



# smoke free HOUSING

<http://health.mcleancountyil.gov/smokefreehousing>



## Ten Tips for Implementing Smoke-Free Housing Policy

### **New Buildings:**

Establishing a smoke-free policy should be relatively easy in a new building, as your tenants will have no pre-existing expectations:

1. **Advertise** your units as smoke-free in newspaper and real estate magazine ads.
2. **Revise** your lease/rental agreements to include smoke-free provisions.
3. **Post** "Smoke-free Area" or "No Smoking" signage in designated areas.
4. **Educate** employees on how to field questions regarding the building's smoke-free policy.

### **Existing Buildings: Phase-In Method or Quit Date**

#### **Phase in Method**

Begin having new tenants who move into the building sign a smoke-free lease addendum immediately. Announce the policy change to current tenants (letter) and have them sign a smoke-free lease addendum at the time of their lease renewal.

More information to "phase in" the changes:

1. **Install** "Smoke-Free Area" or "No Smoking" signage in designated areas.
2. **Remove** ashtrays and place receptacles for smoking materials a reasonable distance (or whatever your policy entails, such as "25 feet from all buildings") from facility entrances together with applicable signs.
3. **Discuss** your decision with tenants and look to get their support.
4. **Announce** the change to all tenants in the form of a letter. Require tenants to sign a copy stating their intent to comply with the new policy. For existing tenants, their understanding and acceptance of the policy will begin upon renewal of their individual leases, which are updated with the new smoke-free lease language.
5. **Educate** employees on how to field questions regarding the building's smoke-free policy.
6. **Provide** your maintenance staff with proper equipment such as door sweeps and caulking materials to temporarily deal with migrating smoke until the phase-in of the policy is complete or if only a portion of the building is going smoke-free.

#### **Quit date Method:**

Decide what date you would like the buildings to go smoke free. Give your tenants notice of the policy change and tell them they must sign a smoke-free lease addendum before the policy change.

# **Model Lease Language**

To help ease your transition to smoke-free apartment buildings and condominiums, model lease language is available for you to discuss with your legal counsel for possible inclusion in your new or renewal leases.

This language can be used in the following ways:

- It can be used to help write a smoke-free building policy.
- The language can be added to the lease.
- For condominiums, the language can be added to the Conditions, Covenants, and Restrictions (CC&Rs) and implemented immediately or at a specified future date.

## **Model language**

Include in the "Definitions" section:

**SMOKING:** The term "smoking" means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, or other tobacco product in any manner or in any form.

Include in the "Restrictions" section:

**SMOKING:** Due to the increased risk of fire and the known adverse health effects of secondhand smoke, smoking is prohibited in any area of the property, both private and common, whether enclosed or outdoors. This policy applies to all owners, tenants, guests, employees, and service persons.

## **Adopting a Lease Provision or Lease Addendum**

Depending on the language and standards of your lease, you can adopt a smoke-free policy in as little as 30 days.

If you have a standard lease that provides that changes can only be made at the time of renewal, you must follow this contract stipulation. If you have included in your lease a provision allowing you to amend the lease with as little as 30 days notice you may. Remember, smoke-free policies are like any other policy change and should be treated the same as if you were amending requirements around such policies as trash disposal, pets or rent payment.

If you have a month-to-month lease (or rental agreement) you must give at least 30 days of the new lease (i.e. the original lease with the new smoke-free policy included).

If you do not have a written lease or rental agreement ('tenancy at will') you may change the tenancy with 30 days notice, thus creating a new tenancy.

If you are in public housing or government-subsidized housing you made adopt a smoke-free policy at the time the lease is renewed, with at least 30 days notice. For more information, please visit our page on [Government Subsidized Housing](#).

*The information and materials contained here are for informational purposes only and are not offered or intended to be and should not be construed to be legal advice nor to be a substitute for obtaining legal advice from a licensed attorney.*

## **Talking to Tenants**

As you're implementing a smoke-free policy, it is best to have a clearly organized communication plan for talking with your tenants. Here are some helpful ideas:

- Host information sessions about the upcoming change. You can use the PowerPoint presentation provided to help tenants understand the new smoke-free policy.
- Let your tenants know when and where smoking will be allowed (if at all). Plan to post "Smoke-Free" or "No Smoking" signs accordingly.
- Explain the new smoke-free lease language. Highlight and discuss the reasons why this new policy is going into effect. Give your tenants an opportunity to ask questions.
- Tell your tenants when the policy will go into effect. Remind them that the most important reason for the policy is to prevent exposure to secondhand smoke. Use our **sample letter to tenants (Word document version)** to send them a formal reminder.

Check back in with your tenants just before the policy goes into effect and afterward. There may be an occasional conflict between tenants that needs to be resolved. You will assure that people will follow the policy if you address any infractions early.

## **Tips for Enforcement**

**You aren't telling people to quit smoking.** The purpose of the policy is to protect your property from damage and fire danger. When implementing a policy, remind tenants that this policy has been adopted to help protect all tenants, including people who smoke, from secondhand smoke exposure.

**Include smoke-free policies as part of your lease or house rules.** New tenants should initial each paragraph of the lease, including that which prohibits smoking on your property. Make sure that your tenants are aware of the consequences for violating the lease or house rules and that smoking by guests is also prohibited.

**Ensure that you have adequate smoke-free signage.** Make sure you have the **tools** to remind your tenants, and their guests, of your smoke-free policy. If your building is 100% smoke-free, the Smoke-Free Housing Coalition of Maine can provide you with window decals, signs, key chains and magnets at no-cost.

**Smoke-free policies are self-enforcing.** Your tenants are your greatest allies. If a tenant complains about smoking in your units, try to resolve the issue amicably and in a timely fashion.

**Smoking can be costly to tenants, too.** Let tenants know that violating the building's smoke-free policy may result in loss of their security deposit. Cleaning and maintenance of a unit where tenants smoke is very costly. Make your tenants aware that they will be held financial responsible for violating the policy.

**Treat smoking like any other lease violation.** Smoking violations are just like any other. How would you respond to a noise complaint? Pet complaint? Inappropriate disposal of garbage? A smoke-free policy needs to be addressed, enforced and respected the same as other house rules and lease provisions.

**Be prompt, uniform and consistent.** Lack of enforcement with one tenant may hamper enforcement with future tenants. Prompt, consistent action will send a clear message to everyone in your building that smoking is not allowed.

**Smoking is seldom the only violation.** A tenant who breaks one lease condition is likely breaking others. If you come to a point where you need to evict, be sure to include all lease violations in your eviction notice, including all instances of recorded smoking violations.

***"As a landlord, you not only have the legal right to adopt a smoke-free policy, but the law gives you the ability to enforce this policy as you would any other lease clause."***

- G. Steven Rowe, Former Maine Attorney General

Source: Smoke Free Housing Coalition of Maine. <http://www.smokefreeforme.org/>