

Steps to Smoke Free Housing NY: Landlord and Property Owners' Guide

1 Adopt A Smoke Free Housing Policy

- ☼ Smoke drifting from lit tobacco products and/or exhaled by smokers seeps into the living spaces of other tenants and common areas of other residential buildings. Secondhand smoke (SHS) travels through: lighting fixtures, cracks in walls, around plumbing, under doors and shared heating/ventilation.
- ☼ Smoke Free Policy: Leases that prohibit carrying or using lit tobacco products in both public and private areas of multi-unit housing are legal ways for landlords and management companies to protect property and tenants from the damage caused by secondhand smoke.*¹

2 Save Money

- ☼ Avoid the excess building maintenance costs caused by smoking:
 - *Extensive cleaning when smokers vacate a residence.
 - *Increased repainting.
 - *More frequent rug and window treatment cleaning and replacement.
 - *Repair or replacement of floors and countertops burned by cigarettes.

3 Protect Property and Lives

- ☼ Cigarettes are a leading cause of residential building fires.¹
- ☼ Cigarette-caused fires are the #1 reason for fire deaths in the US.²
- ☼ In New York, cigarette-caused fires kill 5 times more people than fires from other causes.³
- ☼ Discounts on fire, life and property insurance are offered by some companies to smoke free buildings.⁴

4 Invest in the Demand

- ✿ In New York, 74% of non-smokers favor no-smoking policies where they live.⁵
- ✿ Many renters view smoke free housing as a desirable amenity.
- ✿ 50% of NYC renters expressed a willingness to pay more to live in a smoke free building (2005 survey).
- ✿ Smoke free policies help to maintain property values.⁶

*Apartments that smell of secondhand smoke are harder to rent.

*Coops and condos are harder to sell.

- ✿ Promote your smoke free property to realtors, consumers and in newspaper ads.

5 For the Health of It

- ✿ More than a nuisance or bad smell, secondhand smoke is class 'A' carcinogen, like radon and asbestos; more than 4,000 toxic chemicals seep from unit to unit.⁷
- ✿ Among the many illnesses caused or made worse by SHS are: lung cancer, asthma, sinus infections, chronic cough, sudden infant death syndrome and heart disease.⁸

6 Liability Protection

- ✿ Public tolerance for exposure to SHS at home appears to be rapidly decreasing as the hazards become known.⁹
- ✿ An increasing number of secondhand smoke and housing cases are being heard in the courts.¹⁰
- ✿ Tenants with pre-existing physical conditions aggravated by SHS may file complaints under the FHA (Fair Housing Act).¹¹
- ✿ Landlords, management companies, condo associations, coop owners and smokers are vulnerable to nuisance suits, warrant of habitability suits, quiet enjoyment suits and FHA complaints.¹²

- ✿ Adopting smoke free building policies are legal and a way to avoid possible future secondhand smoke law suits.

***Recent NYC Case: In 2006 (Poyck v. Bryant), a NYC judge ruled that tenants who broke a lease because of secondhand smoke exposure were not liable for \$12,000 in back rent. The landlord's failure to take action to protect the tenants from SHS was considered a 'breach of warrant of habitability,' guaranteed in every lease.

*indicates a definition of exception

References and Resources

References

^{1,2,3}New York State Office of Fire Prevention and Control
Revised Regulatory Impact Statement (Published 9/3/03).

⁴*Smoke Signals*. Report by Susan Schoenmarklin and Jacque Petterson, December 2007 – www.naahg.org.

⁵The New York State Adult Tobacco Survey (ATS). Data collected between May and July 2007.

^{6,9}MI Smoke-Free Apartments: <http://mismokefreeapartment.org>
A Smoke-Free Apartment Policy is Legal and Protects Health While Saving Money.

^{7,8}*2006 U.S. Surgeon General's Report on Secondhand Smoke Exposure in the Home.*
United States Department of Health and Human Services.

¹⁰*Smoke Signals*. Report by Susan Schoenmarklin and Jacque Petterson, December 2007 – www.naahg.org.

^{11,12}MI Smoke-Free Apartments: <http://mismokefreeapartment.org>
Tenants' Rights; Your Risk.

*¹Exception: Rent-controlled and rent-stabilized units operate under a different set of regulations.

Resources

Annual Tobacco Attitudes and Actions Survey, Zogby International, for the NYC Coalition for a Smokefree City, December 2005

Coops, Condos & Secondhand Smoke, New York Times, August 8, 2006

Section 8 Housing, HUD & FHA, Susan Schoenmarklin

Smoke Free Maine: www.smokefreeforme.org

There is No Constitutional Right to Smoke, Technical Assistance Legal Center

What's That Smell?, New York Times, August 8, 2006

www.smokefreehousingny.org