

# Clearing the Air: The Value of Smoke-Free Living

*A Resource Guide for  
Property Owners & Managers*



MARYLAND  
smoke-free living

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





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The information and materials contained in this guidebook are for informational purposes only and are not offered or intended to be and should not be construed to be legal advice nor to be a substitute for obtaining legal advice from a licensed attorney.

“Smoke-Free policies are a win-win proposition for multi-unit housing residents, owners, and property managers.”

—American Lung Association





## WHY SMOKE-FREE LIVING?

As an owner or manager of multi-unit/multi-family buildings, your properties bring a sense of community for many residents. And your role within this community may be more than “just a landlord.” Friend, financial advisor, someone to talk to—sound familiar?

As you value the relationships you have with residents, establishing a smoke-free policy ensures that your property not only provides a home, but a safe environment for residents and staff. Choosing to adopt a smoke-free policy in Maryland is good for business and public health. Property owners and managers enjoy cost savings, and residents enjoy access to clean, healthy air.

Whether you’re still looking into it, have decided to move forward, or are starting to implement such a policy, this guide provides information, useful tools and resources to assist in effectively adopting, implementing, managing, and enforcing a smoke-free policy.

Implementing smoke-free properties will help you:

- Avoid Legal Challenges
- Increase the Safety of Your Communities
- Save Money
- Increase Market Demand
- Improve the Health of Residents and Staff
- Increase Resident Satisfaction and Create Healthy, Happy Renters<sup>1</sup>

The adoption of a smoke-free policy also protects property owners and managers from lawsuits. A resident with a preexisting condition that is aggravated by secondhand smoke may file complaints under the Federal Fair Housing Act.

# 79%

of multi-unit housing residents in Maryland support a smoke-free policy in their buildings.<sup>2</sup>

A good smoke-free policy is based on the act of smoking, not on the individual’s status as a smoker. The policy should not prevent smokers from living on the property, it should restrict the act of smoking in the building and/or on the property.



## IS A SMOKE-FREE POLICY LEGAL?

**Yes.** Smoke-free housing policies are legal in **Maryland**. Owners may restrict smoking on their property, including in individual units.

The decision to adopt a smoke-free policy is left up to property owners and managers but is strongly encouraged by the U.S. Department of Housing and Urban Development (HUD), the Maryland Department of Health and Mental Hygiene (DHMH), and the Maryland Department of Housing and Community Development (DHCD).

Maryland law allows owners to restrict resident activity, even if the activities are legal. These may include policies on trash disposal, snow removal, pets, and tobacco use. Smoke-free policies are applied and enforced like any other lease restriction. Additionally, it is legal for condominium boards to regulate smoking in individual units as well as common areas, so long as the bylaws do not forbid such rules.

### **Q. Are smoke-free policies legal in federally subsidized housing?**

**Yes.** HUD issued notices in 2009, 2010 and again in 2012 reinforcing that smoke-free housing policies are legal and strongly encouraged for Public Housing Authorities (PHAs). This notice applies to all multi-family housing rental assistance programs.

Property owners offering Section 8 housing/vouchers may implement a

No federal, state, or local law prohibits an owner, management agency or housing authority from adopting a no-smoking policy for an entire property, including all apartment units and outdoor spaces.

smoke-free policy for individual units as long as the policy is not used to target a protected class or minority. Owners may be required to “grandfather” current residents until lease renewal.<sup>3</sup>

### **Q. Since smoking is a legal activity, do smoke-free housing laws discriminate against smokers?**

**No.** There is no constitutional right to smoke. Smoke-free housing policies do not discriminate against smokers and do not violate an individual’s right to privacy. Moreover, no federal or state law prevents property owners from prohibiting smoking on their property, including in individual units.

A good smoke-free policy is based on the act of smoking, not on the individual’s status as a smoker. The policy should not prevent smokers from living on the property, rather it should restrict the act of smoking in the building and/or surrounding property.



Smoke-free policies are applied and enforced like any other lease restriction.

### **Q. Can an owner or manager face legal liability for allowing smoking on a property?**

**Yes.** State law requires property managers to provide residents with a safe and suitable place to live. Courts in several states (CA, FL, MA, MN, NJ, NY, OH, OR, PA, UT, VA) have addressed secondhand smoke in multi-unit housing. Rent reductions and other penalties against property managers have been issued for failure to protect residents from secondhand smoke.

Residents harmed by secondhand smoke can potentially sue owners or make claims under the Americans with Disabilities Act. Secondhand smoke is a known human cancer-causing agent or poison.



A man with a beard, wearing a blue and white striped shirt, is looking down at a white document he is holding. The background is blurred, showing what appears to be a window with yellow curtains.

## COST-SAVING BENEFITS

Smoke-free policies can significantly reduce operating costs. If smoking was banned in all U.S. subsidized housing, it would yield a cost-savings of approximately \$521 million per year. By prohibiting smoking in U.S. public housing alone, the cost-savings would be approximately \$154 million per year.<sup>4</sup>

### **Turnover Costs.**

Apartment turnover costs for smoking units can be 2 to 7 times greater than smoke-free units. A recent survey of public housing authorities found that maintenance and repair costs increased by \$500-\$3,000 for units where smoking was allowed vs. units where smoking was not allowed. Thus, communities with smoke-free policies significantly reduce operating costs.<sup>5</sup>

### **Fire Damage.**

One of the biggest risks associated with smoking indoors is fire-related damage. In 2011, lighted tobacco products caused an estimated 90,000 residential fires and \$621 million in direct property damage nationwide.<sup>6</sup> In 2013, residential fires

accounted for 83% of all fatal fires in Maryland, and nearly 1 in 4 of these fatal fires were caused by smoking.<sup>7</sup> No-smoking policies reduce the risk of fire-related property damage, injury and death—while saving money.

### **Insurance Premiums.**

Even if residents are required to have renters' insurance coverage, if there is a fire on your property that causes damage to any buildings or structures, your insurance premium may increase. Implementing a smoke-free policy will reduce the risk of a fire on your property. Additionally, some insurance companies offer discounted premiums for properties that maintain smoke-free buildings and properties.

### **Litter Cleanup.**

A smoke-free policy reduces the amount of cigarette butt and cigar tip litter on your property. If you choose to go tobacco-free, the amount of litter associated with other tobacco products—for example, spit cups, smokeless tobacco cans, and e-cigarette cartridges will also be significantly reduced.

“It costs an extra \$700 just to turn over that apartment. Instead of taking five to seven days to turn that unit, it takes an additional three to five days. That tacks on about \$200 in vacancy loss.”

—Maryland Property Owner/Manager



# MARKET DEMAND

Looking to attract new residents? A smoke-free policy helps properties stand out from competitors. As people become more aware of the harmful effects of smoking and secondhand smoke, more residents want to live in smoke-free buildings and communities. In fact, smoke-free housing is trending as younger professionals are seeking smoke-free communities.

In addition to attracting new residents, a smoke-free policy can help reduce resident complaints due to secondhand smoke, reduce requests for transfers and improve resident

retention rate. This means less paperwork, less hassle, and higher net profits.

When you look at recent data, the results are clear—residents support smoke-free policies in their apartment buildings.

84%  
of adults in Maryland  
**do not smoke.**  
Smokers are not the  
majority.<sup>8</sup>



MULTI-UNIT HOUSING RESIDENTS REPORTED:	NATIONAL STUDY <sup>9</sup>	MARYLAND SURVEY <sup>2</sup>
A voluntary smoke-free home rule.	79%	82%
Secondhand smoke infiltration from outside their unit.	44%	45%
Support for smoke-free policies in individual units.	56%	79%
They are a smoker and support a smoke-free policy in their unit.	data not available	71%



## SUCCESS STORY: SHELTER PROPERTIES

Shelter Properties manages more than 50 affordable and market rate, multi-family communities throughout the Mid-Atlantic region. To improve the quality of life for all residents, staff, and visitors the communities have recently implemented smoke-free policies as part of their on-going commitment to resident health and well-being.



"I've had people move out because they've had neighbors that smoke...when you live in a building, you live with the whole building."

—Maryland Property Owner/Manager



## HEALTH RISKS OF SECONDHAND SMOKE

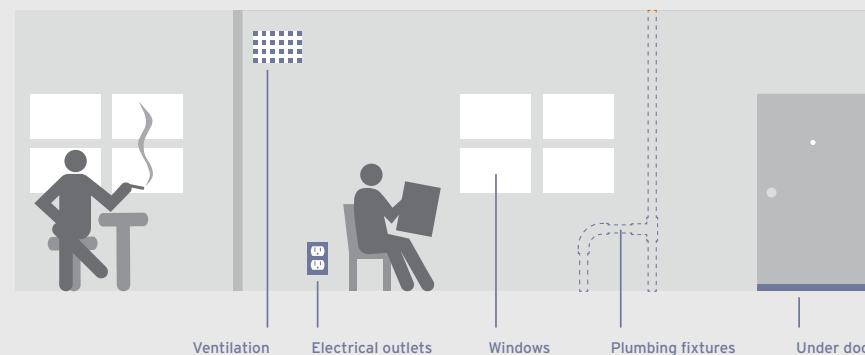
Banning smoking indoors is the only way to fully protect your residents from secondhand smoke. Ventilation systems may actually spread smoke throughout the buildings. Conventional air cleaning systems cannot remove small particles and gasses found in secondhand smoke.<sup>10</sup>

"At present, the only means of effectively eliminating health risks associated with indoor exposure [to secondhand smoke] is to ban smoking activity."—Statement issued by the American Society of Heating, Refrigerating & Air Conditioning Engineers, 2008 and reaffirmed in 2013 and 2015 with an updated definition to include e-cigarette and marijuana smoke.<sup>11, 12</sup>

### KNOW THE FACTS ABOUT SECONDHAND SMOKE

- Secondhand smoke is a major health threat.
- The U.S. Environmental Protection Agency (EPA) defines secondhand smoke as a Class A carcinogen, like radon and asbestos, with more than 7,000 toxic chemicals.
- Asthma, sinus infections, ear infections, stroke, and chronic cough can all be caused by secondhand smoke.
- In adults, secondhand smoke can cause lung and other cancers and heart disease.
- In children, secondhand smoke can cause pneumonia, bronchitis, sudden infant death syndrome (SIDS) and middle ear infections.<sup>1</sup>

#### SHARING THE AIR IN MULTI-UNIT DWELLINGS



Illustrations Designed by Black Graphics/Courtesy of Change Lab Solutions.

Air circulates throughout a building via the ventilation system.

If smoking is allowed, you will find toxic chemicals in the air of apartment homes that have never allowed smoking.

# 45%

of multi-unit housing residents in Maryland report secondhand smoke exposure from outside their home.<sup>2</sup>

According to the U.S. Surgeon General's Report, there is no risk-free level of secondhand smoke exposure.<sup>10</sup>





## ADOPTING A SMOKE-FREE POLICY

### **What type of policy is right for your property?**

A smoke-free multi-unit housing policy bans or limits the act of smoking in a residential building or the surrounding property. A smoke-free policy does not ban smokers from living on the property or force them to quit.

### **Smoke-free Building vs. Smoke-free Property.**

A **100% smoke-free building** is one where smoking is not allowed anywhere in the building, including individual units. Smoking may be permitted outdoors. A property owner should define in the policy whether a patio or balcony is considered an outdoor space or part of the building. Property owners may opt to create an outdoor designated smoking area.

A **100% smoke-free property** is one where smoking is not allowed anywhere on the grounds, both indoors and out.

### **Smoke-free Policy vs. Tobacco-free Policy.**

A **smoke-free policy** bans or limits the act of smoking or carrying lit tobacco (or other material), including: cigarettes, cigars, cigarillos, pipes, hookah, and other products.

A policy that includes the entire property is the easiest to enforce. It also has the greatest impact on maintenance, litter, repair costs, and the health of residents and staff.

A **tobacco-free policy** bans or limits the use of not only lit tobacco products, but also includes smokeless tobacco, such as: spit tobacco, snus, and Electronic Nicotine Delivery Systems (e-cigarettes, e-hookah, vape pens). If desired, a tobacco-free policy may be implemented and enforced similar to a smoke-free policy, as described in this guidebook.

Please see *Adopting a Smoke-Free Policy* fact sheet for more detailed information on how to adopt a smoke-free policy. A sample resident survey is provided.

Children who grow up in smoke-free homes are less likely to become smokers later in life.



# IMPLEMENTING YOUR SMOKE-FREE POLICY

Here are a few tips to effectively implement your smoke-free policy.

## **Educate your staff.**

Staff must be on board in order to successfully implement and maintain a smoke-free building or property.

## **Ask for residents' input.**

Resident feedback is important, it gives residents the opportunity to voice their opinions and it also gives them advance notice of the upcoming policy change.

## **Design the policy.**

The policy should reflect the needs of your community, staff concerns, and resident feedback.

## **Communicate the policy.**

Post signs around your property informing residents and staff about the upcoming policy change. Also, distribute the policy in writing to residents and staff.

## **Implement the policy.**

Although HUD does not require smoke-free policies in its buildings, if a HUD subsidized property voluntarily decides to adopt a policy

Did you know the Maryland Clean Indoor Air Act prohibits smoking in all indoor common areas—including those within multi-unit housing complexes?

they must comply with HUD requirements. The length of time it takes to make your building and/or property smoke-free will be determined by the type of leases in your building.

- If you use the “phase-in method” and your leases are renewed annually, it may take up to a year for the policy to be fully implemented.
- If you use the “quit-date method” you choose the date in which the policy will go into effect for the entire building/property.

Please see *Implementing a Smoke-Free Policy* fact sheet for more detailed information on how to implement your smoke-free policy. A sample notification letter and lease addendum are provided.



## SUCCESS STORY: THE HOUSING AUTHORITY OF THE CITY OF FREDERICK

On January 1st, 2015 the Housing Authority of the City of Frederick (HACF) became smoke-free. The policy covers all of HACF's properties and was implemented after more than a year of working with the Frederick County Health Department and community residents. The new policy is in line with the mission of HACF, to engage with Frederick's low and moderate income residents by providing a healthy foundation for economic self-sufficiency through employment and educational supports in safe, affordable housing.

“I wanted it to be a conversation, I really wanted the community input. We wouldn't have been able to develop the type of policy that we have without that trust, without that conversation with the residents.”

—Ryan P. Trout, Special Projects Manager, Housing Authority of the City of Frederick





## ENFORCING YOUR SMOKE-FREE POLICY

Smoke-free policies are largely self-enforcing if all residents, staff and guests are educated on the policy prior to implementation. Treat the smoke-free policy just like any other policy you enforce. Here are some tips to help residents comply:

- Put the smoke-free policy in the lease agreement or addendum and read through the rules with residents.
- Set up and communicate your enforcement plan with staff and residents. Define the process for reporting violations.
- Train your staff to look for signs of smoking.
- Use the same warning/enforcement methods for smoking policy violations as you do for other similar violations. Work with residents—smoking should not equal automatic eviction.
- Act quickly and consistently to violations.
- Remove all ashtrays and clean up any tobacco litter.
- Post signs in the building and on the property to remind residents of the smoke-free policy.

# 82%

of Maryland renters maintain a smoke-free rule in their homes—even if smoking is permitted in their buildings.<sup>2</sup>

- Continue to communicate the smoke-free policy via newsletters, emails, etc.
- Communicate the smoke-free policy to prospective residents when showing the property.
- Have resources available for residents and staff who want to quit tobacco use, such as the Maryland Tobacco Quitline (1-800-QUIT-NOW).

Please see *Enforcing a Smoke-Free Policy* fact sheet for more detailed information on how to enforce your smoke-free policy. A sample enforcement plan is provided.

“Being smoke-free is the best decision that we’ve made. Honestly we do get some push back sometimes, but the health benefits far outweigh any of the negatives.”

—Tiffany Nicolette, Marketing & Services Coordinator, Shelter Properties





## HELPFUL RESOURCES

With this guide, you can easily and effectively adopt, manage and enforce a smoke-free policy. For more information, please check out the resources below.

**Maryland Department of Health and Mental Hygiene  
University of Maryland, Francis King Carey School of Law,  
Legal Resource Center for Public Health Policy**

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

- Interactive version of this toolkit
- Testimonial videos
- Additional legal information and support

**U.S. Department of Housing and Urban Development**

[portal.hud.gov/hudportal/HUD?src=/smokefreetoolkits1](http://portal.hud.gov/hudportal/HUD?src=/smokefreetoolkits1)

- Toolkits to assist property owners/managers in implementing smoke-free policies
- Notices for Public Housing Authorities

**Americans for Nonsmokers' Rights**

[www.no-smoke.org/goingsmokefree.php?id=594](http://www.no-smoke.org/goingsmokefree.php?id=594)

- Resources for making a property smoke-free

**Free resources to assist in quitting tobacco use.**

Local: [www.smokingstopshere.com/county-resources/](http://www.smokingstopshere.com/county-resources/)

Statewide:

- The Maryland Tobacco Quitline: 1-800-QUIT-NOW
- [www.SmokingStopsHere.com](http://www.SmokingStopsHere.com)

Nationwide:

- [www.smokefree.gov](http://www.smokefree.gov)

**Maryland's Clean Indoor Air Act of 2007**

[phpa.dhmf.maryland.gov/OEHFP/EH/SitePages/clean-indoor-act.aspx](http://phpa.dhmf.maryland.gov/OEHFP/EH/SitePages/clean-indoor-act.aspx)





# REFERENCES

1.

Boston, Lauren. A breath of fresh air. April 2011. UNITS Magazine. Retrieved from [smokefreehousingny.org/v2/wp-content/uploads/A-Breath-of-Fresh-Air-UNITS-April-2011.pdf](http://smokefreehousingny.org/v2/wp-content/uploads/A-Breath-of-Fresh-Air-UNITS-April-2011.pdf).

2.

Maryland Department of Health and Mental Hygiene, University of Maryland, College Park and Institute for a Healthiest Maryland, University of Maryland, Baltimore. (not released yet) Tenant evaluation survey of smoke-free multi-unit housing in Maryland. Baltimore, MD. Lee, M., Norris, J., Cruz-Cano, R., Apfel, A., Fiedler, R., Penniston, E., Fox, R., & Shell, D.

3.

U.S. Department of Housing and Urban Development. October, 2012. Further Encouragement for O/As to Adopt Optional Smoke-Free Housing Policies. Retrieved from <http://portal.hud.gov/hudportal/documents/huddoc?id=12-22hsgn.pdf>.

4.

King, B.A., Peck, R.M., Babb, S.D. Cost savings associated with prohibiting smoking in U.S. subsidized housing. American Journal of Preventive Medicine. June 2013;44(6),631–4 10.1016/j.amepre.2013.01.02 Retrieved from [www.ncbi.nlm.nih.gov/pubmed/23683981](http://www.ncbi.nlm.nih.gov/pubmed/23683981).

5.

Legal Resource Center for Public Health Policy. University of Maryland Francis King Carey School of Law. Smoke-free Housing Toolkit. Retrieved from [http://www.mdsmokefreeapartments.org/docs/sfh\\_toolkit.pdf](http://www.mdsmokefreeapartments.org/docs/sfh_toolkit.pdf).

6.

Hall, JR, Jr. The Smoking-material fire problem. National Fire Protection Association, Fire Analysis and Research Division. July 2013. Retrieved from <http://www.nfpa.org/~media/Files/Research/NFPA%20reports/Major%20Causes/ossmoking.pdf>.

7.

Office of the Maryland State Fire Marshall. Fire deaths in Maryland January- December 2013. Retrieved from <https://www.mdsp.org/LinkClick.aspx?fileticket=IZPHx3zOGjA%3D&tabid=580&mid=1538>.

8.

Maryland Department of Health and Mental Hygiene. (2014, August). Monitoring Changing Tobacco Use Behaviors: A Report to the Maryland General Assembly and Governor, Fiscal Year 2013. Baltimore, MD. Retrieved from [dhmh.maryland.gov/newsroom1/Documents/HG%2013-1004%20-%20PHPA%20-%20Biennial%20Tobacco%20Study.pdf](http://dhmh.maryland.gov/newsroom1/Documents/HG%2013-1004%20-%20PHPA%20-%20Biennial%20Tobacco%20Study.pdf).

9.

Andrea S. Licht, Brian A. King, Mark J. Travers, Cheryl Rivard, and Andrew J. Hyland. Attitudes, experiences, and acceptance of smoke-free policies among US multiunit housing residents. American Journal of Public Health. October 2012, 102(10), 1868-1871. doi: 10.2105/AJPH.2012.300717. Retrieved from [ajph.aphapublications.org/doi/abs/10.2105/AJPH.2012.300717](http://ajph.aphapublications.org/doi/abs/10.2105/AJPH.2012.300717).

10.

U.S. Department of Health and Human Services. The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General. Atlanta, GA: 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, 2014. Retrieved from [www.surgeongeneral.gov/library/tobaccosmoke/report/full\\_report.pdf](http://www.surgeongeneral.gov/library/tobaccosmoke/report/full_report.pdf).

11.

American Society of Heating, Refrigerating & Air Conditioning Engineer (2008, June) ASHRAE position document on environmental tobacco smoke. Retrieved from [www.ashrae.org/about-ashrae/position-documents](http://www.ashrae.org/about-ashrae/position-documents).

12.

American Society of Heating, Refrigerating & Air Conditioning Engineers, 2015. ANSI/ASHRAE Addenda a, c, j, k, q, r, and s to ANSI/ASHRAE Standard 62.1-2013; Ventilation for acceptable indoor air quality. Retrieved from <http://actiontoquit.org/wp-content/uploads/2015/03/ASHRAE-Supplement-3-4-15.pdf>.

13.

Quotes from Maryland property owners and managers, focus group research and in-depth interviews, May–August 2014.





MARYLAND  
smoke-free **living**

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and enforcing a smoke-free policy, visit  
**[www.mdsmokefreeliving.org](http://www.mdsmokefreeliving.org)**

