



Frequently Asked Questions

1. What are the benefits to me as a property owner/ manager to adopt a smoke-free policy?

A smoke-free policy will help protect your property from damage and fires. You will save money on turnover expenses because apartments will cost less to clean, repair and repaint. For many renters who know about the harmful and unpleasant effects of secondhand smoke, a smoke-free home is a desirable amenity.

2. Is it legal for a landlord or manager to designate a building or an apartment complex smoke-free?

Yes. It is legal to prohibit smoking at your property, inside and out. It is your property, and you have the right to set reasonable rules to protect it. It is not discriminatory to prohibit smoking. There is no legal “right” to smoke. Smokers are not a protected class under the Civil Rights Act of 1964 or other federal law. Keep in mind that a no-smoking rule is not a no-smoker rule. Smoking is a behavior not an inborn characteristic or disability.

3. Are there potential legal liabilities if my building is not smoke-free?

Yes. A resident can bring legal action against a landlord for breach of the warranty of habitability or breach of the covenant of quiet enjoyment, trespass or nuisance. Rulings in favor of the resident could result in rent abatement or a judicial termination of the lease.

4. What is the landlord or manager’s role in protecting residents from secondhand smoke?

Under the Federal Fair Housing Act and/or the Americans with Disabilities Act (ADA), the landlord may be required to provide a “reasonable accommodation” for a resident with a disability made worse by exposure to secondhand smoke.

5. Will a landlord’s insurance protect her/ him from liability for residents’ injuries resulting from secondhand smoke?

Not necessarily. If a resident is injured or made seriously ill by involuntary exposure to smoke and chooses to take legal action, insurance might not cover that liability, especially if there is a pollution exclusion in the owner’s commercial general liability policy.

6. Why is there so much concern about secondhand smoke in living spaces?

According to the Centers for Disease Control and Prevention (CDC), approximately 50,000 deaths occur annually in the United States as a result of secondhand smoke related illnesses, including heart disease, asthma, lung cancer and other respiratory ailments.

It is a Group A carcinogen, a substance known to cause cancer in humans for which there is no safe level of exposure.

Exposure is also linked to increased risk of Sudden Infant Death Syndrome (SIDS), asthma, bronchitis and middle ear infections in children.

Smoke travels between attached units through ventilation systems, cracks in floors and walls and plumbing and electrical systems. According to the American Association of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE), the only means of effectively eliminating health risks associated with indoor exposure to tobacco smoke is to ban smoking activity.

For more information, please visit
www.smokefreeathome.org