

## FREQUENTLY ASKED QUESTIONS

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### **1) What is a smoke-free residential building policy?**

- Smoke-free policies are a means for landlords/management companies to prohibit tenants and others from carrying or using a lit tobacco product anywhere within multi-unit residential buildings, including places where people live.
- Some policies extend the restriction to include balconies, terraces, gardens and other outdoor areas connected with the property.

### **2) Are smoke-free housing policies legal?**

- Yes. Because the US Constitution does not guarantee a right to smoke, prohibiting smoking in multi-unit dwellings is legal.
- Smokers are not a protected class. As a result, smoke-free housing policies are not discriminatory.
- Landlords may write clauses into new leases or lease addendums that prohibit smoking.
- Smoke-free housing policies are not made to evict smokers, but to prohibit the act of smoking anywhere in the building.

### **3) Does the right to adopt smokefree policies extend to affordable housing?**

- Yes. HUD (U.S. Department of Housing and Urban Development) permits smokefree policy adoption in affordable housing managed by local housing authorities.
- Smokefree housing policies can apply to Section 8 housing,\* by making a rule change.
- Smokefree policies can be implemented in publicly funded residential buildings, Section 8 buildings and Section 8 units at lease renewal or any time during the term of an existing lease if tenants are provided with adequate notice.
- See also Smoke-free Environments Law Project, [www.tcsg.org/sfelp/](http://www.tcsg.org/sfelp/).

### **4) How is a smokefree policy adopted?**

Policies that prohibit smoking can be written as a lease addendum or within a new lease (see "Sample leases/addendums" at [www.tompkins-co.org/tobaccofree/](http://www.tompkins-co.org/tobaccofree/)) and should be reviewed by your attorney.

#### Smokefree policy options:

- Landlords may choose to prohibit smoking in all units, at the same time, during the term of existing leases, provided that adequate notice is given.
- Smokefree policies can be applied tenant by tenant at time of each lease renewal.
- Landlords may allow all current tobacco users to continue to smoke in their units, while writing the policy into leases for new tenants. (This process can take years to solve SHS troubles.)

Whichever option is chosen, notify all tenants, by letter, explaining the reasons for the new policy, with transition and compliance details. Require tenants to sign a copy stating their intent to comply with the new rule.

### **5) What's the best way to implement and enforce a smokefree policy?**

Once tenants receive written notice and the policy has been written into leases, post smokefree signs throughout the building.

#### Ease the transition:

- Train your staff to comply with and answer questions about the policy.
- Until all units are smokefree, provide apartments invaded by SHS with remedial modifications.
- If needed, identify places where tobacco users can smoke without breaking the terms of the lease.
- Provide quitting (smoking cessation) materials and resources for tenants.

#### Ease the transition:

In most cases smokefree policies are self-enforcing. When not, smoking violations should be treated as any other lease or rule violations.

- Speak to the tenant regarding the violation.
- Provide written notice with expectation of compliance.
- Move to evict if the tenant continues to violate the terms of the lease.
- Consult your attorney about eviction proceedings.

SOURCE: Steps to Smoke-free Housing NY. [www.smokefreehousingny.org/landlords\\_ga.html](http://www.smokefreehousingny.org/landlords_ga.html).

Visit the Tobacco Free Tompkins Website for additional resources: [www.tompkins-co.org/tobaccofree/](http://www.tompkins-co.org/tobaccofree/)

\*Federally subsidized buildings or units within private buildings for low-income and elderly tenants who carry Section 8 status.

## SURVEY OF TOMPKINS COUNTY ADULTS (JUNE 2008)<sup>‡</sup>

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To all respondents:

***Which statement best describes the rules about smoking in your home?***

Not allowed anywhere	92.0%
Allowed some places	5.0%
Allowed anywhere or no rules	2.9%

To Renters:

***What is your opinion about allowing smoking in your building?***

Do not allow at all	51.1%
Restrict to certain areas	37.1%
Allow anywhere	7.7%
Don't know	4.2%

To all respondents:

***At areas around public building entryways, do you think smoking should be allowed anywhere, restricted to certain areas, or not allowed at all in your county?***

Do not allow at all	46.2%
Restrict to certain areas	43.6%
Allow anywhere or don't know	10.1%

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<sup>‡</sup> Community Tobacco Survey of Adult Residents of Tompkins County. June 2008. Joel LaLone Consulting, Watertown, NY. 400 surveys of adults completed by telephone from randomly selected Tompkins County phone numbers, June 9–12, 2008. Respondents included 77 renters.