gasp colorado

Group To Alleviate Smoking Pollution

Advocating for smoke-free policies since 1977

Obtaining Compliance for Smoke-Free Policies in Multifamily Housing

Best Compliance Practices

- Communicate the policy to prospective residents, employees, and visitors. Be clear that guests and staff need to follow the policy. Use posters and newsletters as well as advertisements. Make the smoke-free policy part of your branding for your stationary, newsletters, business cards, and building signs. Communications about the policy should be ongoing and reminders made when the weather changes. Wintertime increases the likelihood of exposure to secondhand smoke from indoor sources. Summertime increases exposure from outdoor sources when windows are open, and people are more likely to smoke outside.
- Visit the property frequently to observe compliance, look for signs of policy violations, and establish a protocol for dealing with violations.
- Document and investigate complaints promptly and take action to ensure compliance.
- Offer residents a safe and anonymous way to report violations. Remind them of their responsibility to report violations.
- No-smoking signs should be placed throughout the property at all building entrances, in hallways, and any common rooms such as laundries, gymnasiums, card rooms, etc. Consider having no-smoking signs on every unit door. Include signs in different languages as necessary.
- Smoking-cessation resources and information should be provided.
- Thank your staff, managers, and residents for their cooperation and help.
- Any designated smoking areas should to be at least 25 feet away from all buildings, doors, or window openings.

Note: A 2014 study by the American Lung Association in Colorado found that having designated areas outdoors can lead to exposure to tobacco smoke as it drifts into units, resident confusion about the policy, and continued resident complaints and health problems. Housing providers and managers should consider a 100% smoke-free policy for the entire property, as these policies are easier to understand and enforce.

Talking Points for Residents

- The indoor air quality will be healthier and protects everyone from secondhand smoke exposure.
- Fire risks from unattended smoking materials is reduced, improving everyone's safety.
- People who smoke are welcome but will have to go outside to smoke or use noncombustible alternatives.
- Less building damage and maintenance may help management keep rental rates stable.
- Tobacco smoke has no boundaries. Complying with the no-smoking policy helps show respect for your neighbor's health and safety.

Collecting Evidence of Smoking

- A staff member witnesses and reports seeing a resident, guest, family member, service provider or other person violating the policy by smoking inside their unit, the common areas, or in other areas not permitted by the policy.
- A staff member or maintenance person witnesses and reports a lighted smoking product in an ashtray or other receptacle inside an apartment.
- Damages to the interior of the unit are found that are the result of burns caused by smoking products.
- Odors of tobacco or marijuana smoke, smoke clogged ventilation systems or ventilation filters, film or yellow coloring on the walls or window coverings caused by tobacco smoke, burned countertops or furnishings, ashes on any surfaces.

Tools for Obtaining Compliance

Most smoke-free policies are self-enforcing. Residents can be your greatest allies. If a resident complains about being bothered by smoke or knows of another resident who has violated the policy, document the facts and work to resolve the matter. Treat violations like any other lease violation. Lack of enforcement with one resident may hamper enforcement with other residents. Prompt, consistent action will send a clear message to everyone in your property that smoking is not allowed.

Smoke-Free Policy Compliance Process: A Graduated Approach

This document outlines a structured, equitable process for addressing smoke-free policy violations, prioritizing resident support and compliance while protecting the health of all residents. Given the challenges residents may face in finding stable housing, multiple opportunities for compliance should be provided before resorting to eviction.

Initial Engagement and Support Phase

1. **Direct Meeting:** A face-to-face meeting with the resident is the first step. This meeting aims to foster a positive dialogue, explain the smoke-free policy, and offer support and resources for smoking cessation.
    - **Action:** Conduct a private meeting with the resident.
    - **Documentation:** Record the date, time, attendees, key discussion points (including the resident's response), and any resources provided.
    - **Follow-Up:** Send a letter within [Number] days summarizing the conversation and reiterating the policy and available resources (e.g., quit lines, cessation programs, nicotine replacement therapy).

Formal Notification and Collaborative Planning Phase

2. **First Written Notice of Violation:** If the issue persists, send a formal written notice detailing the violation, referencing the smoke-free policy, and requesting a meeting to discuss a plan for compliance.
    - **Action:** Send a certified letter or hand-deliver the notice.
3. **Compliance Meeting:** Conduct a meeting with the resident to develop a mutually agreeable plan to prevent future violations. This may involve exploring alternative nicotine options or connecting the resident with cessation resources.
    - **Documentation:** Record the date, time, attendees, the agreed-upon plan, and any support offered.

Escalation and Final Warning Phase

4. **Second Written Notice of Violation and Required Meeting:** If the problem continues, send a second written notice and schedule another meeting. This meeting will reiterate the policy, review the resident's plan, and emphasize the potential consequences of continued non-compliance. Offer mediation services.
    - **Action:** Send a certified letter or hand-deliver the notice.
5. **Final Compliance Meeting and Warning:** This meeting serves as a final opportunity to address the issue before initiating termination proceedings. Offer mediation services and reiterate cessation resources and alternative nicotine options. Issue a formal written "Final Warning" letter outlining the potential for eviction if violations continue.
    - **Action:** Conduct the meeting and issue the warning letter.
    - **Documentation:** Meticulously document the meeting, including any offers of assistance and the resident's response.

Termination Process (If Necessary)

6. **Considerations Before Eviction:** Prior to initiating eviction, carefully consider the following factors:
    - Resident's demonstrated willingness to comply.
    - Impact of the resident's smoking on the health and safety of other residents.
    - Any documented attempts at mediation or alternative dispute resolution.
    - Other relevant factors, including potential Fair Housing Act implications (e.g., disability-related accommodations).
7. **Legal Consultation:** *Before proceeding with any legal action, consult with an attorney specializing in Colorado landlord-tenant law.* This is crucial to ensure compliance with all applicable laws and regulations.

8. **Colorado-Specific Legal Requirements:** Follow all required legal steps, including serving a Demand for Compliance, Notice to Quit, and Notice to Terminate Tenancy for Repeated Violation, *exactly as prescribed by Colorado law*. Your attorney will provide guidance on these procedures.

The suggestions and information included herein are intended to provide general guidance only. They should not be relied upon as a substitute or replacement for legal counsel or advice. You should not act nor rely on this information without first seeking the advice of an attorney.

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