

## Frequently Asked Questions from Housing Providers about Smokefree Buildings

**Q: As a property owner/manager, what are the benefits to me of having a smokefree building?**

**A:** Making your building smokefree is beneficial to you because it can reduce your costs, risks, and liability, and it's attractive to residents.

**You can save money by reducing cleaning and maintenance costs**—and extra turn-over time—that comes with renovating a smoke-damaged unit after a resident who smokes has moved out.

Costs in properties that allow smoking everywhere are nearly double that of smoking-related costs incurred at smokefree properties.<sup>1</sup> Compared to smokefree units, cleaning and refurbishing costs can be up to \$3,000 more in units with heavy smoking.<sup>2</sup>



A smokefree building can also **reduce the risk, costs, and liability associated with fires**. Cigarettes are a leading cause of residential fire deaths, and fires caused by cigarette smoking result in over \$300 million in property loss each year.<sup>3</sup> Some property insurance companies offer a discount for buildings that have a smokefree policy.

You can also **retain and attract residents** who prefer a smokefree living environment. Over 90% of Fort Collins, CO and approximately 80% of Charleston, SC apartment residents currently residing in smoking-allowable buildings indicated that they would not move out of their current residence if it were designated as smokefree.<sup>4,5</sup> Likewise, **people increasingly want their living environment to be smokefree to protect their health, and are looking for smokefree housing options**. Surveys indicate that there is more demand for smokefree housing than supply.

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**Q: Isn't it discriminatory against smokers to have a smokefree building?**

**A:** No. Smokefree policies are not discriminatory. It is legal to not allow smoking in your buildings. There is no constitutional "right to smoke" and people who smoke are not a protected class.<sup>6</sup>

You have the right to set reasonable rules that protect your property and its occupants. You can adopt a smokefree policy in the same manner that you adopt other lease requirements that regulate activities that present a risk to the building or impact other residents, such as rules to address pets or loud music.

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**Q: Does a smokefree policy mean that smokers cannot live in my building?**

**A:** No. A smokefree building does not mean that people who smoke cannot live in the building, or that people who smoke must quit. It simply means that people cannot smoke inside the building or in other areas specified in the policy, such as on balconies and patios.



**Q: Can I adopt a smokefree policy if I own or manage affordable housing?**

**A:** Yes! The U.S. Department of Housing and Urban Development (HUD) strongly recommends that owners and managers of affordable housing adopt smokefree policies for properties participating in Multifamily Housing rental assistance programs, including Section 8 and buildings for the elderly and people with disabilities.<sup>7</sup>

Likewise, HUD also recommends that Public Housing Authorities have smokefree policies in place for the buildings they own and manage.<sup>8</sup> A free toolkit and information about adopting smokefree policies in HUD Multifamily Housing is available at <http://portal.hud.gov/hudportal/HUD?src=/smokefreetoolkits1>.



**Q: Is it my responsibility as an owner or manager to protect residents from secondhand smoke exposure?**

**A:** An owner or manager may be at risk for legal liabilities by not taking action to protect residents from involuntary exposure to secondhand smoke.<sup>9</sup> A smokefree policy might help you avoid potential lawsuits brought by residents who become sick from involuntary exposure to secondhand smoke.

Under the Federal Fair Housing Act, a building owner or manager may be required to provide reasonable accommodations for residents who have a disability that is made worse by exposure to secondhand smoke. Individuals with severe breathing problems may be protected under the Fair Housing Act and request a reasonable accommodation to effectively address being exposed to secondhand smoke in the building.<sup>10</sup>

A reasonable accommodation might include adopting a smokefree policy for a building, enforcing an existing smokefree policy, moving a resident to a unit that is not located near units occupied by people who smoke, or allowing a resident to break their lease without financial penalties so the person can move to another building.



**Q: How would I go about adopting a smokefree policy for my building?**

**A:** When adopting a smokefree policy, follow the same procedures that are required for adopting, documenting, and notifying residents about any other changes to lease provisions and house rules.

Typically, have all current residents sign a lease addendum about the smokefree policy, and add the smokefree requirement to your lease for all new residents to sign. You can chose to implement the policy for all residents on a specific date (often in 60 or 90 days) that's in accordance with any local or state requirements about providing advance notice when changing lease terms, or you can chose to implement the policy over the course of one year in order to have residents sign the smokefree addendum as their lease comes up for renewal. In this case, all new residents should sign the smokefree lease starting immediately.

Whether you own a market-rate building, manage a subsidized building, provide public housing, or sit on a condominium board, the most important point about adopting a smokefree policy is to follow the same procedures that are required for adopting and implementing any other type of change to leases, house rules, or other applicable governing regulations.

If your community has a rent control law, you should consult with an attorney to determine whether the law restricts your ability to change the terms of existing residents' leases without their consent.



**Q: Won't I be at risk for losing my current residents by having a smokefree building?**

**A:** You may already be hearing from your residents who are bothered by smoke drifting into their unit from other parts of the building. A 2012 study found that approximately 56% of multiunit housing residents around the U.S. would support the implementation of a smokefree policy for their building.<sup>11</sup>

More than 55% of New York State multiunit residents support a policy that prohibits smoking in all areas of their building. Support was higher among minorities and people with children.<sup>12</sup>

Among Bismarck, ND multiunit residents who currently reside in smoking-allowable buildings, 93% reported that they would not move out of their current residence if it was designated as smokefree.<sup>13</sup>

In fact, many of these residents indicated that they would be willing to give up other amenities in order to live in a smokefree building, such as a shorter commute time to work and other local services.<sup>14</sup>

Smokefree building policies can appeal to your current residents as well as new potential residents in your market. Non-smokers are the majority in every state.<sup>15</sup> Additionally, surveys show that many smokers already choose not to smoke inside, in order to protect the health of their families and to prevent damage to their belongings.<sup>16</sup>



**Q: I'm worried about having difficulty filling vacant units if I have a smokefree building. Won't a smokefree policy turn away potential residents?**

**A:** People increasingly want their living environment to be smokefree to protect their health and belongings, and are looking for smokefree housing options. Secondhand smoke is a cause of heart disease, heart attacks, asthma and other respiratory ailments, SIDS, lung cancer, and many other illnesses.<sup>17</sup>

A recent national survey found that nearly 30% of multiunit housing residents live in smokefree buildings. However, 56% would support a smokefree policy for their building.<sup>18</sup> This indicates that there is more demand for smokefree housing than supply.

65% of Charleston, SC apartment residents would prefer to have a policy in their building that prohibited smoking in all indoor areas. However, only 9% of apartment residents in this survey reported living in a smokefree building.<sup>19</sup> About 43% of Bismarck, ND multiunit residents who currently reside in smoking-allowable housing reported they would be willing to pay more per month to live in a smokefree building, assuming the two apartments were the same in other regards.<sup>20</sup>

High support for such policies, along with the low prevalence of current smokefree policies, could result in a large market opportunity for multiunit housing operators who implement smokefree policies in your area.



**Q: Several of my current residents smoke in their units and they will be resistant to our building becoming smokefree. Is there anything I can do to make the transition easier?**

**A:** Communicating with residents is key to having a smooth transition to a smokefree building. Let residents know that a smokefree policy is being considered before it's officially adopted. Educate residents about why a smokefree building is beneficial from their perspective: the purpose is to create a cleaner, healthier, safer living environment for all residents, including people who smoke and their families.

Ask for resident input while you're considering a smokefree policy to give residents an opportunity to voice their opinions. Conduct a resident survey to assess their thoughts about having a smokefree building by putting an anonymous survey in each mailbox, or sending it by email. Their responses can help you address concerns head-on before the policy goes into effect.

Communicate what the policy requires residents and their guests to do, and what the consequences are for violating the policy. Send a letter to residents when the policy is adopted, and again when the policy goes into effect. Hold a meeting for residents before the policy goes into effect to discuss the policy change to allow residents to voice concerns and get answers to their questions in person. Provide information about how to access local cessation resources in case residents who smoke are interested in quitting.

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**Q: How would I enforce a smokefree building policy? I don't want to spend a lot of time and resources dealing with this issue.**

**A:** If you're considering adopting a smokefree policy for your building, you may already be spending a lot of time dealing with resident complaints about drifting smoke, as well as a lot of time and money cleaning, repainting, and repairing smoke-damaged units. While implementing a smokefree policy will take some effort at the beginning, it can save you time and resources in the long run.

A smokefree policy is enforced in the same manner as any other lease requirement. Make sure the policy change is officially added to leases or the house rules, and have all current residents sign appropriate lease addendums. Post signs at entrances to the building and in common areas to remind residents, guests, and staff about the policy and set the expectation of compliance. Advertise that your building is smokefree so incoming residents know what to expect. Have consistent enforcement procedures in place.

Smokefree policies are largely self-enforcing. With adequate announcement of the policy, residents will likely follow it, like any other rule. However, respond to reported violations in a timely manner. It will enhance compliance if residents know management takes the policy seriously, and are consistent and responsive to reported violations.

For more information, see the fact sheet "Advice for Enforcing a Smokefree Housing Policy" at <http://www.no-smoke.org/pdf/MUHenforcement.pdf>.

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**For more information**, visit ANR's In Your Home page at [www.no-smoke.org/homes.html](http://www.no-smoke.org/homes.html) or call 510-841-3032.



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- <sup>2</sup> National Center for Healthy Housing. *Reasons to Explore Smoke-Free Housing*. Early Fall 2009. [http://www.nchh.org/Portals/0/Contents/NCHH\\_Green\\_Factsheet\\_smokefree.pdf](http://www.nchh.org/Portals/0/Contents/NCHH_Green_Factsheet_smokefree.pdf).
- <sup>3</sup> US Fire Administration. *Smoking-related fires in residential buildings (2008-2010)*, Volume 13, Issue 6, June 2012. <https://www.usfa.fema.gov/downloads/pdf/statistics/v13i6.pdf>.
- <sup>4</sup> Roswell Park Cancer Institute. Preferences and practices regarding secondhand smoke exposure and smoke-free policies in multiunit housing: A survey of multiunit housing residents living in Fort Collins, Colorado, 2012.
- <sup>5</sup> Roswell Park Cancer Institute. Preferences and practices regarding secondhand smoke exposure and smoke-free policies in multiunit housing: A survey of multiunit housing residents living in Charleston, South Carolina, 2012.
- <sup>6</sup> Graff, S.K. Tobacco Control Legal Consortium, *There is No Constitutional Right to Smoke: 2008*. 2nd edition, 2008. [http://www.publichealthlawcenter.org/sites/default/files/resources/tclc-syn-constitution-2008\\_0.pdf](http://www.publichealthlawcenter.org/sites/default/files/resources/tclc-syn-constitution-2008_0.pdf)
- <sup>7</sup> HUD Multi-Family Housing Section Memo: Optional Smoke-Free Housing Policy Implementation; H 2012-22, October 26, 2012. <http://portal.hud.gov/huddoc/12-22hsgn.pdf>
- <sup>8</sup> HUD Office of Public and Indian Housing Memo: Non-Smoking Policies in Public Housing; PIH-2012-25, May 29, 2012. <http://portal.hud.gov/huddoc/12-25pihn.pdf>
- <sup>9</sup> Schoenmarklin, Susan. Tobacco Control Legal Consortium, *Infiltration of Secondhand Smoke into Condominium, Apartments, and Other Multi-Unit Dwellings*. 2009. [http://publichealthlawcenter.org/sites/default/files/resources/tclc-syn-condos-2009\\_0.pdf](http://publichealthlawcenter.org/sites/default/files/resources/tclc-syn-condos-2009_0.pdf)
- <sup>10</sup> Smoke-Free Environments Law Project. *The Federal Fair Housing Act And The Protection Of Persons Who Are Disabled By Secondhand Smoke In Most Private And Public Housing*. September 2002. [http://www.tcsq.org/sfelp/fha\\_01.pdf](http://www.tcsq.org/sfelp/fha_01.pdf)
- <sup>11</sup> Licht, A.S.; et al, "[Attitudes, experiences, and acceptance of smoke-free policies among US multiunit housing residents](#)," *American Journal of Public Health* 102(10): 1868-1871, October 2012.
- <sup>12</sup> King, B.A.; et al, "[Multiunit housing residents' experiences and attitudes toward smoke-free policies](#)," *Nicotine and Tobacco Research* [Epub ahead of print], April 15, 2010.
- <sup>13</sup> Roswell Park Cancer Institute. Preferences and Practices Regarding Secondhand Smoke Exposure and Smoke-free policies in Multiunit Housing: A survey of Multi-unit Housing Residents living in Bismarck, North Dakota, 2012.
- <sup>14</sup> Ibid.
- <sup>15</sup> Centers for Disease Control and Prevention. Tobacco Control State Highlights 2012. [http://www.cdc.gov/tobacco/data\\_statistics/state\\_data/state\\_highlights/2012/index.htm](http://www.cdc.gov/tobacco/data_statistics/state_data/state_highlights/2012/index.htm)
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- <sup>20</sup> Roswell Park Cancer Institute, Bismarck, North Dakota, 2012.