



# Smoke-Free Multiunit Housing How-to Guide

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Resource: Smoke-Free Housing Minnesota. [www.mnsmokefreehousing.org](http://www.mnsmokefreehousing.org)





# Smoke-Free Multiunit Housing

## Why Smoke-Free Housing?

- **Market Advantages:** Buildings may be able to attract more tenants by going smoke-free. Research shows that renters want smoke-free housing! Many renters are even willing to pay a higher rent and make other sacrifices, such as walking farther to a bus stop or driving farther to work, to live in a smoke-free building.
- **Reduced Costs:** Cleaning costs are lower when you don't have to scrub, paint, and replace items in an apartment that smells like smoke or is covered in residue.
- **Fewer fire risks:** Smoking-related fires are deadly and costly. By going smoke-free, you eliminate the source of smoking-related fires. Some insurance companies may even provide reduced premium rates to buildings that are smoke-free or to tenants who live in a smoke-free building. Since 2005, Sioux Falls Fire Rescue has responded to 68 emergencies where cigarettes either caused or were a factor in fire damage. This resulted in over \$550,000 dollars in property loss.
- **Smoke-free policies are legal:** A building owner/manager can legally make a rental building (or entire property) completely smoke-free.
- **Protection from secondhand smoke:** All tenants, guests, and staff members are protected from the serious health dangers associated with secondhand smoke exposure.
- **Less Vacancy:** List your property in the Apartment Guide and on community websites as many look to reside in smoke-free facilities.

	Non-Smoking	Light Smoking	Heavy Smoking
General Cleaning	\$240	\$500	\$720
Paint	\$170	\$225	\$480
Flooring	\$50	\$950	\$1,425
Appliances	\$60	\$75	\$490
Bathroom	\$40	\$60	\$400
<b>Total</b>	<b>\$560</b>	<b>\$1,810</b>	<b>\$3,515</b>

Data reflects surveys from housing authorities and subsidized housing facilities in New England. Collected and reported by Smoke-Free Housing New England, 2009. This information is courtesy of the National Center of Healthy Housing.





# Smoke-Free Multiunit Housing

## How-To Guide

### 1. What is your situation?

Are you planning for new construction, renovating, or just making a new policy? Decide which areas you are looking to cover—individual units, outdoor areas, and common areas.

### 2. Survey your tenants.

Conduct a survey to gather information about what your current residents are doing, as it pertains to smoking, and if they would be interested in a smoke-free policy.

### 3. Set a quit date.

Notify residents of why the facility is going smoke-free and let them know when. Communicate that there will be lease addendums to sign and for new residents, the smoke-free policy will be in the lease verbiage.

Decide how to convert to a smoke-free facility as there are two different ways: “phased-in” approach or a “quit date” method.

"Phase-in" method: Begin having new residents who move into the building, sign a smoke-free lease addendum or policy immediately. Announce the policy change to current residents and have them sign a smoke-free lease addendum or policy at the time of their lease renewal.

"Quit-date" method: Decide what date you would like the building to go smoke-free. Give your residents reasonable notice of the policy change and tell them that they must sign a smoke-free lease addendum before the policy change.

### 4. Determine incentives (if appropriate).

Offer residents an incentive to sign the smoke-free policy early or consider offering the option for smoking tenants to move to another building in your complex. Examples of incentives could be a parking spot close to their unit or the first 10 people to sign get their name in a drawing for a special prize.



**5. Post signs and remind residents of the new policy.**

Free signage is available through the South Dakota Department of Health as well as window clings, door hangers, posters, and many other items. Be sure your residents know about the new policy.

**6. Enforce your policy.**

Smoke-free policies are largely self-enforcing. Like any other policy, there are consequences for breaking the policy. Follow-up on all complaints the same so there is no favoritism towards anyone.

For more information, see the resources on page 17.

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*Without prejudice to the generality of the foregoing paragraph, it is not warranted that the legal information contained herein is complete, true, accurate, up-to-date, or non-misleading.*

*You must not rely on the information herein as an alternative to legal advice from your attorney or other professional legal services provider. If you have any specific questions about any legal matter, you should consult your attorney or other professional legal services provider. You should never delay seeking legal advice, disregard legal advice, or commence or discontinue any legal action because of information contained herein.*

Document developed by Live Smoke Free Minnesota: <http://www.mnsmokefreehousing.org/>.





# Smoke-Free Multiunit Housing Tenant Survey

[Date]

Dear Residents:

We are pleased that you have chosen to reside at [name of building/property]. The [name of Management Company or apartment building] have 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. Secondhand smoke is a health hazard, especially for children, the elderly, and persons with chronic illnesses, for which there is no safe exposure (source: U.S. Surgeon General, 2006). Fire danger is another reason owners are going smoke free. Since 2005, Sioux Falls Fire Rescue has responded to 68 emergencies where cigarettes either caused or were a factor in fire damage. This resulted in over \$550,000 dollars in property loss.

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]

Cut here -----

Please check all that apply.

**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 effects the secondhand smoke has on my health or 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: \_\_\_\_\_ Unit No.: \_\_\_\_\_ Phone: \_\_\_\_\_

Document developed by Live Smoke Free Minnesota: <http://www.mnsmokefreehousing.org/>.







# Smoke-Free Multiunit Housing

## Smoke-Free Lease Addendum

Tenant and all members of Tenant’s family or household are parties to a written lease with Landlord (the Lease). This Addendum states the following additional terms, conditions and rules which are hereby incorporated into the Lease.

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 of No-Smoking Policy.** The parties desire to mitigate (i) the irritation and known 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.
- 2. Definitions:**
  - a. **Smoking:** The term “smoking” means inhaling, exhaling, breathing, or carrying any lighted cigar, cigarette, or other tobacco product or similar lighted product in any manner or in any form.
  - b. **Electronic Cigarette:** The term “electronic cigarette” means any electronic device that provides a vapor of liquid nicotine and/or other substances to the user as she or he simulates smoking. The term shall include such devices whether they are manufactured or referred to as e-cigarettes, e-cigars, e-pipes, or under any product name.
- 3. Smoke-Free Complex.** Tenant agrees and acknowledges that the premises to be occupied by Tenant and members of Tenant’s household have been designated as a smoke-free living environment. Tenant and members of Tenant’s households shall not smoke anywhere in the unit rented by Tenant, or the building where the Tenant’s dwelling is located, or in any of the common areas or adjoining grounds of such building or other parts of the rental grounds, nor shall Tenant permit any guests or visitors under the control of Tenant to do so. [If you provide an outdoor smoking area, specify by stating: Exception: Tenant, members of Tenant’s household and any guests or visitors under control of Tenant can only smoke in the designated smoking area outside of the complex, located...]





4. **Tenant to Promote No-Smoking Policy and to Alert Landlord of Violations.** Tenant shall inform Tenant's guests of the no-smoking policy. Further, Tenant shall promptly give Landlord a written statement of any incident where tobacco smoke is migrating into the Tenant's unit from sources outside the Tenant's apartment unit.
5. **Landlord to Promote No-Smoking Policy.** Landlord shall post no-smoking signs at entrances and exits, common areas, hallways, and in conspicuous places adjoining the grounds of the apartment complex.
6. **Landlord Not a Guarantor of Smoke-Free Environment.** Tenant acknowledges that Landlord's adoption of a smoke-free living environment, and the efforts to designate the rental complex as smoke-free, do not make the Landlord or any of its managing agents the guarantor of Tenant's health or of the smoke-free condition of the Tenant's unit and the common areas. However, Landlord shall take reasonable steps to enforce the smoke-free terms of its leases and to make the complex smoke-free. Landlord is not required to take steps in response to smoking unless Landlord knows of said smoking or has been given written notice of said smoking.
7. **Other Tenants are Third-Party Beneficiaries of Tenant's Agreement.** Tenant agrees that the other Tenants at the complex are the third-party beneficiaries of Tenant's smoke-free addendum agreements with Landlord. (In layman's terms, this means that Tenant's commitments in this Addendum are made to the other Tenants as well as to the Landlord.) A Tenant may sue another Tenant for an injunction to prohibit smoking or for damages, but does not have the right to evict another Tenant. Any suit between Tenants herein shall not create a presumption that the Landlord 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 in the Lease. A material breach of this Addendum shall be a material breach of the Lease and grounds for immediate termination of the Lease by the Landlord.



**9. Disclaimer by Landlord.** Tenant acknowledges that Landlord’s adoption of a smoke-free living environment and the efforts to designate the rental complex as smoke-free to 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 warrant or promise that the rental premises or common areas will be free from secondhand smoke. Tenant acknowledges that Landlord’s ability to police, monitor, or enforce the agreement of this Addendum is dependent in significant part on voluntary compliance by Tenant and Tenant’s guests. Tenants with respiratory ailments, allergies, or any other physical or mental condition relating to smoke are put on notice that Landlord does not assume any higher duty of care to enforce this Addendum than any other Landlord obligation under the Lease.

LANDLORD

TENANT

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

*Optional paragraph for existing rental communities that adopt “No-Smoking Policies.”*

**10. Effect on Current Tenants.** Tenant acknowledges that current tenants residing in the complex under a prior lease will not be immediately subject to the No-Smoking Policy. As current tenants move out, or enter into new leases, the smoke-free policy will become effective for their unit or new lease.

Document originally developed by Live Smoke Free Minnesota: <http://www.mnsmokefreehousing.org/>  
Revised 2015 by SD DOH/TPC







# Smoke-Free Multiunit Housing Resident Notification Letter

[DATE]

Dear Residents,

In order to provide a healthier environment for our residents and guests, our property has decided to go completely smoke-free in both common areas and in all individual units. The harmful effects of secondhand smoke and the fire dangers caused by smoking indoors are simply too great to ignore.

### Hazards of Secondhand Smoke

Secondhand smoke is a serious health hazard. It is the third leading cause of preventable death in the United States, causing approximately 49,000 deaths each year. The 2006 Surgeon General's report, "The Health Consequences of Involuntary Exposure to Tobacco Smoke," states that there is no risk-free level of exposure to secondhand smoke. Secondhand smoke is particularly dangerous to children and has been linked to childhood asthma, low birth weight, ear infections, and Sudden Infant Death Syndrome.

### Fire Risk

Smoking is the leading cause of fire death in the United States. Since 2005, Sioux Falls Fire Rescue has responded to 68 emergencies where cigarettes either caused or were a factor in fire damage. This resulted in over \$550,000 dollars in property loss. Fires can start on decks and porches as well as in units. According to the National Fire Protection Association's report "The Smoking Materials Fire Problem," one in four (24 percent) victims who die in residential smoking-related fires is not the smoker whose cigarette started the fire. Fires caused by smoking are costly, deadly, and leave many people with damaged property and no place to live. We want to protect our residents from these dangers.

### Ventilation is not Effective

Research conducted during air movement studies have shown that secondhand smoke travels from unit to unit. The smoke can seep through electrical outlets, heating and duct work, and structural gaps. The remodeling required to prevent secondhand smoke from traveling to another residence can be costly and ineffective. The only effective way to stop the spread of secondhand smoke is by adopting a smoke-free policy.





### Our Building's New Smoke-Free Policy

Effective **[date for new tenants]**, all tenants signing new leases will be required to sign a smoke-free lease addendum that explains the policy. 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 building to be completed by **[date all tenants will have signed smoke-free lease addendum]**. The 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.

Please have all adults living in your unit sign the enclosed form and return it to the management within one week. If you have any questions about this policy, please contact management.

Thank you,

**[Property manager/owner]**

*Document developed by Live Smoke Free Minnesota: <http://www.mnsmokefreehousing.org/>.*





[DATE]

All adults living in a unit must sign below and return to the management within one week. If this form is not signed and returned within one week, management will assume that residents have chosen not to adhere to the smoke-free policy and will begin the lease termination process.

**Adult No. 1**

I understand and agree to abide by the smoke-free policy to begin at my lease renewal.

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Apartment Number: \_\_\_\_\_ Date: \_\_\_\_\_

**Adult No. 2**

I understand and agree to abide by the smoke-free policy to begin at my lease renewal.

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Apartment Number: \_\_\_\_\_ Date: \_\_\_\_\_

**Adult No. 3**

I understand and agree to abide by the smoke-free policy to begin at my lease renewal.

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Apartment Number: \_\_\_\_\_ Date: \_\_\_\_\_

**Adult No. 4**

I understand and agree to abide by the smoke-free policy to begin at my lease renewal.

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Apartment Number: \_\_\_\_\_ Date: \_\_\_\_\_

Document developed by Live Smoke Free Minnesota: <http://www.mnsmokefreehousing.org/>.





# Smoke-Free Multiunit Housing

## Q & A for Managers/Owners

### 1. Why would a landlord want to prohibit smoking?

- a. In addition to the important health benefits of reducing exposure to secondhand smoke, restricting smoking can decrease the risk of accidental fires and may even reduce fire insurance premiums. Landlords also may see a significant reduction in maintenance and turnover costs. Cleaning and refurbishing a smoker's unit can require additional time and effort to repaint and to replace carpets and drapes. By prohibiting smoking in a unit, landlords can minimize or eliminate these expenses altogether.

### 2. What is a smoke-free residential building policy?

- a. Smoke-free policies are a means for landlords/management companies to prohibit tenants and others from carrying or using a lit tobacco product anywhere within multi-unit residential buildings, including places where people live.
- b. Some policies extend the restriction to include balconies, terraces, gardens, and other outdoor areas connected with the property.

### 3. Are smoke-free housing policies legal?

- a. Yes. Because the US Constitution does not guarantee a right to smoke, prohibiting smoking in multiunit dwellings is legal.
- b. Smokers are not a protected class. As a result, smoke-free housing policies are not discriminatory.
- c. Landlords may write clauses into new leases or lease addendums that prohibit smoking.
- d. Smoke-free housing policies are not made to evict smokers, but to prohibit the act of smoking anywhere in the building.

### 4. Is it discriminatory to designate an entire building or apartment campus as smoke-free?

- a. No. Smoking is not a protected activity or right. An individual's status as a smoker is not a protected category or recognized disability. A smart decision is to implement a policy based on the activity of smoking and not an individual's status as a smoker. Write the policy so that a person who smokes can continue to live in the building, but they must refrain from smoking in the building or other areas that are included in the policy.



**5. How is a smoke-free policy adopted?**

- a. Policies that prohibit smoking can be written as a lease addendum or within a new lease and should be reviewed by your attorney.
- b. Smoke-free policy options:
  - i. Landlords may choose to prohibit smoking in all units, at the same time, during the term of existing leases, provided that adequate notice is given.
  - ii. Smoke-free policies can be applied to tenant by tenant and the time of each lease renewal.
  - iii. Landlords may allow all current tobacco users to continue to smoke in their units, while writing the policy into leases for new tenants. (**NOT RECOMMENDED** as this process can take years to solve secondhand smoke troubles.)
- c. Whichever option is chosen, notify all tenants, by letter, explaining the reasons for the new policy, with transition and compliance details. Require tenants to sign a copy stating their intent to comply with the new rule.

**6. What is the best way to implement and enforce a smoke-free policy?**

- a. Once tenants receive written notice and the policy has been written into leases, post smoke-free signs throughout the building.
- b. Ease the transition:
  - i. Train your staff to comply with and answer questions about the policy.
  - ii. Until all units are smoke-free, provide apartments invaded by secondhand smoke with remedial modifications.
  - iii. If needed, identify places where tobacco users can smoke without breaking the terms of the lease.
  - iv. Provide quitting (smoking cessation) materials and resources for tenants.





- c. Enforcement:
  - i. In most cases, smoke-free policies are self-enforcing. When not, smoking violations should be treated as any other lease or rule violations.
  - ii. Speak to the tenant regarding the violation.
  - iii. Provide written notice with expectation of compliance.
  - iv. Move to evict if the tenant continues to violate the terms of the lease.
  - v. Consult your attorney about eviction proceedings.



# Smoke-Free Multiunit Housing

## Q & A for Residents

### 1. Why would a landlord want to prohibit smoking?

- a. In addition to the important health benefits of reducing exposure to secondhand smoke, restricting smoking can decrease the risk of accidental fires and may even reduce fire insurance premiums. Landlords also may see a significant reduction in maintenance and turnover costs. Cleaning and refurbishing a smoker's unit can require additional time and effort to repaint and to replace carpets and drapes. By prohibiting smoking in a unit, landlords can minimize or eliminate these expenses altogether.

### 2. Can my neighbor's tobacco smoke get into my unit?

- a. Yes. Smoke drifting from lit tobacco products and/or exhaled by smokers seeps into the living spaces of other tenants and common areas of the building. Secondhand smoke travels through lighting fixtures, cracks in walls, around plumbing, under doors, and shared heating/ventilation.

### 3. Is secondhand smoke really that bad for me?

- a. Yes. Secondhand smoke is a class 'A' carcinogen, like radon and asbestos.
- b. Among the many illnesses caused or made worse by secondhand smoke are: lung cancer, asthma, sinus infections, ear infections, chronic cough, Sudden Infant Death Syndrome, and heart disease.

### 4. Is it legal for my property manager to have smoke-free housing?

- a. Yes. It is legal for management of private and public housing to adopt smoke-free building policies which protect your health and their property.
- b. Smoking is not a right guaranteed under the Constitution. You have a right to ask management to protect you from unwanted secondhand smoke and to expect reasonable action.
- c. A ban on smoking in common areas is similar to other rules tenants typically must follow regarding the use of common areas, such as the hours for using the laundry facility or the requirement that children be accompanied by an adult when using the pool.



- d. It is legal for a landlord to ban smoking in individual units. Landlords have the legal right to set limits on how a tenant may use rental property—for instance, by restricting guests, noise, and pets. A “no-smoking” term is similar to a “no pets” restriction in the lease—another way for a landlord to protect his or her property.

**5. How do I advocate for smoke-free housing?**

- a. Gather support from neighbors to urge your management to write a smoke-free policy into the lease.
- b. Take note of how often you and/or your family smell tobacco smoke in your home.
- c. Work with a local tobacco coalition to learn about how to encourage your property manager/owner to go smoke-free.
- d. Talk with your owner/manager about the concern you have for a potential fire as well as the health of your friends and family.



## Smoke-Free Multiunit Housing Quit Smoking Resources

- **South Dakota QuitLine** 1-866-SD-QUITS (1-866-737-8487) [www.sdquitline.com](http://www.sdquitline.com)  
The South Dakota QuitLine is a free resource that is available to all South Dakota residents which offers free access to online quit tools, support from other tobacco users who are trying to quit, and Nicotine Replacement Therapy (NRT). There are three options for over-the-counter NRT, which include the patch, gum, and lozenge. Then there are also two prescriptions medications available (must go through a doctor first), which are Zyban and Chantix.
- **Health Connect of South Dakota** 605-371-1000 [www.healthconnectsd.info](http://www.healthconnectsd.info)  
Health Connect provides individuals, families, and communities with up-to-date information regarding various medical challenges, as well as to help to identify resources available on a local, regional, and national level.
- **American Lung Association** [www.lung.org](http://www.lung.org)  
The American Lung Association has many resources around smoking and tobacco use. They have an online curriculum available to property owners to assist in implementing a smoke-free building.
- **American Heart Association** [www.heart.org](http://www.heart.org)  
Tobacco use is the leading preventable cause of death in the United States and a major risk factor for cardiovascular disease—the nation’s number one killer. The American Heart Association is active in the federal legislative and regulatory arenas to promote healthful policies that prevent and reduce tobacco use, especially among youth, as well as protecting non-smokers from exposure to secondhand smoke.
- **American Cancer Society** 1-800-227-2345 [www.cancer.org](http://www.cancer.org)  
The American Cancer Society is dedicated to helping tobacco-users quit. They have an abundance of resources available to assist you in quitting tobacco use. Learn about why you should quit, the costs associated with quitting, how your health increases, and much more.



- **Avera McKennan Tobacco Cessation Assistance** 605-322-6578  
[www.avera.org/mckennan/health/smoking/](http://www.avera.org/mckennan/health/smoking/)  
Avera McKennan Corporate Health Services offers smoking cessation services on an inpatient and outpatient basis. Our program includes coaching services to effectively help you quit your tobacco addiction for good.
- **US Dept. of Housing and Urban Development (HUD) Toolkit** [www.hud.gov](http://www.hud.gov)  
HUD, the American Academy of Pediatrics, and the American Lung Association are joining together to protect everyone living in federally assisted multifamily housing from the dangers of secondhand smoke. To assist you in going smoke-free, HUD has developed smoke-free housing toolkits to provide user-friendly information on making all buildings smoke-free. There are materials for landlords, including Public Housing Agencies, and for resident organizations.
- **National Cancer Institute (NCI) QuitPal** [www.smokefree.gov/apps/nciquitpal](http://www.smokefree.gov/apps/nciquitpal)  
NCI developed the QuitPal to help smokers working to become smoke-free. The app contains more than 10 interactive features that allow users to set a quit date and financial goals, and receive reminders.

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Primary source of toolkit: Smoke-Free Housing Minnesota [www.mnsmokefreehousing.org](http://www.mnsmokefreehousing.org)





# Smoke-Free Multiunit Housing Enforcement

States around the nation have found that in worksites and other public areas, smoke-free policies have been largely self-enforcing. No heavy policing has been necessary.

Landlords and property managers can designate their buildings as smoke-free if they choose. A landlord is not discriminating against smokers by imposing a smoke-free policy for the apartment building. Because the number of completely smoke-free rental apartment buildings in South Dakota is very small, there is little research in regards to enforcing a policy, but a small survey of owners with smoke-free policies in Minnesota revealed that the overwhelming majority of them did not experience an increase in staff time spent on managing the building after they put a smoke-free policy in place.

In any case, someday someone may test the rules. If the smoke-free policy is not enforced, the building will not have smoke-free units, and the tenants will be unhappy. The smoke-free policy should be enforced as would any other lease provision. This guide outlines some steps a landlord should take to ensure the enforceability of a smoke-free policy and the steps that the landlord should follow in the case of a violation.

## Preparing to Adopt a Smoke-Free Policy:

1. Make sure that the lease contains a no-smoking provision or that the lease has a smoke-free lease addendum.
2. Ensure that the lease contains a provision that allows the landlord the right to terminate the lease upon the breach of any provision.
3. Include in the lease a provision which states that any waiver of lease requirements can only be made in writing.

For more information, see the resources on page 17.

## If a Violation Occurs:

1. The landlord should document the instances of violations of the smoke-free policy by sending a *Notice of Infraction* or a letter to the tenant reminding the tenant of the terms of the lease, providing the tenant a description of the violation(s) and recording the date(s) of the violation(s).



2. If multiple infractions occur and the landlord wishes to evict the tenant, the landlord should confer with an attorney for an opinion as to whether the violations are substantial or minor. Generally courts will look for a substantial violation or multiple minor violations to justify an eviction.
3. The landlord will have the burden of proving the lease violation allegations if an eviction action becomes necessary, so the landlord should talk with other tenants to determine if they witnessed the lease violation and would be willing to testify in housing court.
4. If the landlord decides to proceed with terminating the tenant or resident, the following is the procedure for eviction:
  - a. A posting of a three-day notice to quit/vacate
  - b. A posting of a four-day notice for a summon and complaint (must be placed by a service officer)
  - c. Filing with Circuit Court
  - d. The Court posts a notice with court date
  - e. Court
  - f. If the court issues an eviction order, the Sherriff comes and can remove belongings to the curb (In Minnehaha County they post a 24-hour notice of lockout)



# Smoke-Free Multiunit Housing

## Sample Enforcement Plan

### Overall Message:

Enforcement is like any other lease violation issue and follows a similar process:

- 1st Violation** Verbal warning followed by smoking cessation materials.
- 2nd Violation** Verbal warning followed by smoking cessation materials and a referral to the South Dakota QuitLine.
- 3rd Violation** Written warning letter followed by smoking cessation materials and referral to the South Dakota QuitLine.
- 4th Violation** Administer termination notice with *[No. of days]* option to remedy, followed by a referral to the South Dakota QuitLine. If remedied, resident begins probation period *[according to SD law]*.
- 5th Violation** If repeat violation occurs within probation period, issue a *[No. of days]* termination notice.

### **South Dakota QuitLine: 1-866-SD-QUITS (1-866-737-8487)**

The South Dakota QuitLine is a free resource that is available to all South Dakota residents which offers free access to online quit tools, support from other tobacco users who are trying to quit, and Nicotine Replacement Therapy (NRT). There are three options for over-the-counter NRT, which include the patch, gum, and lozenge. Then there are also two prescriptions medications available (must go through a doctor first), which are Zyban and Chantix.





# Smoke-Free Multiunit Housing Notice of Smoking Incident

BUILDING: \_\_\_\_\_

DATE: \_\_\_\_\_

RESIDENT: \_\_\_\_\_

UNIT NO: \_\_\_\_\_

### Description of incident:

- \_\_\_\_\_ 1. Smoking coming into rental unit.
- \_\_\_\_\_ 2. Smoking observed in indoor common area.
- \_\_\_\_\_ 3. Smoking observed in outdoor area.
- \_\_\_\_\_ 4. Other.

### Remarks/Detailed Description:

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Please submit this form to the rental office.

\_\_\_\_\_  
Tenant

\_\_\_\_\_  
Date

Document developed by Live Smoke Free Minnesota: <http://www.mnsmokefreehousing.org/>.





## Smoke-Free Multiunit Housing Resident Compliance Letter

Dear **[NAME OF RESIDENT]**,

As stated in your lease with **[NAME OF PROPERTY/COMPANY]**, our no-smoking policy is that (insert smoking policy from your lease).

On **[DATE]** and **[TIME]**, you were **[REPORTED/OBSERVED]** (*choose one*) to be smoking in **[NAME OF AREA]** in violation of the lease. (*Add other information about the violation as appropriate.*)

If you violate your lease again, we may take appropriate legal action, including terminating your lease.

Enclosed with this letter is information regarding quit smoking resources in the community, in case this is of interest to you.

*If you have a particular enforcement procedure of warnings, fines, notices, etc., describe it here.*

*If you have a designated smoking area, tell the tenant where it is and to remember to smoke in the designated area only.*

If you have questions or concerns, please contact us at **[CONTACT INFORMATION]**.

Thank you,

**[YOUR NAME  
COMPANY]**

Document developed by Live Smoke Free Minnesota: <http://www.mnsmokefreehousing.org/>.

