

Smokefree Apartments

Separating Myth from Reality

Guidelines for apartment owners/managers

A smokefree policy illegally and unfairly discriminates against smokers.

False! Smokers are not a legally protected group. In fact, a non-smoker with a serious breathing disability or smoke allergy has legal protection. Smoking is a behavior, not a predetermined characteristic, like race or sex. A building manager has every right to restrict or prohibit smoking in her/his building. As long as the policy is enforced unilaterally and is not used to selectively eliminate a protected minority, the policy is valid and legal.

Subsidized housing is so regulated. I don't have the right to change the rules on my own.

In federally subsidized housing, one cannot refuse to rent a unit to a smoker, but can prohibit smoking in the unit. The policy is acceptable if it targets only the behavior, not the smoker, i.e., anyone can rent, they just can't smoke in the unit. A smoker can certainly sit in the nonsmoking section of a restaurant, she just can't light up.

With this kind of policy, the enforcement must be strict. Additionally, as smoking is not allowed in units, one might also consider a policy relating to smoking outside the building. If smoking occurs right outside the building, it will most certainly enter the building through open windows and doors. It might be best to make a smoking area outside, with a picnic table and fire-safe, immovable ashtrays.

I will lose money if I implement a smokefree policy.

Actually, you can save money with a smokefree policy. One paint contractor estimates that to paint a one-bedroom apartment of a smoker can cost \$800-900, almost double that of a nonsmoker's apartment. Another cost-cutting advantage of a smokefree policy is a possible reduction in fire insurance. One manager who went smokefree negotiated with his fire insurance company for a significant decrease in his premium. He did this after a fire started by careless smoking destroyed one of his buildings.

There are so many people who smoke, I'll never be able to rent the units.

Slightly more than 20% of Washingtonians smoke. That leaves about eighty percent of the population with almost no smokefree apartments available. Though the smoking rate may be higher among renters and other populations, remember that if you only restrict smoking, you can still rent to smokers. Be sure that they are willing to follow the rules themselves and with guests. Also, a recent ANSR survey showed that a significant percentage of smokers don't allow smoking in their homes.

I can't afford a lawsuit from an angry smoker.

You will more likely face a lawsuit from a frustrated nonsmoker than from a smoker. Today's legal climate tends to favor nonsmokers in these kinds of dispute. In Boston, a couple recently won a suit against their landlord. The couple withheld rent for several months while demanding that the landlord do something about the secondhand smoke seepage from the bar below their unit. As long as you prohibit only the behavior of smoking, and the requirements are clear, the risks of a successful lawsuit from a smoker are minimal.

If I change the policy, all the people who smoke will move out.

If you make changes to the lease agreement, it is best to notify your tenants well in advance. With those people who object to a ban on smoking, they will have until the lease comes up to decide if they will stay. ANSR knows one senior building that made such a change in policy. Before the policy went into affect, four residents in the building smoked. After the policy change, two smokers quit, one simply smoked outside and the fourth moved.

Enforcement of a smoking ban would be hell.

Once you implement a policy, smoking would be so noticeable by other residents that you are likely to hear about it. Enforcing a smoking policy is a lot less of a headache than mediating disputes between smokers and nonsmokers without a policy in place. You must be prepared to follow through with consequences; for example, two warnings, then termination of the lease. One manager told ANSR that life got a lot easier for him once he implemented a smokefree policy at his properties.

There is no market for smokefree housing.

When Kitsap and Pierce County health departments surveyed renters in shared housing spaces, more than three-fourths said they'd choose a non-smoking building over a similar complex where smoking is allowed. Forty four percent of renters said they'd pay more rent to live in smokefree housing. A similar survey in Minnesota found that 55% of renters said they have moved or would move from an apartment because of secondhand smoke seepage, yet only 20% had ever complained to management.

These numbers underscore a strong market for smokefree rentals, yet few rental complexes have a smokefree policy. The potential demand for smokefree housing remains virtually untapped.

I can't tell someone what to do in their own home.

Most buildings do restrict behavior to some degree, whether that involves pets, loud music or quiet time. As the owner/manager you have every right to create reasonable rules for your renters.

**Adapted by Kitsap County Health District from
the Association for Nonsmokers-Minnesota**

<http://www.kitsapcountyhealth.com>

<http://www.ansrmn.org>