

## **Adopting a No-Smoking Policy in Apartment Buildings: A Guide for Owners and Managers**

Most owners of apartment buildings acknowledge that second-hand smoke is a common source of objectionable air. Some owners of apartment buildings are questioning whether they should continue to allow smoking in their units. They are tired of the smell. They are tired of dealing with the fire danger and maintenance costs associated with smoking in their rental units. And they're convinced that the 73 percent of Hoosiers that do not smoke constitute a market for smoke-free units.

If you're one of these owners, this tip sheet is designed to help you.

### **How to proceed**

How you proceed to implement a smoke-free policy will depend on your individual situation, whether you are constructing a new building or complex, remodeling an older one, or simply converting the status of units in an older building.

### **Planning for new construction**

If you are building a new apartment complex, your road to creating a smoke-free environment may be easier than for owners facing a conversion. By providing smoke-free buildings from the outset, you will avoid problems like cleaning walls and windows streaked with tar, and replacing carpet and counter tops with cigarette burns. As you design your new complex, you have the opportunity to locate an outdoor smoking space at an appropriate site if you choose to do so.

### **Renovating or purchasing an older building**

If you are renovating an apartment building, you are in a particularly good position to complete renovations and repairs and reopen as a smoke-free building. Likewise, you are probably in a good position to make an apartment building smoke free if you just purchased it. A change in owners usually signals to tenants that some kinds of changes may be in the offing. The changes necessary to accommodate truly smoke-free and smoking-permitted units in an older building are probably cost prohibitive. This means it may make more sense to designate the whole building smoke-free. Enforcement would be much easier as well. Businesses with smoke-free workplace policies find compliance better

and enforcement easier than businesses with policies that allow smoking in some areas and not others.

### **Moving ahead without major changes**

If you simply want to initiate a smoke-free policy and are not making any other major changes, consider the following steps.

Survey your tenants. Find out how many tenants smoke in their apartments. Not all households with smokers allow residents or guests to smoke indoors. You may already have this information if you manage or own only a few units. A multi-building complex presents a bigger challenge. You may have to conduct a survey, which will serve two purposes: gathering information and alerting tenants that change may be forthcoming.

Set a time frame for change. Since most leases are for a year, you can institute a no-smoking policy about 12 months out. Well ahead of your target date, notify tenants that you want to make the building smoke-free by a certain date and that if they wish to remain in the building, they will have to abide by the new policy. That target date is probably going to be at least one year from the date the most recent lease expires.

Provide tenants with your reasons for making the change so they understand you are not being capricious. The reasons typically include a combination of health, safety and business concerns, such as:

- Protecting your tenants from secondhand smoke
- Reducing the danger of fires
- Reducing maintenance, cleaning and redecorating costs
- Saving on insurance
- Capitalizing on consumer demand for smoke-free units

Let tenants know the building or other area will not be truly smoke-free for awhile. Some owners decide to grandfather in existing tenants. If you pursue this route, it may take several years before you can declare a building smoke-free.

Determine a budget for incentives. You probably want to let your current tenants know you would be glad to have them remain in the building as long as they agree not to smoke. Make the no-smoking policy apply to any new tenants. You also can offer incentives to tenants who want to smoke in their apartments to encourage them to move to other buildings you own, incentives similar to those many owners offer new tenants. If you find you have only two smoking tenants in Building A, you may want to offer them half a month's free rent to reimburse

for moving expenses if they will move to Building B. That will allow you to declare Building A smoke-free.

Introduce new leases. Prudence dictates that you include some language in your leases to make tenants aware of the policy and of their obligations not to smoke and prevent guests from smoking in their units. If you allow smoking on a specific part of the property, specify in the lease where smoking is allowed. A model smoke-free lease addendum can be found on the Indiana State Medical Association Web site at [www.ismanet.org/INsmokefreeapartments.htm](http://www.ismanet.org/INsmokefreeapartments.htm).

Post signs. A few days before the building becomes smoke-free, send out an announcement to tenants. Then post signs at the entryways. Here's some suggested language:

*Welcome to our smoke-free building.  
To protect the health and safety of residents, smoking or carrying lighted smoking  
materials is prohibited.  
This policy applies to all tenants and their guests.*

Advertise your policy. There is a substantial market for smoke-free buildings. Some tenants are willing to pay more to avoid smoke, and others are willing to make sacrifices like walking farther to a bus. If your advertisements state something like "no-smoking building," they will stand out from similar apartment advertisements. They also will screen out potential tenants who are not interested in a place where they cannot smoke.

### **Enforcing the policy**

In worksites and other public areas, smoking policies have been largely self-enforcing. No heavy policing is necessary. There is not enough experience with smoke-free rental housing to know if this will hold true in residential situations, but a small survey of owners with smoke-free policies found the overwhelming majority reported time spent to manage the building did not increase after adopting a smoke-free policy.

In any case, you can be sure that someone will test the rules. If you do not enforce the no-smoking policy, you will not have smoke-free units and you will have unhappy tenants. You may even face a lawsuit for breach of contract. Use approximately the same policy you use for other violations of rules, such as throwing loud parties or parking in prohibited areas. You may decide to issue one or two warnings before you evict someone for breaking the lease.

You will have no legal ground for an eviction if you do not have the no-smoking rules spelled out in the lease. Once tenants know you are serious about your new policy, most will follow it.

### **Providing an outdoor smoking area**

If you don't allow smoking in the units, you may want to provide an outdoor smoking area or structure. You are under no obligation to provide an outdoor smoking area, although this may help keep your tenants from using adjacent properties for smoking. A disadvantage of providing such an area is the difficulty of keeping it clean. This prospect is reduced if you provide sturdy ash containers, heavy enough not to be stolen. You could follow the example of employers who provide picnic tables, a gazebo or a special structure that resembles a bus shelter, designed specifically for smoking.

On small lots with no room for a shelter, place the smoking area as far away from the building as possible so that drifting smoke will not be a problem. Particularly in summer, smoke can waft through an open window or be drawn inside by air-conditioning units. If a tenant smokes right outside a door, you can be assured smoke will be drawn into the building. Your efforts to prevent this problem can include a sign on the door that reads, "No smoking within 20 feet of the door." Note, however, that you cannot regulate smoking on a public sidewalk. That requires a city ordinance.

### **Enjoying the benefits**

Establishing a smoke-free policy entails some effort. But it should also provide many benefits. You will no longer be subject to tenants' complaints about their neighbors' smoking. You will have the satisfaction of knowing you are protecting the health of your tenants, particularly children and those with allergies or heart or lung ailments. You will not have to face the cost of redecorating units whose windows coverings or walls are streaked with cigarette tar. And your whole building will smell fresher and cleaner while appealing more to current renters, prospective tenants who walk in the door and people you employ.

*\*\*Adapted with permission from the Association for Non-smokers-Minnesota.*