



# CREATING SMOKE-FREE AFFORDABLE HOUSING



**Tenants in multi-unit housing are often unwillingly exposed to secondhand commercial tobacco smoke in their homes.<sup>1</sup>**

Secondhand smoke can flow through open windows and under doors, seep in between shared walls, travel along openings for pipes and wiring, and blow through shared ventilation systems.<sup>2</sup> For example, according to a study of affordable housing in New York City, 60 percent of surveyed nonsmoking tenants reported smelling secondhand smoke in their units, and researchers collected evidence of nicotine in approximately 88 percent of stairwells, 74 percent of hallways, and 10 percent of nonsmoking units.<sup>3</sup> Such



The Public Health Law Center has created this series of legal technical assistance guides to serve as a starting point for organizations interested in implementing certain tobacco control measures. We encourage you to consult with local legal counsel before attempting to implement these measures.<sup>4</sup> For more details about these policy considerations, please contact the Center.



exposure levels represent a significant public health threat, as 68 percent of people who benefit from federal rental assistance are elderly, children, or have disabilities.<sup>5</sup> Regrettably, for many affordable housing tenants who experience drifting smoke, their only option is to stay where they are and endure the exposure, as they are on fixed or limited incomes and might not be able to afford to move to another apartment to escape the infiltrating smoke. In response to this problem, momentum is growing for the implementation of smoke-free policies in affordable multi-unit housing. This brief guide provides basic information for low-income housing providers interested in adopting smoke-free policies.

## HUD's Smoke-free Requirement

As of 2018, the U.S. Department of Housing and Urban Development (HUD) required all public housing (one type of affordable housing) to be smoke-free.<sup>6</sup> Public housing authorities must

now, at a minimum, prohibit smoking in individual units and in indoor common spaces, as well as within 25 feet of indoor areas where smoking is prohibited.<sup>7</sup> Public housing authorities also have the discretion to make their smoke-free policies stricter than the HUD rule requires. For example, public housing authorities may prohibit all smoking on property grounds and prohibit the use of e-cigarettes.<sup>8</sup> For more information, check out the [HUD website](#) or [HUD's Smoke-free Public Housing Rule: An Overview](#).

Currently, HUD does not require that all types of affordable housing be smoke-free.<sup>9</sup> For example, mixed-finance properties and housing voucher properties (both project- and tenant-based) are exempt from HUD's smoke-free rule.<sup>10</sup> Public housing authorities may implement smoke-free rules for mixed-finance properties, HUD's project-based housing voucher properties, and other properties they manage. Although HUD cannot require properties that accept tenant-based housing choice vouchers to be smoke-free, the local jurisdiction or public housing authority can adopt such a policy.<sup>11</sup> Individual landlords may set smoking restrictions for tenants with tenant-based housing choice vouchers.<sup>12</sup> For more information, HUD's website offers a [smoke-free housing toolkit](#) for owners and managers of federally-assisted public and subsidized housing.

In addition to public housing authorities that have implemented HUD's mandatory smoke-free housing rule, many jurisdictions have also adopted smoke-free policies for other types of affordable housing.<sup>13</sup> Lists of smoke-free policies covering both [public](#) and [private housing](#) are available on the American Nonsmokers' Rights Foundation website.

Federal agencies encourage the adoption of smoke-free policies in affordable housing. For instance, the [Advancing Healthy Housing](#) strategic plan, developed by members of the EPA, HUD, and other federal organizations, promotes measures to eliminate secondhand smoke in the home environment.<sup>14</sup> The U.S. Surgeon General has prioritized smoke-free housing in a [Call to Action to Promote Healthy Homes](#).<sup>15</sup> The Department of Agriculture and its Rural Development (RD) housing program have issued a notice promoting smoke-free housing directed for the properties that RD supports.<sup>16</sup>

## Policy Benefits

Smoke-free policies in affordable housing offer numerous benefits — both for tenants and housing providers.

- **Create Healthier Indoor Environments:** A substantial number of public housing tenants suffer from chronic diseases such as asthma and cardiovascular disease,<sup>17</sup> which can be exacerbated by exposure to secondhand smoke.<sup>18</sup> Eliminating exposure to secondhand smoke

is the only effective way to safeguard the health of these particularly vulnerable tenants and all tenants in subsidized housing. Such policies are necessary, as air purifiers and ventilation systems are unable to completely filter out the toxic components of tobacco smoke.<sup>19</sup> Air quality experts acknowledge that the only way to truly reduce the health risks from secondhand smoke exposure is to create completely smoke-free indoor environments.<sup>20</sup>

- **Reduce Turnover Costs:** The cost of cleaning a unit after smoking has damaged a unit can be hundreds of dollars more than for a unit that has not been damaged by commercial tobacco smoke. Renovating a smoked-in unit can include repainting the walls, replacing carpeting, drapes, and appliances to reduce smoking odors, and refurbishing floors and countertops that have cigarette burns. A smoke-free housing policy can help affordable housing providers save money by reducing the costs of cleaning and restoring units, allowing them to use their limited financial resources to support other important mission-driven operations.
- **Prevent Smoking-Related Fires:** Cigarettes and other smoking-related items cause 23 percent of home fire deaths and \$476 million in direct property damage every year.<sup>21</sup> A smoke-free policy reduces the possibility of a smoking-caused fire and increases the safety of tenants and their property.
- **Meet the Demand for Smoke-Free Living:** The desire to live in smoke-free housing cuts across socio-economic classifications. Throughout the U.S., survey after survey finds a majority of renters favor living in smoke-free multi-unit housing.<sup>22</sup> It is also important to note that the vast majority of the groups disproportionately represented in affordable housing do not smoke: 92 percent of seniors, 85 percent of African Americans, and 91 percent of Hispanics do not smoke.<sup>23</sup> Moreover, 79 percent of households living on an annual household income of less than \$35,000 do not include anyone who smokes.<sup>24</sup> By implementing a smoke-free policy, affordable housing providers will be better able to meet the needs and preferences of the vast majority of their tenants.

Studies have shown that implementing smoke-free policies in affordable housing could save approximately \$500 million annually across the U.S., including \$310 million in related health care expenses, \$133 million in renovation costs, and \$53 million in fire losses.<sup>25</sup>

## Types of Affordable Housing

The term “affordable housing” generally refers to housing that is subsidized by government or philanthropic funds to assist people with low incomes who might not otherwise be able to pay market rate rents. The income level needed to qualify for affordable or subsidized housing

differs depending on the type of program. In addition, some programs are designed to serve specific populations — for example, people with disabilities or those who were formerly homeless. While many different government programs create affordable housing, the three most common are:<sup>26</sup>

- **Public Housing:** Multi-unit housing that is owned and managed by a city or county agency generally referred to as public housing, and is generally managed by a public housing authority. In addition to local funds, housing authorities also receive federal funds from HUD and thus must adhere to HUD standards and operating regulations. Some public housing is part of mixed-finance developments, which are housing communities designed for a breadth of income levels that are owned at least in part by private entities.<sup>27</sup>
- **Project-Based Housing Vouchers:** This housing type consists of multi-unit housing that is privately owned (often by a nonprofit organization) that receives federal HUD funds to subsidize a portion of the rent for qualified tenants living in the development. This subsidy is tied to the property and is used to defray rental expenses for those living on-site. This type of affordable housing also must adhere to HUD standards and operating regulations.
- **Tenant-Based Housing Choice Vouchers:** Some low-income renters receive a voucher, funded by HUD, which is used to pay a portion of the rent for a market-rate rental unit where vouchers are accepted. The voucher subsidy stays with the tenant and can be used to subsidize rent at different rental properties that are privately owned (often by a for-profit company or landlord). The tenant can use the voucher subsidy at a rental property as long as the housing provider has met HUD eligibility criteria.

## Policy Elements

All affordable housing providers can adopt smoke-free policies. Below are basic considerations to keep in mind when implementing any smoke-free housing policy.

- **Explain the Reason for a Smoke-Free Policy:** Tenants, guests, employees, and others associated with affordable housing need to understand the significant health and fire risks associated with smoking and secondhand smoke and the benefits a smoke-free environment provides.
- **Describe Where Smoking Is and Is Not Allowed:** The policy needs to clearly identify areas that are smoke-free and areas (if any) where smoking is allowed. At a minimum, PHAs managing public housing must prohibit smoking in individual units, common rooms, and within 25 feet of residential and administrative buildings. PHAs may also prohibit smoking in other areas

of the property or the entire property.<sup>28</sup> Other property owners or PHAs managing affordable housing buildings can decide where the smoke-free policy applies and whether smoking will be allowed at all on the property. Other areas that can be covered under a policy include:

- Indoor individual units;
  - Balconies, patios, or decks of individual units;
  - Indoor common areas;
  - Outdoor common areas, such as walkways, parking lots, playgrounds, and eating areas; and
  - Areas near doorways, windows, and air vents.
- **Apply Policy to Everyone:** For a smoke-free policy to be effective, the smoking restrictions need to cover all tenants, guests, and employees. A policy that is uniformly applied to everyone that lives, works, and visits the complex will facilitate successful implementation and compliance. It helps enforcement to require those who live and work in the complex to educate their guests about the smoke-free policy and ensure they know about the rules.
  - **Decide How to Respond to Policy Violations:** While a smoke-free housing policy will likely have high levels of tenant compliance, the housing provider should have a plan in place outlining how infractions will be handled. Affordable housing managers may choose to use a graduated or escalating enforcement protocol where verbal warnings are issued first, followed by written warnings and referrals to cessation and other counseling services if necessary. A graduated enforcement structure helps ensure better compliance with a smoke-free policy by providing multiple steps for enforcement and providing the opportunity for residents to change their behavior before infractions rise to the level of lease termination.<sup>29</sup> If eviction is used to enforce the policy, it should be used only as a last resort.<sup>30</sup> Housing providers may wish to draw on their experience and approaches used to enforce other house rules and lease provisions, such as sanitary requirements or noise policies.
  - **Prepare Tenants and Staff for Implementation of the Policy:** An outreach program can be a useful way to inform tenants about the new policy. Elements could include fliers announcing the launch of the program, handouts with Frequently Asked Questions, announcements at gatherings, and educational presentations at tenant meetings. The approach used should be appropriate for the tenants in terms of language and format. In addition, on-site smoking cessation classes or referrals to cessation resources in the community should be offered. Staff need to learn about the policy and know how to implement and enforce it. The housing provider should post “No Smoking” or “Smoke-Free” signs in areas where smoking is prohibited to act as ongoing reminders about the policy.

## Challenges

Affordable housing providers and tenant advocates may have concerns about adopting a smoke-free multi-unit housing policy because of the way it might impact tenants who smoke. Here are a few common questions that arise:

- **Would a smoke-free policy illegally discriminate against tenants who smoke?** No. It is important to remember that people who smoke do not have any special legal status;<sup>31</sup> thus, a smoke-free housing policy would not unlawfully discriminate against them. The Constitution and other federal laws guarantee protection from discrimination to very few categories of people, including age, race, ethnicity, gender, and people with disabilities. Smoking and addiction to nicotine are not considered to be protected disabilities.<sup>32</sup>
- **Would a smoke-free policy apply to current tenants who smoke?** Yes, it could. No law or HUD policy requires exempting current tenants who smoke.<sup>33</sup> Instead, affordable housing providers may choose to have the policy apply to all tenants — current tenants as well as future tenants. To do so, current tenants must be given proper notice. Some providers have opted for a “phase-in” period for the policy with outreach and education to current tenants, to help prepare them to comply with the new smoke-free policy. Education and notice of the policy should be accompanied by resources for tenants to access cessation support.

While permanently or temporarily exempting current tenants who smoke from a new policy may seem appealing at first, housing providers have found this makes enforcement difficult. First and foremost, such an exemption to the policy fails to protect all tenants from unwanted drifting smoke. New tenants find the lopsided application of the policy unfair, because some people can smoke in their units while others cannot; thus, they have little motivation to comply with the policy. Finally, because smoking is still allowed inside, it is hard to trace where any smoke is coming from and determine who is actually violating the policy.

### Cessation Resources

In supplying information and resources on tobacco cessation, property management and owners should rely on evidence-based cessation programs, such as the following resources:

- All states have quitlines with counselors who are trained specifically to help smokers quit. Call this number to connect directly to your state’s quitline (hours of operation and services vary from state to state): 800-QUIT-NOW (784-8669).

*(continued)*

### Cessation Resources *(continued)*

- The [North American Quitline Consortium](#) website includes a clickable [map](#) to identify Quitline resources in your state.
  - The [National Cancer Institute cessation website](#) contains tools and tips to quit, including smoke-free texting programs, information on nicotine replacement therapy, smoke-free apps, and building your own quit plan. The National Cancer Institute's trained counselors provide information and support for quitting in English and Spanish. Call Monday through Friday 8 a.m. to 8 p.m. CST at 877-44U-QUIT (877-448-7848).
  - The [Centers for Disease Control and Prevention website](#) provides information on quitlines, apps, texting support, developing a quit plan, and much more.
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- **Would tenants who smoke be able to live in affordable housing?** Yes. Remember that a smoke-free housing policy is about *where* smoking is allowed — *not whether* one smokes.<sup>34</sup> The purpose of a smoke-free housing policy is to clearly designate nonsmoking areas and protect tenants from exposure to secondhand smoke. Therefore, affordable housing providers may still rent to people who smoke and tenants of subsidized housing may continue to smoke, but only in those areas where smoking is allowed. A smoke-free housing policy is not designed to prohibit people who smoke from living in affordable multi-unit housing.<sup>35</sup> In fact, HUD guidance indicates that landlords should not ask prospective tenants if they smoke or require higher security deposits from tenants who smoke.<sup>36</sup>
  - **Are smoke-free policies difficult to enforce?** A common concern among affordable housing providers is that smoke-free policies can be challenging to enforce. Indeed, some public housing authorities have reported that finding physical evidence of smoking in individual units can be difficult and that the smell of smoke is hard to document.<sup>37</sup> However, recent research suggests that specific strategies may facilitate compliance and reduce the need for enforcement.<sup>38</sup> In a study of twenty-six Public Housing Authority representatives with smoke-free policies in 2016, participants felt that some techniques, like providing tenants with advanced notice of the policy, having a clearly written policy, making the policy apply to all tenants (either campus-wide or in a new building), having security systems in place (such as on-campus property management, security staff, and/or security cameras), and consistent enforcement, helped promote compliance.<sup>39</sup>

Enforcement can be improved when the enforcement mechanism is fair to all tenants and described in detail in the smoke-free lease addendum. The lease should describe how

violations of the policy will be determined and the consequences for such violations. For example, the lease addendum could state that management will rely on physical evidence, such as smoking-related refuse in the garbage or burns on surfaces, to determine that a violation has occurred. The use of a graduated enforcement protocol, with consequences of increasing severity for violations of the smoke-free policy, can also aid enforcement efforts. For more information about graduated enforcement mechanisms, read the Public Health Law Center’s [\*Smoke-free Multi-Unit Housing: Equitable Enforcement Strategies\*](#).

## Examples of Smoke-Free Affordable Housing Policies

Below are examples of smoke-free policies and supporting materials used by affordable housing providers across the country. If you consider adapting any language from these policies or lease addendums, take care to ensure that the provision is appropriate and legal given the particular affordable housing program and jurisdiction. Please note that the Public Health Law Center does not endorse or recommend any of the following policies. These examples are included simply to illustrate how different affordable housing providers have instituted their smoke-free policies.

Organization & Location	Materials
<a href="#">Housing Authority of the City of Austin, Austin, TX</a>	<a href="#">Public Housing Admissions and Continued Occupancy Policy (see chapter 13)</a>
<a href="#">Raleigh Housing Authority, Raleigh, NC</a>	<a href="#">Smoke-free Housing and Building Policy</a>
<a href="#">Sacramento Housing &amp; Redevelopment Agency, Sacramento, CA</a>	<a href="#">Smoke-free Policy (see chapter 18)</a>
<a href="#">Wyoming Housing Commission, Wyoming, MI</a>	<a href="#">Smoke-free Policy</a>

## Other Helpful Resources

The Public Health Law Center’s website has a [web page](#) containing information on smoke-free housing in general and [specific resources](#) for smoke-free policies in affordable multi-unit housing. These resources include [\*Making Affordable Housing Smoke-Free: First Steps\*](#); [\*Smoke-free Multi-Unit Housing: Equitable Enforcement Strategies\*](#); a state-specific model smoke-free [condominium policy](#) and [lease addendum](#); [\*Smoke-Free Public Housing: Reasonable Accommodations\*](#); [\*HUD’s Smoke-Free Public Housing Rule: An Overview\*](#); and additional publications and webinars.

Other organizations also have helpful websites and publications about smoke-free affordable housing, as well as useful general resources about smoke-free multi-unit housing:

- **American Nonsmokers' Rights Foundation:** ANR has a listing of communities that have adopted ordinances requiring smoke-free policies for multi-unit properties, and public housing authorities across the U.S. that have implemented smoke-free policies.
- **Live Smoke Free (Minnesota):** Live Smoke Free offers several publications and archived webinars, including Steps to Go Smoke Free, which describes the different ingredients and steps needed to initiate and implement smoke-free housing policies successfully.
- **American Lung Association:** The American Lung Association has developed a comprehensive on-line curriculum to help health advocates understand more about implementing smoke-free multi-unit housing policies.
- **U.S. Department of Housing and Urban Development:** HUD has *An Action Guide for Establishing Smoke-Free Public Housing and Multifamily Properties* and other toolkits for smoke-free multifamily housing.

## Contact Us

Please feel free to contact the Public Health Law Center at [publichealthlaw@mitchellhamline.edu](mailto:publichealthlaw@mitchellhamline.edu) with any questions about the information included in this guide or to discuss local concerns you may have about implementing such a policy.

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This publication was prepared by the Public Health Law Center at Mitchell Hamline School of Law, Saint Paul, Minnesota. The Center provides information and technical assistance on law and policy issues related to public health. The Center does not provide legal advice or enter into attorney-client relationships, and this document should not be considered legal advice. This publication was made possible by funding from Clean Air for All: The Smoke-Free Public Housing Project and the Robert Wood Johnson Foundation. Its contents are solely the responsibility of the authors and do not necessarily represent the official views of Clean Air for All or the Foundation.

## Endnotes

- 1 The Public Health Law Center recognizes that traditional and commercial tobacco are different in the ways they are planted, grown, harvested, and used. Traditional tobacco is and has been used in sacred ways by Indigenous communities and tribes for centuries. Comparatively, commercial tobacco is manufactured with chemical additives for recreational use and profit resulting in disease and death. For more information, visit: <http://www.keepitsacred.itcmi.org>. When the word "tobacco" is used throughout this document, a commercial context is implied and intended.

- 2 Tiffany Kraev et al., *Indoor Concentrations of Nicotine in Low-Income, Multi-Unit Housing: Associations with Smoking Behaviours and Housing Characteristics*, 18 TOBACCO CONTROL 438, 443 (2009), <http://tobaccocontrol.bmj.com/content/18/6/438.full.pdf>.
- 3 Elle Anastasiou et al., *Secondhand Smoke Exposure in Public and Private High-rise Multiunit Housing Serving Low-income Residents in New York City Prior to Federal Smoking Ban in Public Housing*, 2018, 704 SCI. TOTAL ENV. 135322 (2020), <https://www.sciencedirect.com/science/article/abs/pii/S0048969719353148>.
- 4 The information contained in this document is not intended to constitute or replace legal advice.
- 5 CTR. ON BUDGET & POLICY PRIORITIES, U.S. FEDERAL RENTAL ASSISTANCE FACT SHEET, <https://www.cbpp.org/research/housing/federal-rental-assistance-fact-sheets#US> (last updated Dec. 10, 2019).
- 6 *Smoke-free Public Housing*, U.S. DEP'T OF HOUS. & URB. DEV., <https://www.hud.gov/smokefreepublichousing>.
- 7 U.S. DEP'T OF HOUS. & URB. DEV., SMOKE-FREE POLICY RECOMMENDED CHECKLIST, [https://www.hud.gov/sites/documents/2\\_SMOKEF\\_POLICYCHECKLIST.PDF](https://www.hud.gov/sites/documents/2_SMOKEF_POLICYCHECKLIST.PDF).
- 8 *Id.*
- 9 *Smokefree Public Housing — One Year Later*, AMERICAN NONSMOKERS' RIGHTS FOUND. (July 11, 2019), <https://no-smoke.org/smokefree-public-housing-one-year-later>.
- 10 *Id.*
- 11 *Id.*
- 12 *Id.*
- 13 AMERICAN NONSMOKERS' RIGHTS FOUND., U.S. LAWS FOR 100% SMOKEFREE MULTI-UNIT HOUSING (Aug. 15, 2020), <http://no-smoke.org/wp-content/uploads/pdf/smokefreemuh.pdf>; AMERICAN NONSMOKERS' RIGHTS FOUND., U.S. PUBLIC HOUSING AUTHORITY POLICIES RESTRICTING OR PROHIBITING SMOKING (Aug. 15, 2020), <https://no-smoke.org/wp-content/uploads/pdf/public-housing-authorities.pdf>.
- 14 FED. HEALTHY HOMES WORK GRP., *ADVANCING HEALTHY HOUSING: A STRATEGY FOR ACTION* (2013), [https://www.hud.gov/sites/documents/STRATPLAN\\_FINAL\\_11\\_13.PDF](https://www.hud.gov/sites/documents/STRATPLAN_FINAL_11_13.PDF).
- 15 U.S. DEP'T OF HOUS. & URB. DEV., *LEADING OUR NATION TO HEALTHIER HOMES: THE HEALTHY HOMES STRATEGIC PLAN* (2009), <https://www.ncbi.nlm.nih.gov/books/NBK44192/?report=reader>.
- 16 Unnumbered Letter from Tammye Treviño, Administrator, Housing and Community Facilities Program, to State Directors Rural Development, Nov. 21, 2012, [http://www.carh.org/wp-content/uploads/2015/08/MC\\_RDSmokeFreePolicy.pdf](http://www.carh.org/wp-content/uploads/2015/08/MC_RDSmokeFreePolicy.pdf).
- 17 See, e.g., NAT'L HEART, LUNG, & BLOOD INST., *PUBLIC HEALTH IN PUBLIC HOUSING* 9, 24 (2018), [https://www.nhlbi.nih.gov/files/docs/resources/heart/phph\\_rpt.pdf](https://www.nhlbi.nih.gov/files/docs/resources/heart/phph_rpt.pdf).
- 18 *Health Risks of Secondhand Smoke*, AM. CANCER SOC'Y, <https://www.cancer.org/healthy/stay-away-from-tobacco/health-risks-of-tobacco/secondhand-smoke.html> (last updated Oct. 28, 2020).
- 19 AM. SOC'Y OF HEATING REFRIGERATING & AIR-CONDITIONING ENG'RS, *ASHRAE POSITION DOCUMENT ON ENVIRONMENTAL TOBACCO SMOKE* 5 (2020), [https://www.ashrae.org/File%20Library/About/Position%20Documents/pd\\_environmental-tobacco-smoke-2020-07-1.pdf](https://www.ashrae.org/File%20Library/About/Position%20Documents/pd_environmental-tobacco-smoke-2020-07-1.pdf).
- 20 *Id.*
- 21 *Home Fires Started by Smoking*, NAT'L FIRE PROT. ASS'N (2019), [https://www.nfpa.org/News-and-Research/Data-research-and-tools/US-Fire-Problem/Smoking-Materials#:~:text=One%20in%2020%20home%20\(5,year%20period%20of%202012%2D2016](https://www.nfpa.org/News-and-Research/Data-research-and-tools/US-Fire-Problem/Smoking-Materials#:~:text=One%20in%2020%20home%20(5,year%20period%20of%202012%2D2016) (view "Report highlights").

- 22 See, e.g., *Smoke-Free Housing*, N.Y.C. DEP'T OF HEALTH & MENTAL HYGIENE, <https://www1.nyc.gov/site/doh/health/health-topics/smoking-smoke-free-housing.page> (70 percent of New York City voters); Joshua Sudcock, *Majority of L.A. Tenants Favor Smoke-free Apartments, But 80 Percent of Units are Still Not Protected* (Apr. 6, 2016), UCLA NEWSROOM, <https://newsroom.ucla.edu/releases/majority-of-l-a-tenants-favor-smoke-free-apartments-but-80-percent-of-units-are-still-not-protected#:~:text=Although%20just%2020%20percent%20of,to%20support%20such%20a%20policy> (82% of tenants in favor).
- 23 *Burden of Cigarette Use in the U.S.*, CTRS. FOR DISEASE CONTROL & PREV., <https://www.cdc.gov/tobacco/campaign/tips/resources/data/cigarette-smoking-in-united-states.html> (last reviewed Nov. 19, 2020).
- 24 *Id.*
- 25 Brian A. King et al., *National and State Cost Savings Associated with Prohibiting Smoking in Subsidized and Public Housing in the United States*, 11 PREV. CHRONIC DISEASE E171 (2014), [http://www.cdc.gov/pcd/issues/2014/pdf/14\\_0222.pdf](http://www.cdc.gov/pcd/issues/2014/pdf/14_0222.pdf).
- 26 Public Health Law Center, *Making Affordable Housing Smoke-free: First Steps* (2021).
- 27 *Mixed-Finance Public Housing*, U.S. DEP'T OF HOUS. & URB. DEV., [https://www.hud.gov/program\\_offices/public\\_indian\\_housing/programs/ph/hope6/mfph#:~:text=Mixed%2DFinance%20public%20housing%20allows,%2C%20subsidized%2C%20and%20public%20housing](https://www.hud.gov/program_offices/public_indian_housing/programs/ph/hope6/mfph#:~:text=Mixed%2DFinance%20public%20housing%20allows,%2C%20subsidized%2C%20and%20public%20housing).
- 28 U.S. DEP'T OF HOUS. & URB. DEV., SMOKE-FREE POLICY RECOMMENDED CHECKLIST, [https://www.hud.gov/sites/documents/2\\_SMOKEF\\_POLICYCHECKLIST.PDF](https://www.hud.gov/sites/documents/2_SMOKEF_POLICYCHECKLIST.PDF).
- 29 See generally Amy Y. Hafez et al., *Uneven Access to Smoke-Free Laws and Policies and Its Effect on Health Equity in the United States: 2000–2019*, 109 AM. J. OF PUB. HEALTH 1568 (2019).
- 30 For more information about graduated enforcement mechanisms, see Public Health Law Center, *Smoke-free Multi-unit Housing: Equitable Enforcement Strategies* (2020), <https://www.publichealthlawcenter.org/sites/default/files/resources/SF-MUH-Equitable-Enforcement-Strategies.pdf>.
- 31 Hudson B. Kingston, Public Health Law Center, *There Is No Constitutional Right to Smoke or Toke 5* (2019), <https://publichealthlawcenter.org/sites/default/files/resources/No-Constitutional-Right-Smoke-Toke-2019.pdf>.
- 32 Public Health Law Center, *Smoke-Free Public Housing: Reasonable Accommodations* (2021).
- 33 HUD Issues Final Smoke-Free Public Housing Rule, NAT'L LOW INCOME HOUS. COAL. (Dec. 5, 2016), <https://nlihc.org/resource/hud-issues-final-smoke-free-public-housing-rule> ("The final rule does not 'grandfather' (exempt) current residents from the rule.").
- 34 HUD has clarified that this is the case for its smoke-free public housing rule. U.S. DEP'T OF HOUSING & URB. DEV., QUESTIONS AND ANSWERS ON HUD'S SMOKE FREE PUBLIC HOUSING PROPOSED RULE 4, <https://www.hud.gov/sites/documents/FINALSMOKEFREEQA.PDF> ("[The proposed rule] does not prohibit smoking by public housing residents or prospective residents, and it should not discourage PHAs from offering homes to persons that smoke.").
- 35 See, e.g., *id.*
- 36 U.S. DEP'T OF HOUSING & URB. DEV., IMPLEMENTING HUD'S SMOKE-FREE POLICY IN PUBLIC HOUSING 37 (2017), [https://www.hud.gov/sites/documents/SMOKEFREE\\_GUIDEBK.PDF](https://www.hud.gov/sites/documents/SMOKEFREE_GUIDEBK.PDF).
- 37 Michelle C. Kegler et al., *Implementation and Enforcement of Smoke-free Housing*, 34 HEALTH EDUC. RSCH. 234, 239-40 (2018), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7526794/pdf/cyy053.pdf>.
- 38 *Id.* at 241-42.
- 39 *Id.*