

FOR RESIDENTS

Smoke-Free Housing **TOOLKIT**

Your guide to creating a healthy,
smoke-free living environment.



www.ohiosmokefreehousing.com

Developed by the Tobacco Public Policy Center at Capital University Law School



WELCOME

to the Tobacco Public Policy Center's Smoke-Free Housing Toolkit.

Inside you'll find valuable tips and tools you can use to help your home go smoke-free.

THIS TOOLKIT INCLUDES

- Tips.
 - Strategies and advice for helping your property manager or owner make your building or complex smoke-free.
- Letter to residents.
 - A sample letter that you can send to your fellow residents to gain support for a smoke-free policy.
- Petition.
 - A sample petition that you can circulate for residents to sign. Showing your property manager or owner that most residents support a smoke-free environment will help initiate the changes you want.
- Letter to property manager or owner.
 - A sample letter that you can send to your property manager or owner that outlines the many reasons for going smoke-free.
- Lease addendum.
 - A sample smoke-free lease addendum that you can provide to your property manager or owner.
- Sample signs.
 - Ask your property manager or owner to hang the smoke-free area signs in common spaces such as laundry rooms, lounges, hallways, and fitness centers. The other signs can be displayed in a main office or lobby to advertise smoke-free units.

Please feel free to adapt any of these tools to work for your specific apartment building or residence. Your property manager or owner may also adapt the sample lease addendum.

If you have additional questions about going smoke-free, please contact the Tobacco Public Policy Center at **(614) 236-7315** or visit our Web site at **www.ohiosmokefreehousing.com**.

Thank you for your commitment to making Ohio a healthier place to live!

Tips for Creating a Smoke-Free Housing Complex

- 1. Make a plan.** Give some thought as to what your objective is and what your plan of action will be. Think about what compromises you might be willing to accept. If a 100% smoke-free policy is not feasible, would it be possible to create smoke-free blocks of housing or designated smoke-free buildings? If they are not smoke-free already, start by advocating for all public or community areas to be smoke-free (this includes laundry rooms, lobbies, outdoor patios and balconies, recreational facilities, playgrounds, etc.).
- 2. Hold a Meeting.** Gather with other residents to discuss the issue and get a better view of residents' concerns. This need not be formal—you can meet in the common room of your apartment building or invite some neighbors over to your apartment for a discussion. You will need to find other residents who share your concern about the impact of secondhand smoke.
- 3. Get Informed—and Inform Others.** Understand your rights. Review the information about smoke-free housing provided on the Tobacco Public Policy Center's smoke-free housing Web site. Review your existing lease to see if there is a "nuisance" clause that might apply to drifting secondhand smoke.
- 4. Inform Management.** Your management might be unaware that it is completely legal to designate an apartment or complex as smoke-free. People often mistakenly believe that there is a legal right to smoke in apartments. However, no such right exists. Remind the management about the significant cost savings associated with smoke-free housing and the ability of smoke-free policies to reduce conflicts between residents. This toolkit contains a sample letter to send to your property manager or owner. However, the letter will have more of an impact if you also make a personal visit to discuss the issue. Ask your apartment management to visit the smoke-free housing Web site to learn more.
- 5. Build Support.** Management will often want more information about existing residents' thoughts about this issue. Management is often surprised by the strong support for smoke-free housing policies. Gather resident support for a smoke-free policy by using the attached petition, or work with management to conduct a survey of residents. Understand and expect that there will be some resistance to policy change, but remain insistent that you have a right to be secure in your apartment and protected from the dangers of secondhand smoke.
- 6. Change the Policy.** The apartment property manager or owner can start by creating a smoke-free policy for all public and community areas right away. Other apartment units can be made smoke-free as leases come up for renewal. This toolkit includes model language that can be added to a lease to implement a smoke-free policy. Provide this information to your property manager or owner.

Letter to Residents

Dear Resident:

Residents of <<property name>> would like to establish smoke-free housing policies in order to provide a healthier and safer environment. We are asking for a policy that would make all common areas of the building smoke-free (such as entrances, hallways, exercise areas, and laundry rooms) and add smoke-free clauses to residents' leases as they come up for renewal (prohibiting smoking inside of apartment units). These policies are completely legal and are becoming more and more common.

Secondhand smoke is a serious health hazard. It is the third leading cause of preventable death in the United States, causing approximately 53,000 deaths each year. The 2006 Report of the U.S. Surgeon General states that there is no safe level of exposure to secondhand smoke.

Secondhand smoke is particularly dangerous to children and has been linked to Sudden Infant Death Syndrome (SIDS). In addition, approximately 900 people in the U.S. die each year from fires caused by smoldering cigarettes.

This is an issue for the entire complex because cigarette smoke travels from unit to unit. Secondhand smoke can seep through outlets in walls, and spread through air conditioning and heating systems. The remodeling required to prevent secondhand smoke from transferring to another residence can be costly and ineffective. The only effective method to stop the spread of secondhand smoke is a smoke-free policy.

There is no legally recognized right to smoke in one's residence if it adversely affects the health of another. However, current resident smokers will not be affected by this policy change until their leases come up for renewal.

A petition to help make <<property name>> a smoke-free environment will soon be circulated, and we ask that you please sign your name. If you have any questions or concerns please contact:

<<Name of contact person>>

<<Contact phone number and/or email >>

Regards,

Smoke-Free Housing Petition

I support a Smoke-Free Policy for _____

NAME	UNIT #	COMMENTS

Letter to Property Manager or Owner

Dear Property Manager or Owner:

I am writing to ask you to consider adopting a smoke-free housing policy in order to establish a safe and healthier environment. Such policies are completely legal and they also reduce management costs. [If applicable, note support of smoke-free policy from other residents.]

Secondhand smoke is a serious health hazard. It is the third leading cause of preventable death in the United States, causing approximately 53,000 deaths each year. The 2006 Report of the U.S. Surgeon General states that there is no safe level of exposure to secondhand smoke.

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A smoke-free policy is perfectly legal. There is no legally recognized right to smoke in one's residence if it adversely affects the health of another. In fact, smoke-free policies reduce potential liability. Without such a policy, residents harmed by secondhand smoke from neighboring units could bring legal actions against the apartment ownership. Such lawsuits are becoming more and more common.

Also, smoke-free housing policies have not resulted in decreased revenue for owners. In fact, they save money. Costs associated with cleaning and remodeling a smoker's unit are substantially more compared to a nonsmoker's unit. In addition, a smoke-free policy may lead to a reduction in fire insurance costs.

The transition to a new policy would be gradual. Current resident smokers would be exempted from this policy change until their leases come up for renewal.

Please take this step to protect my health and the health of my neighbors.

If you would like more information on this topic, please visit www.ohiosmokefreehousing.com.

Regards,

Smoke-Free Lease Addendum**

*** Property managers or owners may adjust the portions of this addendum that have been included in parentheses depending upon scope of the smoke-free policy.*

Resident and all members of resident's family or household are parties to a written lease with Property Owner/Manager (the Lease). This addendum states the following additional terms, conditions, and rules that are incorporated into the Lease. A breach of this Lease Addendum shall give each party all the rights contained herein, as well as the rights provided for in the Lease.

- 1. Purpose of Smoke-Free Housing:** The parties desire to mitigate (i) the irritation and known health effects caused by secondhand smoke; (ii) the increased maintenance, cleaning, and redecorating costs from smoking; (iii) the increased risk of fire from smoking; and (iv) the high cost of fire insurance for a nonsmoke-free building.
- 2. Definition of Smoking:** "Smoking" means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other lighted smoking device for burning tobacco or any other plant.
- 3. Smoke-Free Complex:** Resident agrees and acknowledges that the premises to be occupied by Resident and members of Resident's household have been designated as a smoke-free living environment. Resident and members of Resident's household shall not smoke anywhere in the unit rented by Resident, in the building where the Resident's dwelling is located or in any of the common areas (or adjoining grounds of such building or other parts of the rental community), nor shall Resident permit any guests or visitors under the control of Resident to do so.
- 4. Resident to Promote No Smoking Policy and to Alert Landlord of Violations:** Resident shall inform Resident's guests of the smoke-free policy. Further, Resident shall promptly give Property Manager/Owner a written statement of any incident where secondhand smoke is migrating into the Resident's unit from sources outside of the Resident's apartment unit.
- 5. Property Manager/Owner to Promote No Smoking Policy:** Property Manager/Owner shall post no smoking signs at entrances and exits, common areas, and hallways (and in conspicuous places on the grounds adjoining the apartment complex).
- 6. Property Manager/Owner Not a Guarantor of Smoke-Free Environment:** Resident acknowledges that Property Manager/Owner's adoption of a smoke-free living environment, and the efforts to designate the rental complex as smoke-free, do not make the Property Manager/Owner or any of its managing agents the guarantor of Resident's health or of the smoke-free condition of the Resident's unit and the common areas. However, Property Manager/Owner shall take reasonable steps to enforce the smoke-free terms of its leases and to make the (designated areas of the) complex smoke-free. Property Manager/Owner is not required to take steps in response to smoking unless Property Manager/Owner knows of said smoking or has been given written notice of said smoking.
- 7. Other Residents are Third-Party Beneficiaries of Resident's Agreement:** Resident agrees that the other Residents at the complex are the third-party beneficiaries of Resident's smoke-free addendum agreement with Property Manager/Owner. A Resident may sue another Resident for an injunction to prohibit smoking or for damages, but does not have the right to evict another Resident. Any suit between Residents herein shall not create a presumption that the Property Manager/Owner breached this Addendum.
- 8. Effect of Breach and Right to Terminate Lease:** A breach of this Lease Addendum shall give each party all the rights contained herein, as well as the rights provided for in the Lease. A material breach of this Addendum by the Resident shall be a material breach of the Lease and grounds for immediate termination of the Lease by the Property Manager/Owner. Property Manager/Owner acknowledges that in declaring this building (or portion of the building) to be smoke-free, the failure to respond by Property Manager/Owner to a complaint filed by the Resident shall be treated as equivalent to failure to respond

Smoke-Free Lease Addendum** (continued)

to a request for maintenance. Ohio law governing repair and deduct, the implied warranty of habitability, and the covenant of quiet enjoyment shall be understood to include the right to be smoke-free contingent upon cooperation of both Resident and Property Manager/Owner. These provisions shall also be construed to result in a constructive eviction if Property Manager/Owner fails to timely respond to Resident's complaints regarding secondhand smoke.

9. Disclaimer by Property Manager/Owner: Resident acknowledges that Property Manager/Owner's adoption of a smoke-free living environment, and the efforts to designate the rental complex as smoke-free, does not in any way change the standard of care that the Property Manager/Owner would have to a Resident household to render buildings and premises designated as smoke-free any safer, more habitable, or improved in terms of air quality standards than any other rental premises. Property Manager/Owner specifically disclaims any implied or express warranties that the building, common areas, or Resident's premises will have any higher or improved air quality standards than any other rental property. Property Manager/Owner cannot and does not warranty or promise that the rental premises or common areas will be free from secondhand smoke. Resident acknowledges that Property Manager/Owner's ability to police, monitor, or enforce the agreements of the Addendum is dependent in significant part on voluntary compliance by Resident and Resident's guests. Residents with respiratory ailments, allergies, or any other physical or mental condition relating to smoke are put on notice that Property Manager/Owner does not assume any higher duty of care to enforce this Addendum than any other Property Manager/Owner obligation under the Lease.

Optional Paragraph for Existing Rental Communities that Adopt Smoke-Free Policies:

10. Effect on Current Residents: Resident acknowledges that current residents residing in the complex under a prior Lease will not be immediately subject to the smoke-free policies. As current residents move out, or enter into new Leases, the smoke-free policy will become effective for their new unit or new Lease.

Resident

Date

Property Manager/Owner

Date