cannot smoke in any rental units and common areas)*	**YES**	**NO**

Comments:

STEP 2

Draft a Policy

Consider the questions below and resident survey results to adapt the provided model lease addendum to fit your property needs.

This toolkit's model smoke-free lease addendum was adapted from the Public Health Law Center and American Nonsmokers' Rights Foundation model smoke-free lease addendums.

What areas of my property should be covered?

Entire Property

A smoke-free policy that covers your entire property inside and out is the best way to protect your residents, employees and property from secondhand smoke, thirdhand smoke, damage, fire risk and litter.

Indoor Areas

At the very least, all indoor areas should be smoke and vape-free. This includes all residential units and common areas such as lobbies, hallways, garages and laundry rooms. Allowing smoking anywhere indoors will result in smoke traveling to other parts of the building through doorways, cracks in walls, electrical lines, ventilation systems and plumbing. Prohibit smoking 25 feet from the building to prevent secondhand smoke from drifting back into the building.

Designated Smoking Areas

If you decide to allow smoking at an outdoor designated area, it should be at least 25 feet from the building and away from entrances, windows, patios, balconies and ventilation intakes to prevent smoke from drifting into the building and to reduce fire risk. The designated smoking area should also be at least 25 feet away from places where children gather and play, such as playgrounds and pools.

Define Smoking and Important Terms

Define smoking to ensure people and your property are protected from all types of smoke and vape aerosol. A comprehensive definition would define smoking as vaping, smoking, inhaling, exhaling, burning, or carrying any lighted, heated, or activated cigar, cigarette, pipe, electronic smoking device, or any other lighted or heated tobacco, nicotine, or plant product, natural or synthetic intended for inhalation. Other important terms should also be defined to make sure everyone understands the policy.

Include the Effective Policy Date or Timeframe for Implementation

Determine an effective date for the lease addendum or the timeframe for updating leases. Follow any state or local notice requirements. If the policy will be part of a lease renewal, provide at least 60 days' notice for year-to-year leases (and at least 30 days' notice for month-to-month leases) to the existing tenant.

Include an Equitable Enforcement Plan

Smoke-free policies can be enforced like any other lease violation, such as pet policies. The policy should describe the consequences of a violation and who is in charge of ensuring compliance. To help with compliance, a graduated enforcement plan that resets after one year can effectively address violations while limiting resorting to eviction and fees. It's possible to support tenants suffering from nicotine addiction while protecting residents and your property from secondhand smoke exposure.

Submit Your Draft Policy to Missouri's Tobacco Prevention and Control Program for Review

Missouri's Tobacco Prevention and Control Program can review your drafted policy and provide feedback. Send your policy to MOTobaccoProgram@health.mo.gov.

Model Smoke-free Lease Addendum

Date: _____ Property Name: _____ Apartment/Unit Number: ____

Tenant Name(s): _____

Tenant Address: _____

Tenant and all members of Tenant's household are parties to a written lease ("the Lease") with the property owner or "Landlord." This Addendum states the following additional terms, conditions and rules that are incorporated into the Lease through this addendum ("Lease Addendum"), effective _____. A breach of this Lease Addendum gives each party all the rights contained herein, as well as the rights in the Lease.

Section 1. Purpose of Smoke-free Policy

The parties desire to mitigate (i) the irritation and known adverse health effects of secondhand smoke; (ii) the health dangers and property damage caused by thirdhand smoke; (iii) the increased maintenance, cleaning and redecorating costs from smoke; (iv) the increased risk of fire from smoking; and (v) the higher costs of property insurance for a non-smoke-free building.

Section 2. Definitions

"Electronic smoking device" means any product containing or delivering nicotine, or any other substance, whether natural or synthetic, intended for human consumption through inhalation of aerosol or vapor from the product, including, but not limited to, a(n) e-cigarette, e-cigar, e-pipe, vape pen, Juul, or e-hookah.

"Smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or any other lighted or heated product containing, made, or derived from nicotine, tobacco, marijuana, or other plant, whether natural or synthetic, that is intended for inhalation. Smoking includes carrying or using an activated electronic smoking device.

Section 3. Scope of Smoke-free Policy

Tenant agrees and acknowledges that the premises to be occupied by Tenant and members of Tenant's household have been designated as a smoke-free living environment. Tenant, members of Tenant's household and any guests under control of the Tenant will not smoke anywhere:

a) In the unit rented by Tenant, including any associated balconies, decks, or patios;

b) In the common areas of the property, including, but not limited to, lobbies, hallways, stairwells, elevators, laundry rooms, community rooms, community bathrooms, or offices; or

c) On the outdoor grounds of the property, including, but not limited to, entryways, playgrounds, pool areas, walking paths, or sitting areas.

Section 4. Tenant to Promote Smoke-free Policy and Alert Landlord of Violations

Tenant will inform Tenant's guests of the smoke-free policy. Tenant may also promptly give Landlord a written statement of any incident where Tenant observes smoking not allowed by this policy or believes smoke is migrating into the Tenant's unit from sources outside the Tenant's unit.

Section 5. Landlord to Enforce Smoke-free Policy

Landlord will post no-smoking signs at entrances and exits, common areas and in conspicuous places adjoining the property grounds. Landlord will also take reasonable steps to promptly remedy known and reported violations of the smoke-free policy. Landlord is not required to take steps in response to smoking unless Landlord knows of the violation.

Section 6. Other Tenants are Third-Party Beneficiaries of Tenant's Agreement

Tenant agrees that other Tenants of the rental community are third-party beneficiaries of Tenant's smoke-free Lease Addendum with Landlord. A Tenant may sue another Tenant for an injunction to prohibit smoking or for damages but does not have the right to evict another Tenant. Any lawsuit between Tenants does not create a presumption that the Landlord breached this Lease Addendum.

Section 7. Effect of Breach and Right to Terminate Lease

Tenant acknowledges that a breach of this Lease Addendum may render Tenant liable to Landlord for the costs to repair Tenant's unit due to damage from smoke odors or residue. A breach of this Lease Addendum is a breach of the Lease and grounds for immediate enforcement action, including potential termination of the Lease by the Landlord.

Section 8. Enforcement

a) The first infraction shall result in a verbal warning and reminder of the smoke-free policy and provision of smoking cessation resources and materials.

b) The second infraction shall result in a verbal warning and provision of smoking cessation resources and materials.

c) The third infraction shall result in a written warning and provision of smoking cessation resources and materials.

d) The fourth infraction shall result in a 10-day notice to vacate with an option to remedy/cure and provision of smoking cessation resources and materials.

e) The fifth infraction may result in a 10-day notice to vacate without the option to remedy or cure.

Section 9. Disclaimer by Landlord

Tenant acknowledges that Landlord's adoption of a smoke-free living environment and the efforts to designate the premises as smoke-free do not in any way change the standard of care that Landlord or its managing agents owes a Tenant and do not ensure that the smoke-free designated buildings and premises are any more safe, habitable, or improved in terms of air quality standards than any other rental premises. Landlord specifically disclaims any implied or express warranties that the building, common areas, or Tenant's premises will have any higher or more improved air quality standards than any other rental property. Landlord cannot and does not warranty or promise that the rental premises or common areas will be free from secondhand smoke. Landlord and its managing agents are not the guarantor of Tenant's health or the smoke-free condition of the premises. Tenant acknowledges that Landlord's ability to police, monitor, or enforce the agreements of this Lease Addendum is dependent in significant part on voluntary compliance by Tenant and Tenant's guests. Tenants with respiratory ailments, allergies, or any other physical or mental condition relating to smoke are put on notice that Landlord does not assume any higher duty of care to enforce this Lease Addendum than any other landlord obligation under the Lease.

_____

Landlord / Date

_____

_____

Tenant(s) / Date

STEP 3

Create a Timeline for Change

It's important to communicate with residents, staff and vendors about the upcoming smoke-free policy change. This will give them time to prepare and to think about quitting nicotine if they want.

Be prepared to talk to residents about the reasons for going smoke-free and what to expect with the new policy. Below is a sample phase in timeline, meaning the policy becomes effective with lease renewals and signings.

Notify current tenants of the change at least 60 days before year-to-year leases end and 30 days before month-to-month leases end. Tenants can volunteer to sign the smoke-free addendum before their lease ends.

Phase in Timeline

Days 1 - 30: Survey Residents

- See a sample resident survey in Step 1 on page 5.

Days 31 - 60: Draft a Policy

- Review Step 2 and the sample lease addendum on page 8.
- Submit your draft policy to Missouri's Tobacco Prevention and Control Program for review.
- Order free smoke-free signage and tobacco cessation materials from the Missouri Department of Health and Senior Services Tobacco Prevention and Control Program.

Days 61 - 90: Notify Residents and Staff

- Have new residents sign the smoke-free lease addendum as they move in.
- Notify existing residents of the policy change through letters and flyers. Ensure that existing residents know that the policy change will happen during lease renewals at least 60 days before their leases renew.
- Create an incentive such as a gift card or reduced rental payments to encourage existing residents to sign the lease addendum early.
- Talk to residents and staff about the benefits of the new policy.
- Offer Missouri Tobacco Quit Services information to residents and staff who wish to quit.

Days 91 - 120: Existing Residents Begin to Sign Policy

- Send a reminder notice to residents regarding the policy change.
- Consider holding a meeting with residents to answer questions about the policy change.

Days 121 - 150: Policy Goes into Effect

- Existing residents sign the new smoke-free lease addendum as leases renew.
- Assess how many residents still need to sign the lease addendum and their expected lease renewal date.
- Post smoke-free signs around the property, especially near entrances and where people used to smoke.

Days 151 - 365: Property Becomes 100% Smoke-free

- All existing residents sign the new smoke-free lease addendum as leases renew and should be renting under the new smoke-free policy by the end of the year.
- If residents volunteered to sign the addendum early, the building will be smoke-free sooner than expected.
- List the building as smoke-free in advertisements, apartment listing websites and rental publications.
- Host a smoke-free celebration event.

STEP 4

Promote the Policy

Smoke-free housing offers many benefits. Use the fact sheets below to educate your residents and staff about these.

- Post notices of the upcoming change in public places for residents and staff to see.
- Hold a property-wide meeting to talk about the changes and answer questions.
- Reassure residents and staff that people who smoke are still welcome to live and work on the property, they just can't expose other people to secondhand smoke and vape aerosol.
- Focus on the smoke rather than the people who smoke.
- Consider sharing the survey results.
- Share the timeline for implementation.
- Provide Missouri Tobacco Quit Services information to people interested in quitting. Most people who smoke want to quit and smoke-free environments help them take that step.
- Advertise as a smoke-free property on your website and rental listings.

Benefits of Smoke-free Homes for Residents

Protect yourself and your family from secondhand and thirdhand smoke.

Reduce fire risk.

Reduce maintenance and cleaning costs.[1]

Who's affected and what's the problem?

Secondhand smoke travels between units through doorways, cracks in walls, electrical lines, ventilation systems and plumbing.

1 out of 3

people who don't smoke and live in rental housing are exposed to secondhand smoke.[2]

There is no safe level of secondhand smoke.

Children, the elderly, people with disabilities and pregnant women are particularly vulnerable to the health risks associated with secondhand smoke.[3]

2 out of 5

children are exposed to secondhand smoke. Most children are exposed in the home.[1]

Children exposed to tobacco smoke are at risk for asthma, lung problems, earaches and Sudden Infant Death Syndrome (SIDS).[3]

Adults are at risk for heart disease, stroke and lung cancer.[1]

Children living in multiunit housing have higher blood levels of cotinine, a marker of tobacco exposure, even when they live with caregivers who do not smoke.[3]

Thirdhand smoke is the residue left behind from cigarette smoke and cannot be removed through normal cleaning methods.

It contains 250 chemicals and sticks to dust, carpets, upholstery, walls, hair, clothes, pets' fur and feathers. The toxic chemicals left behind can re-emit and off gas back into the air. It cannot be removed through routine cleaning methods and can remain months after smoking has stopped.

Moving into a unit that was previously smoked in exposes you and your family to toxic chemicals. [4,5]

Babies and children are particularly vulnerable to thirdhand smoke, the residue left behind from smoking, when they crawl on contaminated floors or put contaminated items in their mouth.[4]

REFERENCES

1. Centers for Disease Control and Prevention. (2022, September 14). *Going Smokefree Matters: Multiunit Housing.* https://stacks.cdc.gov/view/cdc/89646
2. American Nonsmokers' Rights Foundation. (2023). *Residents Are Often Exposed in Their Homes.* American Nonsmokers' Rights Foundation | no-smoke.org. https://no-smoke.org/at-risk-people/tenants/
3. American Academy of Pediatrics. (2017, April 25). *Smoke-free Housing.* HealthyChildren.org. https://www.healthychildren.org/English/health-issues/conditions/tobacco/Pages/Smoke-free-Housing.aspx?_gl=1*rqrmoo*_ga*NjYzMTcwMjYxLjE2NzY0NzIxMzg.*_ga_FD9D3XZVQQ*MTY3NjQ3MjEzOC4xLjAuMTY3NjQ3MjEzOC4wLjAuMA..&_ga=2.107813954.1974416437.1676472139-663170261.1676472138
4. American Academy of Pediatrics. (n.d.). *Thirdhand smoke: A Threat to Child Health.* https://downloads.aap.org/HC/Thirdhand_smoke_A_Threat_to_Child_Health.pdf
5. American Nonsmokers' Rights Foundation. (2023). *Thirdhand Smoke Harms People Even After Smoking Stops.* American Nonsmokers' Rights Foundation | no-smoke.org. https://no-smoke.org/smokefree-threats/thirdhand-smoke/

Image: Centers for Disease Control. (n.d.). Going Smokefree Matters Multiunit Housing. https://stacks.cdc.gov/view/cdc/89646

Benefits of Smoke-free Housing for Property Owners and Managers

Reduce costs and turn-over time.

Cleaning and refurbishing a unit can cost up to $3,000 more than a smoke-free unit.

Save on insurance premiums.

Some insurance companies offer reduced rates to buildings with smoke-free policies.

Smoke-free buildings reduce the risk, costs and liability associated with fires.[1]

80% of Missourians do not smoke[2] and most renters, including people who smoke, would choose smoke-free housing if given the choice.[1,3]

Smoke-free policies are easy to enforce and can be enforced like any other lease violation.[4]

Smoke-free leases are legal.[1]

Smoke-free buildings are for everyone. People who smoke are still welcome to live in the building, they just have to take the smoke outdoors to a designated area.

Your Property

- **Secondhand and thirdhand smoke damage your property** and increase maintenance, cleaning and insurance costs.[1]
- **Secondhand smoke travels between units** through doorways, cracks in walls, electrical lines, ventilation systems and plumbing.[5]
- **Thirdhand smoke is the residue left behind from cigarette smoke** and cannot be removed through normal cleaning methods.
- **It contains 250 chemicals and sticks to dust, carpets, upholstery, walls, hair, clothes, pets' fur and feathers.** The toxic chemicals left behind can re-emit and off gas back into the air. It cannot be removed through routine cleaning methods and can remain months after smoking has stopped.[6,7]
- **Allowing smoking in the building increases risk of fire.** Most residential fire deaths are caused by cigarettes.[1]

Your Tenants

Exposing residents to secondhand smoke opens property owners to legal action from residents who experience health issues as a result of the exposure.[1]

1 out of 3 people who don't smoke and live in rental housing are exposed to secondhand smoke.[2]

Children living in multiunit housing have higher blood levels of cotinine, a marker of tobacco exposure, even when they live with caregivers who do not smoke.[3]

There is no safe level of secondhand smoke.

Children, the elderly, people with disabilities and pregnant women are particularly vulnerable to the health risks associated with secondhand smoke.[3]

2 out of 5 children are exposed to secondhand smoke. Most children are exposed in the home.[1]

Children exposed to tobacco smoke are at risk for asthma, lung problems, earaches and Sudden Infant Death Syndrome (SIDS).[3]

Adults are at risk for heart disease, stroke and lung cancer.[1]

Babies and children are particularly vulnerable to thirdhand smoke, the residue left behind from smoking, when they crawl on contaminated floors or put contaminated items in their mouth.[4]

REFERENCES

1. American Nonsmokers' Rights Foundation. (2023). *Benefits of Smokefree Buildings.* American Nonsmokers' Rights Foundation | no-smoke.org. https://no-smoke.org/benefits-of-smokefree-buildings-fact-sheet/
2. *BRFSS | Health & Senior Services.* (2020). https://health.mo.gov/data/brfss/index.php
3. National Center for Healthy Housing. (2008). *Reasons to Explore Smoke-free Housing.* https://nchh.org/resource-library/fact-sheet_g&hh_reasons-to-explore-smoke-free-housing.pdf
4. American Lung Association. (2022, November 17). *Steps for Effective Enforcement of Smokefree Policies in Multi-Unit Housing.* https://www.lung.org/policy-advocacy/tobacco/smokefree-environments/multi-unit-housing/steps-for-effective-smokefree-policies
5. Centers for Disease Control and Prevention. (2022, September 14). *Going Smokefree Matters: Multiunit Housing.* https://stacks.cdc.gov/view/cdc/89646
6. American Academy of Pediatrics. (n.d.). *Thirdhand smoke: A Threat to Child Health.* downloads.aap.org/HC/Thirdhand_smoke_A_Threat_to_Child_Health.pdf
7. American Nonsmokers' Rights Foundation. (2023). *Thirdhand Smoke Harms People Even After Smoking Stops.* American Nonsmokers' Rights Foundation | no-smoke.org. https://no-smoke.org/smokefree-threats/thirdhand-smoke/
8. American Nonsmokers' Rights Foundation. (2023). *Residents Are Often Exposed in Their Homes.* American Nonsmokers' Rights Foundation | no-smoke.org. https://no-smoke.org/at-risk-people/tenants
9. American Academy of Pediatrics. (2017, April 25). *Smoke-free Housing.* HealthyChildren.org. https://www.healthychildren.org/English/health-issues/conditions/tobacco/Pages/Smoke-free-Housing.aspx?_gl=1*rqrmoo*_ga*NjYzMTcwMjYxLjE2NzY0NzIxMzg.*_ga_FD9D3XZVQQ*MTY3NjQ3MjEzOC4xLjAuMTY3NjQ3MjEzOC4wLjAuMA..&_ga=2.107813954.1974416437.1676472139-663170261.1676472138

Ready to Quit?

Missouri Tobacco Quit Services offers free, confidential tools to help you quit nicotine (cigarettes, vapes or chew).

Tools are proven to help people quit and are available all the time.

Online, by phone, or by text, however you reach out to us, we're here to help you quit.

"I love this program. I use all your products, website, texts, coaching calls and patches. The coaches are helpful and effective."

Get your customized quit plan and the support you need to succeed.

Call 1-800-QUIT-NOW (784-8669) or visit YouCanQuit.org to enroll in services.

"Twice I had given up on quitting. Thanks to the coach, I didn't quit the program."

- Missouri Tobacco Quit Services coaches have more than 200 hours of training.
- They have experience in counseling and in helping people live tobacco-free.
- Many are former smokers, so they understand.
- Some people may be eligible for enhanced support, including free nicotine replacement therapies such as the patch, gum or lozenges. Ask your quit coach for details.
- Services are available in over 200 languages.

"The quit coach talked me through my withdrawals and my guilt about my relapse."

MISSOURI TOBACCO QUITSERVICES
YOUCANQUIT.ORG

STEP 5

Implement and Enforce the New Policy

Implementation

Implementing a smoke-free policy is similar to implementing other policies and property rules.

- Order smoke-free signage and post near entrances and in areas where people used to smoke.
- Continue to communicate with residents and staff after the effective date.
- Continue to make Missouri Tobacco Quit Services information available.
- Train your staff on proper procedures for handling observed and reported violations.
- Train staff on how to respond to questions and concerns about the policy from residents, visitors and vendors. Help staff prepare to answer the following questions:
  - Where am I allowed to smoke?
  - Why can't I smoke in my apartment?
  - Why can't I smoke outside on the property?
  - Are you telling me I have to quit smoking?

Enforcement

With good communication and signage, smoke-free policies usually enforce themselves like other property policies. It's possible to successfully enforce a smoke-free policy while supporting residents and staff who are addicted to nicotine.

- Use a graduated enforcement plan that resets after one year. See a sample graduated enforcement plan below.
- Be consistent and address each complaint in a timely manner.
- Eviction should be used as a last resort.
- Penalty fees are not recommended as they further create housing instability for residents who cannot afford rent as a result of these additional fees. Additionally, penalty fees on public housing may violate the regulations of the Department of Housing and Urban Development (HUD).
- Some property owners may choose to recover costs incurred to repair damage caused by smoke. These fees should not be more than the costs caused from the damage.

Example Graduated Enforcement Plan

a. The first violation shall result in a verbal warning and reminder of the smoke-free policy and provision of smoking cessation resources and materials.

b. The second violation shall result in a verbal warning and provision of smoking cessation resources and materials.

c. The third violation shall result in a written warning and provision of smoking cessation resources and materials.

d. The fourth violation shall result in a 10-day notice to vacate with an option to remedy/cure and provision of smoking cessation resources and materials.

e. The fifth violation may result in a 10-day notice to vacate without the option to remedy or cure.[2]

2. MO Rev. Stat. § 441.040.

Sample Violation Warning Letter

Date

Dear *(name of resident)*,

It has been brought to our attention that secondhand smoke has been drifting out of your apartment into common areas and/or others' apartments (OR staff noticed a strong odor of cigarettes in your unit). I would like to remind you that, as stated in your lease agreement, *(property name)* has a smoke-free policy that states that tenant(s), members of tenants' households and visitors will not smoke anywhere on this property. This decision was made to protect the health of all tenants from the adverse effects of secondhand smoke. The decision was also made to protect our buildings from damage and to reduce risk of fire.

If you violate the terms of the lease again, we may take appropriate action outlined in the lease agreement.

a. The first violation shall result in a verbal warning and reminder of the smoke-free policy and provision of smoking cessation resources and materials.

b. The second violation shall result in a verbal warning and provision of smoking cessation resources and materials.

c. The third violation shall result in a written warning and provision of smoking cessation resources and materials.

d. The fourth violation shall result in a 10-day notice to vacate with an option to remedy/cure and provision of smoking cessation resources and materials.

e. The fifth violation may result in a 10-day notice to vacate without the option to remedy or cure.

(If you have an outdoor designated smoking area, provide details on where it is and ask the tenant to smoke only in the designated area(s).)

Thank you for your cooperation in this matter. Please don't hesitate to contact us at *(insert contact information)* if you have questions or concerns.

If you are interested in quitting smoking, help is available through Missouri Tobacco Quit Services (1-800-QUIT-NOW (784-8669) or YouCanQuit.org). Free services are available 24/7 and include counseling, a personalized quit plan, local quitting resources, nicotine replacement therapy and quit kits.

Sincerely,

Name
Title
Company

The First Year: What to Expect

What you may experience:

- Enthusiastic support from people who embrace the new policy.
- Complaints from people who smoke. Offer cessation resources and support to those who want to quit.
- Complaints and discussions about the new policy will decrease after the first few months.
- The enforcement policy may be tested. Enforce it consistently, fairly and compassionately. Communicate with staff about consistent enforcement and explain that this change may take time for everyone to adapt.
- After a few months, a resident may have repeat violations. Follow your graduated enforcement plan. If eviction is necessary, remember that this must be done through your local court which may require evidence that a fair and consistent enforcement process was followed, as established in your lease agreement. It is unlawful to remove the tenant or change the locks to the residence without first having obtained a court order of eviction.[1]

1. MO Rev. Stat. § 441.040.

Reasonable accommodation requests:

- You may receive reasonable accommodation requests from people who want to continue to smoke in their units.
- Respond to each request according to your policy. There is no constitutional "right to smoke" and people who smoke are not a protected class.[2]
- You may choose to consider requests from residents with mobility impairments or mental disabilities who smoke. You may choose to move a resident closer to an exit or an elevator to make the smoke-free change easier for those residents. Allowing a resident to smoke indoors or within 25 feet of the property or to expose other residents is not a reasonable accommodation.

First Year Anniversary

- Host an event to celebrate one year as a smoke-free property.
- Calculate the costs saved from unit turnovers and consider using a portion of those savings on improvements that directly benefit residents.
- Survey residents to evaluate the impact of the new policy. To encourage response, consider entering respondents into a prize drawing.

2. Graff, S. K. & Tobacco Control Legal Consortium. (2008). *There is No Constitutional Right to Smoke: 2008*. Tobacco Control Legal Consortium. https://www.publichealthlawcenter.org/sites/default/files/resources/tclc-syn-constitution-2008.pdf

Sample Tenant Follow Up Survey

Date

Dear Residents of *(building/complex/community)*:

Our building adopted a smoke-free policy last year to protect residents from the dangers of secondhand and thirdhand smoke.

Please answer the questions below so that we may review how this policy has affected you.

Please slide responses under the office door *(or provide other means of response)* by the evening of *(due date)* so we can consider your comments.

Please circle 'yes' or 'no' and add comments at the bottom.

Have you quit smoking or vaping since the new policy was adopted?	**YES**	**NO**
If not, have you cut down on the number of cigarettes you smoke or the amount you vape?	**YES**	**NO**
Is your health or your family's health better since the policy was adopted? *(Examples: less or milder asthma attacks, better heart health, fewer earaches and colds)* If yes, what health benefits have you or people in your home noticed?	**YES**	**NO**
Can you smell smoke or vape aerosol from other units when in your apartment?	**YES**	**NO**
Can you smell smoke or vape aerosol when in the hallway/common areas?	**YES**	**NO**
Do you support the current smoke-free policy for this building? *(meaning people who smoke can still live in the building but cannot smoke in rental units and common areas)*	**YES**	**NO**

Comments:

Missouri Department of Health and Senior Services
Tobacco Prevention and Control Program

Funding of this project was supported by the Centers for Disease Control and Prevention (CDC) of the U.S. Department of Health and Human Services (HHS) as part of a financial assistance award totaling $2,000,000 with 100% funded by CDC/HHS.

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