

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 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 death 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, with more than 4,000 toxic chemicals that seep from unit to unit.⁷
- Among the many illnesses caused or made worse by SHS are: lung cancer, asthma, sinus infections, ear 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 or 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.naahq.org.

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

^{6,9} MI Smoke-Free Apartments: <http://www.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.naahq.org.

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

[†] Exception: 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 Smoke-free 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

