




**RIDING THE WAVE TO
SMOKE-FREE
HOUSING**

Smoke-Free Housing is a Growing Trend



Reasons for Going Smoke-Free


- Save \$\$\$ on maintenance
- Reduce turnovers & turnover costs in time  and \$\$\$
- Reduce fire risk
- Discount on insurance
- Increased public demand



Reasons for Going Smoke-Free

Save \$\$\$ on maintenance

Cost of Rehabilitating Units

- Non-Smoking: \$560
- Light Smoking: \$1,810
- Heavy Smoking: \$3,515 



UCLA Survey of CAA members

- More than 25% of apartments has smoking related costs annually
- Approximately one-third of apartment properties are completely smoke-free.
- For a single multi-unit housing property in the past year, smoking-related cost is nearly \$5,000
- The smoking-related costs is cut in half if building is completely smoke-free

Reasons for Going Smoke-Free

Reduced fire risk

- 25% of victims not smoker
- The elderly are most at risk
- 1/3rd of smoking-caused fire victims are 65 or older



Reasons for Going Smoke-Free

Reduced fire risk (elderly)

- More likely to have heart, lung, & diabetes –all worsened by exposure
- Less mobile – trapped in smoky homes
- Reflexes slowed by age and medications
- Oxygen Users – excessive O₂ molecules on clothes and room



Reasons for Going Smoke-Free



Discount on insurance

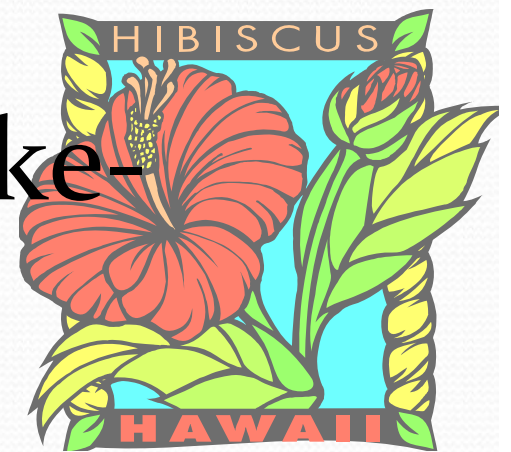
- Capital Insurance Group (CIG) has implemented a **10 percent** premium credit to property owners and condominium associations for smoke-free buildings.

(CIG is in CA, WA, OR, NV, AZ)

Reasons for Going Smoke-Free

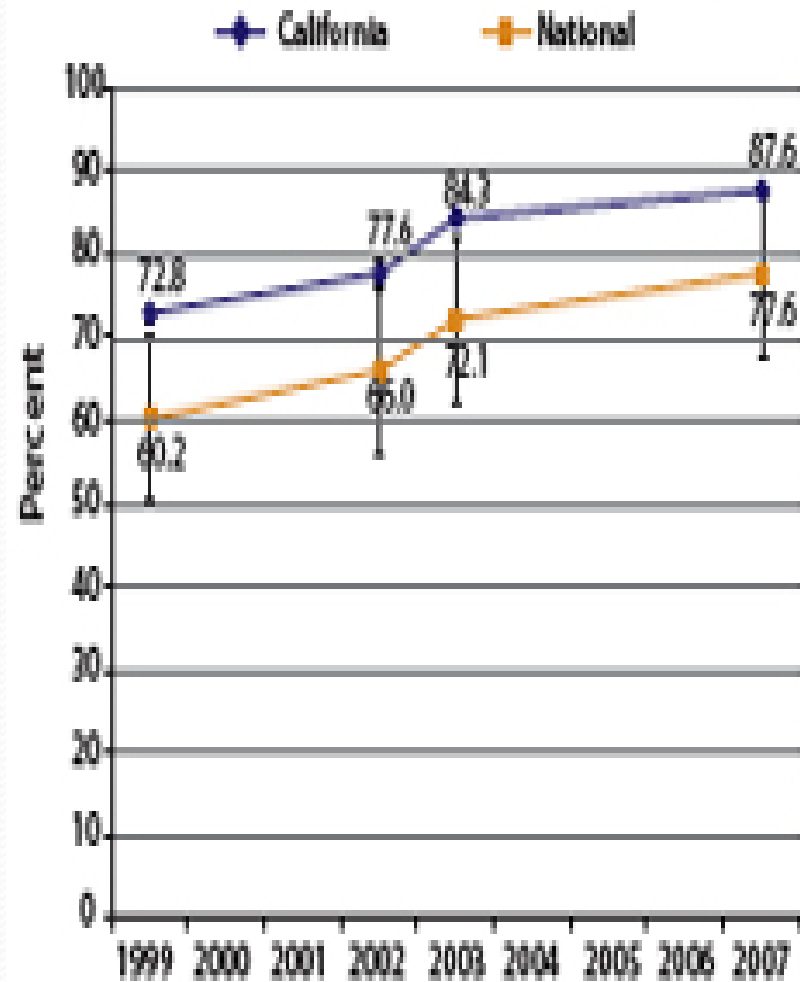
Increased public demand

- About 85% of adults in Hawaii don't smoke
- 74-84% of Hawaiians prefer to live in a smoke-free home.



Smoke-Free Home Rules Are Becoming the Norm

Households with No-Smoking Rules



Source: TUS-CPS

Going Green = Smoke-Free Too

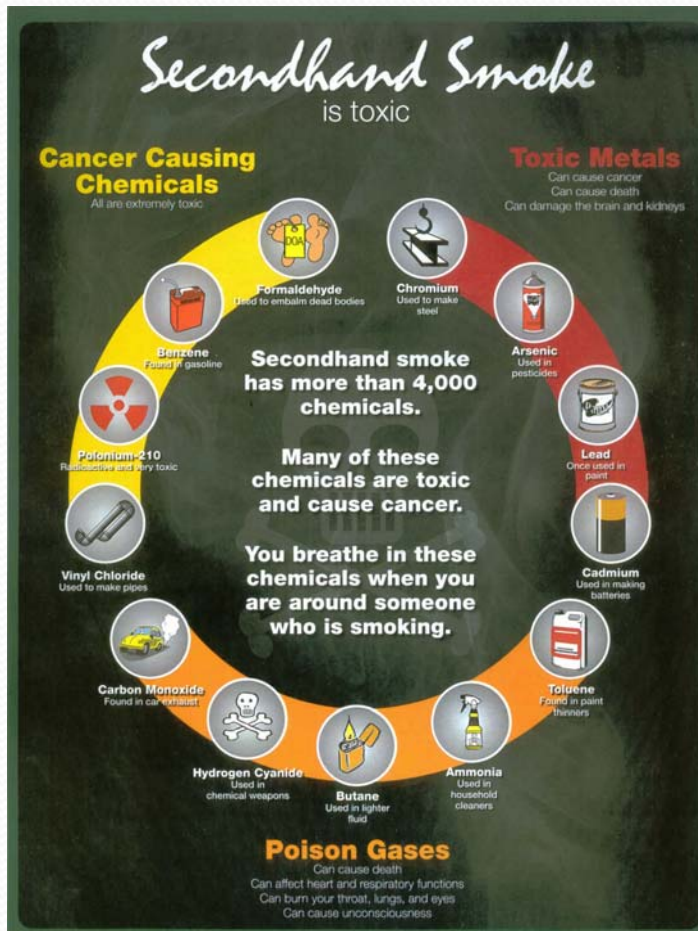


Green = Smoke-Free

- Why invest in removing toxic materials like formaldehyde and lead only to reintroduce them by allowing smoking in your new or rehabbed properties?



Green = Smoke-Free

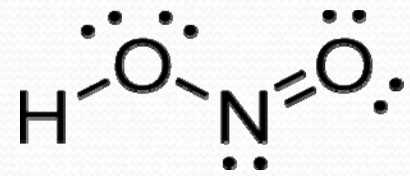


contains 4,000 toxins, including cancer causing chemicals, toxic metals, & poison gases.

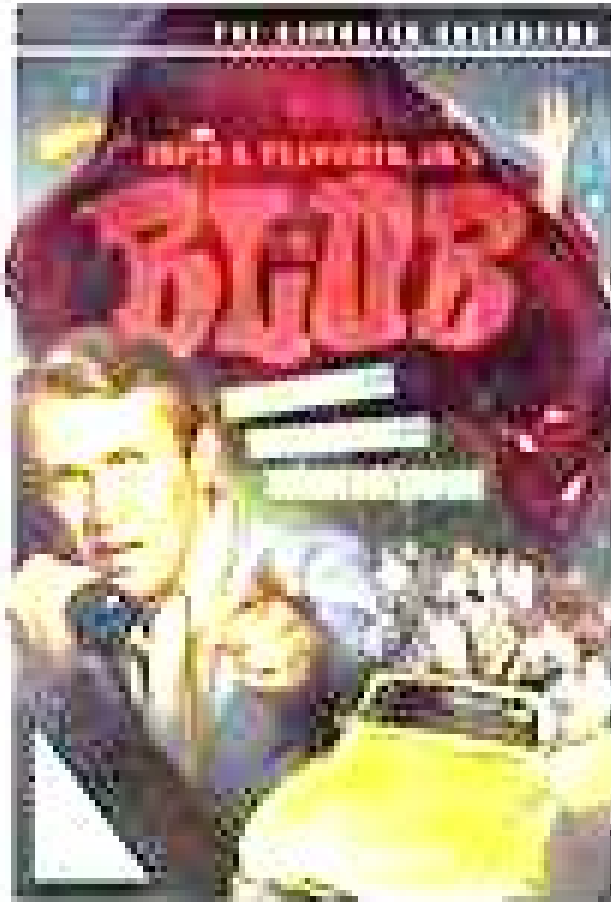


Green = Smoke-Free

- Secondhand tobacco smoke is a major source of indoor air pollution in apartments.
 - As much as 65% of the air in any one apartment has seeped in from other units.
 - Secondhand tobacco smoke can cause asthma and aggravate existing chronic health conditions



Thirdhand Smoke





Thirdhand Smoke

- Between 1983 and 1987, Philip Morris funded residual tobacco smoke research to determine toxicity over time
- The research, unpublished, but recently uncovered by public health researchers, showed that aged residual tobacco smoke is more toxic than fresh.
- A 30-minute exposure was found to be 4 times more toxic after 21 days and still twice as toxic after 90 days.



Thirdhand Smoke + Ozone = Cancer

- August 2010 – Berkeley Lab Research

Nicotine combines with ozone to form tiny cancer-causing particles easily ingested by young children

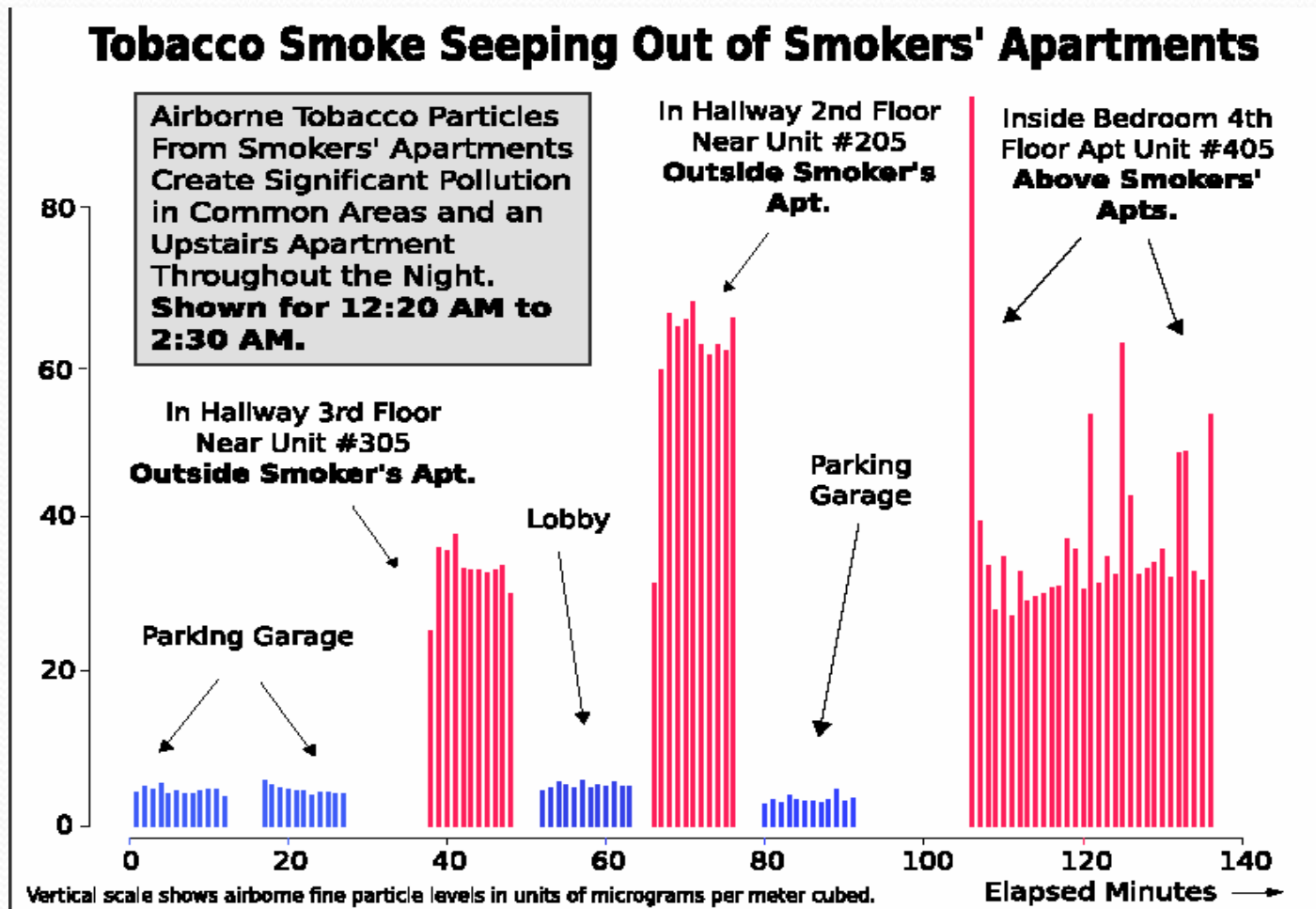
- Ironically, ozone generators are used eliminate the *smell* of tobacco in cars and hotel rooms

Tobacco Smoke Seeping Out of a Smoked-In Apartment

- Study conducted by Jim Levesque with analysis by environmental scientist, Neil E. Klepeis, PhD
- Measurements were made during an evening in a Santa Monica Apt. bldg with smokers in the two units directly below the non-smoker's unit. The measurements consist of small airborne particles that can penetrate the lung. Continuous minute by minute measures were made with an industry-standard sensor.



Particle Levels over 140 Minutes





Effects of Particle Exposure

- Can trigger asthma, lung infections +
- Elevated pollution levels in neighboring units for up to 8-24 hrs/day
- Exposure can exceed EPA health-based 24 hour standards

EPA Air Quality Standards

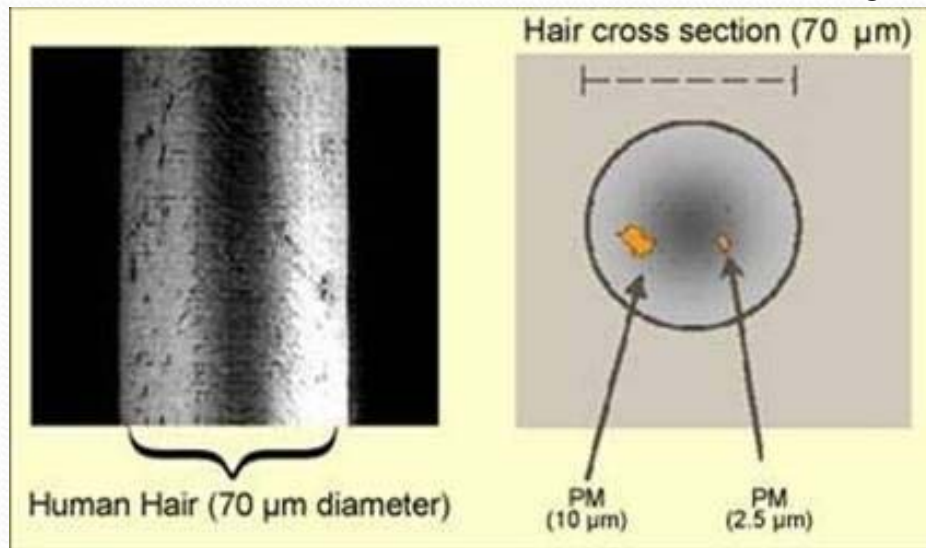
U.S. Environmental Protection Agency Air Quality Index

Level of Health Concern	Numerical Value	Corresponding Particle Level	
Very Hazardous	> 500	> 500	$\mu\text{g}/\text{m}^3$
Hazardous	301 – 500	250 - 500	$\mu\text{g}/\text{m}^3$
Very Unhealthy	201 – 300	150 – 250	$\mu\text{g}/\text{m}^3$
Unhealthy	151 – 200	65 – 150	$\mu\text{g}/\text{m}^3$
Unhealthy for Sensitive Groups	101 – 150	40 – 65	$\mu\text{g}/\text{m}^3$
Moderate	51 – 100	15 – 40	$\mu\text{g}/\text{m}^3$
Good	0 – 50	0 – 15	$\mu\text{g}/\text{m}^3$

Level of particle matter in non-smoker's apartment reached **unhealthy levels** for OUTDOOR air.

How SMALL Are Those Particles?

Secondhand tobacco smoke is PM_{2.5} & smaller.



- These particles go directly into lung tissue and into the blood stream.
- 28-80 particles can fit across the width of a human hair

Secondhand Smoke Cannot be Ventilated *Away*

- According to the Surgeon General, there is NO risk-free level of exposure & ventilation systems tend to spread SHS and can neither contain nor eliminate the dangers.
- Environmental tobacco smoke has been found to be a “Toxic Air Contaminant” by the California EPA



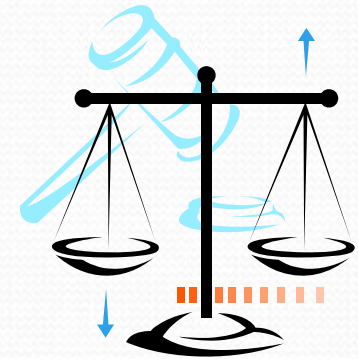
Legal Issues

Are Landlords Caught Between a Rock and a Hard Place?

Smoke-Free is LEGAL

Smoking is NOT protected under the US Constitution

- Banning smoking on the property is no different than a prohibition of pets, excessive noise, or other nuisance behavior





Lawsuits?

- There have been no lawsuits brought to challenge smoke-free policies passed by PHA's.

- There have, however, been a number of lawsuits brought by tenants complaining of second-hand smoke drift, many of which use ADA or FHA to support their request for protection.
 - 1998 HUD/Kirk/Park Towers
 - 2003 Donnelly v. Cohasset HA
 - 2002 USA v Seattle Housing Authority



Can I be Held **Liable**?

Maybe

- **Nuisance** and right of private enjoyment
- Warrantee of **habitability**
- **Claim of injury** or death
- Failure to make reasonable accommodation



Can I be Held **Li**able?

Insurance may **NOT** cover

Standard Policy Language:

- Pollution Exclusion
- Acts of Discrimination (illegal activity exclusion)



Smoke-Free Units Offer Legal Protection

- Smoking is not a disability under federal or state law. In fact, prohibiting smoking can protect against lawsuits by tenants with disabilities whose conditions are worsened by secondhand smoke.

Growing #of Apts & Condos Are Smoke-Free

- Several states now offer tax credit incentives for affordable housing developers to go smoke-free



Smoke-Free Condos

How to Get from No Rules to
NO SMOKING!



Steps to Adopt a No-Smoking Rule

Step 1

Constructing your no-smoking rule

Decide method

1. Amend CC & Rs
2. Amend by-laws
3. Board Resolution



Steps to Adopt a No-Smoking Rule

Step 2

Getting resident input

1. Conduct resident survey



Steps to Adopt a No-Smoking Rule

Step 3

Educating owners

1. Newsletter articles
2. Inviting speakers to resident meetings
3. Set up a task force to plan outreach



Steps to Adopt a No-Smoking Rule

Step 4

Vote on the proposed rule

1. Use email, phone trees to communicate with owners
2. Signs, flyers in common areas
3. Knocking on doors? Collecting proxies



Steps to Adopt a No-Smoking Rule

Step 5

Implementing the no-smoking rule

1. Posting notices, No Smoking signs
2. Notice of rule change before implementation
3. Establish complaint/enforcement protocols & provide to residents



Steps to Adopt a No-Smoking Rule

Step 6

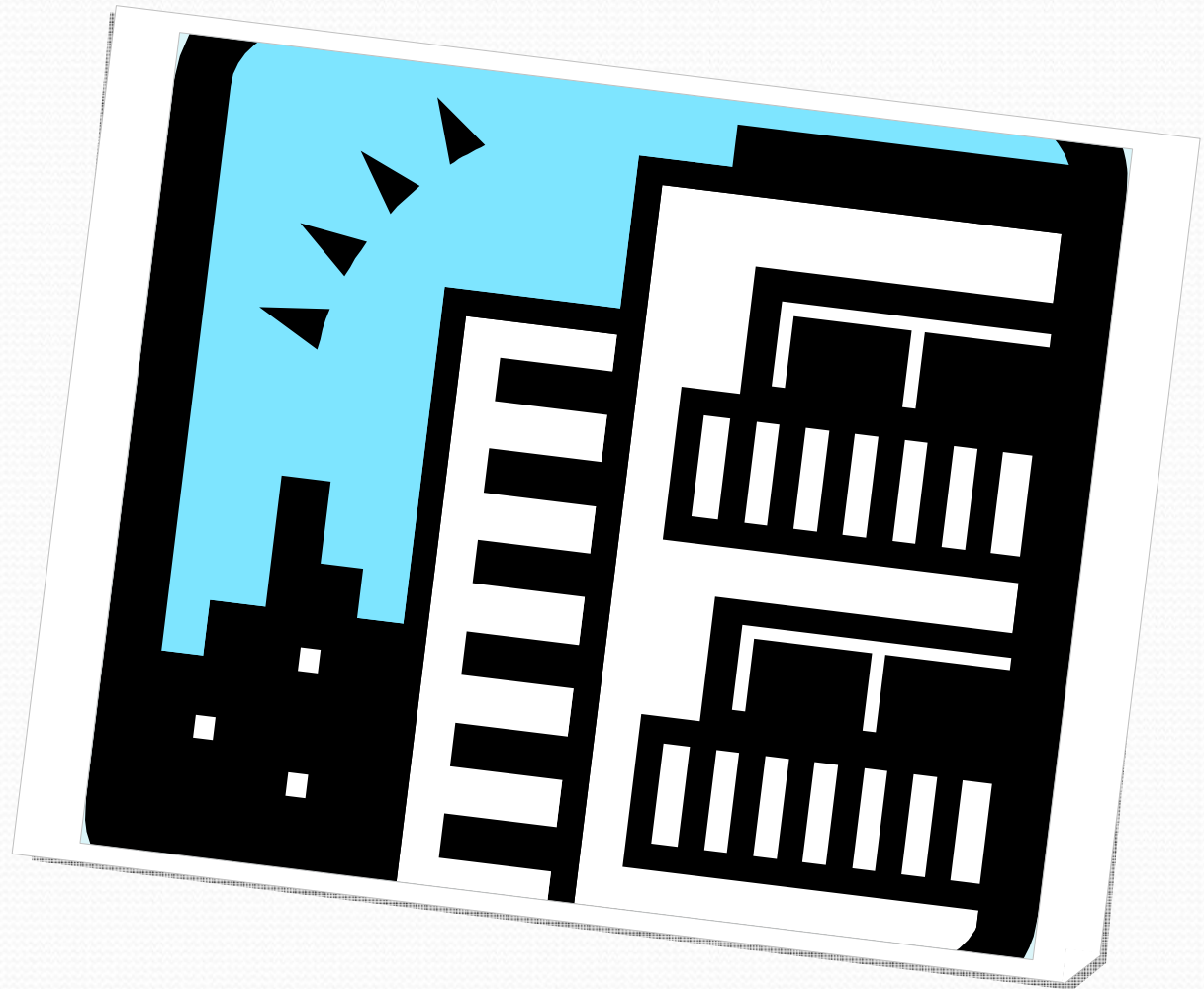
Enforcing the no-smoking rule

1. Inform, post
2. Remove ash containers & clean up butts
3. Respond promptly to complaints consistently
4. Alert owners that they could be held financially responsible for violations by themselves, tenants, and guests.

Toolkit for Adopting No Smoking Rules

Oregon Chapter
Community
Associations
Institute

www.caioregon.org



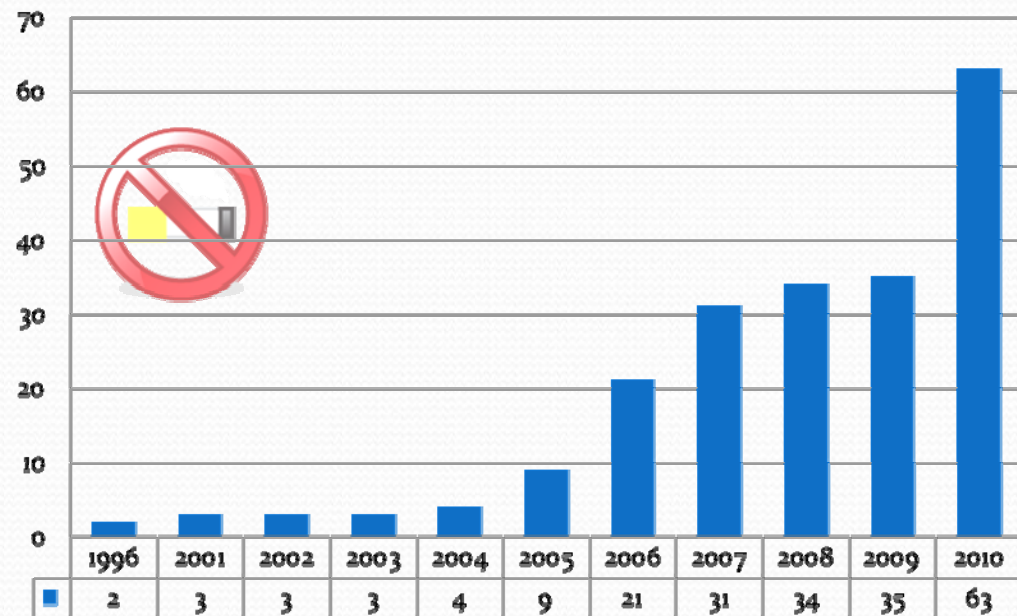
Smoke-Free Trends in Subsidized Housing

Public Housing & Tax Credit
Properties

230+ Housing Authorities Have Adopted Non-Smoking Policies

- As of January 2011, at least 230 housing authorities in 27 states have adopted smoke-free policies for some or all of their complexes. Over 90% of these policies have been adopted since 2006. That's 3 per month.

Housing Authorities That Have Adopted Smoke-Free Policies since 1996





HUD is “Strongly Encouraging” Smoke-Free Units

- Off. of Public & Indian Housing 2009 Notice

“ . . . at least 54 percent of public housing residents . . . [are] at increased risk to the adverse effects of cigarette smoking.”

2010 Multifamily Notice: H 2010-21

WHEN Sept. 15, 2010

WHO IT APPLIES TO

Project-Based Section 8

PAC

Section 236

PRAC

RAP

Rent Supplement

811 PRAC

221 (d) 3

WHY

Encourage owners and agents to implement smoke-free housing policies in some or all units



2010 Multifamily Notice

Process and Policy

- Not mandatory; just encourages
- May allow smoking in units, but prohibit in common spaces (inside and outside)
- May be 100% of complex and grounds
- Must meet state and local laws (more stringent laws take precedence)

2010 Multifamily Notice

House Rules MUST ADDRESS

- Inside Units
- Common Areas
- Areas near Housing Units and Doors/Windows
- Must inform Applicants if a 100% non-smoking bldg
- Designated smoking areas clearly marked





2010 Multifamily Notice

House Rules

- Must NOT deny occupancy to smokers or non-smokers who are eligible
- Must NOT ask if applicant or family member smokes
- Must NOT maintain separate smoking and non-smoking waiting lists

2010 Multifamily Notice

Grandfathering

➤ May Do, but NOT Required





2010 Multifamily Notice

Been There, Done That?

- If Smoke-free policies in place prior to September 15, 2010, may continue to enforce subject to the guidance in the Notice.



2010 Multifamily Notice

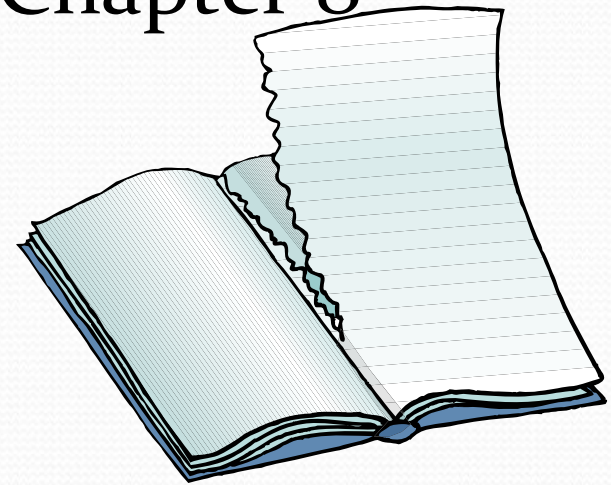
Documents

- Do not change HUD Lease; Change HOUSE RULES (4350.3 REV-1 6-9; 6-12)
- Give House Rules to New Tenants
- Existing Tenants after initial lease term:
New policies apply after 30 days
- Existing tenants prior to initial lease term:
Give 60 days before lease ends

2010 Multifamily Notice

Importance

- Repeated violations defined as MATERIAL NON-COMPLIANCE. Termination of Tenancy may follow according to process in Handbook 4350.3 REV-1, Chapter 8



2010 Multifamily Notice

The Good



- HUD has moved from opposing to encouraging smoke-free communities
- Part of “Green Initiatives”
- Grandfathering not required

2010 Multifamily Notice

The Bad

- Only encourages
- No government incentives except for bonus point in Tax Credit Applications (in certain states)



2010 Multifamily Notice

The Ugly



- Notice was unclear if someone would lose their place on a housing list if they decline a unit because of its smoking permitted/not permitted status
- HUD is aware of this confusion and has stated that they will clarify.

2010 Multifamily Notice

The Future

HUD officials have announced that a mandatory smoke-free housing regulation is being developed, but as with all things HUD, this may take some time





Low Income Renters Have Less Access to Smoke-free Housing

- More likely to be exposed to secondhand smoke
- Higher rates of chronic disease and disability
- Less housing choices
- Less ability to move

**SAFE & HEALTHY HOUSING IS A
SOCIAL JUSTICE ISSUE**

Steps to Going Smoke-Free

1. Survey residents

- ✓ Do you allow smoking in your unit?
- ✓ Would you prefer to live in smoke-free building?



2. Decide on the Scope of the Policy

- ✓ Entire Property
- ✓ Buildings
- ✓ % of Units



Steps to Going Smoke-Free

3. Lease or House Rules Changes

- ✓ New leases all have non-smoking restrictions
- ✓ Lease renewals have non-smoking addendums
- ✓ Adoption and dissemination of new house rules – signed receipt

4. Communication with staff and tenants

- ✓ Ample warning 60-90 day notice
- ✓ Group meetings and one-on-one if needed
- ✓ Ample and clear signage

Steps to Going Smoke-Free

5. Monitor and enforce




- ✓ Clearly written complaint procedures and follow-up
- ✓ Staff have clear protocols on how to respond to complaints
- ✓ Tenants have clear understanding of how to file a complaint and the post-complaint procedures
- ✓ Tenants understand the steps that management will take to ensure that the policy is being followed.
- ✓ Prompt and fair enforcement will ensure success.





Smoke-Free Housing

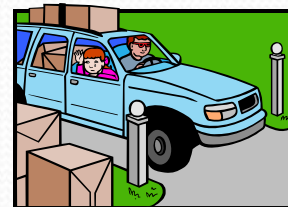
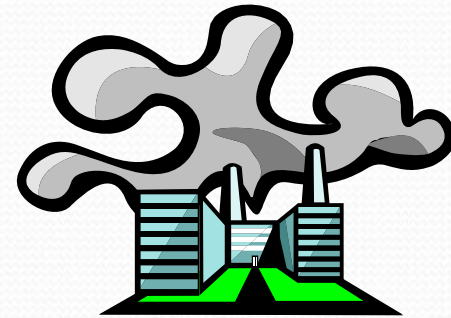
Early adopters are finding:

- High interest and demand – longer waiting lists
- Cleaner units –  maintenance and turnover costs
- Happier residents – fewer complaints
- Healthier residents

Non-policy adopters

- Are likely to find:

- A concentration of tenants who are highly addicted to tobacco use
- Non-smoking tenants moving out or not applying
- Increased fire risk
- Increased maintenance/repair/replacement costs



Smoke-Free Housing Websites

Bay Area Smoke-Free Housing

www.Casmokefreehousing.org

Smokefree Apartment House Registry

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

Smokefree Environments Law Project

<http://www.tcsg.org/sfelp/home.htm>

Americans for Nonsmokers' Rights

<http://no-smoke.org/goingsmokefree.php?id=594>

American Lung Association in Oregon

<http://www.smokefreehousingnw.com/>