

The background of the cover is a bright, airy room with a large window showing a blue sky with white clouds. Overlaid on the top left are colorful, flowing, smoke-like waves in shades of green and blue. The room has light-colored walls, a wooden floor, and a white radiator.

Implementing HUD's **SMOKE-FREE POLICY** in Public Housing

HUD GUIDEBOOK



Table Of Contents

Table of Contents	ii
Acknowledgments	iv
Introduction	1
U.S. Department of Housing and Urban Development (HUD) Support	1
Smoke-Free Policies Are Legal	2
Reasons to Adopt a Smoke-Free Policy	3
Protect the Health and Safety of Residents and Staff	3
Cost Savings	4
Policy Dates and Deadlines	5
How to Implement the Smoke-Free Policy	5
Communicating with Residents and Staff about the Smoke-Free Policy	6
Present a Clear Message about Your Smoke-Free Policy	6
Who Should You Talk to about Your Smoke-Free Policy? Everyone!	6
Recommended 18-Month Timeline	8
Lay the Groundwork: February 2017–April 2017	10
Review HUD's Smoke-Free Public Housing Rule	10
Learn from Other PHAs	10
Review Examples of Smoke-Free Policies and Enforcement Plans	10
Prepare Your Staff: May 2017–July 2017	12
Inform Housing Staff, Advisory Board, and Residents of HUD's Smoke-Free Rule	12
Begin Resident Engagement: May 2017–July 2017	12
Communicate with Residents	13
Formalize Your PHA's Policy: August 2017–October 2017	14
Draft Your Policy	14
An Effective Smoke-Free Housing Policy Typically Includes the Following Elements	17
Introduce the Policy and Set an Implementation Timeline	17
Present Your Smoke-Free Policy to the PHA Board of Directors	17
Notify Residents and Begin Comment Period	18
Obtain Board Approval	19

Table Of Contents *continued*

Prepare to Implement: November 2017–January 2018	19
Engage Residents to Communicate the Final Policy	19
Schedule Lease Signings	19
Focus on Vulnerable Tenants	20
Final Preparations for Implementation: February 2018–July 2018	20
Train Staff	20
Let Everyone Know	21
Ensure 100 Percent of Residents Have Signed a Lease or Lease Addendum with the Smoke-Free Policy Language Included	21
Launch Your Policy: July 30, 2018	22
Host a Kickoff Celebration to Mark the Implementation of the New Policy	22
Respond to All Requests for Accommodation	22
Host a Cessation Class	22
Maintaining Your Smoke-Free Policy	23
Collect Data to Track Policy Effectiveness	24
Assess Implementation	24
Experiences from the Field	25
Appendix A: Frequently Asked Questions	33
Appendix B: Sample Lease Language	40
Appendix C: Partnerships	43
Appendix D: Endnotes	46

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Introduction

It is a new era in public housing agency (PHA) homes. Over the next 18 months, PHA homes will become safer and healthier with the implementation of smoke-free policies. Units will also be easier to maintain and turn over.

Typically, what happens inside one's home does not affect one's neighbors. However, a tenant's actions can sometimes negatively affect others, including neighbors. Sometimes the nuisance is minor: loud music or strong cooking odors. At other times, the offense is major: secondhand smoke.

Secondhand smoke hurts everyone. There is no safe amount of secondhand smoke. It contains hundreds of toxic chemicals, approximately 70 of which can cause cancer.¹ Even breathing secondhand smoke for a short amount of time can be hazardous to one's health, as exposure also increases the risk of disease and lung cancer. Children exposed to secondhand smoke are at an increased risk for Sudden Infant Death Syndrome (SIDS), acute respiratory infections, ear problems, and more frequent and severe asthma attacks.² Pregnant women exposed to secondhand smoke are more likely to have babies with serious health problems.^{3,4}

U.S. Department of Housing and Urban Development (HUD) Support

On December 5, 2016, HUD finalized a rule that requires all PHAs to implement a smoke-free policy by July 30, 2018.

HUD's rule is a continuation of its formal encouragement of the adoption of smoke-free policies in public housing, multifamily housing, and mixed-income housing. Beginning in 2009, HUD committed to encouraging PHAs and property owners/agents of subsidized or market-rate multifamily housing to implement smoke-free policies

because **the movement of secondhand smoke between units cannot be controlled in multifamily buildings.**

In the past 15 years, 678 PHAs throughout the nation have adopted and implemented smoke-free policies.

HUD also supports implementation of smoke-free policies because they are fiscally responsible. Smoke-free policies reduce property maintenance costs, unit turnover time, and the risk of fires.^{5,6}

Research has shown that ventilation and other air filtration technologies cannot eliminate the health risks caused by secondhand smoke exposure. Smoke-free policies are also good for the health of residents, staff, and guests.

HUD has requested feedback from the public on how to best continue to support the implementation of smoke-free policies for multifamily housing. This information helps HUD in developing and disseminating additional guidance and resources to support PHAs, owners and management agents who wish to implement smoke-free policies.

One quarter of U.S. residents—approximately 79 million people—live in multifamily properties. This includes houses attached to 1 or more other houses and buildings with 2 to 50 or more apartments. Even though the majority of people do not allow smoking in their homes, 36 percent are regularly exposed to secondhand smoke.⁷

The purpose of this guide is to provide a roadmap to PHAs for adopting a smoke-free policy. The guide also includes insights from PHA representatives who have already implemented a smoke-free policy. These insights address common questions and concerns you may have about smoke-free policies.

The guide includes support for PHAs implementing a smoke-free policy for the first time and for PHAs that currently have a policy.

Smoke-Free Policies Are Legal

Smoke-free policies are legal. The policies do not violate residents privacy rights and do not discriminate against residents who smoke. Smoke-free policies are about where people smoke, not about whether they smoke.

People who smoke are not a protected class and do not have special legal status. Smoking is a public health issue, and smoke-free policies are not discriminatory because they do not prohibit anyone from renting a unit. They merely set rules for activities permitted on the property.

TIPS

Focus on the smoke, not the smoker.

A tenant's status as a smoker or nonsmoker is irrelevant. An individual's smoking status cannot be used to determine eligibility for applying for or residing in public housing. Current and prospective tenants need to know that they are allowed to smoke, just not in the areas that have been designated nonsmoking.

The smoke-free rule requires PHAs to implement a policy that prohibits the use of all lit tobacco products inside all dwelling units, indoor common areas, and PHA administrative office buildings. The smoke-free policy must also extend to 25 feet from all housing and administrative buildings.

PHAs have the discretion to establish designated smoking locations outside of the required 25-foot perimeter, which can include partially enclosed structures. PHAs may also establish additional smoke-free areas (such as around a playground) or make their entire grounds smoke-free.

Reasons to Adopt a Smoke-Free Policy

Communication with your residents and staff about why a smoke-free policy will be adopted is important. In this section, we share some of the most common reasons for implementing a smoke-free policy. By providing your tenants and staff members with the reasons for the policy and plenty of time to adjust to the new rule, you will increase their buy-in and make implementation and enforcement easier.

The smoke-free policy will provide your tenants and staff with a healthier and safer environment, reduce costs, and adhere to legal requirements.

Cost Savings

Smoking in units can lead to serious property damage and increase the amount of time it takes to turn over a unit between residents. Moderate to excessive smoking

damages most surfaces and fixtures in the home. Additionally, the U.S. Fire Administration reports that smoking-related fires result in \$326 million in property damage every year.¹⁷

\$154 million: The estimated annual savings of the smoke-free rule for public housing.

Maintenance Savings

Turning over a smoking unit can cost two to seven times more than turning over a smoke-free unit. The cost of cleaning and renovating a smoking unit adds up quickly, and smaller properties generally cost more per unit than larger properties when repairing smoking damage. The time required to turn over a smoking unit may be greater than that required for a smoke-free unit, resulting in a longer vacancy status and further increasing the wait for housing for qualified tenants. Implementing smoke-free policies across the country in subsidized housing will save approximately \$521 million per year, including \$341 million in secondhand smoke-related healthcare expenditures, \$108 million in renovation expenses, and \$72 million in smoking-attributable fire losses, according to a recent study from the Centers for Disease Control and Prevention. For public housing, the study estimates annual savings of about \$154 million per year.¹⁸



Insurance Savings

Having a smoke-free policy is an opportunity to ask for reduced insurance costs. The best way to pursue this is by contacting your insurance company and inquiring about discretionary credits provided to clients who file fewer claims. Since smoke-free housing reduces the risk of fire, fire damage claims are less likely. Also, implementing a smoke-free policy demonstrates to your insurer that you are actively minimizing the risk of damage to your building. Although most insurance companies do not yet offer a specific credit for smoke-free policies, they are more likely to reward proactive clients with lower premiums.¹⁹

Smoke-free policies can help avoid lawsuits from residents and employees.

Reduced Legal Liability

Smoke-free policies can help avoid lawsuits because residents, staff members, and maintenance workers can file lawsuits over secondhand smoke. Claims may be based on legal precedents for nuisance, warranty of habitability, or the covenant of quiet enjoyment. Landlords, management companies, and smokers may all be found liable in such cases. Tenants with preexisting conditions, such as asthma or other respiratory illnesses, can file claims under civil rights laws, such as the Fair Housing Act.

Most states have smoke-free workplace laws. Allowing smoking in common areas in buildings located in states or municipalities with smoke-free workplace laws can be illegal. You are encouraged to research local laws to learn about smoke-free workplace laws in your community. Your local health department or other partners can help you with this research.



Protect the Health and Safety of Residents and Staff

Secondhand smoke is a known human and animal carcinogen. In 1992, the U.S. Environmental Protection Agency

Most surveys find that more than 50 percent of residents in multifamily housing in any given building or city favor indoor smoking bans.

classified secondhand smoke as a Class A known carcinogen. Secondhand smoke poses health concerns for all people, particularly

children, pregnant women, and people with chronic illnesses such as heart disease and asthma.

In 2006, the U.S. Surgeon General concluded that there is no risk-free level of exposure to secondhand smoke. Secondhand smoke causes heart disease, cancer, chronic obstructive pulmonary disease, and other lung diseases. It triggers asthma attacks and exacerbates all heart, lung, and respiratory conditions. Living with a smoker increases the chances of developing lung cancer by 20–30 percent, even in people who have never smoked.⁸ Evidence supports an association between secondhand smoke exposure in children and adverse health effects, such as respiratory illnesses, ear infections, hospitalizations, and SIDS.⁹

Secondhand smoke poses serious health threats to residents and staff, old and young, including increased sickness and even death. Rates of chronic diseases, such as cardiovascular disease, obesity, diabetes, and asthma, are higher in adults who live in public housing as well as lower-income families, in general.¹⁰ Risk factors like exposure to secondhand smoke can trigger a heart attack in people with chronic disease, which can lead to severe impairment or death. Reducing risk factors, like smoking and exposure to secondhand smoke, represents a considerable health benefit for residents in public housing. Managers or maintenance workers are at risk of exposure whenever they enter a building.

Infants and children are highly susceptible to the negative effects of secondhand smoke exposure. Children spend more time in the home than adults and have little or no control over their environment. In 2014, 37 percent of public housing residents were children.¹¹ Low-income children and minority children are more likely to have asthma, which can be triggered by secondhand smoke, and they suffer worse health outcomes than children in higher-income families. Children from African-American families are twice as likely to be hospitalized and are four times as likely to die from asthma as white children.¹²

The elderly and disabled are especially vulnerable to secondhand smoke due to chronic health conditions and an inability to physically avoid secondhand smoke. **Smoke-free policies help provide housing stability for residents**

who suffer from respiratory conditions such as asthma or chronic obstructive pulmonary disease and those who breathe with assistance from a home oxygen respirator.

Pets and service animals can also suffer severe health consequences from exposure to secondhand smoke. For some people, gaining awareness about the benefits of smoke-free policies on pets' health motivates them to support smoke-free policies.¹³

The movement of smoke between units cannot be controlled, and no level of exposure to tobacco smoke is safe. The international standard-setting body for indoor air quality, the American Society of Heating, Refrigerating, and Air Conditioning Engineers, unanimously agree that ventilation and other air filtration technologies cannot eliminate all the health risks caused by secondhand smoke exposure.¹⁴ Smoke-free policies are the only way to prevent exposure to secondhand smoke in multifamily units.

Ventilation and other air filtration technologies cannot eliminate all the health risks caused by secondhand smoke exposure. Multifamily buildings share air ducts or vents, which means smoke from a lit cigarette in one unit can easily move into another unit.

Secondhand smoke flows between units through air filtration systems and other means. It cannot be contained. Multifamily buildings share air ducts or vents, which means a lit cigarette in one unit can easily transmit tobacco smoke into another unit. Even in modern buildings designed to minimize air transfer among units, there is no way to guarantee that smoke will not be blown from unit to unit through open windows. A recent public housing study identified movement of smoke among units and evidence of improved air quality in buildings with smoke-free policies.¹⁵

Smoking is the leading cause of fire deaths. Smoking in the home is the leading cause of residential fire deaths and injuries. Almost 1,000 people die every year in smoking-related fires; half are tenants in multiunit housing, and a third of them are children. Thousands more are injured by fires that were caused by smoking.¹⁶

The U.S. Surgeon General concluded that the only way to keep children and adults safe from secondhand smoke was to ban all smoking indoors.

Policy Dates and Deadlines

The HUD rule was published on December 5, 2016, and became effective on February 3, 2017. **All smoke-free policies must be in effect by July 30, 2018**, 18 months after the effective rule date. See the *Recommended 18-Month Timeline* section (p. 8) for a timeline that will help you meet the expected target dates.

Lease amendments must be provided to new tenants at the time of the initial lease signing and to existing tenants at their annual recertification or the first recertification after HUD approves the plan amendments.

- PHAs must provide tenants notice of lease changes 60 days prior to implementation.

If the PHA determines that the smoke-free policy is a significant amendment to its PHA Plan, the PHA must follow the amendment process below:

- The PHA must consult with the Resident Advisory Board (RAB) (as defined in 24 CFR 903.13).
- The PHA must ensure consistency with the Consolidated Plan of the jurisdiction(s) (as defined in 24 CFR 903.15).
- The PHA must make the amendments/modifications available for review by the public 45 days prior to the public hearing (as defined in 24 CFR 903.17).
- The PHA may not adopt the amendment or modification until the PHA has duly called a meeting of its Board of Directors (or similar governing body). This meeting, at which the amendment or modification is adopted, must be open to the public.
- The PHA may not implement the amendment or modification until notification is provided to HUD and approved in accordance with HUD's plan review procedures (as defined in 24 CFR 903.23).

If the PHA determines that a PHA Plan amendment is not needed based on the PHA's definition of a significant amendment, it may proceed with adopting the policy on a timeline determined by the PHA, provided tenants are notified 60 days in advance. See later sections of this guidebook for suggested engagement activities and timelines.



How to Implement the Smoke-Free Policy

In the following sections, we provide advice on communication and step-by-step instructions on implementing a smoke-free policy. At a minimum, it is the role of the PHA to:

- Develop a smoke-free policy in accordance with the HUD rule.
- Clearly communicate the policy change and the consequences of violating the policy to tenants, staff, and board members.
- Obtain board approval of the policy by May 31, 2018.
- Obtain tenant input on the policy.
- Ensure that all tenants sign a lease or lease addendum that includes the smoke-free policy.
- Update the House Rules with the smoke-free policy, if applicable.
- Implement the smoke-free policy by July 30, 2018.
- Enforce the policy consistently.

At a minimum, it is the role of tenants to:

- Understand and comply with the smoke-free policy.
- Sign a lease or lease addendum with the smoke-free policy.
- Ensure that everyone living in the home and all guests comply with the smoke-free policy.

If your PHA already has a policy in place, you need to determine whether it conforms to all stipulations included in the HUD rule. If your policy complies with HUD's requirements, you may retain your policy. You may retain your current policy and comply with the new regulation, even if it is



more restrictive than the HUD requirements. See the *Lay the Groundwork* section (p. 10) and Appendix A to compare your current policy with the HUD rule.

This guidebook provides an 18-month implementation timeline (p. 8) that will help you comply with the law. You may modify the order of some of the implementation steps as long as you observe the following requirements:

1. February 3, 2017: Effective date of rule. 18-month implementation period begins.
2. 45-day public comment period for amendment to PHA Plan.
3. Public meeting—may be the board meeting where the new plan or plan amendment is presented. This meeting will be during the 45-day public comment period.
4. Tenants should be notified at least 12 months prior to the PHA's policy kickoff date (no later than July 30, 2017).
5. The smoke-free policy is in effect no later than July 30, 2018.

Communicating with Residents and Staff about the Smoke-Free Policy

You will need to communicate frequently and positively about creating a smoke-free property. Starting from a positive stance will improve the success of your policy and the morale of your staff and residents. Providing frequent opportunities to explain your policy and listen to resident and staff feedback will improve your policy.

Who Should You Talk to about Your Smoke-Free Policy? Everyone!

Residents: Your residents need to hear from you often regarding the policy. The policy will affect how people live. Most residents will be positively affected because they will no longer be exposed to secondhand smoke in their home. Some residents will feel this policy is burdensome and decreases their ability to enjoy their home. Listen to your tenants who are concerned about how they will comply, assist them with complying, and acknowledge their sacrifice for the greater good.

Staff: The smoke-free policy also will affect your staff. Staff members will be your frontline communicators. Their buy-in is essential for a successful implementation. They will also be expected to consistently and fairly enforce the policy. Additionally, any of your staff who smoke will have to change

their behaviors and habits to conform to the policy.

Present a Clear Message about Your Smoke-Free Policy

Present a clear and consistent message about the benefits of going smoke-free. Smoke-free policies are good for residents, staff, and guests. Communications about the HUD rule and your policy should always stay positive. All communication should focus on the smoke and not the person who smokes. People who smoke are welcome residents of the community and remain eligible for housing. Creating documents, such as FAQs, that frame the smoke-free message in a positive light will help you and your staff communicate effectively about the upcoming changes.

Develop your central message. The following is an example of an effective central message:

This policy is about the health and wellness of residents. PHAs and HUD are committed to providing healthy housing for all. Homes with secondhand smoke are not healthy and they are not safe. The policy and enforcement will be about the smoke and not the smoker.

Use and tailor the resources created for you by HUD to communicate effectively. There will be many questions as you talk about your policy with your board, staff, and residents. You have an opportunity to be positive, prepared, and genuine from the beginning. HUD has provided an online resource library of materials to help you communicate effectively about the HUD rule and your policy. These materials include:

Training Slides (Microsoft Power Point). You may edit and tailor the presentations to meet your needs. We have designed a series of presentations that you can use to communicate about the new policy with your board, residents, and staff. They cover the details of the rule, the specifics of your policy, and the benefits of going smoke-free.

Fact Sheets. A series of fact sheets are available to help PHA managers and staff understand the HUD rule, the timeline, and the implementation process. These can help you discuss the benefits with your staff and board. Additional fact sheets were designed to share with your residents the benefits of going smoke-free, along with the basic requirements of the new policy.

Webinars. Four webinars will be available for you to view and participate in. The webinars take an in-depth look at four key issues: details of the rule, an effective enforcement

policy, providing reasonable accommodations, and community engagement.

(A summary of key resources is included in Appendix C.)

These materials and other resources can be found at the following websites:

- <https://hud.gov/smokefreepublichousing>
- http://portal.hud.gov/hudportal/HUD?src=/program_offices/healthy_homes/smokefree

Develop answers to the questions you expect to receive from tenants. Be prepared. Anticipate concerns and write down the main points of your response so you can refer to them often. After announcing the change to your staff, provide them with these questions and answers so you will have a unified voice. Frame your answers with a positive voice. Appendix A provides FAQs that you can review and provide to PHA staff, as appropriate.

An example of a question and positively framed response:

- **Question:** Will smoking status be used to determine housing eligibility?
- **Answer:** No, smoking status will not be used to determine if someone is eligible for public housing. This policy is about the smoke, not the person who smokes. PHA staff members appreciate the commitment that people who smoke have to keeping our homes healthy.

Start identifying potential resident champions. Consider identifying tenants who might be excited by this policy, such as a member of the RAB, a youth resident with asthma, someone who has voiced concern about secondhand smoke being a nuisance in his or her home, someone with young children, or another community member. These residents can champion the policy's implementation. It is your choice if you would like to provide incentives for resident champions.

Finding resident champions is an effective way to spread the message and implement the policy. You can publicize the support of your champions by making flyers with quotes from residents. Residents, including champions, should never be put into an adversarial position.

Recommended 18-Month Timeline

MONTHS 1–3

- Review HUD's rule. Check out HUD's Fact Sheets and Guidebook about the rule.
- Inform housing staff, advisory board, and residents of the final rule.
- Invite residents to an informational meeting.
- Continue to follow a standard process for annual plan review and amendments.
- Prepare materials for your resident meeting. You can find resources including PowerPoints on HUD's website.
- Provide your staff with talking points.
- Prepare a Frequently Asked Questions document.

MONTHS 4–6

- Host first resident town hall meeting explaining the policy, the health benefits of going smoke-free, and the implementation process. Record the residents' feedback.
 - Invite representatives from the local health department, nonprofits involved in smoke-free initiatives, legal aid, and medical professionals to the meeting.
- Survey residents about their experience with secondhand smoke. You might ask residents how restrictive they would like the policy to be. Compile the results of the surveys and any other feedback. Use this information to help shape your policy.
- Identify partners that might assist residents who want to quit through their cessation journey.

MONTHS 7–9

- Formalize your PHA's smoke-free policy implementation and enforcement plans.
- Request feedback from the residents on the proposed smoke-free policy.
- Develop new leases, a lease addendum, and updated language for your PHA Plan. Use HUD's guidebook and suggested lease language to assist you.
- Obtain Housing Governance Board and Resident Advisory Board approval of your smoke-free policy and lease amendment.
- Educate and train your staff on the final policy and enforcement strategy.
- Formally notify your residents about the policy in a letter. Include the start date, how to request reasonable accommodations, and how to provide feedback about the policy. Explain that some tenants will sign new leases and others will sign lease addendums.
 - Make sure the letter is easy to understand and written in the languages spoken by your residents.
- Work with resident youth to design flyers and/or signage about the policy. Flyers can include information about the policy, cessation support, or success stories.
- Begin posting information in your buildings and electronically (e.g., website, resident portal, email notice).



MONTHS 10–12

- Host an additional resident meeting. Announce the official policy and enforcement plan. Include information about the health benefits of the policy, the dangers of secondhand smoke and available cessation help.
- Begin signing lease addendums for tenants who aren't required to renew their lease before the policy starts.
- Sign new leases and renew existing leases to include the smoke-free policy.
 - Possible approach: Have all residents over 18 years old initial beside the policy to ensure they have read it and understand it. Include the policy start date in the lease.
- Reach out to residents who may have difficulty complying with the new policy, such as people with a physical or mental disability. Develop a plan for helping them comply.

MONTHS 13–15

- Continue renewing and signing new leases to include the smoke-free policy.
- Host a final resident town hall meeting to address concerns and lay out the steps for implementation of the smoke-free policy.
- Engage partner organizations to schedule and provide cessation classes.
- Consider ordering magnets with information about the smoke-free policy for people to use inside their units.
- Begin building a smoking area, if your PHA decides to have one.
- Order smoke-free signs for the property.

MONTHS 16–18

- Ensure 100% of tenants have signed a lease or lease addendum with the smoke-free policy language included.
- Install the smoke-free signs around the property. Replace them if they are defaced.
- Ensure your staff is ready to enforce the policy.

LAUNCH YOUR POLICY

- Host a kickoff celebration to mark the implementation of the smoke-free policy.
- Maintain records of violations.
- Communicate with your residents, staff, and Housing Agency Governance Board often about the policy and the benefits.
- Respond to all requests for reasonable accommodation according to your protocol.



Lay the Groundwork: February 2017–April 2017

The first months after HUD's rule goes into effect are a time to learn about the rule and the basics of typical smoke-free policies, to practice communicating about the smoke-free policy in a positive tone, and to announce the HUD rule and your PHA's intention to comply with it to residents, boards, and staff members. At the end of the first 3 months, you should be comfortable with what is in HUD's rule and understand the general process to implement the rule.

Review HUD's Smoke-Free Public Housing Rule

To get started, ground yourself in the basic information about the smoke-free policy requirements. Review HUD's rule, *Instituting Smoke-Free Public Housing* (24 CFR Parts 965 and 966), published on December 5, 2016. You may find the complete text at this link: <https://portal.hud.gov/hudportal/documents/huddoc?id=smokefreephfinalrule.pdf>

The HUD rule requires PHAs to implement a policy that prohibits the use of all lit tobacco products inside all living units, indoor common areas, and PHA administrative office buildings. The smoke-free area must extend to 25 feet from all housing and administrative buildings.

PHAs have the discretion to establish designated smoking locations outside of the required 25-foot perimeter, which can include partially enclosed structures. PHAs may also establish additional smoke-free areas (such as around a playground) or make their entire grounds smoke-free.

For technical assistance from HUD's Office of Public and Indian Housing (PIH), please contact your PIH Field office or HUD Regional office. If your PHA already has a policy, you must ensure that it complies with the full extent of HUD's new rule. A policy checklist can be found at <https://hud.gov/smokefreepublichousing>.

Learn from Other PHAs

Learning from other PHAs that have successfully implemented smoke-free policies can be invaluable. Learning from others can take many forms. Start by reading the *Experiences from the Field* (p. 25) section of this guidebook. You might consider joining working groups or local coalitions about tobacco control or smoke-free housing, or contacting one of the 678 PHAs that have already gone smoke-free. Keep in mind, PHAs that previously adopted smoke-free policies may not necessarily be in compliance. Right now, other PHAs are undergoing the same process as you. Many PHAs are eager to talk about their experiences, including those in the beginning stages, those currently enacting their policy, or those that are experienced implementers. HUD is working with partner organizations to provide support to PHAs as they go smoke-free.

Review Examples of Smoke-Free Policies and Enforcement Plans

Smoke-free policies follow a similar structure and share common elements. HUD has included a sample lease addendum and links to sample policies in Appendixes C and D of this guidebook. Additionally, well-developed policies are publicly available to review and can be modified to meet the needs of your PHA.

To decide what to include in your smoke-free policy, you may also review what commonly appears in policies. Visit the website of the Public Health Law Center to review its publication,²⁰ *Regulating Smoking in Multi-Unit Housing*.²¹ The publication includes links to many properties' smoke-free policies.

Another website with information, sponsored by ALA Minnesota, Live Smoke-Free, MN Department of Health and Public Health Law Center, provides helpful source documents for managers and residents: <http://sfpublichousingmn.org>.

PHAs already have lease enforcement and eviction procedures, including grievance procedures, in their lease agreements. A smoke-free violation should be addressed in a manner consistent with other civil lease violations. It may also help to include enforcement plans and information in the smoke-free policy. PHAs may help tenants change their smoking behavior and comply with the policy by involving resident services staff or a case manager, providing cessation services information, or conducting a private meeting between the tenant and the property manager to discover the reason for the policy violation. Below are examples of enforcement plans.



Enforcement Plan for the Housing and Redevelopment Authority of Duluth, MN

- If smoking is observed, a letter is sent to the tenant. The letter includes the smoke-free policy lease language and notice of the infraction. The tenant may contest the infraction. The same notice is sent for first and second observed violations.
- If the PHA receives a written complaint and staff members do not observe a violation, an appointment is scheduled to discuss the complaint so that the tenant has an opportunity to tell his or her side of the story.
- If the PHA receives more than three validated infractions, eviction proceedings may begin.
 - The eviction process includes an informal meeting, formal hearing, and court. When the PHA holds the informal meeting, the tenant and PHA can often resolve the eviction with a settlement. Settlements can include a plan to go outside to smoke or, if the tenant is interested, referrals for cessation services.
 - The PHA prefers to work out a settlement. Eviction often does not always go through on the third infraction, but it could occur on the sixth or seventh infraction.

Note: Written notice of termination of tenancy (i.e., letter of eviction) must be in accordance with HUD, state, and local requirements.

Enforcement in the Boston Housing Authority (BHA)

- The BHA originally had a set of six enforcement steps unique to smoking violations. The steps included multiple warnings and referrals to cessation services.
- It was also complicated to have a completely different enforcement process than for other types of civil violations.
- After the first year, they changed the policy to align with other infractions. They found that enforcement was too cumbersome and tenants were dissatisfied with the process.
- Enforcement policies are now uniform across all civil infractions.
- The current enforcement steps are:
 - After first report or complaint, the resident signs an agreement to abide by the policy.
 - After a second report or complaint, the manager will have a private conference with the resident. This could result in a Notice to Quit if it is determined that a smoking violation has occurred.



Prepare Your Staff and Residents: May 2017–July 2017

Getting staff buy-in early is key to a successful

implementation. Talk about the idea of a smoke-free policy at each staff meeting, beginning as many months in advance of implementation as possible. Take the time to educate staff members on the benefits of going smoke-free, HUD's reasoning, and why your PHA board and leadership support the policy. After it is clear that property managers and maintenance staff understand why the organization is adopting the policy, move into discussing the details of the policy, including enforcement. In addition, discuss plans to assist tenants to adjust to the policy and resources available to those who choose to quit smoking. It is important to communicate that staff members are also expected to follow the smoke-free policy.

Support your staff members as they communicate about the policy. Provide staff members with the FAQs that you developed. Ask them to add to the sheet as tenants begin to ask questions. A popular approach is to recognize your tenants for following the policy and acknowledging your appreciation for their cooperation. You can find resources to help create talking points and FAQs in this guidebook and at HUD's website: <https://hud.gov/smokefreepublichousing>.

Inform Housing Staff, Board, and Residents of HUD's Smoke-Free Rule

Communicate often, honestly, and positively about HUD's rule and the PHA's intention to comply with the rule. As stated in the *Communicating with Residents and Staff about the Smoke-Free Policy* section (p. 6), you will need to communicate with residents, advisory boards, and staff members throughout this process. Your initial communication should announce that the rule has been established and include ways these groups can learn more about it, preferably through an informational meeting. A sample communication is in the box labeled "Rule."

Begin Resident Engagement

You will need to reach out, consult with, and engage residents throughout this process. Clearly explaining the HUD rule and how it will affect tenants' lives will be central to the policy's success. During this period, you will collect input from residents through meetings and surveys about their opinion on the policy

and how they feel the policy should be implemented. You will use all this feedback when you create your PHA's policy from August to October 2017.

Communicate with Residents

RULE

HUD Announces New Smoke-Free Rule

HUD established that all PHAs must go smoke-free by July 30, 2018. The intention of the HUD rule is to make public housing safer for residents, staff, and guests. The policy is also predicted to save PHAs money through decreased costs at unit turnover.

- **What is in the rule?** The rule prohibits use of all lit tobacco products and hookahs inside all indoor areas of public housing, including but not limited to living units, indoor common areas, electrical closets, storage units, and PHA administrative office buildings, and in all outdoor areas within 25 feet of the housing and administrative office buildings. PHAs can make the rule more stringent, if they choose.
- **Who does the rule affect?** The rule applies to everyone on PHA properties, including residents, staff, and guests.
- **If I smoke, will I lose my housing?** The rule does not prevent people who smoke from living in public housing. It simply limits where people can smoke. Its intent is not to increase homelessness or jeopardize housing. The rule will make the living environment safer for all.
- **How can I find more information?** There will be a meeting for tenants to learn about the HUD rule and provide input about our PHA's future policy. There will also be a formal comment period during which you can offer your opinions once our policy is going through the board approval process.

We recommend communicating with your residents in a variety of ways, including in-person presentations and meetings, one-on-one meetings, adding information to your website, sending letters to homes, and including information in your newsletters. You should meet with your tenants early and often.

You have an opportunity to be positive, prepared, and genuine from the beginning.

First meeting. In the first meeting, discuss the HUD rule and the benefits of smoke-free policies. Listen to tenants' questions and feedback. This information should shape your PHA's final policy. Invite partner organizations to your meetings. Prepare to stay at the meeting until each tenant has time to voice his or her excitement or concern about the policy. Be open and responsive. If there is a question you cannot answer, ensure that you will get back to the resident with the answer. Use the resources found on HUD's website <https://hud.gov/smokefreepublichousing> to create effective presentations for each meeting with your residents.

Meeting with tenants to discuss the smoke-free policy is an ongoing and essential part of the implementation process. There are many topics to address, including the benefits of smoke-free policies, the HUD rule, your PHA policy, enforcement, the implementation timeline, and resources to help tenants comply with the new policy.

Meeting with residents a few times during the 18 months of implementation is recommended. The RAB can provide insights into how the community perceives the opportunity as well.



Resident meetings and engagement are a requirement of the HUD rule. According to the HUD rule, if the smoke-free policy is a significant amendment to the PHA Plan, the PHA must present it to its board as part of a public meeting held in an accessible building and in an accessible format for persons with disabilities and persons with limited English proficiency. In addition to the public board meeting, HUD recommends hosting additional meetings for tenants. The best way to smoothly implement the smoke-free policy is to meet with tenants.

Formalize Your PHA's Policy: August 2017–October 2017

Drafting a policy that incorporates the requirements of the HUD rule and is tailored to the needs of your residents is an important step in the policy development process. After drafting your policy and associated language to include in the PHA's lease, you will present it to your board, allow for public comment, and present a final draft of the PHA's smoke-free policy and lease language to the board for final approval. By getting approval early, you will make the process of signing leases and lease amendments easier for you and your staff.

Draft Your Policy

Using what you learned from HUD's rule, other smoke-free PHAs, sample policies, community partners, staff members, board, RAB, and surveys, it is now time to develop or adopt a policy that meets your PHA's needs. In addition to what you already have learned, the following information will help you as you draft your documents.

The HUD rule requires PHAs to implement a policy that prohibits use of all lit tobacco products and water pipes (hookahs) inside all dwelling units, interior areas, and PHA administrative office buildings. The smoke-free policy must also extend to 25 feet

from all housing and administrative buildings. Interior areas include but are not limited to hallways, rental and administrative offices, community centers, daycare centers, laundry centers, stairwells, elevators, and similar structures.

PHAs have the discretion to establish designated nonsmoking locations beyond the required 25-foot perimeter, such as a playground or sidewalk. They may also decide to allow smoking only in designated smoking areas (DSAs). The DSAs may have partially enclosed structures, benches, or lighting; but none of these are required by the rule. PHAs can also elect to make their entire grounds smoke-free, with no exceptions.

The rest of this section allows you to walk through the mandatory policy elements to help you develop your PHA's policy. You may use sample lease language in Appendix C or from resources listed in Appendix D, or start from scratch to draft the lease language and your policy. You will need to present this draft policy and the lease language to your Board of Directors and tenants for their comment.

See *Change is in the Air* pp. 63–65 for information on what you may experience during the first year as you implement your policy.

Determine the Scope of the Policy

PHAs must decide which areas will be smoke-free:

Policy Requirements	Ways You Can Enhance the Policy
<ul style="list-style-type: none"> ■ All public housing units, except for mixed-finance project units. ■ All interior areas included (e.g., hallways, rental and administrative offices, community centers, daycare centers, laundry centers, stairwells, elevators, and similar structures). ■ Outdoor areas within 25 feet of dwelling units and administrative buildings. 	<ul style="list-style-type: none"> ■ Designate playgrounds, sidewalks, or other areas outside the 25-foot buffer smoke-free. ■ Designate all PHA grounds and administrative grounds smoke-free, except for DSAs. ■ Designate all grounds of public housing or administrative office buildings smoke-free, with no exceptions.

Smoke-free playgrounds.

Advantages: Extending your policy to places where children spend their time will further protect their health. Exposure to secondhand smoke, even outside, is bad for children. By providing a buffer around the playground, you can provide a healthy area for children to play. Additionally, you can prevent the playground from becoming the default place people go to smoke because of amenities such as benches.

Disadvantages: Some tenants may feel that it is unfair to extend the policy beyond what HUD requires. There may not be adequate space around the playground to accommodate a buffer. Caregivers and parents who smoke will hopefully be able to avoid smoking while the child is playing. Some may feel that it prevents them from watching their children while they play. You can mitigate this complaint by ensuring that parents can see and have easy access to the playground when they are beyond the established buffer.

Designated outdoor smoking areas.

Advantages: Many smoke-free pioneers say an outdoor designated space for smoking is a helpful element of an effective policy. They suggest designating a smoking area on the property, if space and funds allow. They point out that it takes effort to get tenants to commit to using these spaces. DSAs are often appreciated and may reduce the incidence of smoking violations in the building. Outdoor DSAs cannot be in any restricted smoking area and should be far enough from the building not to violate the policy (at least 25 feet) and to prevent secondhand smoke from entering open windows or doors.

Consider asking residents for their input on the location and design of the DSA.

Disadvantages: Experience with smoking areas has been mixed. At some sites, the designated areas have created new maintenance concerns. Additionally, it may be difficult to find a location that works for everyone. If you plan to establish a designated outdoor smoking area, you will have to determine amenities and budget implications. Consider whether to provide shelter, receptacles, benches, and lighting and how to ensure accessibility for all tenants.

Conclusion: A DSA may make compliance easier if you can afford it and have a place to properly locate it. There are also plenty of examples of effective policies at properties that do not have a designated outdoor smoking space.

Including other products.

Advantages: Electronic nicotine delivery systems (ENDS or e-cigarettes) contain nicotine. Including the use of e-cigarettes in your policy benefits health and simplifies enforcement. Explosions and battery problems have been reported with e-cigarettes, although they do not appear to be frequent. Often, e-cigarettes look like cigarettes and can make enforcement more difficult. E-cigarette products may be strongly scented, which can be a nuisance to neighbors in the same way that lit tobacco products are.

Disadvantages: Tenants may feel too restricted by a policy that includes e-cigarettes. Enforcement of an e-cigarette prohibition may be challenging because they are harder to detect than cigarettes or other lit tobacco products.

PHAs must determine the details of their enforcement strategies:

Policy Requirements	Ways You Can Enhance the Policy (What You May Decide to Prohibit)
<ul style="list-style-type: none"> ■ Use of all lit tobacco products (e.g., cigarettes, pipes, and cigars). ■ Water pipe tobacco smoking (i.e., hookahs). 	<ul style="list-style-type: none"> ■ Electronic nicotine delivery systems, such as e-cigarettes.



Enforcement policies.

Advantages: Including an easy-to-understand enforcement policy with several steps will help tenants and staff members understand how the policy will be carried out daily. By providing this information, you are increasing transparency and helping staff members and tenants set realistic and systematic expectations. Work with tenants to make sure the policy is enforceable. The policy should be enforced consistently for all tenants.

Disadvantages: Remember, enforcement is a process. Strict enforcement structures may not provide room for flexibility or behavior change by the tenant. The goal is to provide safe and stable housing for all, not to evict tenants.

Conclusion: HUD recommends a clear and graduated enforcement strategy for violations of the smoke-free policy. No one should expect that on the first day of the policy all smoking will immediately stop in all restricted areas. HUD's regulations intentionally distinguish lease violations based on criminal behaviors from violations based on civil behaviors.

Smoke-free violations are categorized as civil to discourage overly aggressive enforcement approaches and to decrease the potential of eviction and homelessness. HUD recommends at least three, if not more, steps to an enforcement plan. Termination of assistance for a single incident of smoking is not grounds for eviction. In addition, requiring attendance at smoking cessation classes should not be a remedy for infractions or a punishment for lease violations. HUD encourages a graduated enforcement approach that includes escalating warnings with documentation to the tenant file.

Disclaimer that the landlord is not acting as a guarantor of the policy.

Property managers and maintenance staff will not be able to identify policy violators 100 percent of the time. Including a disclaimer in your policy with this acknowledgment sets realistic expectations for the board, staff, tenants, and—if necessary—a court. The policy should state that failure to enforce any part of a smoke-free policy does not negate the right to enforce it in the future.

PHAs must determine the details of their enforcement strategies:

Policy Regulations	Ways You Can Enhance the Policy
<ul style="list-style-type: none"> ■ Must conform to HUD regulations (use standard lease enforcement procedures). 	<ul style="list-style-type: none"> ■ Verbal warning(s). ■ Written warning(s). ■ Final notice. ■ Lease termination and eviction proceedings.



An Effective Smoke-Free Housing Policy Typically Includes the Following Elements:²³

- An introduction that explains the policy's purpose, which can include information about the dangers of exposure to secondhand smoke.
- Clear, consistent definitions of important terms, such as "lit tobacco products," "smoking," "premises," and "interior areas," to help ensure that the policy is interpreted, implemented, and enforced in ways that effectively protect the entire housing community.
- Information on which areas must be smoke-free, such as common areas, units, outdoor areas (including patios and balconies), perimeters of the building, where smoking in cars is prohibited, and so on.
- Description of who must comply, such as residents, guests, staff members, and business visitors.
- Disclaimer that the landlord is not acting as a guarantor of the policy. This provision helps protect landlords of smoke-free buildings from claims brought by residents injured because of policy violations unknown to the landlord.
- A provision allowing one resident to bring a claim directly against another resident based on secondhand smoke intrusion. The nonsmoking resident could get a court order requiring that the smoking resident stop the smoke infiltration or the resident could potentially recover monetary damages.
- Information on enforcement:
 - How the policy will be enforced (steps may include verbal warnings, warning letters, and eviction).
 - Responsibilities of the PHA (i.e., post warning signs, consistently enforce the policy).
 - Responsibilities of residents (i.e., notify guests and visitors, report violations).
 - Both parties (i.e., the tenant and the landlord) sign the smoke-free leases and agreements.

Introduce the Policy and Set an Implementation Timeline

Choose the "start date" for your PHA properties. All PHA properties must implement their policy by July 30, 2018. You may choose to start implementing the policy earlier to help residents develop the habit of going outside to smoke when the weather is more pleasant. This could help improve the implementation of the policy.

The *Recommended 18-Month Timeline* section (p. 8) of this guidebook is a strong implementation plan that includes significant tenant engagement, which will reduce the number of violations once the policy is in place. If you cannot adhere to that plan, build in 6 to 12 months of time for public meetings, plan approval, continued tenant engagement, and lease signing.

Present Your Smoke-Free Policy to the PHA Board of Directors

HUD has clarified that the adoption of a PHA smoke-free policy is likely to constitute a significant amendment or modification to the PHA Plan. Ultimately, this will be determined by the PHA's definition of a significant amendment. If it does constitute a significant amendment, PHAs are required to conduct public meetings according to standard amendment procedures. Therefore, PHAs are encouraged to obtain board approval when creating individual smoke-free policies. For the PHAs that already have a policy and may need to modify it slightly (e.g., increase the smoke-free perimeter from 15 feet to 25 feet), this may not be a significant change and may not need board approval. Regardless, this change must be included in the tenant lease.

Update your board on your process by sharing new information that you have gathered, such as tenant survey results or availability of smoking cessation assistance and the next steps you plan to take. Board approval and the comment period should happen in conjunction with the normal PHA Plan approval process. Your board must approve the smoke-free policy at least 2 months before implementation. If you are using the implementation date of July 30, 2018, you must obtain board approval by May 30, 2018, but ideally much earlier. We suggest presenting the policy to the board by May 2017. Gaining board approval earlier will make implementation and signing of tenant leases easier. By talking with your board early and often about the process, you will alleviate concerns about the policy.

Regardless, be prepared for the following questions:

- How will the policy be consistently enforced?
- How will staff members handle tenants' raised expectations that the property should always be smoke-free?
- How will violations be identified and documented?
- What happens if tenants do not change their behavior and continue to smoke indoors?
- What happens when guests smoke indoors?
- What do we do about helping the elderly and mentally disabled population address their nicotine addiction?

Managers of PHAs with smoke-free policies say that these are challenging questions even after years of experience with a policy. Like other lease violations, not every instance of noncompliance is identifiable. Will there still be some smoking in the building? Yes, for a while there may be, but overall, there will be much less secondhand smoke.

You can present the board with the following new information:

- Proposed policy and multistep enforcement process.
- Date policy will go into effect.
- Tenant communication plan.
- Staff training plan.
- Estimated costs for implementation (e.g., signs, DSA).

Notify Residents and Begin Comment Period

Tenant input is a mandatory step in developing your final policy. How well you communicate with tenants and staff members will largely determine the success of your smoke-free policy. Remember to talk about the policy from a positive vantage point. Talk about what residents have to gain by participating. Communication does not have to be complicated or overly time consuming, but it does require committing to it as a guiding principle.

- **Discuss the smoke-free policy in detail with the RAB during the PHA Plan process.** The HUD rule explicitly states that you must consult your RAB. Be sure to document its recommendations and the PHA response, per existing requirements.

- **Issue a formal written notice.** Send the notice to all tenants with information about the policy, including your organization's reasons for adopting it, the date it will go into effect, the lease addendum or House Rules, a calendar of public meetings, and other opportunities to provide comment. Written notices should be in the most common languages your tenants speak, in accordance with HUD's current guidance on limited English proficiency (see: https://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/promotingfh/whatislep). Written notices may not be sufficient for tenants who do not have a high reading level. Verbal communication may be necessary for those tenants.

- **Hold tenant meetings.** Approach these meetings with care and intention, remembering that early messages make a lasting impression. It is important to educate residents on the importance of the policy for the health and wellness of all residents and staff. Sometimes the most important message is nonverbal; for this reason, managers of PHAs with smoke-free policies recommend that senior leaders, not only property managers, participate in these meetings. This sends a clear message to tenants of the significance of the policy to the organization and the value the organization places in hearing tenants' concerns. Additionally, these meetings can be challenging, and it is appropriate for senior leaders to hear and respond when the conversation is difficult. It should be emphasized that enforcement is the responsibility of the PHA and to avoid confrontations between tenants. These meetings may be held in addition to or as part of the required meeting for a PHA's annual plan or significant amendment to an existing annual plan.

Resources such as PowerPoint presentations and fact sheets to support PHA managers and staff to present the information on the HUD rule and your exact PHA policy can be found at <https://hud.gov/smokefreepublichousing>.

■ **Meeting topics.** There is a lot of content to cover in one tenant meeting while also allowing ample time for tenant discussion. Consider formally recording tenants' questions and comments for a report to the board. Many PHAs hold more than one tenant meeting, with one focused on the policy details and another on the dangers of tobacco smoke and cessation assistance. Below are topics commonly presented in the tenant meetings:

- ✓ Health effects of secondhand smoke.
- ✓ Impact on building condition and turnover costs.
- ✓ Adoption of a smoke-free policy and the primary reasons for doing so.
- ✓ Introduction and explanation of the smoke-free policy.
- ✓ Timeline projected for implementation of the policy.
- ✓ Resources that will be available for cessation assistance.
- ✓ Ask attendees for their comments and questions.

Obtain Board Approval

Carefully review the proposed policy and lease addendum or House Rules considering tenants' concerns and make changes to the policy as appropriate. Document each change to show board members how the policy revisions address tenants' concerns.

At the board meeting, present and discuss a summary of tenants' comments, including the number of comments received, the percentage for and against the policy, and the issues that were raised. Remind the board that HUD now requires smoke-free public housing, and many managers with similar populations and properties have successfully implemented smoke-free policies already.

Prepare to Implement: November 2017–January 2018

Once the smoke-free policy is approved, the months leading up to its start date offer time to get everyone ready. In Nashville, TN, the housing agency published a quarterly newsletter, *Up in Smoke*, that promoted the policy's start date, offered encouraging stories of tenants who quit smoking, and included information about the dangers of secondhand smoke. The newsletter kept the policy and its start date on everyone's minds.

Engage Residents to Communicate the Final Policy

Host another meeting with residents to make sure they understand what the approved policy says and the process for signing leases at renewal or for signing lease addendum. Provide ample time to listen to their stories of concern or excitement. If possible, use a resident champion to talk about how she engaged in the policy development and how she predicts life will be positively impacted.

Have resident champions, including youth, develop posters and signs to communicate what the policy is, whom it will affect, and when it will begin. Giving residents the power to champion the cause will improve implementation efforts.

Schedule Lease Signings

Prior to the official implementation of the policy, each tenant must sign a lease with the smoke-free policy included as a lease addendum.

The National Housing Law Project recommends that tenants be informed of the smoke-free policy and sign a new lease as far in advance of its implementation as possible (up to 1 year). This allows ample time for tenants to take advantage of available cessation services, request a reasonable accommodation, and/or prepare for any changes to daily routines that the ban will require. PHAs may have to include lease addenda on a rolling basis as tenants hit their annual recertification dates. However, with enough communication, tenants will have plenty of notice about the new policy. PHAs should begin the planning process for lease signings as early as possible.

Focus on Vulnerable Tenants

The needs of residents who smoke and have fragile physical and mental health merit thoughtful attention in smoke-free policies. People who smoke who are mentally ill, elderly, disabled, have addictions, or were homeless will require extra attention. These tenants are able to adjust to the policy, but they will need time and a supportive approach. Communicate with the health center where residents receive care to enlist help in dealing with special populations. Keep healthcare providers up to date with the policy implementation.

Deborah Thrope, Staff Attorney with the National Housing Law Project, recommends that property managers be aware that written notification and tenant meetings are not sufficient for communicating the policy to all tenants. She advises that property managers must know it is their obligation to help all tenants become informed about the new policy. It may be necessary (1) to discuss the new policy with individuals with mental disabilities and (2) to share written information about the policy with visiting family or social service staff. Some tenants with mental disabilities may not understand the written notices; others may not read them or participate in meetings.

When elderly or disabled tenants have challenges complying with the policy, the PHA may consider working with them, their families, or a support staff such as a social worker to find solutions. In some places, tenants have moved to ground floor units closer to entrances to allow easier access to the outside. This may also be an opportunity to have additional discussions with tenants about cessation options.

Final Preparations for Implementation: February 2018–July 2018

The final preparation of staff members, residents, and guests will solidify a successful transition into being a smoke-free property. By providing continuous communication to residents through meetings, letters, flyers, and e-newsletters, you have given ample time for residents to gain an appropriate understanding of the policy. Similarly, your staff will understand the policy through staff meetings, emails, and other communications with PHA management.

Train Staff

Ensure that staff members understand the policy, how to address tenants who violate it, and the process for reporting violations. PHAs may consider forming partnerships with local organizations that can provide cessation materials or classes onsite as well as training property managers on how to advise residents on where to go for support to comply with the policy. Resident services staff may conduct the training, if appropriate. Managers of smoke-free PHAs point out that it is also important to communicate to vendors and contract workers in maintenance and construction that the workplace is smoke-free.

Train your staff on how this policy will affect their job responsibilities. Once you define your policy and enforcement procedures, discuss with staff members their responsibility for helping effectively promote and monitor the policy. Each staff member could have a role for implementation. For example, provide guidance on what maintenance workers should do if they see cigarette butts in an ashtray in a home while fixing the sink. Providing clear guidelines and expectations for how their roles and responsibilities will change will help prepare staff members to effectively implement the policy.

Identifying a smoking violation.

Before presenting the smoke-free policy to the board, staff members, or tenants, identify how violations will be determined, the evidence that will be required to verify a violation, and how that evidence will be gathered. Observable evidence of violations is important to obtain when possible. Written documentation from maintenance staff or the property manager is helpful, as are tenant complaints about smoking violations.

Train maintenance staff to do a visual scan for a policy violation during routine unit inspections and to report evidence such as full ashtrays, smoke, or tobacco odors. Usually their role is to document the violation, report it to the manager, and let the manager address it. If the enforcement strategy will use photographic evidence to document evidence of violations, it must be clarified to the staff. If maintenance staff or property managers photograph smoking violations, the photos should identify the location of the evidence and include a date/time stamp. One manager of a smoke-free PHA indicated that it was helpful to have visual evidence and not just witness testimony in eviction court. You may want to train staff members on this process, as indicated in the *Communicating with Residents and Staff about the Smoke-Free Policy* section (p. 6).



Below are testimonials that reflect different approaches to staff preparation:

“The type of training that I had was during staff meetings. I talked with the maintenance crew about what they need to do. We have observation forms that they can write up on anything they see as a lease violation and turn it into the property manager and the housing specialist so it can be followed up on. They were told what to look for.”

—Diane Martin, Housing and Redevelopment Authority of Duluth

“Our enforcement strategy is probably more aggressive than what most people would be used to in an outside agency. We asked our field staff to do a lot more than just send a letter, for instance, when there’s a complaint of smoking. We basically want them to get up out of their office and go visit that unit that’s being complained about and really talk to the resident and find out what’s going on, not so much in an accusatory way, but really just to get to the root of the problem and find out why this person is not able to go outside and smoke, or why they don’t want to go outside and smoke—or can they even go outside and smoke. That’s been a change for some people, in that we put enforcement of nonsmoking right up near the top of our list of things that we want our site staff to be proactive about.”

—Bill Cook, King County Housing Authority, Tukwila, WA

Let Everyone Know

Signs: Install signage beginning 3 months before the implementation date. If signs are removed or defaced, replace them promptly to show management’s commitment to the policy.

Smoking shelter:

Additionally, if you are building a smoking shelter for your residents, this is a great time to complete that project.

TIPS

Remember, your PHA policy should include a disclaimer that the landlord is not acting as a guarantor of the policy.

RULE

PHA staff must NOT:

- Deny occupancy to any individual who smokes.
- Ask at the time of application, move-in, or recertification whether the applicant, tenant, or any members of the household smoke.
- Maintain smoking- or nonsmoking-specific waiting lists.
- Charge a tenant a fee for smoke-free policy violations when no damage has occurred to the unit.
- Require existing tenants to transfer out of the property when it becomes smoke-free.
- Evict a resident for their first violation of the smoke-free policy.

Advertise smoke-free as an amenity. Since many tenants prefer to live in smoke-free buildings, you can promote the new policy as an amenity. Many owners or agents of luxury apartment buildings in the private market use smoke-free as an amenity to promote rentals. PHAs may consider this promotion in marketability efforts to maintain or even increase occupancy rates.

Ensure 100 Percent of Residents Have Signed a Lease or Lease Addendum with the Smoke-Free Policy Language Included

Make sure that all leases and lease addenda have been signed and include the smoke-free policy and enforcement protocol. A possible approach to make sure everyone understands the policy is to have all residents over the age of 18 initial beside the policy to ensure they have read it and understand it.

Launch Your Policy: July 30, 2018

Host a Kickoff Celebration to Mark the Implementation of the New Policy

A kickoff celebration will help communicate to residents how excited your PHA is about this opportunity to provide safer and healthier housing to all residents. At the kickoff celebration, include resources from your partner organizations that will help residents, staff members, and guests comply with the policy.

Thank your residents and staff members who comply with the policy. Changing where a person smokes is a sacrifice. Let them know that you appreciate them for being champions of the policy and good neighbors. Expressing your appreciation of residents who choose to comply with policy will help them know that they are valued and effectively keeping their neighbors safe from the harms of secondhand smoke.

Respond to All Requests for Accommodation

Develop a protocol to respond to requests for accommodation from tenants. While addiction to nicotine or smoking is not a disability, tenants with disabilities may request accommodations. PHAs must still provide reasonable accommodations to persons with disabilities who smoke who are in compliance with the requirements of the PHA's smoke-free policies. Under Section 504 of the Rehabilitation Act of 1973 (and HUD's implementing regulations at 24 CFR part 8), Title II of the Americans with Disabilities Act, and the Fair Housing Act, PHAs are prohibited from discriminating, excluding from participation in a program, or denying the benefits of a program on the basis of disability and must make reasonable accommodations in their rules, policies, practices, and services. A reasonable accommodation is a change, adaptation, or modification to a policy, rule, program, service, practice, or workplace that will allow a qualified person with a disability to participate fully in a program, take advantage of a service, or perform a job. In order to show that a requested accommodation may be necessary, there must be an identifiable relationship between the requested accommodation and the individual's disability. This relationship must be determined on a case-by-case basis by the PHA.

When a reasonable accommodation is requested, the PHA must make the accommodation unless the recipient can demonstrate that doing so would result in a fundamental alteration in the

nature of its program or an undue financial and administrative burden. For example, an individual with a mobility disability may request a reasonable accommodation in order to move to a floor that provides close proximity to the door. This would allow the resident easier access to a smoking area as required by the rule. Such a request would need to be evaluated on a case-by-case basis in order to make a determination. However, a PHA may not permit continued smoking in restricted areas.

General guidance on the reasonable accommodation process can be found at <http://go.usa.gov/cJBBC>. HUD also issued reasonable accommodation guidance entitled, "Joint Statement of the Department of Housing and Urban Development and the Department of Justice on Reasonable Accommodations under the Fair Housing Act," which can be found at http://www.hud.gov/offices/fneo/disabilities/reasonable_modifications_mar08.pdf.

Some examples of how PHAs have approached and managed smoke-free policies for residents with disabilities include allowing residents to move to the first floor or closer to an exit door. Another example is providing DSAs with an accessible walkway, cover, lighting, and seating. The Smoke-Free Rule does not require that reasonable accommodation language be contained in the lease amendment, but HUD encourages PHAs to include this information. Public housing residents who suspect they are victims of housing discrimination can call (800) 669-9777. Smokers with certain health conditions (e.g., cognitive impairment) may require special attention to ensure they understand the policy and available cessation resources, as well as reasonable accommodation request procedures; however, these residents must comply with the policy.

Host a Cessation Class

Cessation classes can begin before the policy is implemented. You may want to also host a few cessation classes and groups when the policy begins and in the months following the policy's implementation. Tenants and staff members may become more interested in cessation classes after the policy has been in effect. For example, people may be more interested in quitting in the winter when it is more difficult to go outside and smoke than when the weather is nice. You can contact the local chapter of the American Lung Association or the state or local health department tobacco control program staff for more information.



Maintaining Your Smoke-Free Policy

Tobacco use and dependence are chronic issues that will need to be addressed on an ongoing basis. When you implement a policy, it is unrealistic to expect all tenants to immediately stop smoking in their units. Your staff must be committed to compassionate enforcement. You can show that enforcement of this policy is important by making it a discussion point at every staff meeting and in communications to staff members.

Property managers observe similar patterns in tenant behavior, attitude, and response after a smoke-free policy goes into effect. Below are common observations during the first year and the actions that successful smoke-free pioneers recommend to help you stay on track.

What You May Experience

Immediately After Your Policy Becomes Effective

- People who smoke complain.
- Tenant champions offer enthusiastic support.

Recommended Actions

- Announce smoking cessation classes or other ways to support people who want to quit.
- Reinforce tenants' knowledge of areas in which smoking is allowed.
- Thank tenants when you see them complying with the policy. Publicly acknowledge tenants who are doing the right thing by highlighting them as Smoke-Free Heroes on posters and flyers.
- Follow up on all complaints and do not ignore violations.

After 3–6 Months

- Complaints are usually weather dependent.
- Tenants' vocal support and enthusiasm begins to wane.
- Things quiet down; there are regular violators; tenants are quiet except when they complain about the people who smoke. You may receive more complaints when the weather is extreme.
- Requests for reasonable accommodation by people with disabilities may be received.

Recommended Actions

- Continue to communicate about the policy. Celebrate small successes in newsletter stories or other communications. Continue to thank Smoke-Free Heroes.
- Highlight stories of tenants who changed their smoking behavior or quit.
- Meet with tenants who resist complying with the policy.
- Enforce the policy fairly, uniformly, and with compassion.
- Announce smoking cessation classes or other ways to support people who want to quit.
- Address every request for reasonable accommodation on a case-by-case basis according to your policies. Smoking is not a protected behavior, and smoking inside a public housing unit is not a reasonable accommodation.
- Announce and host cessation classes. Provide information on how to quit smoking or modify their smoking behaviors so they can smoke less often.

After 6–12 Months

- Tenant complaints make enforcement feel challenging.
- Enforcement process is tested. Although housing providers do not like the idea of pursuing an eviction, at this point there may be a tenant with multiple violations.

Recommended Actions

- Management and staff members need to talk about staying focused and to be diligent and consistent in enforcement. Remind staff members this is a culture change that takes adaptation; there is no quick solution.
- As you get complaints, collect evidence of violations. Track your fair and consistent multistep enforcement process.
- Continue to schedule and attend tenant meetings to build support for the policy. Ask tenants for help with peer-to-peer encouragement.
- Announce smoking cessation classes or other ways to support people who want to quit.

First-Year Anniversary

- A culture of healthy living led by staff members and tenant champions encourages compliance.
- News about issued violations gets around; tenants realize the consequences are real and seek help with behavior modification if they are worried about being able to comply.



Recommended Actions

- Management and staff members continue to supply residents with support about how to modify smoking behaviors.
- Use this momentum to host other healthy activities such as fitness programs, health fairs, or other events.

Collect Data to Track Policy Effectiveness

Collecting and tracking tenant successes, complaints, and policy violations are often overlooked. Here is why it is a good idea to document and organize what occurs:

- Makes clear to staff, board, and tenants how you measure the policy's impact.
- Gives everyone something to celebrate and goals to work toward.
- Engages tenants and staff members and allows them to see and understand how they might be able to assist with your work.
- Encourages a continuous improvement mentality.
- Gives everyone an opportunity to ask tough questions to see whether particular activities are worthwhile or whether certain approaches should be replicated.
- Provides continuity when personnel changes occur.

Another benefit of data collection is that it helps to consistently enforce the policy across different properties. Theresa Mims of the Housing Authority of the City of Paterson, NJ, noted that at one of her buildings, she dealt with many smoking violations when she took over property management, even though the policy went into effect a few years before. *"Whether that's because the previous manager didn't enforce it, I don't know."* Without a data record, she had no way to assess the frequency of violations.

Take time before the policy starts to set up a formal way to track what occurs. At each property, create a monthly log to record information such as:

- Verbal warnings given.
- Warning letters sent.
- Final notices sent.
- Private conferences with tenants held.
- Tenant complaints made.
- Tenants who requested reasonable accommodation with regard to the smoke-free policy.
- Tenants who attended onsite support groups or cessation counseling.
- Costs for unit turnovers (i.e., salary and benefits, materials/supplies, contractor costs).

Assess Implementation

On a quarterly basis, inquire about how implementation of the policy is going. Meet with staff members and identify what is working and how you can improve communication and enforcement. Review what happened in the previous months and assess whether there is a connection between the number of violations and current efforts. If possible, identify activities that have the greatest effect on reducing complaints and violations.

Experiences from the Field

This section highlights the experiences of three PHAs that already have a smoke-free policy and one that began exploring adopting a policy in 2016. Our aim is to provide PHAs across the country and in the territories with firsthand advice and stories of success.

These PHA executives shared what motivated their PHA to go smoke-free; their current policy, including their enforcement protocol; how their policy will change based on HUD's rule; how their policy was rolled out; and the impacts of the policy.

These PHA managers offer candid comments, insights, and practical suggestions for implementation. Considering a smoke-free policy and actually adopting one is similar for each PHA: exploring and overcoming concerns, building buy-in from staff and residents, developing a plan, implementing the plan going forward, and reviewing its successes and areas for improvement. For those who have not adopted a smoke-free policy, these steps can feel daunting. These stories demonstrate that implementing a smoke-free policy is something every PHA can do.

Some of the questions we asked include:

- What steps did you take to implement the smoke-free policy?
- How did you prepare your staff, board, and tenants for implementation of the smoke-free policy?
- How do you enforce the smoke-free policy?
- What are the benefits PHAs should expect from this policy?
- What is the one piece of advice you would give PHAs beginning implementation?



**Leanne Trappen, Executive Director,
Twin Falls Housing Authority (TFHA)
Twin Falls, Idaho**
Smoke-Free Since 2013

Leanne Trappen started 3 months ago as Executive Director of TFHA, and she has worked in community services in Idaho for 23 years.

Question: Please describe your portfolio.

Answer: We have 246 public housing units in total. About 210 are for senior and disabled residents, and 36 for families. All are single-level units consisting of duplexes, fourplexes, sixplexes,

and two eightplexes. We have seven different locations. We have eight staff. Four of our staff are responsible for housing and property maintenance.

Q: What motivated the housing agency to go smoke-free?

A: There had been a fire because someone who was using oxygen for medical needs was smoking. Even before the policy came into effect, residents were complaining about smoke seeping into their units. We conducted a survey and over 76 percent of residents were in favor of going smoke-free. A smoke-free policy is also just staying in line with properties and businesses to not smoke inside at this point. Additionally, Idaho PHAs shared information, and many moved in the same direction at the same time.

Q: What is your current smoke-free policy? When did it start?

A: Our policy has been in place since July 9, 2013, and in full effect since January 1, 2014. This meant that there was a grace period for residents who smoked. Our policy covers lit tobacco products, but not ENDS [electronic nicotine delivery systems].

Q: How do you plan to comply with the HUD Rule?

A: Now that HUD's smoke-free rule has been finalized, we are revising our policy. Our amended policy will prohibit the burning of incense because it is a burning material, and it leaves a residue. We hope to have the amendments effective January 1, 2018, but it may take longer. I am sending out a letter to residents with the amendments, explanations of the amendments, and a copy of the policy.

Q: What is your enforcement policy?

A: That is probably the biggest obstacle. I have avoided the word "enforce" as much as possible, because we really do not want to evict anyone. In the original policy, we asked residents, as well as our maintenance staff, to report secondhand smoke. Enforcement is a challenge because we rely on people reporting the smoke to maintenance, and maintenance staff is not at the building 24/7. We send a letter after the first violation, and again the second time to reprimand the smoker. The policy does not state a verbal warning in addition to the letter for a second violation, but in several cases, I have called the tenant who is in violation to reinforce the policy and make sure they understand the repercussion of a third violation. We do two warnings and on a third notice; you're out [evicted].



TFHA Property

Q: Have you ever evicted anyone?

A: Very few for smoking violations, but there have been a couple. We really don't want to evict anyone because we do not want to take vulnerable people out of stable housing. The evictions I am aware of were with people who were already residents when the policy went into effect. They just did not want to conform. But for the most part, when I call people who violate the policy, or send a letter, they agree not to do it anymore. In the winter, many have chosen to smoke in their car as it provides some shelter and does not interfere with their neighbors.

Q: Describe what you did to prepare and implement the policy.

A: It took just about a year to implement. Letters with surveys went out to residents in May 2012 to collect their opinions on a smoke-free policy. Something like 65 percent of residents returned a response. Once we had that, the PHA staff worked together and collaborated with other Idaho PHAs to write the policy, check with a lawyer, and consult the board for resolution. It was approved July 9, 2013. For PHAs looking to implement this policy now, I imagine it will take the full 18 months. It also may have taken such a long time because in Idaho at the time that we adopted this, there were no policies to reference.

Q: How did you get residents on board?

A: We had a public meeting where residents were asked about their comfort level reporting on neighbors. There was a concern about creating a hostile area, to make sure that people were not concerned about retaliation if they reported. So we included a Whistle Blower section in the policy and the lease. Our lease language says:

"If a resident smells tobacco smoke in the building, they are to report this to the office as soon as possible. Management will seek the source of the smoke and take appropriate action. Any resident to abuse this policy and create a hostile environment will have their housing terminated in accordance with Section 14 of the lease."

For new residents, information on the smoke-free policy and resident reporting is in the application and orientation. Our policy is transparent. We recommend that you make sure that this policy is well known.

Q: Was there staff that was resistant to the change?

A: No, I do not think the staff was resistant. They know how much work, time, and money is involved with getting the smoke out of these units.

Q: Did you engage community organizations? How? When?

A: There was Project Filter Idaho, and also we have a list of smoke-free and cessation resources for residents. We have a pamphlet in the office and we have it posted.

Q: Have you seen any cost savings?

A: I cannot put a dollar value on it as I am new to this position, but I have heard that in units of some of our long-term smokers, the secondhand smoke residue penetrated through the sheetrock. Some of them were so bad that you could not just reseal and repaint.

The final step of eviction is the greatest challenge. You set a policy, you determine a strict number of violations before you evict. But you also need to take into account severity and frequency, and leave room for flexibility.

Q: What were the greatest challenges about implementing your policy?

A: The final step of eviction is the greatest challenge. You set a policy, you determine a strict number of violations before you evict. But you also need to take into account severity and frequency, and leave room for flexibility. For us, one of the obstacles is figuring out what is or isn't a designated area when you don't have a lot of space. We would like to have a designated covered smoking area, but we just do not have the funding or the space to be 25 feet from buildings to do that.



Q: What is one piece of advice you would give a PHA that is going smoke-free?

A: Make sure that your policies are upfront and transparent, so that there are no surprises. You will have a much easier time when people who smoke know about this at the beginning. Put it into the lease-up information, the application, and orientation, and stress it to new tenants.



**John Kane, Senior Program Coordinator,
Boston Housing Authority (BHA)
Boston, Massachusetts**
Smoke-Free Since 2012

Question: Please describe your portfolio.

Answer: We administer a little over 60 different public housing sites all over the city of Boston.

Q: What motivated you and your organization to go smoke-free?

A: We started to connect the dots between people's living environment and their health about 15 to 16 years ago, with the goal of finding interventions to make our housing healthier. We started working with health organizations, including the Boston Public Health Commission. Going smoke-free was a change that we could make that would have a positive impact. In addition, we had strong leadership support from the Mayor of Boston and our Administrator as well as senior staff for going smoke-free, and we saw that this was likely the direction that HUD was heading anyway.

Q: What is your current policy?

A: We do not allow smoking indoors or within 15 feet of the buildings.

Q: How do you plan to comply with the HUD Rule?

A: Since we currently have a 15-foot buffer zone, we are in the process of figuring out how to change that. Our signage did not explicitly state the buffer zone limits, so we are going to have to do some resident outreach and education. We will update all of our managers about the increase, double check the lease language to ensure that nothing needs to change, and educate the people who smoke. We will also update our outreach staff. Mostly this is a change to the operating procedures, but not to the policy itself.

Q: What is your enforcement policy?

A: Initially, the enforcement policy had four steps. After the first violation, we gave the person in violation another copy of the nonsmoking policy; the policy is in their lease. After the second violation, we held a private meeting. If there was a third violation, we would have the smoker sign an agreement not to smoke within the nonsmoking area. Only after the fourth violation would we talk to our legal department about penalties or eviction. However, we got a lot of feedback from residents and staff about how this process was taking too long and how it was different from the enforcement of our other policies. In response, we compressed the first three steps into one step. While the compliance isn't always perfect, there have been changes in smoking behavior, and it is a really effective tool especially to help a resident who is impacted with a negative health consequence by a neighbor who isn't following the policy.

Q: How do you define a violation?

A: It is a balance of inspections and resident reporting. We have "living unit inspections" where we send our own staff into units routinely. We have added into this inspection a component where the staff conducting the inspection will look for signs of smoking. If a resident files a report, a manager will knock on the door and go into the unit and look for signs of smoking. For instance, we had a case where a manager was sent to investigate a complaint of smoking and found cigarette butts lying in the toilet. The manager snapped a picture for evidence. We also established a tracking system to document complaints and violations. Both the inspections and resident reporting are important.

Some of our partners have done environmental air quality sampling, but that is pretty expensive. I understand that there are some passive air quality monitors, but they still have to be chemically analyzed. We are not doing any of that.

Q: Describe what you did to prepare and implement the policy.

A: We started the process in 2010, and it was implemented in September 2012. We rolled it out in all of our units at the same time and did not grandfather anyone in. We had lots of steps in the process, and lots of resident engagement so that we could make adjustments to the policy. In the beginning, we did a lot of management training. We did trainings



with the staff about the effects of secondhand smoke, about enforcement, about the lease language, and about reasonable accommodations. We also received a REACH (Racial and Ethnic Approaches to Community Health) grant from the Centers for Disease Control and Prevention for tenant engagement, which allowed us to fund a health project coordinator for health issues and to fund signage in places on the properties where people smoke.

Q: How did you communicate with residents?

A: We met with residents at our existing quarterly resident meetings and developed a feedback loop. In the run up to implementation we held community meetings in every development and discussed the policy and why we were going in that direction. In addition, every resident received written notice of the lease change in the mail, and every resident had an individual meeting in the recertification process with their manager where the resident signed the nonsmoking lease addendum. Now through the REACH grant, we have further health education meetings with discussion of the nonsmoking policy, effects of secondhand smoke, different ways to make reports of a nonsmoking violation, and various cessation resources. For new residents, we have to explain that this is in their lease.

We have found that there is strong support for the policy. Initially, 90 percent of residents supported the policy determined through a survey that included both people who did and didn't smoke. I think that there has been a slight drop in support, because there is frustration with how it was implemented, but support is still very high. At one resident meeting it was brought up that the enforcement process was taking too long, which helped BHA change the enforcement process. Having these feedback loops is important. There are many other meetings that happen on a regular basis where residents and management get together at their developments and discuss a variety of issues and stay in touch with how things are going.

We found that excluding ENDS [electronic nicotine delivery systems] from the policy helped us with enforcement, because we could tell smokers that they could comply with the policy by using those. Our main resident opponent said he would smoke till the day he died and he would oppose the policy. When he showed up to a meeting with an e-cigarette, we were able to tell him that he was in full compliance with the policy.

Q: How did the policy affect your staff's roles and responsibilities before implementation? How has it affected it after?

A: For management staff, we have monthly management meetings. We have committed to bringing up the policy quarterly. That was where the enforcement process issue was brought up. We then had a smaller group work on changing the enforcement process. For new staff, they get up to speed fairly quickly; we also do technical assistance to bring them up to speed. For example, we provide ongoing technical assistance with how to log complaints and use the violation-tracking database.

Some of the staff smoke, and like some tenants, some staff thought that the policy was too overreaching and intrusive. Those attitudes are difficult, but you still have to give respect to people who are voicing these opinions. The best way we could deal with these attitudes was through tenant engagement and staff training.

Q: Were any staff resistant to the change?

A: There was an aspect of resistance not only from residents, but also from the staff who are now responsible for enforcing this policy. Some of the staff smoke, and like some residents, some staff thought that the policy was too overreaching and intrusive. Those attitudes are difficult, but you still have to give respect to people who are voicing these opinions. The best way we could deal with these attitudes was through resident engagement and staff training.

Q: Did you engage community organizations? How? When?

A: We have partnered with [collegiate] schools of public health, and the public health commission. We have a smoking cessation specialist who comes in regularly to talk to BHA residents and staff. Outside of the smoking cessation person, we also give information to residents about resources in the community about cessation classes at community health centers.

In the development of the policy there was a local nonprofit, Health Resources in Action, that staffed our internal meetings and provided technical assistance—examples of lease language, steps in enforcement, and questions around secondhand smoke.

Q: What was the greatest challenge about implementing your policy?

A: The tracking piece is a challenge. Sometimes people smoke in a stairwell or hallway. Staff and residents are not always going to know who every resident/guest is. We rely on staff identifying a situation, so after 5 p.m. and on weekends it is difficult to document the violation. You have to do a lot of follow-up. We also used our REACH grant to assist with funding signage, like stickers with the smoke-free policy that we could post in hallways and stairwells where there was evidence of smoking.

We did not have a good tracking system implemented at the beginning, but it is important to have a way to document what happened and to track what is being done about it. We developed a nonsmoking violation tracking database where complaints can be logged as well as steps in the enforcement process so we can see what has been done.

Having a variety of ways for residents to report can be helpful too. We initially had the standard way of reporting a lease violation, such as a nonsmoking violation, by relying on residents calling a manager or walking into a management office, but we added on a 1-800 number and an email address. Now residents can report 24/7, and there is an option for residents to remain anonymous.

Q: What is one piece of advice you would give a PHA that is going smoke-free?

A: There are really two things that I would suggest. One piece of advice is doing as much resident education and awareness-building as possible. You can work at the neighborhood level and development level and then follow it up with individual meetings. Another piece of advice is doing as much staff training as possible. Provide as much training to managers as you can, because you may encounter resistance amongst the staff as well.



**E.G. "Ned" Fowler, Executive Director
Northwestern Regional Housing Authority
Boone, North Carolina**

Smoke-Free Since 2013

Question: Please describe your portfolio.

Answer: We operate in a rural part of the mountains of western North Carolina. We have 14 multiunit sites dispersed through 7 counties. We oversee the management of 350 homes. The different sites are financed differently. So some will be impacted by HUD's new PHA policy and some will not.

Q: What motivated you and your organization to go smoke-free?

A: We were approached in 2012 by the public health department to go smoke-free. Initially, I was not in favor of this. We have developed a corporate culture of mutual respect between our organization and the residents. It is their home and their business what they do in their homes. We didn't want to restrict our residents just because they are lower income. Additionally, I grew up in Winston-Salem, NC, the home of tobacco producer RJ Reynolds. Everyone smoked. I'm currently trying to quit, but I smoked too. I didn't really believe what I had been hearing about the dangers of secondhand smoke. I thought it was all hype.

The public health department provided us information on the dangers of secondhand smoke from the Centers for Disease Control and Prevention. At first I was skeptical, but once I dove in I saw that there was real science behind the dangers of secondhand smoke. There was also information about how far secondhand smoke can drift and how easily it moves between units. The health department provided us information on the risks of fires. Finally, they provided us information on the legality of smoke-free policies and the cost savings we could expect from cheaper turnover.

We had also had a fire caused by someone who was smoking the year before. The person was smoking with an oxygen tank in his home. He was killed in the fire and the unit was ruined. The information on the dangers of secondhand smoke, the potential cost savings, and the loss of life we had experienced convinced me to at least survey our residents.



Q: What is your current policy?

A: Our current policy is that residents, staff, and guests cannot smoke inside their units or within any of indoor common areas. The current policy that began in 2013 with the renewal of our leases is an extension of our previous policy. About 20 years ago we instituted a smoke-free policy in all common areas, hallways, and office buildings. The decision to do so was driven by complaints of our staff about the smoke. When I began the Northwestern Regional Housing Authority 35 years ago, smoking was allowed anywhere and everywhere.

Q: How do you plan to comply with the HUD Rule?

A: We will add a 25-foot buffer to our current smoke-free policy for the buildings that operate as public housing. We will send a letter to our residents who are affected notifying them of the buffer. Then we will include the change in their lease when it is renewed. It won't be a complicated process.

Q: What is your enforcement policy?

A: Originally, our enforcement policy was three steps:

First Offense: Verbal warning and written warning

Second Offense: \$100 Fine

Third Offense: Notice to Vacate

We have shifted to a four step process following the example of the Charlotte, NC PHA. The process is:

First Offense: Verbal warning and written warning

Second Offense: \$100 Fine

Third Offense: \$250 Cleaning Fee

Fourth Offense: Notice to Vacate

Q: Have you ever evicted anyone?

A: We have never evicted someone due to the policy. We have had residents leave because of the policy. Those residents went to other residential units that did not have a policy. Our organization operates 350 of the 2,000 units in our region. We helped the residents find housing that did not have a smoking policy. Not every place will have the flexibility, but we do.

Q: Do some residents have a harder time complying than others?

A: We have found that our residents with a physical disability that limits their mobility have had a more difficult time complying with the policy. We make sure to go the extra mile for these residents. We refer them to the health department to help with cessation. Some do successfully quit. Addiction

to nicotine is a difficult condition. If they can't master their addiction and can't get outside, we try to help them with a transfer to a different unit.

Q: Do you have more violations at a particular time of year?

A: We have more violations in the winter or when the weather is bad. People don't want to go outside to smoke in bad weather, but it is manageable.

Q: Describe what you did to prepare and implement the policy.

A: First, we surveyed our residents across the 14 multiunit residences. The questions included: "How much does smoke bother you?", "Would you support a smoke-free policy?", and "Would you consider quitting?" We got a good response from our residents. We laid out their answers in a matrix. An overwhelming majority supported a policy. Even some people who smoke supported the policy. Some of them told us they already go outside to smoke.

I brought the survey data and the information provided by the health department on the negative health effects of secondhand smoke, how secondhand smoke can travel between units, the increased risk of fires from smoking indoors, and the potential cost savings of a smoke-free policy to my Board in 2012. I recommended that we first try the policy in the two senior living sites that were most excited about the opportunity. The Board discussed for just a few minutes and told me that we would implement the policy system-wide. They felt that a smoke-free policy was in the corporate best interest and the residents' best interest.

We gave proper notice and turned all of our properties over at the same time that leases were renewed. Implementation was easier than expected. Before the policy began, we provided all residents with information about the policy and information on cessation supports. I also surveyed my 12 property managers to see where they anticipated that the smoke-free policy would meet resistance by residents. There were four sites where we did in-person meetings to introduce the policy; three were properties for senior residences. The managers of the single family and duplexes stated that the residents already went outside to smoke most of the time. At the in-person meetings, we would use the information provided to us by the health department on the dangers of secondhand smoke and fires. We would explain what our policy would be and listen to their concerns.



Q: How has the policy affected your staff's roles and responsibilities? How do you identify violations?

A: Most violations are identified when a maintenance staff goes into a unit and smells the smoke or sees an ashtray with butts in it. They report the suspected violation to the property manager. The property manager gives the resident a 48-hour notice for an in-person inspection. They do not explicitly state that the inspection is in reference to a possible violation of the no smoking policy. If the property manager confirms the violation, they compile evidence and put it in their file. Then they step through the enforcement protocol as appropriate. We have had a few people dispute the violation once we get to the second offense when they are being fined. We have evidence on file so it isn't a big issue.

Q: Did you engage community organizations? How? When?

A: The State Department of Health and Human Services initially approached us. We also worked with our local health department to provide cessation classes. Our residents can also take advantage of the QuitLine to help them quit smoking.

Q: Have you seen any cost savings?

A: Absolutely! We are saving about 33 percent of our costs on unit turnaround. That's huge for us. We also have had a reduction in our insurance rating. Our insurance company doesn't give us a direct discount for having a smoke-free policy. But since the policy we haven't had any fires related to smoking (we had one kitchen fire). This has resulted in our experience rating for the past three years decreasing. With that better insurance rating our insurer dropped our premium by 15 percent! So we are saving on two fronts.

It is a very good idea to survey your residents. First, it gives your residents advance notice that the policy is being considered. Second, it will give you feedback about how closely your residents are to the general public. Most people are in favor of a smoke-free policy. Surveying your residents will let you see their feelings.

Q: Do you think that implementing the policy in a rural setting is different than in an urban setting?

A: The main difference is with density. In more dense communities, there are more residents, staff, and guests bothered by secondhand smoke.

Q: What is one piece of advice you would give a PHA that is going smoke-free?

A: It is a very good idea to survey your residents. First, it gives your residents advance notice that the policy is being considered. Second, it will give you feedback about how closely your residents are to the general public. Most people are in favor of a smoke-free policy. Surveying your residents will let you see their feelings.

Sylvia Estrada, Community Services Manager and Pauline Nunez, Resident Coordinator, Housing and Community Development, City of Tucson, Tucson, Arizona

Going Smoke-Free in 2018

Question: Please describe your portfolio.

Answer: We are a PHA with 1,505 units, implementing July 1, 2018. We are educating staff. Our hope is that by the time the July date comes everyone should be fully educated.

Q: When did you start the smoke-free policy process?

A: It has been a month, and we have been having workshops with our residents to tell them what the rule entails. We are going to have three meetings to train staff. We anticipate all staff and resident trainings to be complete by the July 1, 2018, date.

Q: What will be your enforcement policy?

A: I'm doing it the way we deal with the other public housing lease violations, with two violations and then consider termination of lease. We will require staff confirmation and physical evidence. We will have a way for residents to report incidents that we can investigate.

Q: Describe what you're doing to prepare to implement the policy.

A: We did surveying last year and got very little bad feedback. We had 70 percent in favor on the survey, we even got positive responses from the smokers. We are putting in signage in the office; we now have them in the offices, but we need more on each of the floor levels on the multiunit sites. In the single-family homes, the agents are giving the residents information about the smoke-free policy with each lease-renewal and putting it into the lease. We were considering designated smoking areas, but based on the guidelines for accessibility they would mean extra maintenance costs. So we agreed [internally] not to have designated smoking areas. We are still waiting for approval from the city for the properties they co-own. We are also including ENDS [electronic nicotine delivery systems] in our policy.

Start early! We have been at this for years. It has been constant education. Every time a resident goes to see their agent, we remind them about the policy. We are constantly educating residents.

Q: Are you going to have more meetings?

A: We are going to have more meetings to let the residents know that the policy is official. When we originally held the meetings, it was unclear when HUD was going to finalize the smoke-free rule. We will have a meeting at each of our sites again around May/June. We also need to decide if we are doing a new lease or a lease amendment. I want to make it as easy as possible for my staff because we have so many families. I think it might be easier to do a new lease so we don't have extra papers.



Martin Luther King Apartments, Tucson, AZ

Q: Will going with a new lease mean you have to accelerate lease-signing?

A: If we start signing the new leases by June 2017, we should be able to capture just about everyone before August 2018.

Q: What is one piece of advice you would give a PHA that is going smoke-free?

A: Start early! We have been at this for years. It has been constant education. Every time a resident goes to see their agent, we remind them about the policy. We are constantly educating residents.



Appendix A: Frequently Asked Questions

You will probably have numerous questions as you embark on your journey to adopt a smoke-free policy. This section provides responses to questions typically asked by housing providers who are considering a smoke-free policy, including questions related to implementation and enforcement. Some of these include:

- Does a smoke-free policy infringe upon the personal right to smoke in the privacy of a home?
- Will the cost of extra staff time to implement a smoke-free policy outweigh any cost savings?
- Will a smoke-free policy have a negative effect on occupancy?
- We already have a smoke-free policy. What does the rule mean for us?
- Should I invest in an air detector to determine whether a tenant has been smoking?

Common Questions about Smoke-Free Policies

Why is HUD publishing this rule?

Since 2009 HUD has advocated smoke-free policies in all of its programs, because the health benefits to residents are substantial. The benefits to PHAs are also compelling in terms of the reduction in maintenance and unit turnover costs and a significant reduction in the risk of catastrophic and fatal fires. To date, more than 650 PHAs have implemented smoke-free policies. To expand the benefits of smoke-free living to all public housing residents and PHAs, HUD issued a rule to amend its regulations.

Does a smoke-free policy infringe upon the personal right to smoke in the privacy of a home?

No. PHAs have the legal right to set limits on how a tenant may use rental property, such as restricting guests, noise, and pets. A nonsmoking rule is another way for a landlord to protect the property from damage and to minimize disruptions to other tenants' enjoyment of the building. Tenants cannot expect freedom to conduct whatever behavior they please, such as playing loud music late into the night, when they impede on the rights of others. These rights include clean air.

This is a common concern among providers of subsidized and market-rate multifamily housing who are hesitant about implementing a smoke-free policy. The key point is to reflect on the idea that the rights of both smokers and nonsmokers should be considered. Smoke infiltration occurs across units in multifamily buildings. It is impossible to contain smoke within a unit, and smoke can stay for years on surfaces. This residue remains toxic and exposes the next person who moves in to an avoidable health hazard, referred to as thirdhand smoke. Indoor smoking puts all tenants at risk. While smoking is and should remain a personal choice among adults, the nonsmokers who live around them have the right to not to be exposed to the hazards of tobacco smoke.

Do smoke-free policies discriminate against people with disabilities?

The Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, and state and local civil rights laws prohibit the refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford a person with a disability the equal opportunity to use and enjoy a dwelling.²⁶ Accommodations are considered reasonable when they do not fundamentally alter the nature of a policy, program, or service, or present an undue financial and administrative burden for the housing provider.

PHAs must consider all requests for reasonable accommodations, including requests from tenants with, for example, mobility impairments or mental disability, regarding compliance with smoke-free policies. Smoking in a unit is not a reasonable accommodation. Such smoking-related accommodation requests are expected to be rare but must be evaluated on a case-by-case basis. For example, in implementing its smoke-free policy, one PHA accommodated requests from several tenants with mobility issues who asked to be transferred to units closer to an elevator or door to facilitate their ability to go outside to smoke and comply with the smoke-free policy. In another example, a PHA helped a tenant with a mental disability comply with its smoke-free policy by having a social worker place signs in the home reminding the tenant about the policy's requirement to go outside to smoke. In considering requests for reasonable accommodation, housing providers should keep in mind that a primary reason for adopting a smoke-free policy is to protect nonsmokers from exposure to secondhand smoke.

Does a smoke-free policy lead to many evictions?

Housing providers do not report a rise in evictions due to a smoke-free policy. Many tenants with numerous smoking violations will ultimately agree to comply with the policy or move.

Will a smoke-free policy have a negative effect on occupancy?

Nationwide, surveys of landlords show that many of their concerns about the negative effects of a smoke-free policy turn out to be unwarranted. These include worries about the difficulties of renting, enforcement, tenant complaints, concerns of legality of the policy, resistance from the board, and maintenance staff resistance. In a 2013 survey conducted by the North Carolina Tobacco Prevention and Control Branch of all affordable housing properties in North Carolina, there was no difference in occupancy rates between smoke-free and smoking-allowed properties.²⁷ Some PHAs may find that smoke-free properties actually offer a market advantage and increase occupancy rates. Offering comparable amenities or amenities that are unavailable from other sources can give the PHA a market advantage.

What if many of our tenants smoke and are unable to quit smoking?

Implementing a smoke-free policy does not mean tenants must quit smoking. Tenants may continue to smoke as long as it is in an approved area and they adhere to the smoke-free policy. Smoke-free policies should focus on eliminating smoke from inside the buildings and reducing staff and tenant exposure to secondhand smoke. A smoke-free policy may motivate some smokers to quit, underscoring the value of helping tenants obtain access to cessation resources.

What are the estimated damage and maintenance cost savings for PHAs because of the smoke-free rule?

HUD's Regulatory Impact Analysis for this rule estimates that through a smoke-free policy, PHAs will save between \$16 million and \$38 million per year in maintenance. The reduced fire risk is valued at \$32 million. According to a 2014 Centers for Disease Control and Prevention (CDC) study published in *Preventing Chronic Disease*, "prohibiting smoking in all government subsidized housing in the United States, including public housing, would save an estimated \$497 million per year in health care and housing-related costs."

Table D-1. Costs and Benefits of a Smoke-Free Policy

Impact	Source	Amount (Discount Rates)
Cost (potentially recurring but concentrated during first few years of the rule's implementation)	PHA compliance	\$3.2 million
Cost (recurring)	Smoker inconvenience	\$209 million
Cost (recurring)	Enforcement	Not quantified
Benefit (recurring)	PHA reduced maintenance	\$16 to \$38 million
Benefit (recurring)	PHA reduced fire risk	\$32 million
Benefit (annualized over 10 to 50 years)	Nonsmoker health	Less than: \$148 to \$447 million (3%) \$70 to \$137 million (7%)
Benefit (recurring)	Nonsmoker well-being (PHA residents who do not live in units with smokers)	\$96 to \$275 million
Benefit (recurring)	Smoker health	Not quantified
Partially quantified net benefits (recurring)	See above	Less than: -\$19 to \$302 million (3%) -\$97 to -\$8 million (7%)



What are the notice requirements?

Notify residents in a letter containing the start date, information on how they can request reasonable accommodations, and information on how to provide feedback about the policy. Make sure the letter is easy to understand and written in the languages spoken by your residents.

The requirements of the final rule are as follows:

“Notify your residents at least 60 days before the lease revision is to take effect and specify a reasonable period for the family to accept the offer (see 24 CFR § 966.4(l)(2)(iii) (E)). PIH regulations also provide that leases are required to stipulate that the resident has an opportunity for a hearing on a grievance of any proposed adverse action against the resident (see 24 CFR § 966.52(b)). However, PHA grievance procedures are not applicable to class grievances and cannot be used as a forum for initiating or negating policy changes.” (Final Rule, 87439)

Which document(s) do PHAs need to amend to adopt their policy?

Leases, PHA Plan, and the annual plan.

Does the HUD rule include scattered-site or single-family public housing? Attached balconies or porches?

Under the final rule, smoking is banned in single-family detached public housing. The final rule also prohibits smoking on balconies, porches, and attached structures if they are part of the building, and within 25 feet of the housing or building.

Should e-cigarettes be included in our smoke-free policy?

Knowledge about e-cigarettes and their health impact is rapidly evolving. Currently, these products are not regulated, but the U.S. Food and Drug Administration has announced its intent to regulate e-cigarettes.²⁸ The information below is from a summary of the scientific evidence regarding e-cigarettes from the CDC (2015).²⁹

E-cigarettes are part of a class of products often referred to as electronic nicotine delivery systems (ENDS), which are battery-powered devices that provide doses of nicotine and other additives to the user in an aerosol (CDC 2013). Studies have demonstrated wide variability in design, operation, and contents and emissions of carcinogens, other toxicants, and nicotine from ENDS (DHHS 2014). ENDS aerosol is not “water vapor.” It contains nicotine and can contain additional toxins (Goniewicz, Kuma et al. 2013), and thus, it is not as safe as clean air. Although some ENDS have been shown to emit volatile organic compounds and dangerous toxins such as acetaldehydes, including acrolein, these are generally emitted at much lower levels than by cigarettes (Goniewicz, Knysak et al. 2014). However, because there are hundreds of manufacturers and no manufacturing standards, there is no way to ensure that all ENDS have acceptably low levels of toxicants. All ENDS have the potential to involuntarily expose children and adolescents, pregnant women, and nonusers to aerosolized nicotine. ENDS use can also result in accidents and other potential health hazards. CDC recently reported that the number of calls to poison centers in the 50 states, the District of Columbia, and U.S. territories involving e-cigarettes rose from 1 per month in September 2010 to 215 per month in February 2014, and 51.1 percent of e-cigarette-related poisonings were among young children ages 0–5 (CDC, 2014).

Some PHAs will choose to eliminate indoor use of e-cigarettes and other electronic nicotine delivery systems as a means to provide clean indoor air and a safer environment. Some may also eliminate e-cigarette use in outdoor smoke-free areas to avoid confusion with cigarettes and make enforcement of smoke-free policies easier. Others may see e-cigarettes as less harmful than traditional cigarettes and allow their use inside units and/or in common areas. HUD does not have a position on e-cigarettes at this time. Each PHA should decide how they plan to handle e-cigarettes on its property.

Does the policy prevent the use of lit medical (or recreational) marijuana inside a PHA?

The PHA is still subject to the federal regulations regarding marijuana. Federal regulations still classify all forms of marijuana as a Schedule I substance, even if state law permits it. Smoking marijuana is grounds for a PHA to deny housing or terminate a tenancy.



New Admissions: Federal law requires that PHAs administering HUD's rental assistance programs establish standards and lease provisions that prohibit admission into public housing programs based on the illegal use of marijuana, which remains a controlled substance under federal law. State laws that legalize medical (or recreational) marijuana directly conflict with the admission requirements set forth in federal law and are thus subject to federal preemption.

Current Residents: For existing residents, federal law requires PHAs to establish occupancy standards and lease provisions that allow the PHA to terminate assistance for use of a controlled substance. Lease provisions and policies cannot affirmatively permit occupancy by marijuana users, but PHAs have discretion to determine, on a case-by-case basis, when it is appropriate to terminate tenancy or assistance based on marijuana use. PHAs can also determine whether to deny assistance to or terminate individual marijuana users, rather than entire households, for both applicant and existing residents when appropriate.

Reasonable Accommodations: An increase in requests by residents seeking a reasonable accommodation to use medical marijuana in states where it is legal led to additional HUD guidance, which is available at the following website: [http://www.nhlp.org/files/3.%20KanovskyMedicalMarijuanaReasAccomm\(012011\).pdf](http://www.nhlp.org/files/3.%20KanovskyMedicalMarijuanaReasAccomm(012011).pdf).

In summary, federal and state nondiscrimination laws do not require PHAs to accommodate requests by residents with disabilities to use medical marijuana. In fact, under federal law, PHAs cannot grant such requests. That said, PHAs retain discretion whether to terminate tenancy or assistance of current residents who engage in the use of marijuana.

Can I ban the burning of other things too, such as incense?

The smoke-free rule only applies to lit tobacco products. It is up to the PHA to decide if other products, such as candles and incense, are subject to similar regulations. Information on incense can be found here: <http://mysmokefreehousing.org/word/IncenseFactSheet.pdf>.

Questions about Best Practices for Implementing the Smoke-Free Policy

How much pushback from residents is common?

Conducting a resident survey at the beginning of the process will help you assess the level of resident opposition to the policy. Past surveys indicate that the majority of residents are usually supportive of smoke-free policies. At the beginning, interest in the policy and concern about its implementation will be comparatively high. Residents who smoke will probably complain, and supportive residents will be more enthusiastic. Over time, interest is likely to fade. To retain resident support, ensure that you maintain communication about the resources available to smokers, the enforcement policy, and recourse available to nonsmokers who notice secondhand smoke.

How can I involve my residents in the process?

Potential resident engagement activities include surveys, meetings, presentations to the resident council, and partnering with resident leaders. Items residents could provide input on include:

- Location of a designated smoking area (if applicable).
- Landscaping around the designated smoking area.
- Design of the designated smoking area (in accordance with local laws).
- Design and location of signage.
- Resident communication plan.
- Enforcement strategy.
- Design of communication flyers.
- The purchase of something new for the building or a community room with the savings from the smoke-free policy (e.g., TV, fish tank, chair).

Residents could also assist with the planning of a smoke-free celebration or promotion of cessation resources. In addition to engaging groups of residents, there are additional options to engage residents one-on-one. We encourage you to look at the resource guide at <https://hud.gov/smokefreepublichousing> to find materials that may facilitate resident outreach.



You may also want to target outreach to both support smokers and engage and educate nonsmokers. Consider contacting residents who may have difficulty complying with the new policy, such as people with a physical or mental disability. Ensure that they are aware of the materials available to them and help them make a plan to comply.

One way to engage resident youth is to have them design flyers and/or signage about the policy. They can have input on signage as well. You may also consider directing youth and teens to information about the dangers of smoking available in an age-appropriate format. The Smokefree Teen website and the Truth Initiative offer resources specifically oriented to teens.

Do I have to clean/repaint apartments after they go smoke-free?

The smoke-free rule does not require the PHA to clean or repaint apartments of smokers once the rule has been adopted. The apartment should be cleaned and repainted when the resident moves out.

Can I ask if a resident is a smoker before they move in?

HUD has issued guidance stating that PHAs may not ask prospective residents if they smoke or keep separate waiting lists for smokers. Tenants should be made aware of the policy before signing the lease, and ideally before or during the application process. PHAs may not treat tenants who smoke punitively in their implementation of this regulation by, for example, requiring a higher security deposit from tenants who smoke. Residents can be charged for property damage that is beyond normal wear and tear, in accordance with 24 CFR 966.4(b)(2).

Questions about Updating Existing Policies to Comply with the HUD Rule

We already have a smoke-free policy. Do we have to change it?

Congratulations on already having a policy! Your first step should be to compare your current policy to the requirements in the final HUD rule. You can do that by going to the “Review HUD’s Smoke-Free Public Housing Rule” section (p. 10) as well as reviewing the rule itself in Appendix A. Your policy may be more robust than the HUD rule. If your policy meets all stipulations of the HUD rule, your PHA does not need to implement a new policy or change existing policy. If your policy does not align with the HUD rule, then you will need to change your policy. To change your policy, you must notify your tenants, change your PHA House Rules, if applicable, and have tenants sign a lease with your new policy, according to HUD’s normal policies and procedures.

What about agencies that already have smoke-free policies? Will they be grandfathered in?

Of the more than 650 PHAs with smoke-free policies in place, many have partial smoke-free policies that include only certain buildings or spaces. The rule does not include a provision to “grandfather in” policies that do not meet HUD’s rule requirements. The smoke-free policy must cover all public housing indoor areas and must extend to all outdoor areas at least 25 feet from housing units, common areas, and administrative office buildings. As stated in the final rule, policies that do not meet these minimum requirements will need to be updated by July 30, 2018.

My jurisdiction already has a smoke-free requirement for housing that includes a 20-foot buffer zone around the building. Do I need to change our PHA’s policy?

Yes. The PHA policy must adhere to federal requirements, including the 25-foot perimeter, even if they are more stringent than current practice or local policies.

Questions about Best Practices for Enforcement

I am worried about the amount of staff time needed to monitor and enforce a smoke-free policy.

Smoke-free policies are generally self-enforcing. Most people are used to restricting their smoking behavior to appropriate places and venues. For example, most states have laws regarding smoke-free bars and restaurants. The general public follows these laws with little or no dispute. At the beginning of implementation or during certain times (e.g., during a snowstorm), your PHA may experience violations that must be dealt with, but over time, the incidences of violations will decrease once tenants know that PHA management will enforce the policy. Tenants should also be empowered to report violations in a safe way that will not subject them to reprisals. Gradually, the social norms of the community will change, and people's behaviors will change as well.

Should I invest in an air detector to know for certain whether a tenant has been smoking?

Nicotine or cigarette smoke detectors have great appeal to PHAs eager to find an easy way to prove a violation occurred. It is important to realize that they often cost several thousand dollars and require specialized expertise to use properly, with results that may be unreliable unless continuous monitoring takes place in a unit.

I have very diverse residents. What cultural considerations do I need to consider?

Identifying and addressing unique needs of residents before implementation will help make your policy more effective. Being mindful of language and cultural barriers ahead of time will reduce challenges during implementation. Consider if communication materials will need to be translated or if residents use tobacco for cultural purposes. The final HUD rule states that any posted signage must be accessible to all residents and must be posted in multiple languages (if appropriate). Consulting with an outside expert may

be helpful during this process. For example, "secondhand smoke" can be misinterpreted through translation to mean "smoking with two hands." "Smoke-free" can be misinterpreted through translation to mean "giving away free smokes." Ensure that the translator is familiar with the terms they are translating and can interpret them accurately.

According to the final rule, cultural practices related to smoking must still comply with the rule. "While the use of hookahs may be viewed as a significant cultural practice, this does not qualify a resident for exclusion from the policy. As previously noted, there is no fundamental right to smoke and the act of smoking is entitled to only a minimal level of protection under the Equal Protection Clause. Therefore, smoking a hookah, as a significant cultural practice, does not itself provide a reason for exclusion from the policy" (Final Rule, 87443). Be mindful that a smoke-free policy may affect your residents culturally, and work with them to come up with solutions. It may be helpful to discuss appropriate messaging and solutions with a local or national cultural organization.

Can I enforce the rule if someone is smoking inside their car in the parking lot or in their garage?

The final rule does not give any explicit directive concerning personal vehicles. The smoke-free policy can apply to personal vehicles, when such vehicles are on smoke-free PHA-owned or operated grounds. Note that personal vehicles (i.e., vehicles not owned by the PHA) are not subject to the policy when outside of PHA grounds. Whatever the policy, a PHA should communicate to residents and staff which areas are included in the policy and whether the policy applies to personal vehicles, as well as how the policy will be enforced. It is recommended that PHAs include these details in their smoke-free lease addendum or House Rules, and ensure that staff members understand these details.

Experiences from PHA Leaders

If you go to court, what kind of evidence is needed?

In the cases that went before a judge, we followed our policy and state eviction law showing the two notices, each providing 20 days to cure, and a third notice. Each “countable” violation occurred after the 20 days to cure period had passed. The cases were supported by written complaints from other residents and/or staff. During the proceedings, judges questioned me about the procedure we used for notifying residents, which they were satisfied with. In two situations, the defendants didn’t come to court, and we won those cases. In other cases, we entered into stipulations that the judges signed. For those, we won the eviction judgments but will not execute as long as there are no further violations. The judges prefer to see us reach some kind of stipulation. They prefer not to evict people, but we have been successful in court.

—Marcia Sullivan, Executive Director, East Greenwich, RI, Housing Authority

How do we enforce this in buildings that are not highrise?

We are a small housing authority with duplex, eight-plex, and stand-alone properties. Enforcement is not going to take up a lot of effort. You are in and out of the apartments. You are doing a work order. Someone’s doing an inspection. You see the ashtray. You can smell it in the apartment. We do have pest control, so we are in the apartments quarterly. We do housekeeping inspections. We now use a stark bright white interior paint, so we know if someone is smoking in that apartment because the walls will be stained with nicotine. You just have to be reasonable, and use some common sense.

—Faye Dodd, Executive Director, Housing Authority of Murray, KY

We do not have outdoor space on our property that is 25 feet from the building. Where can smokers go to smoke?

The only negative outcome thus far has been that smokers who choose to reside at Lincoln must walk over to the adjacent park or across the street to smoke in order to adhere to this policy. During the day this isn’t an issue, but Lincoln Tower’s residents are all senior citizens, and we are located in a city. Safety concerns have been expressed by those residents as well as by our local city council member. To address this, Lincoln Tower’s management has put in a request for the city to put up additional lighting in the park, and it has offered safety tips that include encouraging smokers to pair up when they are going out to smoke during the evening.

—Sandy Cipollone, Senior Vice President, Interstate Realty Management Co., Team Member of The Michaels Organization, Marlton, NJ, market rate and subsidized property, owner/management firm



Appendix B: Sample Lease Language

NO SMOKING LEASE ADDENDUM

Date _____ Development _____ Unit # _____

Head of Household _____

Date of Move-In _____ Effective Date _____

THE FOLLOWING TERMS, CONDITIONS AND RULES ARE HEREBY INCORPORATED INTO THE LEASE FOR THE ABOVE UNIT EFFECTIVE [DATE] FOR NEW MOVE-INS AND [DATE] FOR CURRENT RESIDENTS.

1. No Smoking Policy — Due to the increased risk of fire, increased maintenance costs, and the health effects of secondhand smoke, the [PHA NAME] is adopting the following No-Smoking Policy, which prohibits smoking in any interior common areas, including but not limited to community rooms, community bathrooms, lobbies, hallways, laundry rooms, stairways, offices and elevator, within all living units, and within [___ feet] of building(s) including entry ways, porches, balconies and patios. This policy applies to all residents, guests, visitors, service personnel and employees.
2. Definition — The term "smoking" means inhaling, exhaling, breathing, carrying, or possessing any lighted cigar, cigarette, pipe, other tobacco product or similar lighted product in any manner or in any form.
3. The [PHA NAME] is not a guarantor of smoke free Environment — Resident acknowledges that the [PHA NAME]'s adoption of a No-Smoking policy, will not make the [PHA NAME] the guarantor of Resident's health or of the smoke free condition of the non-smoking portions of the property. However, the [PHA NAME] will take reasonable steps to enforce the No-Smoking Policy. The [PHA NAME] is not required to take steps in response to smoking unless the [PHA NAME] has actual knowledge of the smoking and the identity of the responsible resident.



4. [PHA NAME] Disclaimer — Resident acknowledges that the [PHA NAME] adoption of a non-smoking living environment, does not in any way change the standard of care that the [PHA NAME] has under applicable law to render the property any safer, more habitable or improved in terms of air quality standards than any other rental premises. The [PHA NAME] specifically disclaims any implied or express warranties that the property will have any higher or improved air quality standards than any other rental property. The [PHA NAME] cannot and does not warranty or promise that the property will be free from secondhand smoke. Resident acknowledges that the [PHA NAME]'s ability to police, monitor or enforce this Addendum is dependent in significant part on voluntary compliance by Residents and Resident's guests. Residents with respiratory ailments, allergies or other condition relating to smoke are put on notice that the [PHA NAME] does not assume any higher duty of care to enforce this Addendum than any other [PHA NAME] obligation under the rental agreement.

5. Lease violation — Residents are responsible for the actions of their household, their guests and visitors. Failure to adhere to any conditions of this Addendum will constitute both a material non-compliance with the lease agreement and a serious violation of the Lease Agreement. In addition, resident will be responsible for all costs to remove smoke odor or residue upon any violation of this Addendum.

Signature, Head of Household

Date

Other member of Household

Date

Other member of Household

Date

Signature, Management Staff

Date



POSSIBLE "NO SMOKING" ADDENDUM VIOLATION

This is a courtesy notice of an unconfirmed lease violation and/or an apparent minor first time violation. This is not a lease termination notice. If the [PHA NAME] elects to serve an eviction notice for the violations discussed here, you will be served a lease termination notice.

Date _____

Resident _____

Name _____

Address _____

This is a courtesy notice to inform you that it has come to the attention of your property manager that you may be in violation of the No Smoking Addendum in the following way(s):

The [PHA NAME] staff was informed that on _____ at approximately _____ you were _____ (smoking in the unit) _____ (smoking in the common areas), or _____ (smoking within 15 feet of the building). This is a serious lease violation of the No Smoking Addendum.

If you violate the No Smoking Addendum again, it will result in a NOTICE OF FOR CAUSE.

If you have questions about this notice, and would like to discuss it, please contact your property manager at (NAME/LOCATION).

At this time, no formal action is being taken by the [PHA NAME] beyond this courtesy notice. We do stress, however, the importance of refraining from smoking in your unit, the common areas, and within [__ feet] of the building. Failure to do so may be treated as a violation of material terms of your lease and may lead to termination of your lease.

Thank you,

Property Manager

Appendix C: Partnerships

Find Community Health Partners

Community partners can make implementation easier and more successful. Involving community health partners that have an interest in your effort will lead to greater support, more ideas, a better understanding of the tenant community context, and more effective effort. Community-based programs can provide implementation assistance and cessation resources. Some local programs may even be able to offer minigrants or “adopt” a property going smoke-free.

The federal partners of the U.S. Department of Housing and Urban Development (HUD), such as the Centers for Disease Control and Prevention (CDC), are preparing their local entities to assist public housing agencies (PHAs) in implementing the smoke-free rule. Additionally, HUD is developing an ambassador program that can help you determine an appropriate policy for your community and effectively implement it. Reaching out to partners can ease the burden. Read below about some ways you can use partnerships. You can also refer to the List of Resources in this appendix as well a longer resource guide available at <https://hud.gov/smokefreepublichousing>.

Contact your state office on smoking and health or tobacco control programs.

- The CDC Office on Smoking and Health funds tobacco control programs in all 50 states, the District of Columbia, and U.S. territories.
- Contact information for each state's program is available on the Tobacco Control Network website.²⁴ When you call, ask to speak with the program manager, who can direct you to the best state or local health department resources in your area.
- Resources and services vary depending on funding. Many programs provide the following types of services:
 - Technical assistance in implementing a smoke-free policy in multifamily housing.
 - Assistance communicating with tenants and staff about the health risks of secondhand smoke in multifamily housing.
 - Materials and presentations on secondhand smoke health risks.
 - Information about cessation resources.

- Information about the state Quitline, which can be accessed by calling (800) QUIT-NOW. The national number directs callers to their state Quitline.
- Assistance surveying tenants about the policy.

Contact your local legal aid office. Contact your local legal aid office to emphasize that your intent is to support the mission of providing a healthy and safe environment for tenants. Some legal aid and tenants' rights groups may be concerned about tenant displacement. Be prepared to share findings that such policies are effective in hundreds of PHAs and affordable housing properties nationwide and lead to few evictions when implemented with appropriate communication with tenants. Plan to meet with the local legal aid office again once you develop your PHA's specific policy. This will allow you to explain the multistep enforcement process and the support tenants will receive through regular communication about the policy.

Partner with a health clinic to provide cessation support.

Health clinics may be able to arrange a referral mechanism with resident services to provide direct referrals for smokers to cessation services. For example, the Metropolitan Development and Housing Agency in Nashville, TN, partnered with Parthenon Clinic to distribute cessation resources, including nicotine-containing lozenges, gum, patches, and additional cessation medications. The clinic also provided medical care to those who received smoking cessation assistance. For example, as part of the Tobacco-Free Providence campaign, all uninsured PHA adult residents are offered free nicotine-replacement therapy as well as individual or group support classes, helping more Providence, RI, residents maintain a tobacco-free lifestyle. This was a partnership between the City of Providence and CDC, with CDC grant money funding the cessation.²⁵

Contact your health department or healthy housing organizations.

Healthy housing organizations and programs work on a range of issues, including indoor air quality, asthma triggers, lead, mold, pests, and other conditions that have a negative impact on health and well-being in the home. Contact your state or local health department to reach the healthy housing program in your area. Organizations such as Arizona Smoke-Free Living or The Breathe Easy Coalition of Maine focus on tobacco cessation and offer partnership opportunities, including training and other resources. These organizations also may be able to provide train-the-trainer materials and training.



Find untraditional partners. Area banks and stores may be interested in funding signage to communicate and support the policy or providing items such as T-shirts, posters, bags, and refrigerator magnets to distribute the day the policy is launched.

Work with colleges and universities. If you decide to survey your tenants about the smoke-free policy, nearby college and university schools of public health students may be interested in conducting the survey and analyzing the results.

List of Resources

Listed below is a selection of key resources. For a more detailed list, please see HUD's website for smoke-free housing.

- **American Lung Association:** Offers an online curriculum for how to implement a smoke-free policy in multifamily properties. <http://www.lung.org/our-initiatives/tobacco/smokefree-environments/multi-unit-housing>.
- **Austin Smoke-Free Housing: A Manager's Guide to Smoke-Free Housing Policies:** <http://www.livetobaccofreeaustin.org/docs/Smoke%20Free%20Housing%20Guide.pdf>. This guide offers practical steps and sample materials for property managers.
- **Centers for Disease Control and Prevention: Smoke-Free Housing Materials:** <http://www.cdc.gov/features/smokefree-home>. Also see the partner resource page, "Organizations Serving Public Housing Residents," <https://www.cdc.gov/tobacco/campaign/tips/partners/hud/index.html>.
- **ChangeLab Solutions: Smoke-Free Housing:** <http://changelabsolutions.org/landing-page/healthy-housing-stable-and-smokefree>.
- **HUD's Smoke-Free Housing Toolkits: Smoke-Free Housing: A Toolkit for Owners/Management Agents of Federally Assisted Public and Multi-Family Housing:** <http://portal.hud.gov/hudportal/documents/huddoc?id=pdfowners.pdf>.
- **International Smoke-Free Housing Coalition Global Directory:** <http://www.mnsmokefreehousing.org/landlords/directory.html>. The purpose of this directory is to connect those working on smoke-free multiunit housing with each other and each other's services.
- **Live Smoke Free Program:** www.mnsmokefreehousing.org. Live Smoke Free offers educational brochures, manuals, webinars, and promotional materials to assist managers/owners who want to make their buildings smoke-free.
- **National Smoke-Free Multiunit Housing Listserv:** <http://www.lsoft.com/scripts/wl.exe?SL1=SMOKEFREEHOUSING-TALK&H=COMMUNITY.LSOFT.COM>. The smoke-free multiunit housing Listserv is free and open to anyone working on or interested in learning more about smoke-free multiunit housing. More than 300 experienced advocates are on this online network.
- **No-Smoking Policy Plan Options and Talking Points for Housing Authorities:** <http://www.smokefreehousinginfo.com/pdfs-docs/PublicHousing/PNRC-Guidance.pdf>. This site includes policy plan options, work plans, and talking points prepared under a State of Washington Department of Health Grant by Comprehensive Health Education Foundation, Pacific Northwest Regional Council of the National Association of Housing and Redevelopment Officials, and the Association of Washington Housing Authorities.
- **Providence Housing Authority's The Right to Breathe Clean Air Toolkit:** http://pha-providence.com/documents/PHA_Toolkit_Final.pdf. Additional video: https://www.youtube.com/watch?v=hOI2mo08_jA. The Providence Housing Authority successfully implemented a smoke-free policy in five of its senior and disabled high-rise housing developments. This toolkit and 15-minute video were developed as guides for other housing agencies.
- **Public Health Law Center: Tobacco Control Legal Consortium:** <http://publichealthlawcenter.org/topics/tobacco-control/smoke-free-tobacco-free-places>. The Public Health Law Center provides publications and online classes to build awareness of legal and policy considerations for smoke-free policies.
- **Public Housing Energy Conservation Clearinghouse:** https://portal.hud.gov/hudportal/HUD?sre=/program_offices/public_indian_housing/programs/ph/phecc
- **Quitline:** Live help about quitting smoking from Smokefree.gov: <https://smokefree.gov/talk-to-an-expert>.

- **Sample Resident Letter and Secondhand Smoke Survey for Use by Owners and Property Managers:**
<http://spotidoc.com/doc/279270/sample-resident-letter-and-secondhand-smoke>. The above Sample Resident Letter and Secondhand Smoke Survey are for owners and property managers to distribute to tenants.
- **Smoke-Free Environments Law Project (SFELP):**
<http://www.tcsq.org/sfelp/home.htm>. SFELP provides information about smoke-free policy adoption and the legal and liability issues related to secondhand smoke. While SFELP is a law project serving Michigan, most of the information on its site is relevant to all states.
- **Smoke-Free Housing Coalition of Maine:**
<http://smokefreeforme.org>. This organization was instrumental in helping Maine become the first state with smoke-free policies in all of its public housing. The website has publications and multimedia resources for landlords and property managers.
- **Smoke-Free Multi-Unit Housing North Carolina:**
<http://www.smokefreehousingnc.com>. This comprehensive site provided by the North Carolina Department of Health and Human Resources offers case studies, videos, and checklists.
- **Smoke-Free Public Housing Minnesota**
<http://sfpublichousingmn.org/>



Appendix D: Endnotes

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