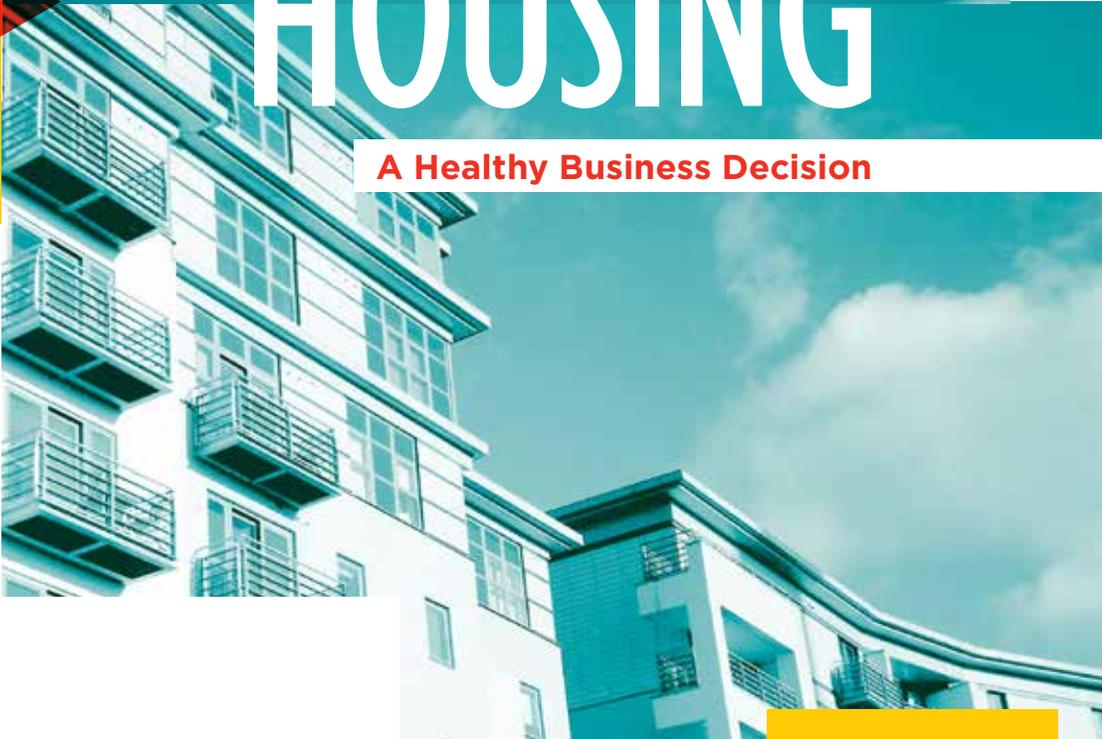
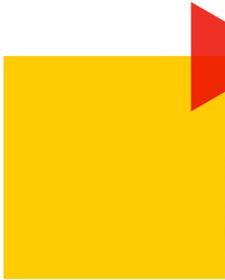




SMOKEFREE MULTIUNIT HOUSING

A Healthy Business Decision



**LANDLORD
MANUAL**



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INTRODUCTION

▶ CLEARING THE AIR ABOUT SMOKEFREE MULTIUNIT HOUSING

Across the United States, hundreds of property managers have implemented smokefree policies. And more are jumping on board every month. Studies prove this is a healthy, economical choice for landlords and property owners.

This manual provides tools and resources to help you establish and maintain a smokefree property. From health facts to economic studies, you'll find information to support your decision to go smokefree as well as a step-by-step implementation plan.

▶ SMOKEFREE LIVING

As a manager of multiunit housing, your concerns include the business aspects of operating your enterprise, maintenance of your property, keeping costs down, keeping your units occupied and your tenant relations positive. This landlord manual can help you in all these areas and more.

A 2011 survey of Oklahoma apartment residents indicated that **80% lived in buildings that had no policies concerning smoking**. That is changing across the country as multiunit housing owners and managers recognize the benefits of smokefree buildings, including lower costs and potential marketing appeal to the majority of multiunit housing residents who are nonsmokers.

The same poll showed that 60% of Oklahoma apartment dwellers would prefer an apartment in an entirely nonsmoking building.

Oklahomans increasingly understand the adverse health effects of second-hand smoke, which include respiratory diseases and lung cancer, cardiovascular disease and a variety of other physical problems. Thousands of illnesses among persons of all ages





and approximately 700 deaths are attributable to secondhand smoke exposure annually in this state. Though even brief exposures to secondhand smoke are harmful, exposure in a person's residence, such as in multiunit housing, is likely to be prolonged and cause health problems.

It is virtually impossible to prevent smoke leakage among units when smoking is allowed anywhere inside a building. **In fact, a majority of nonsmoking multiunit housing residents in Oklahoma do report that secondhand smoke has infiltrated into their units from other units in their buildings.**

Fortunately, there is a simple and cost-free solution — smokefree buildings — and it can benefit both operators and residents as explained in this Landlord Manual.

There is even support for smokefree policies among many smokers, some of whom already take their smoking outside rather than smoking in their apartments. In Oklahoma, three of four adults are nonsmokers. **Among the smokers, 58% say they are trying to quit and 56% of those not yet trying to quit say they would like to quit.** Nonsmoking policies assist these smokers in their efforts to quit as well as protecting nonsmokers from secondhand smoke exposure.

Multiunit housing represents 10% of the housing units in Oklahoma, accommodating more than a quarter million residents of our state. There are well over 1,000 apartment complexes and more than 100 public housing authorities in all sizes of communities. This is an important industry in Oklahoma that can play a key role in developing a healthier citizenry and workforce through the suggestions and recommendations in this manual.

MYTHS ABOUT SMOKEFREE LIVING

A few common myths need to be dispelled, and this manual sheds new light and provides solid information on important topics including the following:

Myth #1: Landlords cannot legally prevent tenants from smoking inside their units. *Smokefree policies are legal. See page 10.*

Myth #2: Most renters and potential renters in my market are smokers. *Less than 25% of Oklahomans smoke, and even many smokers would support a smokefree policy. Read the statistics on page 5.*

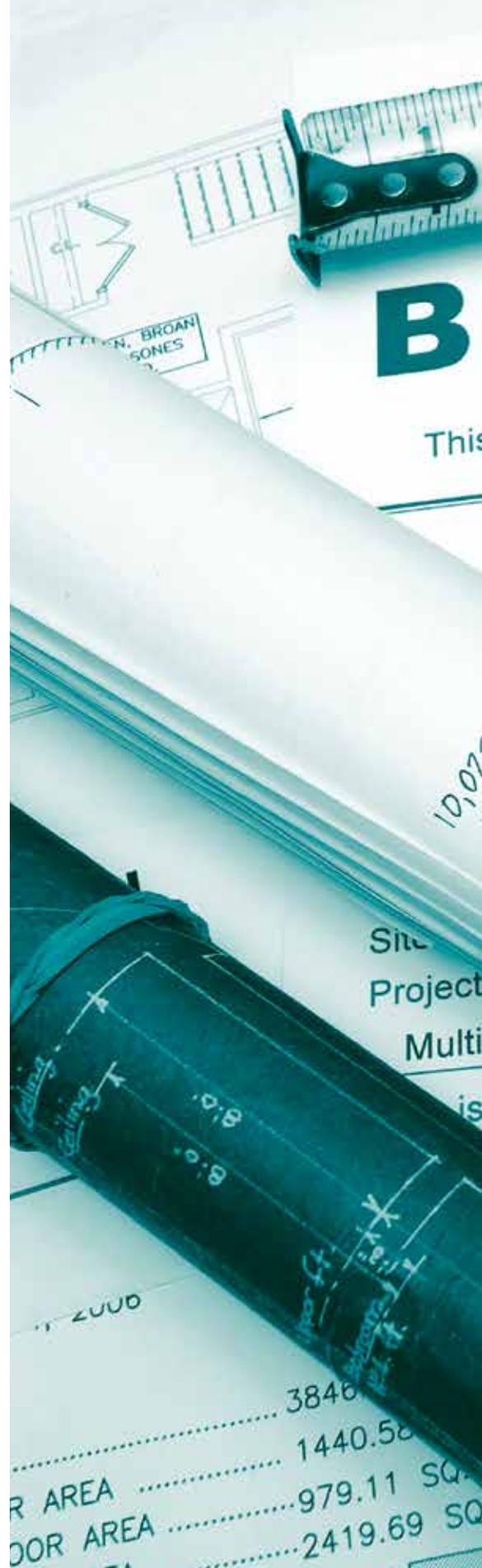
Myth #3: Secondhand smoke really isn't very harmful. **Secondhand smoke kills.** *Read more about the harmful effects on page 20.*

Myth #4: Most smoke can be easily contained in a smoker's unit, and the part that may infiltrate other units really doesn't matter. *Secondhand smoke spreads into nonsmoking apartments in many ways. Learn more on page 20.*

Myth #5: Most renters don't care about smoking policies or will willingly share a building. *Actually, 60% of Oklahoma apartment dwellers would prefer an apartment in an entirely nonsmoking building. See page 4.*

Myth #6: A nonsmoking policy would be difficult to implement and enforce. *A nonsmoking policy is just as easy to implement as any other. See page 33 for more details.*

Myth #7: Smokers will not support a new policy, and I may lose tenants. *Smokers support smokefree policies too. Survey data is available on page 5.*









SECTION I

SMOKEFREE POLICIES

A Healthy Business Decision

In survey after survey, the overwhelming majority of housing tenants prefer nonsmoking apartments. And a significant percentage would even pay more to live in smoke-free housing. Happy tenants are good business.

What makes even more business sense is the money you'll save. With a smokefree property, you won't have to waste hundreds of hours and thousands of dollars on maintenance. And you'll also reduce health and fire risks that could leave you legally and financially vulnerable.

When you implement your nonsmoking policy, you'll be taking care of business and a whole lot more.

KNOW YOUR RIGHTS

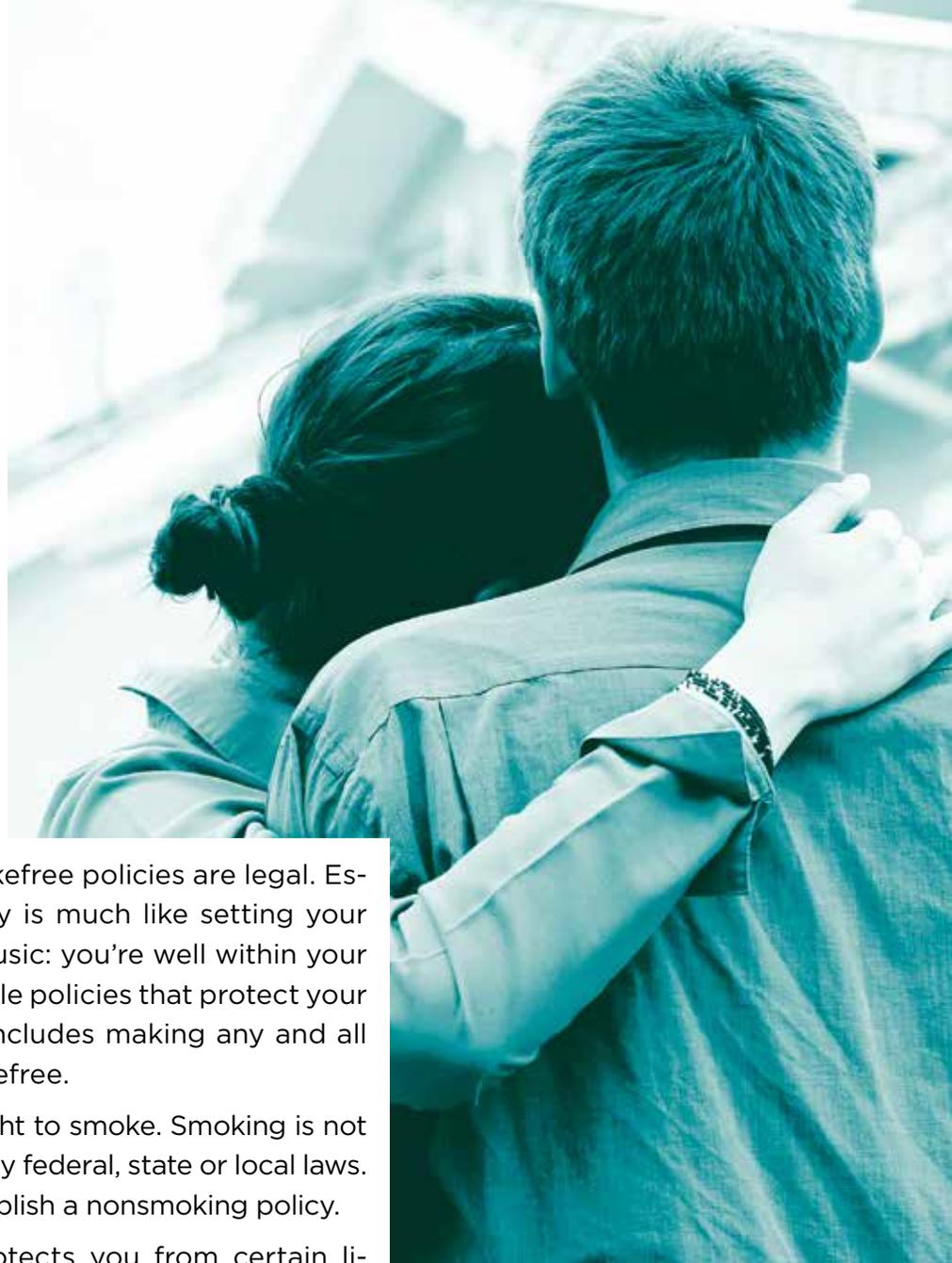
Legal Ease

The law is on your side. Smokefree policies are legal. Establishing a smokefree policy is much like setting your own rules for pets or loud music: you're well within your rights to implement reasonable policies that protect your property and tenants. This includes making any and all areas of your property smokefree.

There is no such thing as a right to smoke. Smoking is not a protected behavior under any federal, state or local laws. Therefore, a landlord can establish a nonsmoking policy.

A smokefree policy also protects you from certain liabilities. Residents have successfully sued managers for failing to stop smoke from drifting into their units. Past decisions have included reduced rent, payments for damages and medical bills.

Nonsmokers with breathing disabilities or smoke allergies have legal protection under federal and state laws. They may request reasonable accommodations to protect them from secondhand smoke, and property managers can be required to make them.





PROTECT YOUR INVESTMENT

Making Dollars and Sense

Damage Control

If you have tenants who smoke, you've seen the damage it can do to your property. Every time a resident vacates a unit, it has to be cleaned in preparation for a new tenant. And if that departing resident was a smoker, you can pay thousands of dollars extra for this process.

- * Extra carpet cleaning and/or replacement
- * Replacing blinds
- * Replacing surfaces with burns or stains
- * Painting and repainting walls and ceilings to cover stains and odors

But the damage caused by smoking goes far beyond odors and stains. Smoking is a leading known cause of fires, causing injury, death and millions of dollars in damages.

Insurance Savings

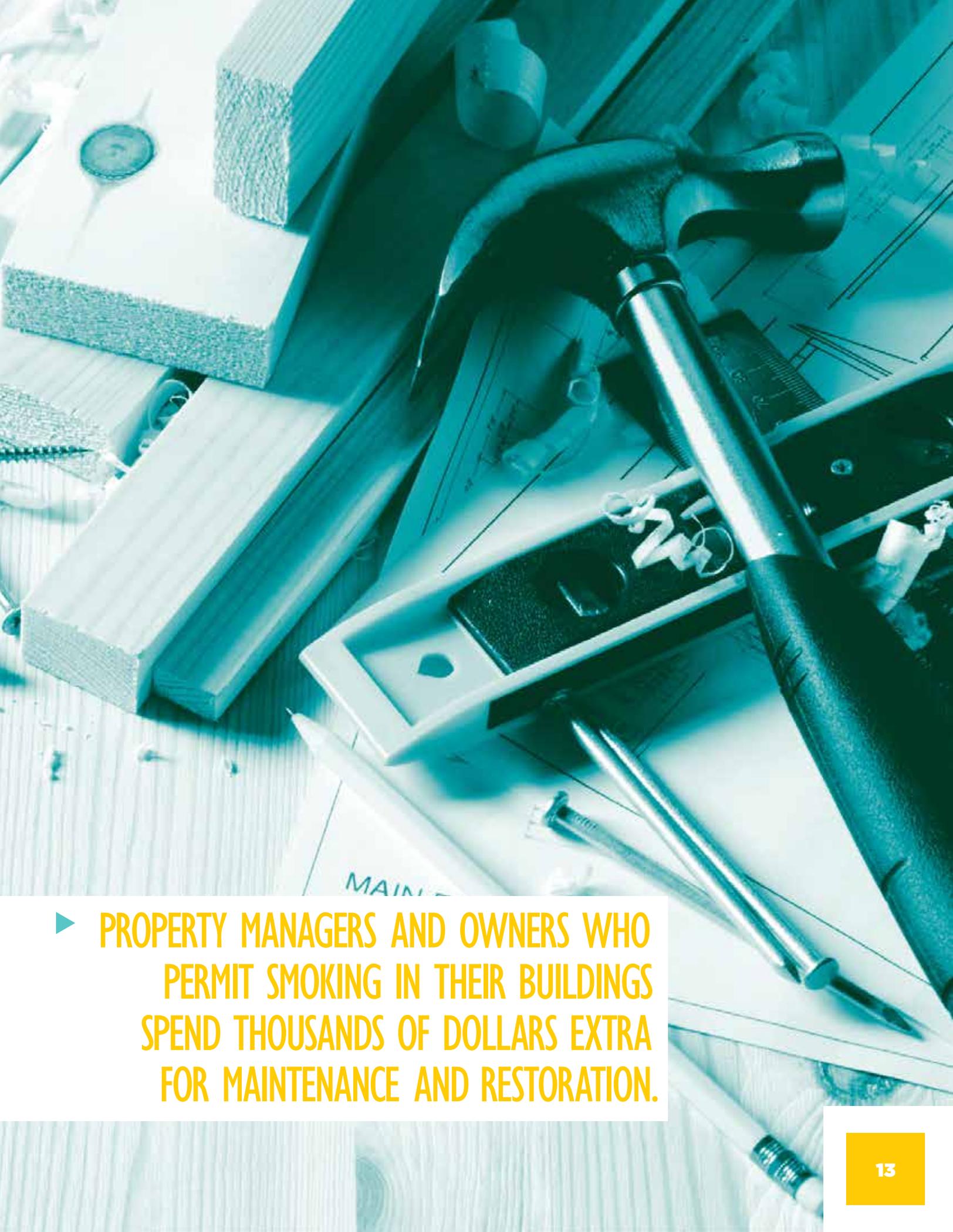
A nonsmoking policy may qualify your property for a lower insurance rate. Some insurance companies give a credit or premium reduction to landlords if they don't allow smoking in their building. Be sure to ask your insurance agent about the credits and premium reductions associated with smokefree properties.



ATTRACTING RENTERS AND BUYERS

People know that secondhand smoke is harmful to their health, and they don't want the smell of someone else's smoke in their homes. A smoky smell and residue is very difficult for residents to eliminate on their own. Rather than risk feeling ill and having their clothing and furniture absorb the smoke smell, people are more likely to look for someplace else to live. Even a large number of smokers prefer smoke-free housing. And, by telling their insurance company they live in a smokefree building, tenants may see their renters' insurance premiums reduced.

Going smokefree also protects and maintains the resale value of your property. As the number of residences and businesses with smokefree policies increases, people have come to expect buildings free from smoke damage and aren't likely to even consider a property with smoking in its past.



- ▶ **PROPERTY MANAGERS AND OWNERS WHO PERMIT SMOKING IN THEIR BUILDINGS SPEND THOUSANDS OF DOLLARS EXTRA FOR MAINTENANCE AND RESTORATION.**

AMERICANS WITH DISABILITIES ACT (ADA)

Disabilities are physical or mental conditions that substantially limit major life activities like walking or breathing. They can include asthma, chronic bronchitis and chest pains that are made worse through exposure to secondhand smoke.

When notified of a tenant's disability, you are responsible for making reasonable accommodations and rule changes to address that disability. Some of those responsibilities may be:

- Moving disabled tenants to a vacant unit away from drifting smoke, though such a move may be considered punitive, especially for a disabled resident.
- Prohibiting smoking in the apartments and balconies around disabled tenants' units.
- Allowing disabled tenants' leases to be broken without financial penalties would be a reasonable accommodation if others can't be made.
- Adopting a nonsmoking policy for the entire building.
- Reasonable changes do not include evicting smokers or anything that could incur excessive expenses.

Tenants with disabilities made worse by being exposed to neighbors' secondhand smoke may seek legal action under the ADA, the FHA, or through the Oklahoma Attorney General's Office requiring a reasonable accommodation in their housing. Possible accommodations could include developing or enforcing a nonsmoking policy.

Keep in mind, smoking is not a constitutionally protected activity or right. An individual's status as a smoker is not a protected category or recognized disability under Oklahoma housing laws.



THE FAIR HOUSING ACT (FHA)

The Fair Housing Act (FHA) prohibits discrimination against individuals with disabilities by owners and operators of most housing. To be covered by FHA, a person who is impaired by exposure to secondhand smoke must be able to show that such impairment is severe and chronic.

Residents with disabilities affected by secondhand smoke may request that property management implement a nonsmoking policy as a reasonable accommodation under the FHA.

FHA makes it unlawful for any person to refuse “to make reasonable accommodations in rules, policies, practices or services, when such accommodations may be necessary to afford...person(s) (with disabilities) equal opportunity to use and enjoy a dwelling.” Note that smoking is not considered a disability by the FHA, and you are not required to make accommodations for a resident to smoke.

A resident with a disability who thinks he or she has been denied a reasonable accommodation can file a complaint with HUD or the Oklahoma Attorney General’s Office.



According to the U.S. Department of Housing and Urban Development (HUD), owners of federally subsidized housing not only have the right to prohibit or otherwise restrict smoking, but HUD, along with the Office of Public and Indian Housing and the Office of Healthy Homes and Lead Hazard Control, also issued a notice that “strongly encourages” all public housing authorities (PHAs) to adopt smokefree policies for their buildings.

The notice highlights that PHAs may adopt nonsmoking policies for the entire interior of their buildings, and that PHAs may make this policy effective for current residents who smoke, as well as for nonsmokers.

PHAs are also free to make the property outside of buildings nonsmoking.

The HUD memo notes that nonsmoking policies are good for the health of residents, especially children, the elderly, and persons with respiratory illnesses. Such

policies reduce costs. The extra costs of restoring units that have been smoked in can be thousands.

The HUD notice also cites the dangers of smoking-related fires in multiunit housing.

The requirements for implementing a smokefree policy in subsidized housing vary depending on the type of subsidy or assistance the property receives. For example, some properties can include smokefree language in the lease; others should implement the policy using house rules. The process to enforce a smokefree policy can also vary by type of property.

If you want to change model lease language in federally subsidized buildings, you will need approval from your HUD office.

There are successful examples of smokefree housing of all kinds including public housing, rental vouchers and privately owned affordable housing. Work with the agency that administers your subsidy program when developing your policy to find out if there are any additional requirements for creating your policy.

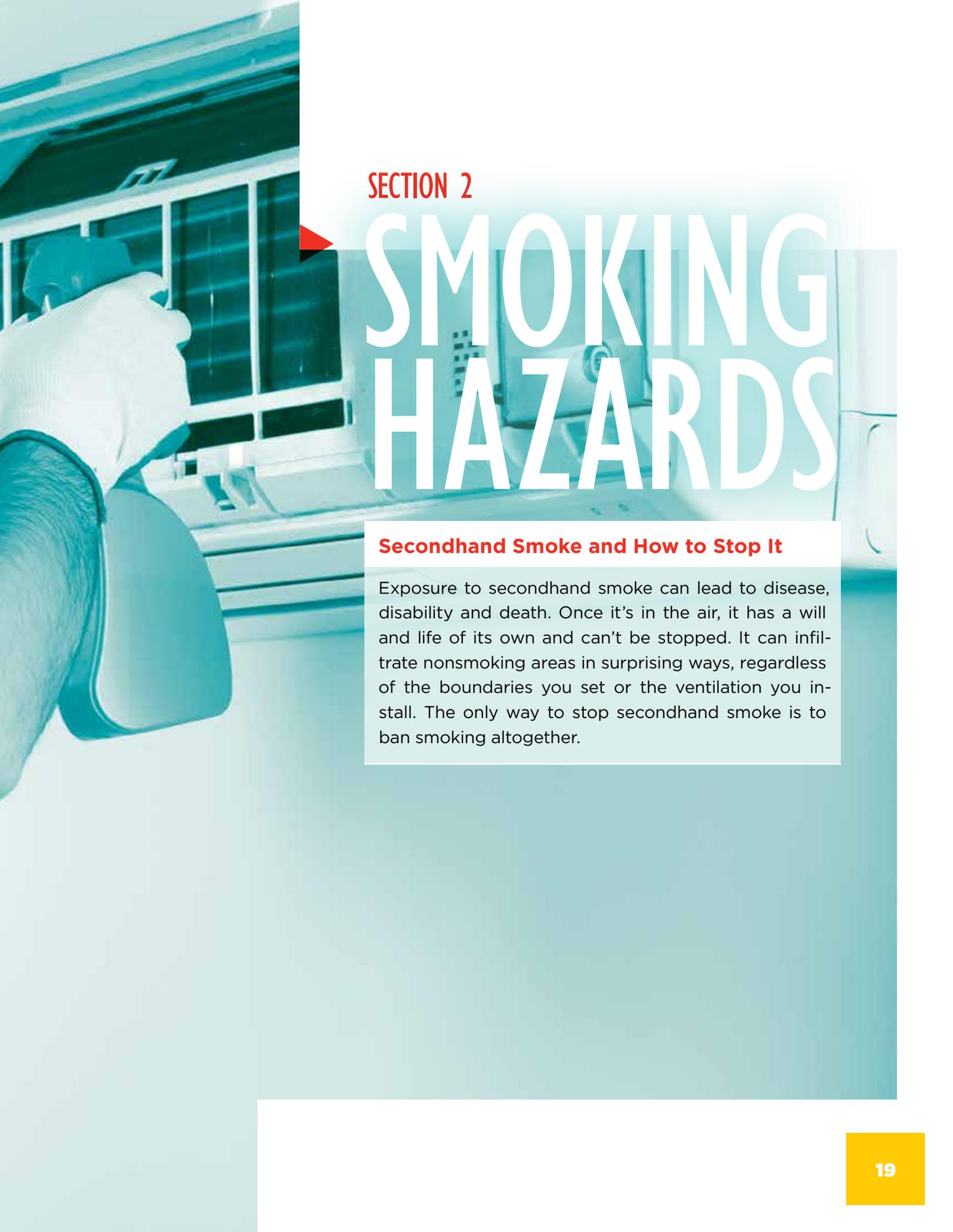
Please see Appendix F for the HUD notice.

HUD & OTHER PUBLICLY FUNDED BUILDINGS









SECTION 2

SMOKING HAZARDS

Secondhand Smoke and How to Stop It

Exposure to secondhand smoke can lead to disease, disability and death. Once it's in the air, it has a will and life of its own and can't be stopped. It can infiltrate nonsmoking areas in surprising ways, regardless of the boundaries you set or the ventilation you install. The only way to stop secondhand smoke is to ban smoking altogether.

SECONDHAND SMOKE

The Inescapable Truth

No matter how you separate smoking and nonsmoking residents, nonsmoking residents are exposed to harmful secondhand smoke. After just a few minutes of exposure, a nonsmoker can begin to exhibit health problems comparable to those of smokers. The effects and consequences are profound:

- Exposure to more than 7,000 chemicals, hundreds of them harmful including at least 70 known to cause cancer
- Heart disease and heart attacks
- Lung cancer
- Life-threatening or fatal asthma attacks
- Sudden Infant Death Syndrome (SIDS)
- Respiratory infections
- Ear infections in young children
- Emphysema, stroke and other debilitating diseases

Secondhand smoke causes an estimated 50,000 deaths in the U.S. each year. 700 of those deaths in Oklahoma.

Smoke cannot be contained.

Expensive ventilation systems are no match for secondhand smoke. It can spread into nonsmoking apartments in a number of unexpected ways:

- Ventilation and forced air systems
- Doors and windows
- Electrical outlets
- Cable and phone jacks
- Ceiling fixtures and crawl spaces
- Gaps around sinks, counter tops, cabinets or walls
- Neighbors' balconies and common areas





ASHRAE & SURGEON GENERAL

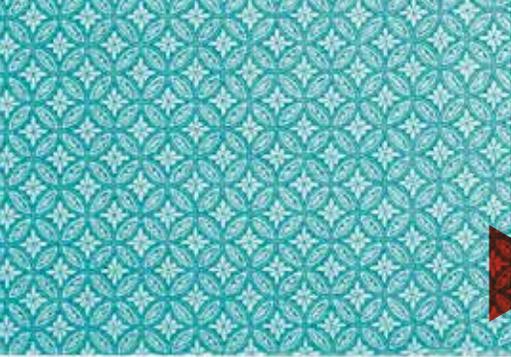
Banning Smoking is the Only Solution

The American Society of Heating, Refrigerating & Air Conditioning Engineers (ASHRAE) released their latest report on secondhand smoke, and their position couldn't be clearer: "At present, the only means of effectively eliminating the health risks associated with indoor exposure is to ban smoking activity."

ASHRAE cautions that methods and devices such as air fresheners, cleaners and purifiers have not proved to be effective and should not be relied upon to control health risks.

The U.S. Surgeon General agreed, concluding that separating smokers from nonsmokers, air cleaning technologies and ventilation cannot eliminate secondhand smoke exposure and its harmful particles. Additionally, he found that ventilation systems such as heating and air-conditioning can actually distribute secondhand smoke throughout a building.





SECTION 3



DEVELOPING AND IMPLEMENTING YOUR SMOKEFREE POLICY

Winds of Change

When you're ready to take steps, finding the right path can be difficult. Everything, from the type of policy to how to promote it requires careful consideration. Following these suggestions or ideas will point you in the right direction.

▶ CHOOSING YOUR POLICY

As the landlord or property owner, you have the freedom and flexibility to create the type of smokefree policy that best suits your situation, from a Level 1 policy (the minimum required by state law) to a completely smokefree or tobacco-free property (Levels 5 and 6). Keep in mind, however, that partial smokefree policies (Levels 1-3) have fewer benefits than prohibiting smoking or tobacco use altogether.

Level 1

Nonsmoking Indoor Workplace & Indoor Common Areas

The starting point for all tobacco use policies, this alternative simply prohibits smoking inside indoor public areas and indoor workplaces including offices and common areas such as hallways, laundry rooms and meeting spaces. It doesn't protect nonsmokers in their homes, but it does make your property more attractive, and it probably reduces the number of cigarette butts littering your property. This is already the law in Oklahoma and many other states.

Minimum Required by State Law

Level 2

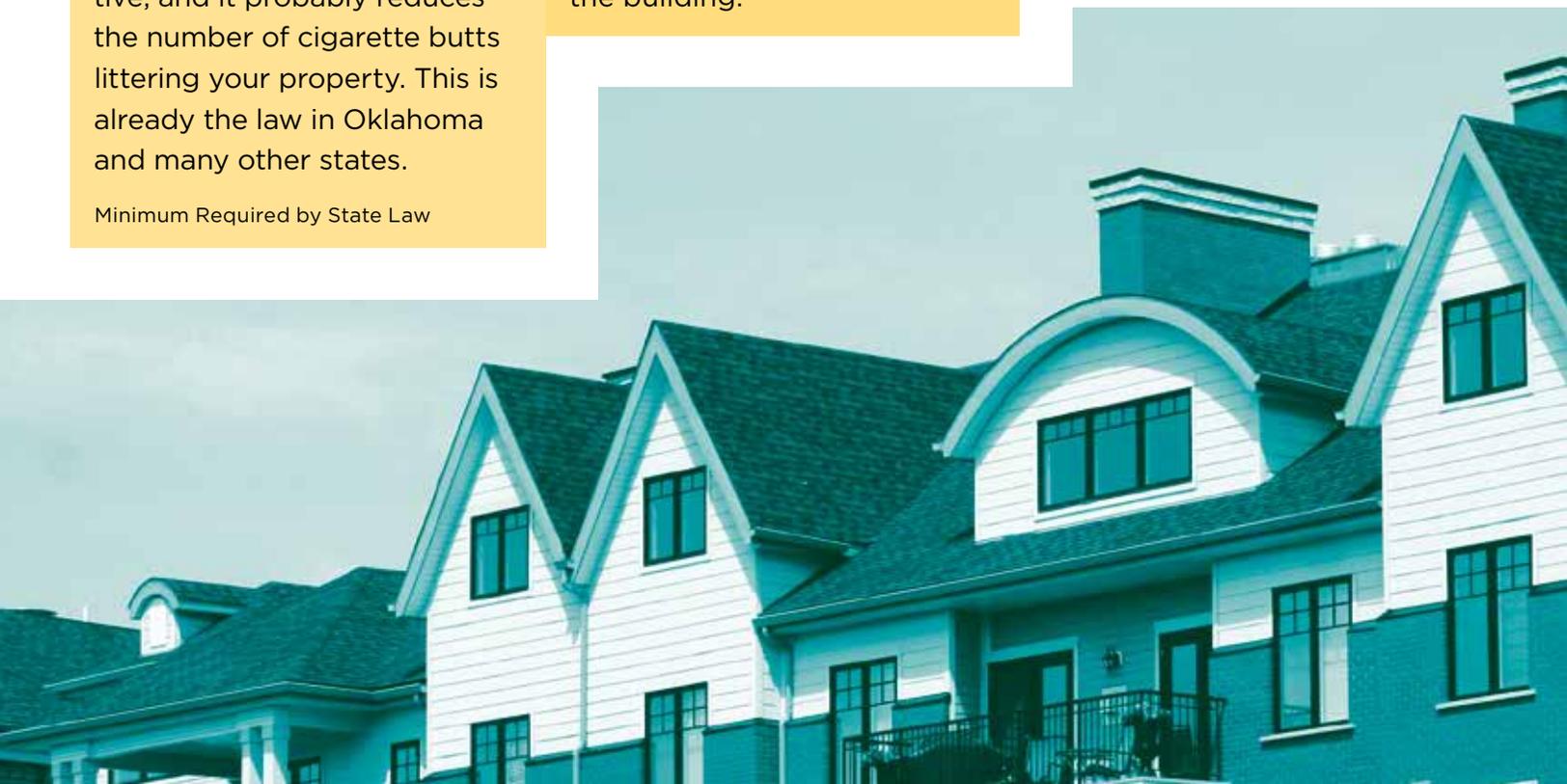
Designated Nonsmoking Buildings

This option allows you to designate certain buildings in which smoking is not allowed. It limits the property damage caused by secondhand smoke to a smaller portion of your overall property. It also protects residents of the nonsmoking buildings from tobacco smoke pollution migrating from other units in the building.

Level 3

Add Nonsmoking Zones on Balconies

Adding Nonsmoking Zones on balconies and patios of nonsmoking buildings and within 25 feet of these buildings. This option provides additional protection from outdoor secondhand smoke entering the nonsmoking buildings, a common problem where such a policy is not followed.



Level 4

All Buildings are Nonsmoking Including Balconies

All buildings are nonsmoking, along with their balconies, patios and areas within 25 feet of the buildings. This approach effectively protects resident families and visitors from indoor exposure to secondhand smoke, while allowing for outdoor smoking away from apartment buildings, often in designated areas to ensure that smoking is far enough from residential units or indoor workplaces.

Level 5

Nonsmoking Property

This option provides the greatest protection from secondhand smoke and is particularly attractive to prospective renters concerned with their health and the health of their friends and families. An added benefit is the increased incentive for smokers to quit.



Level 6

Tobacco-Free Property

The healthiest, safest and perhaps the most profitable option of all. A tobacco-free policy helps reduce maintenance and can be a strong draw in the market. It not only protects nonsmokers from harmful secondhand smoke exposure and provides greater incentive for smokers to quit, it also discourages young Oklahomans from taking up any form of tobacco use.



IMPLEMENTING YOUR POLICY

1. Make a Plan and Develop Your Policy

As previously discussed, you may apply nonsmoking restrictions to areas that best suit your needs. A policy that covers the whole property will have the biggest impact on cost reductions, building safety and residents' health. It is the easiest policy to enforce because there are no exceptions. A comprehensive policy should also specify that it pertains to residents' guests, building employees, maintenance workers and other visitors to the property.

2. Hold a Meeting

It is recommended that you include your tenants in the process of going smokefree. This helps to tell them that you're concerned about secondhand smoke, and it illustrates how going smokefree can benefit everyone. Be prepared to answer questions and address concerns. By giving them ample advance notice, you'll gain support and compliance. Even if some residents are reluctant to embrace this policy, it is helpful to include them in the process. Remember to emphasize that this is a "no smoking" rule, not a "no smokers" rule.







3.

Tenant Communication and Support

Once you've introduced the idea of a smokefree policy, send tenants a letter giving them notice of the new rule, restating your reasons, when it goes into effect and other pertinent details.

Smokefree policies can encourage smokers to consider quitting. You can support your tenants by offering information on the free tobacco cessation resources that Oklahoma has to offer:

[1-800-QUITNOW](tel:1800QUITNOW) or www.okhelpline.com

4.

Amending Your Leases

When converting an existing building or complex, you may need to phase in the policy as you fill vacancies or as leases are renewed. You can write your policy into the rental agreement in "other rules" or add a lease addendum such as the sample language in Appendix C.

Be aware that until all leases have been renewed you may have residents whose current leases do not prohibit smoking. You can also go smokefree after a certain date by following landlord-tenant law requirements, including giving advance notice and having tenants agree to the changes in writing.





Sample Lease Language

To help ease your transition to smokefree properties, sample lease language is available for you to discuss with your legal counsel for possible inclusion in your new or renewal leases.

Include the following in a “Definitions” section:

“SMOKING: The term “smoking” means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, or other tobacco product in any manner or in any form.”

Include a description of your restrictions, such as the following for a Level 4 policy as described on pages 24 and 25.

“SMOKING: Due to the increased risk of fire, increased maintenance costs, and the known adverse health effects of secondhand smoke, smoking is prohibited in any area of the property, both private and common, whether enclosed or outdoors, within 25 feet of the building(s). This policy applies to all owners, tenants, guests, employees, and service persons. Tenants are responsible for ensuring that family members, roommates and guests comply with this rule.”

Depending on the language and standards of your lease, you can adopt a smokefree policy in as little as 30 days.

If you have a standard lease that provides that changes can be made only at the time of renewal, you must follow this contract stipulation. If you have included in your lease a provision allowing you to amend the lease with as little as 30 days’ notice, you may do so. Remember, smokefree policies are like any other policy change and should be treated the same as if you were amending requirements for policies such as trash disposal, pets or rent payment.

Residents on month-to-month leases require 30 days’ notice before a policy change. The nonsmoking policy can go into effect on the first day of the lease term (the day rent is due), 30 days after the resident has received notice.

A sample lease addendum is included in Appendix C.



SECTION 4



EDUCATION AND COMPLIANCE

A survey of owners with smokefree policies found the overwhelming majority reported time spent to manage the building did not increase after adopting a smokefree policy. And 99% of landlords who have implemented a smokefree policy report that it was a good decision.

The first step to compliance is education. Post signs in and around the building (front door, hallways, common and outdoor areas) to alert current and prospective tenants and any guests or outside visitors to your nonsmoking policy. Here's some suggested language:

“Welcome to our smokefree 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.”

See Appendix G for sample signage.

It is reasonable to expect that someone will test the rules. If you do not enforce the no-smoking policy, you will not have smokefree units and you will have unhappy tenants. You may even face a lawsuit for breach of contract. Inform tenants that if they smoke in their units, they will be financially responsible for bringing the unit back to rentable condition, which could cost thousands of dollars. Use approximately the same policy you would for other rule violations, like throwing loud parties or parking in restricted areas. You may decide to issue a warning or two before you evict someone for violating lease terms.

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

One option you may want to consider is providing an outdoor smoking area away from windows and doors of your facility (25 feet is a good minimum distance). However, you are under no obligation to provide an outdoor smoking area.

See Appendix B for a Sample Warning Letter.



SECTION 5



MARKETING YOUR SMOKEFREE POLICY

Advertise the units as nonsmoking to attract tenants who either don't smoke or don't wish to live in smoky conditions. Survey after survey shows a high demand for smoke-free apartment buildings. Increasingly, many people who smoke often smoke outside voluntarily, perhaps as a result of the increased awareness and changing social norms around secondhand smoke.

Despite increasing demands, few apartment buildings are completely smokefree. Capitalize on this market gap by highlighting your smokefree status as an amenity when you market your property.

Please see Appendix G for sample signage and logos for promoting your policy.



SUPPLEMENTAL INFORMATION

SAMPLE IMPLEMENTATION TIMELINE PG 38
APPENDIX A

SAMPLE LETTER TO TENANTS PG 39
APPENDIX B

SAMPLE LEASE ADDENDUM PG 40
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MUH RESOURCES
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PG 50

SHS RESOURCES
APPENDIX I

PG 52

CESSATION & CERTIFIED HEALTHY INFO
APPENDIX J

PG 54

▶ APPENDICES

1. Be In Compliance with State Smoking Laws for Indoor Workplaces

This should be done now.

2. Discuss with Tenants and Plan New Policy and Implementation

Before deciding on new policy, up to 9-12 months before launch, but at least 4-6 months before launch.

3. Decide on New Policy

Prior to written announcement.

4. Announce New Policy with Written Information to Tenants

3-6 months before launch.

5. Inform Tenants by Holding Meetings

Provide information on the new policy and make information available on cessation services in the community including the Quit Line.

6. Initiate New Policy

Launch date.

7. Add Lease Addendum with New Tobacco-Use Policy as Each Current Lease Expires

First year.

8. Policy Effective for All Units

By end of first year.

SAMPLE IMPLEMENTATION TIMELINE

APPENDIX A

SAMPLE LETTER TO ANNOUNCE POLICY

APPENDIX B

[Date]

[Resident]

[Address]

[City, State Zip]

Dear Resident:

The decision has been made for this property to become smokefree, including all apartments. The only way to effectively prevent smoke from seeping into common areas and the apartments of other residents is to prohibit smoking entirely in and around the building. The adverse health effects of secondhand smoke are well documented. A smoke-free property will help protect the health of residents and their families. To the residents who smoke, you are welcome to continue living in the building, as long as you refrain from smoking while on the property.

The rule change will occur when leases are renewed. As new residents move in and current residents renew their leases, the nonsmoking rule will become effective for their apartments. This means that during the next year, some residents might not be prohibited from smoking inside their apartments until their leases are renewed. I ask for your cooperation as I phase in the new rule. (Please note that I reserve the right to prohibit smoking immediately.)

[INCLUDE THE FOLLOWING PARAGRAPH TO INCORPORATE RULE ON A SET DATE AFTER LEASES RENEW]

The rule change will occur on [insert date] after all of our residents' leases are renewed. I ask for your cooperation as we implement this new rule. In addition, effective immediately, smoking is prohibited in all common areas of the building, including but not limited to, hallways, stairways, foyers, common rooms and facilities, fire escapes, common area decks and patios, exterior landings, front steps, entrance ways, basements, storage areas and other building facilities. Smoking means the inhaling, exhaling, breathing, carrying, or possession of any lighted cigarette, cigar, pipe, other product containing any amount of tobacco, or other similar lighted product.

Please inform your guests that smoking is prohibited. You will be held responsible if your guest violates the nonsmoking rule.

I sincerely hope that all residents, even those who smoke, will continue to enjoy living in the building. I embrace this small change as an opportunity to ensure that the building is a healthier and cleaner place for all residents and guests.

Sincerely,

[Landlord]

SAMPLE LEASE ADDENDUM

APPENDIX C

** You may adjust the portions of this addendum that have been included in brackets depending upon the scope of your smokefree policy.

Resident and all members of resident's family or household are parties to a written lease with Property Owner/Manager (the Lease). This addendum states the following additional terms, conditions, and rules that are incorporated into the Lease.

A breach of this Lease Addendum shall give each party all the rights contained herein, as well as the rights provided for in the Lease.

1. Purpose of Smokefree Housing: The parties desire to mitigate (i) the irritation and known health effects caused by secondhand smoke; (ii) the increased maintenance, cleaning, and redecorating costs from smoking; (iii) the increased risk of fire from smoking; and (iv) the high cost of fire insurance for a nonsmokefree building.

2. Definition of Smoking: "Smoking" means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other lighted smoking device for burning tobacco or any other plant.

3. Smokefree Complex: Resident agrees and acknowledges that the premises to be occupied by Resident and members of Resident's household have been designated as a smokefree living environment. Resident and members of Resident's household shall not smoke anywhere in the unit rented by Resident, in the building where the Resident's dwelling is located or in any of the common areas [or adjoining grounds of such building or other parts of the rental community], nor shall Resident permit any guests or visitors under the control of Resident to do so.

4. Resident to Promote No Smoking Policy and to Alert Landlord of Violations: Resident shall inform Resident's guests of the smokefree policy. Further, Resident shall promptly give Property Manager/Owner a written statement of any incident where secondhand smoke is migrating into the Resident's unit from sources outside of the Resident's apartment unit.

5. Property Manager/Owner to Promote No Smoking Policy: Property Manager/Owner shall post no smoking signs at entrances and exits, common areas, and hallways [and in conspicuous places on the grounds adjoining the apartment complex].

6. Property Manager/Owner Not a Guarantor of Smokefree Environment: Resident acknowledges that Property Manager/Owner's adoption of a smokefree living environment, and the efforts to designate the rental complex as smokefree, do not make the Property Manager/Owner or any of its managing agents the guarantor of Resident's health or of the smokefree condition of the Resident's unit and the common areas. However, Property Manager/Owner shall take reasonable steps to enforce the smokefree terms of its leases and to make the [designated areas of the] complex smokefree. Property Manager/Owner is not required to take steps in response to smoking unless Property Manager/Owner knows of said smoking or has been given written notice of said smoking.

7. Other Residents are Third-Party Beneficiaries of Resident's Agreement: Resident agrees that the other Residents at the complex are the third-party beneficiaries of Resident's smokefree addendum agreement with Property Manager/Owner. A Resident may sue another Resident for an injunction to prohibit smoking or for damages, but does not have the right to evict another Resident. Any suit between Residents herein shall not create a presumption that the Property Manager/Owner breached this Addendum.

8. Effect of Breach and Right to Terminate Lease: A breach of this Lease Addendum shall give each party all the rights contained herein, as well as the rights provided for in the Lease. A material breach of this Addendum by the Resident shall be a material breach of the Lease and grounds for immediate termination of the Lease by the Property Manager/Owner. Property Manager/Owner acknowledges that in declaring this building [or portion of the building] to be smokefree, the failure to respond by Property Manager/Owner to a complaint filed by the Resident shall be treated as equivalent to failure to respond to a request for maintenance. Oklahoma law governing repair and deduct, the implied warranty of habitability, and the covenant of quiet enjoyment shall be understood to include the right to be smokefree contingent upon cooperation of both Resident and Property Manager/Owner. These provisions shall also be construed to result in a constructive eviction if Property Manager/Owner fails to timely respond to Resident's complaints regarding secondhand smoke.

9. Disclaimer by Property Manager/Owner: Resident acknowledges that Property Manager/Owner's adoption of a smokefree living environment, and the efforts to designate the rental complex as smokefree, does not in any way change the standard of care that the Property Manager/Owner would have to a Resident household to render buildings and premises designated as smokefree any safer, more habitable, or improved in terms of air quality standards than any other rental premises. Property Manager/Owner specifically disclaims any implied or express warranties that the building, common areas, or Resident's premises will have any higher or improved air quality standards than any other rental property. Property Manager/Owner cannot and does not warranty or promise that the rental premises or common areas will be free from secondhand smoke. Resident acknowledges that Property Manager/Owner's ability to police, monitor, or enforce the agreements of the Addendum is dependent in significant part on voluntary compliance by Resident and Resident's guests. Residents with respiratory ailments, allergies, or any other physical or mental condition relating to smoke are put on notice that Property Manager/Owner does not assume any higher duty of care to enforce this Addendum than any other Property Manager/Owner obligation under the Lease.

Optional Paragraph for Existing Rental Communities that Adopt Smokefree Policies:

10. Effect on Current Residents: Resident acknowledges that current residents residing in the complex under a prior Lease will not be immediately subject to the smokefree policies. As current residents move out, or enter into new Leases, the smokefree policy will become effective for their new unit or new Lease.

Resident

Date

Property Manager/Owner

Date



SAMPLE DISCLOSURE STATEMENT

APPENDIX D

The following is the tobacco-use policy at _____ Apartments,
_____ Street, _____, Oklahoma.

[Description of the nonsmoking policy, or no tobacco use policy.]

[If some buildings have different policies, specify which ones.]

[If there are designated smoking areas outside, describe these locations.]

This information is provided to all tenants and incorporated into apartment leases through a smokefree lease addendum for all nonsmoking apartments effective [date].

This information is also provided to all prospective tenants who visit and tour this facility.

(Prospective) Tenant Signature _____ Date _____

Landlord Signature _____ Date _____

The following warning letter can be used as a model to write your own letters to tenants who are violating the terms of your smokefree policy. Please note that the letter is intended to be tailored according to the specifics of your smoke-free policy and the penalties associated with violating the contract.

Dear **NAME OF RESIDENT**,

As stated in your lease agreement, **NAME OF PROPERTY** has a smokefree policy that states **SMOKING POLICY FROM LEASE**. This decision was made to protect the health of all tenants from the adverse effects of secondhand smoke, a known health hazard associated with lung cancer and heart disease. The decision was also made to protect our buildings from damage to units and an increased risk of fire.

On **DATE/TIME** you were observed smoking in **AREA** in violation of the lease agreement. (Add further details about the violation if appropriate.)

Tenants who violate the terms of their lease are subject to the penalties outlined in the lease agreement. If you violate the terms of the lease again, we may take appropriate action, including terminating your lease. (Include further details about your enforcement procedures of warnings, fines, etc.) (If you have a designated smoking area, provide details on where it is and ask the tenant to smoke only in the designated area(s).)

We appreciate your attention to this matter. If you have questions or concerns, please contact us at **CONTACT INFORMATION**.

If you are interested in quitting smoking, free help is available at the Oklahoma Tobacco Helpline (1-800-QUITNOW). Free services may include information, counseling, a personalized quit plan, local quitting resources, nicotine replacement therapy (patches or gum) and quit kits.

Sincerely,

YOUR NAME & COMPANY

SAMPLE WARNING LETTER
APPENDIX E

HUD NOTICE

APPENDIX F



**U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
Office of Healthy Homes and Lead Hazard Control**

SPECIAL ATTENTION OF:

NOTICE: PIH-2012-25

Regional Directors; State and Area Coordinators; Public Housing Hub Directors; Program Center Coordinators; Troubled Agency Recovery Center Directors; Special Applications Center Director; Administrators; Resident Management Corporations Public Housing Agencies; Healthy Homes Representatives

Issued: May 29, 2012

Expires: Effective until amended, revoked or superseded

Cross Reference:
24 CFR 903.7 (e)(1)
24 CFR 966.3

Subject: Smoke-Free Policies in Public Housing

1. **Purpose.** This notice is a reissuance of PIH Notice 2009-21 which strongly encourages Public Housing Authorities (PHAs) to implement smoke-free policies in some or all of their public housing units. According to the American Lung Association, cigarette smoking is the number one cause of preventable disease in the United States. The elderly and young populations, as well as people with chronic illnesses, are especially vulnerable to the adverse effects of smoking. This concern was addressed by the Family Smoking Prevention and Tobacco Control Act, P.L. 111-31, signed by the President on June 22, 2009. It is possible for Environmental Tobacco Smoke (ETS) to migrate between units in multifamily housing, causing respiratory illness, heart disease, cancer, and other adverse health effects for those living in neighboring residences. Therefore the Department is encouraging PHAs to adopt smoke-free policies. By reducing the public health risks associated with tobacco use, this notice will enhance the effectiveness of the Department's efforts to provide increased public health protection for residents of public housing. The Department is currently developing additional guidance to assist PHAs with the consideration and adoption of smoke-free policies.

2. **Applicability.** This notice applies to Public Housing.

3. **Background.** Secondhand smoke, also known as Environmental Tobacco Smoke, is the smoke that comes from the burning end of a cigarette, pipe or cigar, and the smoke exhaled from the lungs of smokers. ETS is involuntarily inhaled by non-smokers, and can cause or worsen adverse health effects, including cancer, respiratory infections and asthma. According to the U.S. Environmental Protection Agency (EPA) secondhand smoke exposure causes disease and premature death in children and adults who do not smoke (www.epa.gov/smokefree/healtheffects.html). Also the 2006 Surgeon General's report identified hundreds of chemicals in secondhand smoke that are known to be toxic. The report

(*The Health Consequences of Involuntary Exposure to Secondhand Smoke*) can be found at <http://www.surgeongeneral.gov/library/smokeexposure/report/fullreport.pdf>. According to this report, secondhand smoke causes an estimated 50,000 deaths in adult non-smokers in the United States each year, including approximately 3,400 from lung cancer and approximately 46,000 from heart disease. This can have a significant impact on people who live in close proximity to smokers.

Currently there are more than 1.2 million families who reside in public housing. Residents between the ages of 0-17 represent approximately 39 percent of public housing residents, with those over the age of 62 representing approximately 15 percent of public housing residents. Residents in these age groups account for at least 54 percent of public housing residents, and represent a population that could be at increased risk to the adverse effects of ETS. Additionally, there are a considerable number of residents with chronic diseases such as asthma and cardiovascular disease who may also be particularly vulnerable to the effects of ETS as secondhand smoke lingers in the air hours after cigarettes have been extinguished and can migrate between units in multifamily buildings.

Smoking is the leading cause of fire deaths in multifamily buildings with 26 percent of these casualties reported in 2005

www.usfa.dhs.gov/downloads/pdf/publications/Residential_Structure_and_Building_Fires.pdf. Data from the U.S. Fire Administration of the Department of Homeland Security estimates that in 2006 there were 18,700 smoking-material fires in homes. These fires resulted in 700 civilian deaths (not including firefighter casualties), 1,320 civilian injuries, and \$496 million in direct property damage www.nfpa.org/assets/files/PDF/OS.Smoking.pdf.

4. Indoor Air Quality (IAQ). According to the U.S. Green Building Council (USGBC), toxin free building materials used in green buildings help combat indoor air pollution. Achieving good IAQ involves minimizing indoor pollutants such as ETS; therefore it would be advantageous for a PHA to restrict indoor smoking as it would be easier for a property to achieve good IAQ in its buildings. During construction or renovation of projects, PHAs should consider the following actions: installing direct vent combustion equipment and fireplaces; providing for optimal, controlled, filtered ventilation and air sealing between living areas and garage or mechanical areas, and the use of paints and other materials that emit no or low levels of volatile chemicals (volatile organic compounds or VOCs). Sixty-five percent of the public housing inventory was built prior to 1970. In order for a PHA to implement retrofits that would improve IAQ significantly, it would be likely that renovation would need to take place. If a PHA performs renovations to improve IAQ without also implementing a non-smoking policy, the IAQ benefits of the renovation would not be fully realized. Therefore, a non-smoking policy is an excellent approach for those PHAs that are trying to achieve improved IAQ without additional retrofit costs.

5. Maintenance. It is well known that turnover costs are increased when apartments are vacated by smokers. Additional paint to cover smoke stains, cleaning of the ducts, replacing stained window blinds, or replacing carpets that have been damaged by cigarettes can increase the cost to make a unit occupant ready. Therefore, a non-smoking policy is another good approach for reducing maintenance costs. View the Sanford Maine Housing Authority case study at

<http://www.smokefreeforme.org/landlord.php?page=Save+Money%2C%3Cbr%3ESave+Your+Building>.

6. **Policy Discretion.** PHAs are permitted and strongly encouraged to implement a non-smoking policy at their discretion, subject to state and local law. Some PHAs have established smoke-free buildings. Some PHAs have continued to allow current residents who smoke to continue to do so, but only in designated areas and only until lease renewal or a date established by the PHA. Some PHAs are prohibiting smoking for new residents. According to a state-funded anti-smoking group, the Smoke-Free Environment Law Project of the Center for Social Gerontology, there are more than 225 PHAs and housing commissions across the country that have implemented non-smoking policies. PHAs should consult with their resident boards before adopting non-smoking policies at their properties.

7. **PHA Plans.** PHAs opting to implement a non-smoking policy should update their PHA plans. According to 24 CFR 903.7(e), their plan must include their statement of operation and management and the rules and standards that will apply to their projects when the PHA implements their non-smoking policy. PHAs are encouraged to revise their lease agreements to include the non-smoking provisions. If PHAs institute non-smoking policies, they should ensure that there is consistent application among all properties and buildings in their housing inventory in which non-smoking policies are being implemented.

8. **Smoking Cessation National Support.** Smoking tobacco is an addictive behavior, therefore PHAs that implement non-smoking policies should provide residents with information on local smoking cessation resources and programs. Local and state health departments are sources of information on smoking cessation. The toll-free number of the National Network of Tobacco Cessation Quitlines, 1-800-QUIT-NOW (1-800-784-8669), connects users directly to their State quitline, the National Cancer Institute's website www.smokefree.gov provides tips on quitting tobacco use, and the American Lung Association's Web page on State Tobacco Cessation Coverage www.lungusa2.org/cessation2 provides information on cessation insurance programs, both public and private, in all states and the District of Columbia. In addition, information on quitting from National Cancer Institute counselors can be accessed by calling the toll-free number 1-877-44U-QUIT (1-877-448-7848). Hearing or speech-challenged individuals may access these numbers through TTY by calling the toll-free Federal Relay Service at 1-800-877-8339. PHAs that implement non-smoking policies should be persistent in their efforts to support smoking cessation programs for residents, adapting their efforts as needed to local conditions.

9. **Further Information.** For further information related to this notice, please contact Shauna Sorrells, Director, Office of Public Housing Programs at (202) 402-2769.

/s/
Sandra B. Henriquez
Assistant Secretary for Public and Indian
Housing

/s/
Jon L. Gant,
Director, Office of Healthy Homes
and Lead Hazard Control



APPENDIX G

SAMPLE SIGNAGE

FREE DECALS FOR YOUR USE

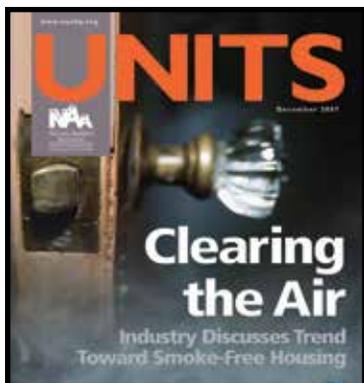
The decal illustrated on the facing page (actual size) has been designed for your use, especially at the entrances of multiunit housing buildings that have been designated as entirely nonsmoking.

These and the other variations shown below (not actual size) are made available free of charge on request to the Oklahoma State Department of Health, Center for the Advancement of Wellness (contact information on the back cover of this manual).

These variations are designed to support the levels of policies you may choose as discussed on pages 24 and 25.

For signage larger than decals, you may want to use this smokefree living logo. Please contact the Health Department for information.





The National Apartment Association's UNITS, in December 2007, featured several articles on nonsmoking multi-unit housing. These can be accessed on the Apartments and Condos page at:

www.BreatheEasyOK.com

Landlords in the Portland, Oregon area started working together several years ago to explore and encourage smokefree policies for multiunit housing. This is one of the earliest guide books for landlords, but it has excellent information applicable today. It can be downloaded at:

www.public.health.oregon.gov/Partners/HPCDPConnection/Tobacco/Documents/Housing/LandlordGuide.pdf

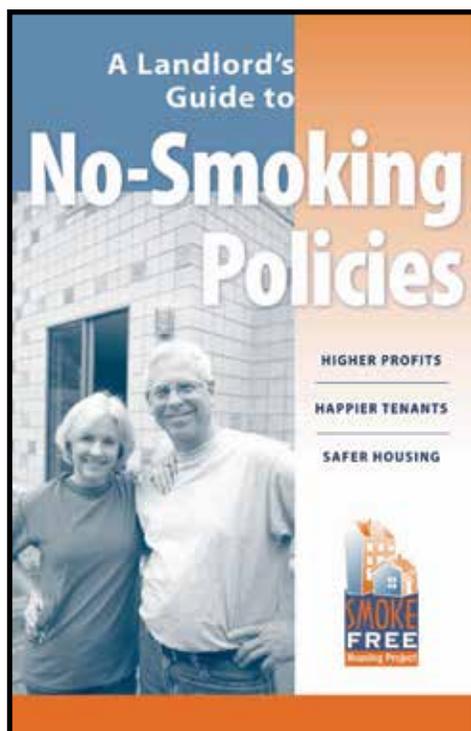


**BUILDING A FRAMEWORK
FOR HEALTHY HOUSING**

Smoke-Free Multi-Unit Housing
A Cutting Edge Issue for Health, Safety &
Cost Reasons

Jim Bergman, J.D., Director
Smoke-Free Environments Law Project
Ann Arbor, Michigan
734 665-1126 MISmokeFreeApartment.org

2008 National Healthy Homes Conference ♦ September 15-17, 2008 in Baltimore, MD



The slides presented at the 2008 National Healthy Homes Conference in Baltimore with general information on smokefree policies in multiunit housing plus specifics from Michigan and Maine. This is a good overview including business aspects and tenant attitudes. It can be downloaded at:

www.portal.hud.gov/hudportal/documents/huddoc?id=DOC_12399.pdf

APPENDIX H

MUH RESOURCES

This page on the website of the Washington State Department of Health relates the experiences of more than a dozen multiunit housing landlords who have converted buildings to entirely nonsmoking policies. Check it out at:

www.smokefreewashington.com/apartments/share/testimonials.php



This 2009 “Synopsis” provides useful background information on legal aspects of secondhand smoke in multiunit housing. Prepared by expert attorneys at the Public Health Law Center in St. Paul, Minnesota. Available at:

www.publichealthlawcenter.org/sites/default/files/resources/TCLC-syn-condos-2009_0.pdf



These slides describe the national trends in multiunit housing smoke-free policies, prepared by Jim Bergman, Director, Smoke-Free Environments Law Project, Ann Arbor, Michigan and available at:

www.publichealthlawcenter.org/sites/default/files/resources/TCLC-pres-housing-03-10.pdf

The Multiunit Housing page of the Oklahoma State Department of Health’s website

www.BreatheEasyOK.com

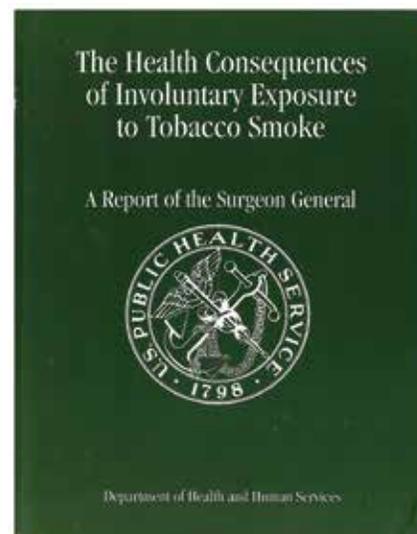
has links to documents and sites of interest to multiunit housing landlords, including those listed here.

These are some reliable sources of information on secondhand smoke and its health effects.



www.BreatheEasyOK.com is a website maintained by the Oklahoma State Department of Health, offering information specific to Oklahoma as well as more general information on secondhand smoke. Oklahoma's state secondhand smoke laws, a summary of the laws, related regulations, and studies of secondhand smoke in Oklahoma are among the topics covered here.

The 2006 Report of the Surgeon General on secondhand smoke is a thorough review of the scientific evidence on tobacco smoke pollution and the health effects of exposure to secondhand smoke. This in-depth document is available through the BreatheEasyOK.com website described above or at the site of the US Centers for Disease Control and Prevention (CDC), which is www.cdc.gov.



www.no-smoke.org is the website of Americans for Nonsmokers' Rights, an advocacy organization, and its educational branch, the American Nonsmokers' Rights Foundation. This site has frequently updated information on secondhand smoke and related policies, including news from across the country on smokefree policies in multiunit housing.

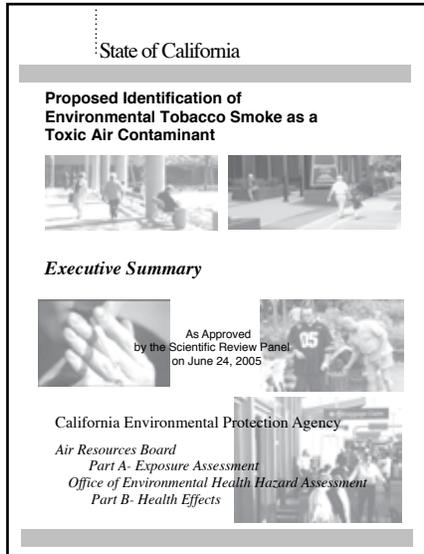
APPENDIX I SECONDHAND SMOKE RESOURCES

The Oklahoma Tobacco Settlement Endowment Trust (TSET) has two websites, www.ok.gov/tset, and www.StopsWithMe.com, that offer information on secondhand smoke and other health-related topics and TSET-funded programs.



The US Centers for Disease Control and Prevention (CDC) also provides a secondhand smoke toolkit and other resources and information at this URL:

www.cdc.gov/tobacco/basic_information/second-hand_smoke.



Another in depth review of scientific information on secondhand tobacco smoke was published in 2005, the result of California's fact finding to identify secondhand smoke as a toxic air contaminant. This report can be accessed at www.arb.ca.gov/toxics/ets/ets.htm.

**“The debate is over. The science is clear.
Tobacco smoke pollution is a serious health hazard.”**
– 2006 Surgeon General’s Report

Most Oklahomans who smoke or use other tobacco products want to quit, and over half make at least one serious quit attempt each year. Transitioning to a tobacco-free policy can be a strong motivator for tobacco users to quit. Those who succeed in breaking this addiction also obtain important health benefits.

Providing tobacco cessation assistance is an important part of policy change when adjusting to a smokefree or tobacco-free environment. Providing resources to tenants wanting to quit can increase their support for the new policy. Fortunately, there are more cessation resources available today in Oklahoma than ever before.

We know that successful quitting can often take numerous attempts. Encouraging the use of resources such as the Oklahoma Tobacco Helpline encourages tobacco users to seek help, prevent relapse and successfully quit. The Quit Coaches at the Oklahoma Tobacco Helpline can answer questions about available support – including free patches, gum or lozenges for eligible participants – as well as setting a quit date and helping coach each individual through the process. The Oklahoma Tobacco Helpline can be reached by calling 1-800-QUIT NOW (784-8669) or online at www.OKhelpline.com



Tobacco cessation benefits that have been found to be the most effective utilize the following:

- Counseling and medications, together or separately
- Coaching services, including the Oklahoma Tobacco Helpline
- FDA approved medications, including bupropion, Varenicline and both prescription and over-the-counter nicotine replacement medication

The Oklahoma State Department of Health’s Center for the Advancement of Wellness has a variety of materials available, such as tipcards and posters. These materials are free of charge and can be accessed by emailing cessations@health.ok.gov or calling 405-271-3619.

Additional resources can be found online at:

Become An Ex “relearn life without cigarettes”

<http://www.becomeanex.org/>

Smokefree.gov - “Quit Smoking Today! We Can Help”

<http://smokefree.gov/>

Smokefree.gov for Women

<http://women.smokefree.gov/>

My Last Dip

<http://mylastdip.com/>

APPENDIX J

CESSATION & CERTIFIED HEALTHY INFO

“CERTIFIED HEALTHY” PROGRAMS

The State Chamber, the Oklahoma Academy for State Goals, and the Oklahoma Turning Point Council joined with the Oklahoma State Department of Health several years ago to create a Certified Healthy Business program to assist and recognize local companies helping to create a better state of health for their employees and customers.

More recently, Certified Healthy Schools and Certified Healthy Communities programs have been launched by the same groups, authorized by a new state law. These programs provide healthier communities through actions such as smokefree and tobacco-free policies covering entire properties, 24 hours a day, 7 days a week.

Smokefree Living for multiunit housing fits well with these related efforts to boost the quality of life throughout Oklahoma. Participants in all of these programs are likely to be very interested in your new Smokefree Living multiunit housing policies, and you may want to link with them so you can help each other.

For more information on the Certified Healthy Programs, visit www.CertifiedHealthyOK.com





Center for the Advancement of Wellness
Phone (405) 271-3619 or
1-866-ONLY AIR (1-866-665-9247)
www.BreatheEasyOK.com

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