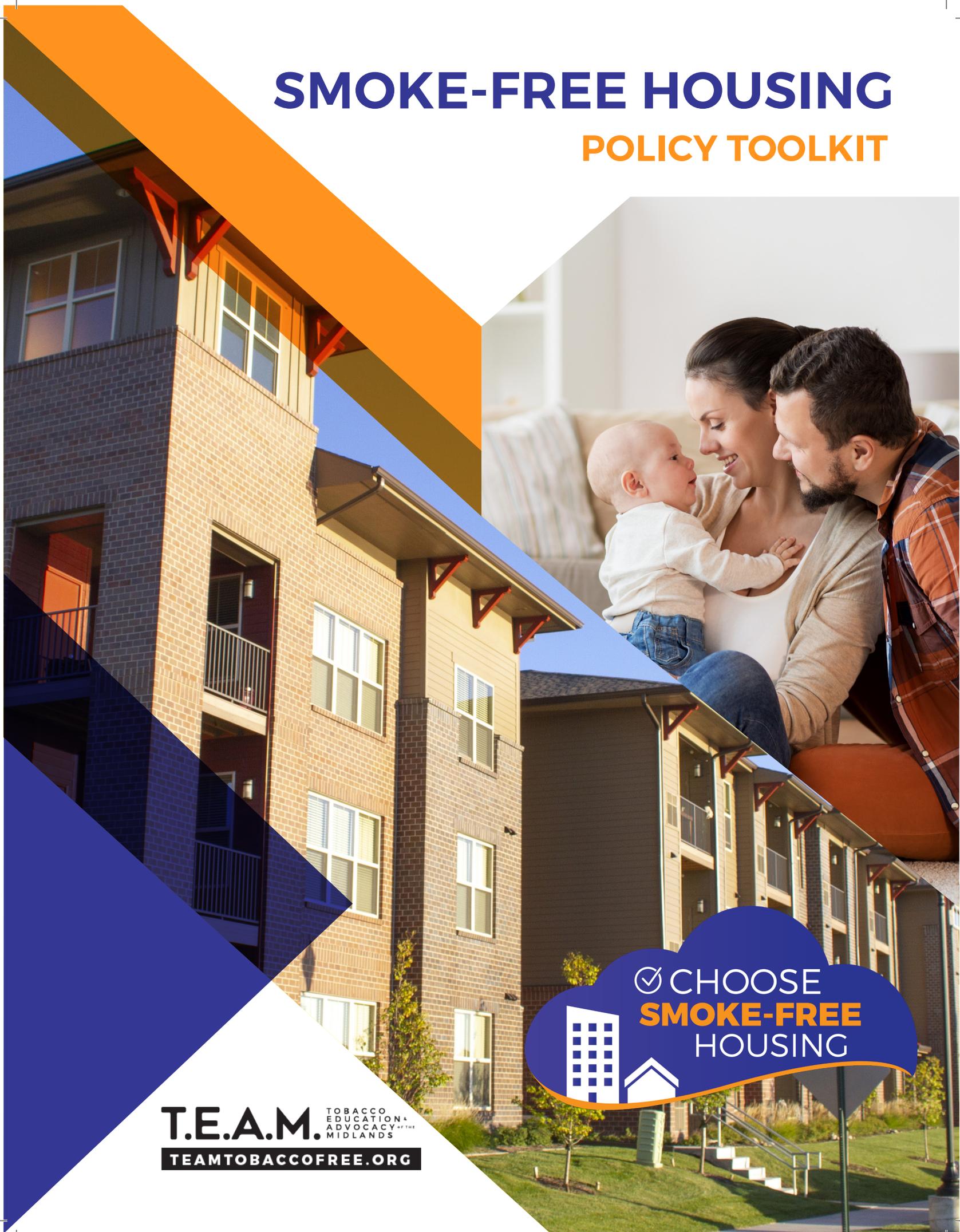


SMOKE-FREE HOUSING

POLICY TOOLKIT



T.E.A.M. TOBACCO
EDUCATION &
ADVOCACY OF THE
MIDLANDS
TEAMTOBACCOFREE.ORG

CHOOSE
SMOKE-FREE
HOUSING



COME HOME TO CLEAN AIR

Adopt a
smoke-free
policy.



Thank you for taking the time to consider making your property smoke-free.

No-smoking policies are not targeting people who smoke. Their purpose is to protect the property from damage and fire danger, as well as to help protect all residents from secondhand smoke exposure.





SMOKE-FREE HOUSING MEANS HEALTHIER, HAPPIER TENANTS.

SMOKE-FREE POLICY

A policy where no smoking is allowed in the area. This policy does not include smokeless tobacco and may or may not include electronic nicotine delivery systems (ENDS).

This policy promotes the health and well-being of the community and visitors in the area and assist in the reduction of tobacco use initiation by youth.

SAVE ON PROPERTY COSTS

Because leftover smoke residue from tobacco is difficult to eliminate, the costs of renovating a unit for new tenants can be significant. Adopting a smoke-free policy can help avoid these expenses.

AVOID LEGAL LIABILITY

Smokers are not a specially protected category of people under the Constitution's Equal Protection Clause. In fact, landlords may be liable under various health or safety codes for failure to prohibit smoking when a tenant is sensitive to secondhand smoke.

AN EMERGING MARKET FOR SMOKE-FREE

Tobacco-free apartments will help attract tenants because the demand is strong. 67.5% of Douglas County renters said that they would be very likely or somewhat likely to choose a building that is 100% smoke-free in the future.



**Renters prefer
smoke-free
housing.**





Why make your multi family housing complex smoke-free?

1

SMOKE-FREE POLICIES CAN SAVE YOU MONEY.

The cost of rehabilitating a smoking unit can be nearly seven times that of rehabilitating a smoke-free unit.

2

RENTERS PREFER SMOKE-FREE HOUSING.

Less than 18% of Nebraskans smoke.

89% of Nebraskans don't allow smoking in their homes.

3

GOING SMOKE-FREE CAN HELP PROTECT PROPERTY AND PEOPLE FROM THE RISK OF FIRE.

From 2013 to 2015, 104 multi-unit housing fires in Nebraska were caused by cigarette smoking, resulting in \$3 million in property damage.

The fatality rate in smoking-related fires is nearly four times higher than the overall residential fire fatality rate, and injuries are more than twice as likely.

4

VENTILATION REDUCES ODOR, NOT CANCER-CAUSING SUBSTANCES.

Shared ventilation systems can cause tobacco smoke to circulate from one room to another. Increased building ventilation alone will not be effective to reduce exposure to secondhand smoke.



**A smoke-free
policy for your
building makes
good business
sense.**

**T.E.A.M. (Tobacco Education & Advocacy of the Midlands)
can provide support in the following ways:**

FREE ASSISTANCE

Contact T.E.A.M. to get started. Email at:

info@TEAMTobaccofree.com

or call: (402) 593-3022.

T.E.A.M. can assist you in adopting a tobacco-free policy.

RESOURCES AND ASSISTANCE

T.E.A.M. can provide materials such as sample laws, ordinances, policies or resolutions. The Coalition will also offer assistance in the development of a communications plan to notify current and future residents as well as employees of the property.

SIGNAGE

T.E.A.M. can provide tobacco-free signage for your property.

PRINTED EDUCATION MATERIAL

Educational materials will be made available along with a draft press release for local media and smoking cessation information for the Nebraska Tobacco Quitline.



Suggested steps to make your multi-family housing community smoke-free.



Survey Residents.

It's important to learn what your residents want. Distributing a survey demonstrates to your tenants that their opinions matter in policy creation (see Appendix A for a sample).

Make a Plan.

Decide whether all or part of your property will become smoke-free or tobacco-free and when you are going to implement the new policy.

Hold a Meeting.

Gather your employees and tenants for an informational meeting to explain why you've decided to go smoke-free and how the change will benefit them. Be prepared for some resistance from staff and tenants but be firm about your plan to protect your property. A good way to explain your decision is, "It's about the smoke, not the people who smoke."

Inform Your Tenants.

Formally notify your tenants of the smoke-free policy (see Appendix B for sample), including when the policy will be enacted and specifically what the policy covers. Make sure you have appropriate language or translation services available. You will have better compliance with your policy if everyone understands fully.

Amend Your Leases.

Update the language in your lease to include the new smoke-free policy (see Appendix C).

Post Signs.

Remind tenants and inform visitors of the policy by posting signs throughout the property. Smoke-free housing signage is available at no cost from T.E.A.M.

Promote Your Smoke-Free Status.

Advertise your new status to help attract tenants who are interested in smoke-free living. TEAMTobaccoFree.org has a Smoke-free Multi-Family Housing Directory where smoke-free properties are listed at no cost.

Other Considerations: Grandfathering

T.E.A.M. does not recommend open-ended grandfathering during smoke-free policy implementation. Grandfathering is usually defined as not applying the policy to a current resident or property. If you chose to grandfather residents for a short period of time to allow everyone time to adjust to the policy; we highly recommend a time not to exceed 12 months from the date you announce your new policy.

8 COMPONENTS OF A SUCCESSFUL SMOKE-FREE POLICY

1 Reasons for the policy.

2 Who the policy applies to.

3 Locations, areas and facilities the policy covers.

4 Clear policy language

5 Consistent policy enforcement.

6 Consequences identified.

7 Well communicated.

8 Supported policy activities.

CHILDREN'S HEALTH & WELLNESS

More than **15 million U.S. children** are exposed to secondhand smoke at home. Each year, secondhand smoke is linked to:

- **300,000** cases of infant **respiratory infection**.
- **26,000** new cases of **asthma**.
- **One million** exacerbated cases of **asthma** in children.

Additionally, up to **58%** of all **deaths** due to **Sudden Infant Death Syndrome (SIDS)** are linked to secondhand smoke exposure.



There is no safe amount of secondhand smoke. Even occasional exposure can significantly increase your health risks. For every eight smokers who die, one nonsmoker dies from secondhand smoke exposure. In Nebraska, approximately 220 to 390 adults, children and infants die each year from others who smoke (secondhand smoke and pregnancy smoking).

POLICY COMPLIANCE

START WITH YOUR SMOKE-FREE HOUSING POLICY.

Put it in writing and disseminate to employees and tenants, include:

- Where smoking is allowed and where it is not.
- That the no-smoking policy also applies to their guests.
- Clearly outline consequences.

SIGNAGE

Have signs posted at the entrance of the parking lot and doors to buildings.

COMMUNICATION ABOUT THE POLICY

Reminding residents about the policy in a positive way helps them comply with it.

Have regular reviews with your staff about what is working and what can be improved upon.

CELEBRATE SUCCESS

If you have a newsletter or other ways you communicate with your residents, highlight your policy and the number of days your building has been smoke-free (without violations or with fewer violations of the policy).

PROMOTE CESSATION

Promote the Nebraska Tobacco Quitline **1-800-QUIT-NOW (784-8669)** which offers free, confidential counseling from a trained Quit Coach 24 hours a day, 7 days a week. Additional information is available at: QuitNow.ne.gov

HANDLING VIOLATIONS

Consistently document each violation and follow up with the resident involved.

Have a process in place for staff and residents to report potential violations.



FREQUENTLY ASKED QUESTIONS

Are smoke-free apartments a smart investment for landlords?

Smoke-free policies *save owners money by reducing cleaning and re-painting costs and lowering the risk of fire*. Apartment owners estimate that the cost of refurbishing an apartment after a smoking tenant moves out may be \$600 to \$3,000 more than when a non-smoking tenant moves out. Cigarettes are also a leading cause of fires in buildings and cause at least \$600,000 a year in damages in Nebraska.

Is there a market for smoke-free apartments?

Providing smoke-free apartments will help attract tenants because the demand for smoke-free housing is strong. In Nebraska, *close to 80% of adults are nonsmokers, and among people 65 and older about 90% are nonsmokers. Yet, most renters cannot find smoke-free apartments to rent.*

Is it legal to restrict or ban smoking in apartment buildings?

Apartment owners have the legal right to make their rental property smoke-free, just as they are free to decline to have animals in units. It is legal for a landlord to advertise an apartment as “smoke-free.”

Does a landlord face any legal liability if smoking is prohibited?

Not only do landlords have the right to prohibit smoking, they *may in fact be liable* under local health or safety codes, the Federal Fair Housing Act, or other common law legal theories for *failure to prohibit smoking when a tenant is sensitive to secondhand smoke*.

Are there health reasons for adopting a smoke-free apartment policy?

Secondhand smoke is the third leading cause of preventable death in the United States. It kills over 53,000 non-smokers each year with over 4,000 chemicals. *The U.S. Surgeon General has said there is no safe level of exposure to secondhand smoke.*

Can secondhand smoke entering other units be prevented?

Secondhand smoke cannot be controlled by ventilation, air cleaning or the separation of smokers from non-smokers. The only complete solution to this problem is to make buildings smoke-free.

Are there many smoke-free apartment buildings in Nebraska?

The number of smoke-free apartments in Nebraska is growing almost daily. A few years ago, very few smoke-free apartments were available. Today, with increased awareness that smoke-free apartment policies are legal and with the advantages of smoke-free policies becoming better understood, many landlords have adopted smoke-free policies.

Appendix A

Sample Tenant Survey

[Date]

Dear [Resident]:

We are pleased that you have chosen to reside at [name of building/property]. The [name of Management Company or apartment building] has been studying changes that are occurring in the management of apartments. Many owners are deciding to regulate the use of tobacco products within their properties.

Apartment building owners are adopting smoke-free policies for a number of reasons. To ensure the health and safety of all persons living here, we are considering adopting a smoke-free policy for our building and individual units. We would like to hear from you! Let us know what you think about having rules about tobacco use in the building and on the grounds. Please fill out the short survey below and return it to [name of office, etc.].

Sincerely,

[Apartment Manager's name]



Do you smoke in your unit?

- Yes, I smoke in my unit
- No, I do not smoke or allow others to smoke in my unit

Can you smell smoke in your unit?

- Yes, I can smell secondhand smoke coming into my unit from another unit
- The smoke smell bothers me/The smoke smell makes me ill
- I'm worried about the effects the secondhand smoke has on my health or the health of people who live with me

Would you like to live in a smoke-free building?

- Yes, I would like our building to be smoke free; including the units
- No, I would like our building to continue to allow smoking in the units
- I have no preference
- Building Name: _____

Comments:

Optional Information:

Name: _____ Building: _____ Unit: _____
Phone: _____

Appendix B

Sample Tenant Notification Letter

[Date]

Dear [Resident],

In order to provide a healthier environment for our residents and guests, our property has decided to go completely smoke-free. The harmful effects of secondhand smoke and the fire dangers caused by smoking are simply too great to ignore. The common areas in your building are already smoke-free in accordance with the Nebraska Clean Indoor Air Act (this includes hallways, exercise areas, laundry rooms and enclosed garages). In order to protect all staff and residents, a smoke-free policy for all individual units will be phased in as leases are renewed.

Our Building's New Smoke-free Policy

Effective [Date for new residents], all tenants signing new leases will be required to sign a smoke-free lease addendum. All current tenants will be required to sign a smoke-free lease addendum during their lease renewal process. We anticipate the transition to becoming a smoke-free policy will cover all individual units and all common areas [if applicable, list other smoke-free places on property].

All residents and guests will be required to follow this policy.

Please consider this letter as notice about the changes that will be taking place upon renewal of your lease.

We hope this policy will help everyone breathe easier and live healthier.

Thank you,
Property Manager/Owner

Appendix C

Model Smoke-Free Lease Addendum

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

Tenant Name(s): _____

Tenant Address: _____

Tenant and all members of Tenant's family or household are parties to a written Lease with Landlord. This Lease Addendum states the following additional terms, conditions, and rules, which are hereby incorporated into the Lease, effective _____ [*recommended 60-90 days following date of Lease Addendum*]. A breach of this Lease Addendum shall give each party all the rights contained herein, as well as the rights in the Lease.

1. Purpose and application of Smoke free Policy. The parties desire to mitigate (i) the irritation and known adverse health effects of secondhand smoke; (ii) the increased maintenance, cleaning, and redecorating costs from smoking; (iii) the increased risk of fire from smoking; and (iv) the higher costs of fire insurance for a non-smoke free building. Tenant acknowledges that the smoke free policy established by this Lease Addendum is applicable as follows:

___ In all properties owned or managed by Landlord or

___ In this property and the following other properties owned or managed by Landlord: _____

2. Definitions:

“Smoking” means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, including hookahs and marijuana, whether natural or synthetic, in any manner or in any form. “Smoking” also includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form.

“Electronic Smoking Device” means any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person in any manner for the purpose of inhaling vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor.

3. Smoke free Building and Grounds. Tenant agrees and acknowledges that the premises to be occupied by Tenant and members of Tenant's household shall be designated as a smoke free living environment. Tenant and members of Tenant's household shall not smoke anywhere in the apartment unit rented by Tenant, including any associated balconies, decks, or patios; in the common areas of the building where the Tenant's dwelling is located, including, but not limited to, community rooms, community bathrooms, lobbies, reception areas, hallways, laundry rooms, stairways, offices, and elevators; or in any of the common areas or adjoining grounds of such building or other parts of the rental community, including entryways, patios, and yards, nor shall Tenant permit any guests or visitors under the control of Tenant to do so.

Model Smoke-Free Lease Addendum (continued)

4. Tenant to Promote Smoke free Policy and to Alert Landlord of Violations. Tenant shall inform Tenant's guests of the smoke free policy. Further, Tenant shall promptly give Landlord a written statement of any incident where tobacco or marijuana smoke, or vapor from an electronic cigarette, is migrating into the Tenant's apartment unit from sources outside the Tenant's unit.

5. Landlord to Promote Smoke free Policy. Landlord shall post no-smoking signs at entrances and exits, common areas, and hallways, and in conspicuous places on the grounds of the apartment building.

6. Other Tenants are Third-Party Beneficiaries of Tenant's Agreement. Tenant agrees that the other Tenants in the building are third-party beneficiaries of Tenant's smoke free Lease Addendum with Landlord. A Tenant may bring legal action against another Tenant related to this smoke free Lease Addendum, but a Tenant shall not have the right to evict another Tenant. Any legal action between Tenants related to this smoke free Lease Addendum shall not create a presumption that the Landlord breached the Lease Addendum.

7. 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 in the Lease. A material breach of this Lease Addendum shall be considered a material breach of the Lease and grounds for enforcement actions, including eviction, by the Landlord. Tenant acknowledges that a breach of this Lease Addendum shall also render Tenant liable to Landlord for the costs of repair to Tenant's apartment unit due to damage from smoke odors or residue.

8. Disclaimer by Landlord. Tenant acknowledges that Landlord's adoption of this smoke free policy and the efforts to designate Tenant's building as smoke free do not in any way change the standard of care that the Landlord or managing agent would have to a Tenant 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. Landlord specifically disclaims any implied or express warranties that the building, common areas, or Tenant's premises will have any higher or improved air quality standards than any other rental property. Landlord cannot and does not warranty or promise that the rental premises or common areas will be free from secondhand smoke or vapor. Tenant acknowledges that Landlord's ability to police, monitor, or enforce the provisions of this Lease Addendum is dependent in significant part on voluntary compliance by Tenant and Tenant's guests. Landlord shall take reasonable steps to enforce this smoke free policy. Landlord is not required to take steps in response to smoking in violation of this agreement unless Landlord knows of the smoking or has been given written notice of the smoking. Tenants with respiratory ailments, allergies, or any other physical or mental condition relating to smoke are put on notice that Landlord does not assume any higher duty of care to enforce this Lease Addendum than any other landlord obligation under the Lease.

LANDLORD TENANT(S)

LANDLORD

TENANT(S)

Appendix D

SAMPLE WARNING LETTER

[Apartment Name]
[Street Address]
[City, State, Zip]
[Phone]

[Date]

[Resident Name]
[Street and apartment #]
[City, State, Zip]

Dear [Resident],

On [give date] you submitted a maintenance request for [_____]. When entering your unit, I noticed a very strong odor of cigarettes. I asked if you had been smoking, you said that you were trying to stop. I reminded you that you are not allowed to smoke in your unit.

Per your lease #[XX], smoking is prohibited in any area of the property. I have attached a copy of the lease for you to review.

Please refrain from smoking in your unit or on the property.

Failure to comply with your lease could result in eviction proceedings.

If you have questions or concerns, please contact me at [000-000-0000] or stop by the office.

Thank you for your cooperation in this matter.

[Property Manager's Name]
[Title]
[Property Name]
[Management Company]



Multi-Family Housing Survey

1) Please tell us a little about your multi-family housing complex.

Your name: _____ Complex Name: _____
 Job Title: _____ Company Name: _____
 Work Street Address: _____
 City, State, & Zip Code: _____ Work Phone: _____
 Work Email: _____

2) How many multi-family unit buildings are in your complex? _____

3) How many units are in your complex? _____

4) Who owns your complex? _____

5) Who manages your complex? _____

6) Does your complex have a smoking policy? Yes No

If your complex doesn't have a smoke-free policy, please skip to question #12

7) If your complex has a smoking policy, which of the following best describes it?

- ___ All of the buildings are required to be 100% smoke-free
- ___ Some of the buildings are required to be 100% smoke free

8) How many buildings are smoke-free? _____

9) How many units are smoke-free? _____

10) Is your smoke-free policy included in your lease agreement? Yes No

11) Are electronic nicotine delivery systems (eg. e-cigarette type devices) included in your policy? Yes No

12) Is your multi-family complex considering implementing or expanding a smoke/tobacco free policy? Yes No

13) Would you like to be added to our list of smoke/tobacco free housing options in Sarpy & Cass County? Yes No

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Continue onto back

14) What are the benefits of having a smoke-free policy? *Please check all that apply.*

- Attract more tenants
- Fewer conflicts between residents
- Lower maintenance costs
- Lower tenant turnover
- Positive impact on tenant health
- Reduced risk of fire
- Other _____

15) What are the biggest obstacles to implementing a smoke-free policy?

Please check all that apply.

- Concern of legality of policy
- Difficulties renting vacant units
- Enforcement
- Tenant complaints
- Other _____

16) Would you like to be contacted with free information on how to implement a smoke-free policy? Yes No

17) Would you like to be added to T.E.A.M.'s email list for quarterly updates? Yes No

18) Please add any additional comments you may have: _____



Please mail or email to the address listed below:

T.E.A.M.
11111 S. 84th St
Papillion, NE 68046
(402) 593-3022
info@TEAMTobaccoFree.com

Appendix E



To support the implementation of a Tobacco-Free Property Policy
Sample of available signage below:



Contact T.E.A.M. for additional information.
info@TEAMTobaccoFree.org
(402) 593-3022



MISSION:

To educate and advocate for healthy, tobacco-free communities.

VISION:

To reduce the negative impact of tobacco in our communities.

T.E.A.M. TOBACCO EDUCATION & ADVOCACY OF THE MIDLANDS

TEAMTOBACCOFREE.ORG

CHI Health Midlands

1111 S 84th St.

Papillion, NE 68046

(402) 593-3022

info@TEAMTobaccoFree.org

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