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# An Apartment Manager's Guide

to adopting a smoke-free building policy



Smoke-Free Multi-Housing:  
Healthier Buildings. Happier Residents.  
A Smart Investment.



# Live Smoke Free

The Live Smoke Free program promotes smoke-free policies for apartment buildings in Minnesota. Currently, renters seeking smoke-free multi-unit housing outnumber the number of smoke-free buildings available. Live Smoke Free regularly receives inquiries from renters who are experiencing secondhand smoke coming into their apartment unit. After listening to their concerns, Live Smoke Free encourages renters to work with their building managers to create a smoke-free policy that covers the entire building, including individual units.

In order to increase the number of smoke-free buildings, Live Smoke Free educates owners and managers of multi-unit housing about the benefits of smoke-free buildings. Live Smoke Free assists building owners and managers with creating and promoting a smoke-free policy for their property.

Live Smoke Free is a non-profit program of the Association for Nonsmokers-Minnesota that is funded by grants and donations.

## Adopting a Smoke-Free Policy: How Live Smoke Free Can Help You

### Step 1: “I’m thinking about going smoke free”

- This booklet should answer most of your questions. You can also visit the Live Smoke Free website at [www.mnsmokefreehousing.org](http://www.mnsmokefreehousing.org).
- Live Smoke Free can give presentations on the benefits of smoke-free housing to your staff, policy-making board, or residents.

### Step 2: “I’ve decided to go smoke free”

- Live Smoke Free will provide step-by-step guidance to help you adopt and implement your smoke-free policy.
- Live Smoke Free has a model lease addendum you can customize.

### Step 3: “I’m implementing a smoke-free policy”

- Live Smoke Free can provide policy implementation tools, including free smoke-free signs to place on your property.
- Live Smoke Free can host a smoke-free celebration to help promote the policy for your building.

## Free Resources from Live Smoke Free

- Consultations and presentations
- Sample resident survey
- Research and resources on air movement in buildings, ventilation, secondhand smoke, and legal issues
- Model smoke-free lease addendum to incorporate into your current lease
- Policy implementation assistance:
  - Listing on Live Smoke Free’s online directory of smoke-free apartment buildings
  - Sample announcement letters to send to residents
  - Signs and window clings for buildings and grounds
  - Giveaway items to remind residents of the policy
  - Strategies for advertising your smoke-free building



# Healthier Buildings

## Secondhand Smoke is Toxic

Secondhand smoke, the smoke that comes from a lighted tobacco product or from a person who is smoking tobacco, contains more than 7,000 chemicals. Several of the major classes of chemicals in the combustion emissions of burned tobacco are toxic and carcinogenic.<sup>1</sup> The 2006 Surgeon General's Report, *The Health Consequences of Involuntary Exposure to Tobacco Smoke*, concluded that there is no risk-free level of exposure to secondhand smoke, and the only way to protect people from the dangers of secondhand smoke is to eliminate the smoke exposure.<sup>2</sup>

## Secondhand Smoke is a Health Hazard

Exposure to secondhand smoke is responsible for at least 3,000 lung cancer deaths and at least 46,000 coronary heart disease deaths each year.<sup>3</sup> Nonsmokers who are exposed to secondhand smoke at home or work increase their heart disease risk by 25-30 percent.<sup>4</sup> Thousands more people suffer from diseases caused or made worse by secondhand smoke, such as emphysema, asthma, pneumonia, and chronic bronchitis. Secondhand smoke also causes ear infections, sore throats, watery eyes, and coughing.

### Some of the Chemicals in Secondhand Smoke<sup>1</sup> (and other products they are found in)

Chemical	Other Product
Formaldehyde	Embalming fluid
Benzene	Gasoline
Polonium-210	Spark plugs
Vinyl Chloride	Metal pipes
Carbon Monoxide	Car exhaust
Ammonia	Household cleaners

Chemical	Other Product
Arsenic	Pesticides
Chromium	Steel
Lead	Old paint
Cadmium	Batteries
Butane	Lighter fluid
Toluene	Paint thinners

## Renters are Exposed to Secondhand Smoke<sup>5</sup>

More than 30 percent of Twin Cities renters say secondhand smoke gets into their apartment from somewhere else in the building at least a few times a month. Of those experiencing secondhand smoke in their apartment, more than 30 percent have considered moving because of the problem.

The majority of Twin Cities renters would be "somewhat likely" or "very likely" to choose a smoke-free building over a building where smoking was allowed if the buildings were the same in every other way.



# Indoor Air Quality

## Air Flow Between Units is Significant<sup>6</sup>

Testing and research conducted by the Center for Energy and Environment on buildings in Minnesota concluded that air flow between units in apartment buildings is significant. This air flow is difficult to reduce and virtually impossible to eliminate.

The research found that the average cost to seal a unit to reduce secondhand smoke leakage was about \$700 per unit. However, sealing the air leaks was still not enough to completely eliminate the secondhand smoke problem.

Studies conducted in other states have also concluded that the air and secondhand smoke in multi-unit housing is shared throughout the building.<sup>7,8</sup>

## Secondhand Smoke Cannot be Controlled by Ventilation and Air Purifiers<sup>9</sup>

In 2013, the American Society of Heating, Refrigerating & Air-Conditioning Engineers (ASHRAE) released their latest position document on secondhand smoke. The document concludes that, “At present, the only means of effectively eliminating health risk associated with indoor exposure is to ban smoking activity.”

Engineering approaches such as air fresheners, cleaners, and purifiers have not proven to be effective, and ASHRAE cautions that such devices should not be relied upon to control health risks from secondhand smoke. ASHRAE “encourages elimination of smoking in the indoor environment as the optimal way to minimize [secondhand smoke] exposure.”

## Eliminating Smoking is the Only Way to Protect People from the Dangers of Secondhand Smoke<sup>2</sup>

*The Health Consequences of Involuntary Exposure to Tobacco Smoke* report by the U.S. Surgeon General concludes that eliminating smoking indoors is the only way to fully protect people from the dangers of secondhand smoke. The report states that ventilation systems can actually distribute secondhand smoke throughout a building. Conventional air cleaning systems might be able to remove large particles from the air, but they cannot remove the smaller particles and gases found in secondhand smoke.

Secondhand smoke cannot be completely controlled by ventilation or air purifiers. A smoke-free policy is the only way to eliminate secondhand smoke exposure and protect the health of your residents.

# Happy Residents, Happy Owners

Smoke-free buildings are a valuable amenity for property managers to offer their residents.



## The Vast Majority of Minnesotans Don't Smoke

In Minnesota, 84 percent of adults are nonsmokers,<sup>10</sup> and 69 percent of rental households in multi-family buildings in the Twin Cities have nonsmoking residents.<sup>5</sup> Nearly 80 percent of U.S. households do not allow smoking anywhere and at any time in the home.<sup>11</sup> However, even though most households prohibit smoking, residents in multi-family buildings cannot control the secondhand smoke caused by their neighbors. Smoke-free policies ensure that residents are protected from secondhand smoke.

## Twin Cities Renters Prefer Smoke-Free Housing<sup>5</sup>

According to a 2009 survey, 53 percent of Twin Cities renters are “extremely” or “very” interested in living in a smoke-free building. More than 75 percent of renters would be “somewhat” or “very likely” to choose a smoke-free building over a building that allows smoking, all other things being equal. More than 22 percent of renters would pay more in rent to live in a smoke-free building, while many renters would also be willing to make sacrifices, such as driving farther to work or walking farther to a bus line, to live in a smoke-free building.

## MANAGEMENT SAYS:

“The response from our tenants was overwhelmingly positive. We received several thank you notes and phone calls, some from smokers.” — Dan Largen,  
Property Manager,  
Mint Properties, Minneapolis, MN<sup>12</sup>

“We are becoming smoke free in more and more of our buildings because it promotes safer, healthier living and improves the overall well-being of our residents and homes.” — Chris Nimmer,  
Vice President of Property Operations, Aeon<sup>13</sup>



Smoke-free apartments  
require less turnover time  
and fewer cleaning costs.

### Apartment Fire Facts

- An estimated 9,000 smoking-related fires in residential buildings occur each year in the United States.<sup>14</sup>
- The average dollar loss per multi-family housing fire in Minnesota is over \$18,000 per incident.<sup>15</sup>
- Smoking is the leading cause of fire-related death in residential buildings.<sup>16</sup>
- The fatality rate per 1,000 fires is more than 8 times greater in smoking-related fires than in nonsmoking-related residential building fires.<sup>14</sup>

# Protect Your Investment

## Cleaning and Renovation Costs are Lower

Smoking can cause extensive damage to apartment units. The smoke can leave sticky particles, residue, and stains on walls, curtains, cabinets, blinds, appliances, and fixtures. Dropped cigarettes and ashes can leave burn damage on tiles, carpets, curtains, countertops, and bathtubs. Smoke odors can remain in carpets, curtains, and walls for a very long time. Residue, burns, and odors create more work during turnover time, and 2-3 times higher cleaning costs for building owners and managers.

Many residents may decide not to rent an apartment if it has been smoked in. A smoky smell and residue is very difficult for a resident to eliminate on his or her own. Rather than risk feeling ill and having their clothing and furniture absorb the smoke smell, they may decide to look for somewhere else to live.

## Reduced Risk of Fire Damage

Cigarette-caused fires often result when a smoker, who might also be impaired by drugs or alcohol or might have fallen asleep, drops or improperly disposes of a lit cigarette. A dropped cigarette can lie in furniture or bed linens and smolder for 30-45 minutes, eventually causing a fire or large amounts of smoke.<sup>17</sup>

Cigarettes and other smoking materials are the leading cause of residential fire deaths in Minnesota and the United States.<sup>14,16</sup> Smoke-free policies in apartments reduce the risk of cigarette-related fires, damages, injuries, and deaths by eliminating lighted smoking materials from the interior of the building.

## Insurance Savings

Some insurance agencies give a credit or premium reduction to owners if they prohibit smoking in their apartment building. Consider asking your insurance agent:

- Does my current policy include a penalty (explicit or hidden) if I don't presently have a smoke-free policy in my residents' leases?
- Is a credit available if I have a smoke-free apartment policy?

Make an insurance premium reduction for a smoke-free policy a priority for negotiation with your insurer.

# Smoke-Free Policies are Legal

## “What Does Minnesota Law Say Concerning Smoking in Rental Apartment Buildings?”

There is no state statute that prohibits smoking in individual apartment units. There is also no state law that prohibits property managers from making an entire apartment building smoke free, meaning they can do so if they wish.

The Minnesota Clean Indoor Air Act (MCIAA) prohibits smoking in all common areas of apartment buildings with three or more rented living units, including hallways, laundry rooms, underground garages, rental and maintenance offices, building entryways, exercise rooms, indoor swimming pool areas, and party rooms.<sup>18</sup> For more information about the MCIAA, contact the Minnesota Department of Health.

## “What are the Legal Liabilities if My Building is not Smoke Free?”

Residents could bring legal actions against a manager for a breach of the warranty of habitability or the covenant of quiet enjoyment, trespass, or nuisance, resulting in rent abatement or judicial termination of leases. While legal cases are rare, there is a growing likelihood of suits if the property manager knows the dangers of secondhand smoke and does not act to reduce exposure.<sup>19</sup>

Residents with disabilities made worse by exposure to their neighbors' secondhand smoke might seek legal action under the Americans with Disabilities Act, the Federal Fair Housing Act, or the Minnesota Human Rights Act, requiring a reasonable accommodation in their housing. Possible accommodations include developing or enforcing a smoke-free policy.<sup>19</sup>

Residents' Rights

## Policy Enforcement Tips

- Though smoke-free policies are largely self-enforcing, let your residents know what the consequences are for violating the policy.
- Enforce the policy consistently among all residents.
- The smoke-free policy should be enforced as would any other lease provision.
- Contact Live Smoke Free if you have questions about enforcing your smoke-free policy.

## “Is it Discriminatory to Designate an Entire Building or Apartment Complex as Smoke Free?”

No. Smoking is not a protected activity or right. An individual's status as a smoker is not a protected category or recognized disability.<sup>20</sup> A smart decision is to implement a policy based on the activity of smoking and not an individual's status as a smoker. Write the policy so that a person who smokes can continue to live in the building, but he or she must refrain from smoking inside the building or other areas that are included in the policy.

# Adopting a Policy

## “How Long Does it take to Convert My Building to Smoke Free?”

**“Phase-in” method:** Begin having new renters who move into the building sign a smoke-free lease addendum or policy immediately. Announce the policy change to current residents and have them sign a smoke-free lease addendum or policy at the time of their lease renewal.

**“Quit-date” method:** Decide what date you would like the building to go smoke free. Give your residents notice of the policy change and ask them to sign a smoke-free lease addendum before the policy change. (Note: a resident with an existing lease can refuse to agree to the policy until their lease renews.)

**Reasonable notice:** You will want to notify your residents about the policy change in a reasonable period of time. Depending on your building’s situation, reasonable notice could be 30-60 days.

## “When is an Appropriate Time to Adopt a Policy?”

### **Are you planning for new construction?**

A smoke-free policy is easily adopted during construction and can help maintain the building’s new, clean condition. Simply have all new residents sign a smoke-free lease addendum with the primary lease agreement.

### **Are you renovating your building or purchasing an older building?**

A smoke-free policy can help protect all of the labor and money you put into new carpet, paint, or fixtures.

### **Are you adopting a policy with no changes to your building’s construction?**

Many owners adopt a smoke-free policy without renovating or doing major changes to the building. Either the “phase-in” method or the “quit-date” method could work for your building.

## “What Areas of My Property Can be Included?”

### **Individual units**

Covering all residential units, patios, and balconies ensures that smoke cannot drift from one unit to another unit in the building or into open windows from nearby patios and balconies.

### **Outdoor areas**

Consider including building entrances, playgrounds, pool and picnic areas, and parking lots in your policy. Some property owners designate an outdoor smoking area. If this area will include a shelter, be sure it is compliant with MCIAA regulations regarding smoking in common areas. Keep in mind that outdoor smoking areas should be a considerable distance away from entrances, windows, patios, balconies, and ventilation intakes to prevent fires from starting in those areas and prevent smoke from drifting into the building. Limiting or prohibiting smoking outdoors can also reduce tobacco litter on your property.

### **Common areas are required by law**

According to the Minnesota Clean Indoor Air Act (MCIAA), all common areas in apartment buildings with three or more rented living units must be smoke free.<sup>18</sup> For a list of some common areas that must be smoke free, read the “Smoke-Free Policies are Legal” page.

## “Why do I Need a Written Policy?”

Written policies help managers enforce the smoke-free regulation. It allows all residents and staff to have the same expectations. If a policy is written into a lease addendum, building handbook, or house rules and is signed by all residents, building managers will have an easier time handling a violation.



# Adopting a Policy

## “How do I Adopt a Smoke-Free Policy?”

1. Inform your residents that you are thinking of adopting a smoke-free policy. Send out a survey or hold resident meetings. Explain why you want to go smoke free and get their feedback on the process. Live Smoke Free has a sample survey and is available to come to your property to give a presentation on the benefits of smoke-free housing.
2. Decide on the policy the “phase-in” method or the “quit-date” method will work best for your building. Pick a date when you want the building to be completely smoke free. Plan when you will need to begin giving residents notice about the policy change. Live Smoke Free has a notification letter that you can modify to send to your residents.
3. Renew existing leases and initiate all new leases with a smoke-free lease addendum or policy. Live Smoke Free has a sample lease addendum and policy language available for your use.
4. Post signs on your property to remind everyone of the new policy. Free signs and window clings are available from Live Smoke Free.
5. Advertise that you have a smoke-free building! List it for free on Live Smoke Free’s online directory of smoke-free housing (<http://www.mnsmokefreehousing.org/tenants/directory.html>).

## “What if I Have a HUD or Publicly-Funded Building?”

According to the U.S. Department of Housing and Urban Development (HUD), owners of federally subsidized housing have the right to prohibit or otherwise restrict smoking. Furthermore, in 2009, HUD issued a notice that “strongly encourages” all public housing authorities to adopt smoke-free policies for their buildings.<sup>21</sup> In 2010, HUD issued a second notice with no expiration date, to project-based Section 8 and other HUD-subsidized properties, encouraging them to adopt smoke-free policies as well.

The requirements for implementing a smoke-free policy in subsidized housing vary depending on the type of subsidy or assistance the property receives. For example, some properties can include the smoke-free language in the lease, while others should implement the policy using house rules. The process to enforce a smoke-free policy can also vary by type of property. For more information on smoke-free subsidized housing, visit [www.mnsmokefreehousing.org](http://www.mnsmokefreehousing.org).

# Resources

## Smoke-Free Multi-Housing Information — Minnesota

- **Association for Nonsmokers-Minnesota's** Live Smoke Free program: [www.mnsmokefreehousing.org](http://www.mnsmokefreehousing.org)
- **American Lung Association of Minnesota's** Smoke-Free Multi-Housing Program: [www.alamn.org/smokefreehousing](http://www.alamn.org/smokefreehousing)

## Smoke-Free Multi-Housing Information — National

- There are numerous smoke-free multi-housing programs in the United States and around the world. For information on programs in other states or countries, please visit our website: [www.mnsmokefreehousing.org](http://www.mnsmokefreehousing.org)

## Minnesota Multi-Housing Associations

- **Minnesota Multi-Housing Association:** [www.mmha.com](http://www.mmha.com)
- **National Association for Housing and Redevelopment Officials** Minnesota Chapter: [www.mnnahro.org](http://www.mnnahro.org)

## Minnesota Health Organizations

- **American Cancer Society:** [www.cancer.org](http://www.cancer.org)
- **American Heart Association:** [www.americanheart.org](http://www.americanheart.org)
- **American Lung Association of Minnesota:** [www.alamn.org](http://www.alamn.org)
- **Association for Nonsmokers-Minnesota:** [www.ansrmn.org](http://www.ansrmn.org)
- **ClearWay Minnesota<sup>SM</sup>:** [www.clearwaymn.org](http://www.clearwaymn.org)
- **Minnesota Department of Health Indoor Air Unit:** (for help complying with the Minnesota Clean Indoor Air Act) 1-800-798-9050 or [www.health.state.mn.us/divs/eh/indoorair/mcia](http://www.health.state.mn.us/divs/eh/indoorair/mcia)
- **Minnesota Department of Health Tobacco Prevention and Control:** [www.health.state.mn.us/divs/hpcd/tpc](http://www.health.state.mn.us/divs/hpcd/tpc)
- **Public Health Law Center:** [www.publichealthlawcenter.org](http://www.publichealthlawcenter.org)

## Tobacco Cessation Services

- **QUITPLAN<sup>®</sup> Services:** [www.quitplan.com](http://www.quitplan.com) or 1-888-354-PLAN (7526)

# References

- 1 U.S. Department of Health and Human Services. A Report of the Surgeon General: How Tobacco Smoke Causes Disease: What It Means to You. Atlanta: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. 2010.
- 2 U.S. Department of Health and Human Services. The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General. Washington, D.C. 2006.
- 3 California Environmental Protection Agency. "Proposed Identification of Environmental Tobacco Smoke as a Toxic Air Contaminant." [www.arb.ca.gov/toxics/id/summary/summary.htm](http://www.arb.ca.gov/toxics/id/summary/summary.htm). 2005.
- 4 Centers for Disease Control and Prevention. "Nonsmokers' Exposure to Secondhand Smoke — United States, 1999--2008." *Vital Signs, Morbidity and Mortality Weekly Report*. 59(35). 2010.
- 5 Wilder Research. "Perceptions of Secondhand Tobacco Smoke Among Minnesota Metro Renters." [www.mnsmokefreehousing.org/documents/2009\\_Metro\\_tenants\\_SHS\\_survey\\_final\\_report.pdf](http://www.mnsmokefreehousing.org/documents/2009_Metro_tenants_SHS_survey_final_report.pdf). 2009.
- 6 Bohac, D., Hewett, M., Hammond, S., and Grimsrud, D. "Secondhand Smoke Transfer and Reductions by Air Sealing and Ventilation in Multiunit Buildings: PFT and Nicotine Verification." *Indoor Air* 21. 2001.
- 7 King, B., Travers, M., Cummings, K., Mahoney, M., and Hyland, A. "Secondhand Smoke Transfer in Multiunit Housing." *Nicotine & Tobacco Research*, 12(11). 2010.
- 8 Kraev, T., Adamkiewicz, G., Hammond, S., and Spengler J. "Indoor Concentrations of Nicotine in Low Income Multi-Unit Housing: Associations with Smoking Behaviors and Housing Characteristics." *Tobacco Control*, 18: 2009.
- 9 American Society of Heating, Refrigeration, and Air Conditioning Engineers. "ASHRAE Positional Document on Tobacco Smoke." 2010.
- 10 Minnesota Adult Tobacco Survey. 2010. [www.mnadulttobaccosurvey.org](http://www.mnadulttobaccosurvey.org).
- 11 Centers for Disease Control and Prevention. "Adult Tobacco Survey — 19 States, 2003-2007. Surveillance Summaries, 16 April 2010." *Morbidity and Mortality Weekly Report* 59(No. SS-3). 2010. [www.cdc.gov/mmwr/](http://www.cdc.gov/mmwr/)
- 12 Private Interview by Live Smoke Free with Mint Properties. April 2010.
- 13 Private email to Live Smoke Free. May 28, 2013.
- 14 U.S. Fire Administration. "Topical Report: Smoking-Related Fires in Residential Buildings" 2010.
- 15 Minnesota Fire Marshal. "Fire in Minnesota Annual Report," 2011.
- 16 Minnesota Fire Marshal. "Fire in Minnesota Annual Report," 2012.
- 17 Hillel, A. Tobacco Control Legal Consortium. "Regulating Cigarettes for Fire Safety." May 2007. [www.publichealthlawcenter.org/sites/default/files/resources/tclc-syn-fire-2007\\_0.pdf](http://www.publichealthlawcenter.org/sites/default/files/resources/tclc-syn-fire-2007_0.pdf).
- 18 Minn. Stat. § 144.411-144.417. [www.leg.state.mn.us/leg/statutes.asp](http://www.leg.state.mn.us/leg/statutes.asp)
- 19 Schoenmarklin, S. Tobacco Control Legal Consortium. "Infiltration of Secondhand Smoke into Condominiums, Apartments and Other Multi-Unit Dwellings: 2009." [www.publichealthlawcenter.org/sites/default/files/resources/tclc-syn-condos-2009\\_0.pdf](http://www.publichealthlawcenter.org/sites/default/files/resources/tclc-syn-condos-2009_0.pdf).
- 20 Graff, S. Tobacco Control Legal Consortium. "There is No Constitutional Right to Smoke." 2008. [www.tclconline.org/resources/TCLC.html](http://www.tclconline.org/resources/TCLC.html).
- 21 U.S. Department of Housing and Urban Development, Office of Public and Indian Housing, Office of Healthy Homes and Lead Hazard Control. Non-Smoking Policies in Public Housing. Washington, D.C.: 2012.

# Ready to go Smoke Free?

Log on to our web site to learn more about the benefits of smoke-free multi-housing and the steps you can take to create a smoke-free environment in your building.

[www.mnsmokefreehousing.org](http://www.mnsmokefreehousing.org)



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