

Adopting a Smoke-Free Community Policy

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Purpose: To offer National Apartment Association (NAA) members operational guidance for adopting a smoke-free community policy.

Applies to: Property Managers, onsite team members and all other NAA members who are involved with resident relations.

Overview: Non-smoking policies can be highly beneficial to the operation of an apartment community—whether applied to new or existing developments—reducing risk to both the building and its residents as well as easing costs and effort related to maintenance and turns.

A non-smoking policy should encompass all smokable forms of tobacco, including cigarettes, cigars, pipes and e-cigarettes, and its implementation will depend on various considerations related to whether it applies to new construction and rehabilitation or retroactively applied to existing apartments in an already occupied community.

Guidance:

1. **Benefits** – A smoke-free policy for a multifamily housing community can benefit all parties concerned – owners, operators, employees and residents.
 - **Protection from secondhand smoke:** Secondhand smoke travels through lighting fixtures, cracks in walls, around plumbing, under doors and in shared heating/ventilation. Medical studies have shown that tobacco smoke in any form exposes users and bystanders to serious health risks. The U.S. Surgeon General has reinforced these findings, and air quality experts such as the American Society of Heating, Refrigerating and Air Conditioning Engineers have concluded that, “the only means of eliminating health risks associated with regulating smoking in multi-unit housing indoor exposure is to ban all smoking activity.” Among all the benefits of a smoke-free housing policy, one of the most important is that it enables residents, employees and other visitors enjoy air free of hazardous secondhand smoke.
 - **Market Advantage:** While it remains unclear whether there is a direct return on investment for smoke-free apartments generating higher market rents, anecdotally,

resident surveys have revealed that a growing number of residents are seeking smoke-free housing. Offering smoke-free housing may prove a competitive advantage for your apartment community.

- **Reduced Fire Risk:** The use of cigarettes and other combustible tobacco products is a leading cause of residential building fires, according to the National Fire Protection Association (NFPA). A smoke-free policy reduces the risk of fire, further keeping the residents and their property safe.
- **Smoke-Free Housing Programs:** Many state and local health departments and community organizations have developed programs and resources to assist property managers and owners with adopting smoke-free policies for their communities. Smoke-free housing programs educate building owners, managers, residents, local policymakers and rental housing professionals about the benefits of creating smoke-free environments in multifamily housing, and local programs may offer consultations, tools and assistance to help implement a smoke-free policy. It is advised to check with your local program to learn what resources are offered.
- **Apartment Turnover Cost Reduction:** 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. Residue, burns and odors create additional turnover time, and higher cleaning costs for building owners and managers.

2. **Interior Restrictions** – The policy should indicate that all forms and use tobacco products inside any dwelling, building or interior of any portion of the community are strictly prohibited. Any violation of the no-smoking policy is a material and substantial violation of the community policy and should be enforced through the use of a non-smoking addendum in the lease agreement.
3. **Exterior Restrictions** – It should be determined whether smoking will be permitted outside of the building but within the grounds of the community. If permitted outside, it should only be allowed in specially designated areas. The smoking-permissible areas should be marked by appropriate signage.

There exists no obligation to provide an outdoor smoking area, although by doing so will help keep residents secluded to a specific area(s) that can be appropriately maintained, including proper disposal of cigarette butts. If providing smoking areas, they should be located as far away from the building as possible to avoid problems associated with odors and drifting smoke. Particularly in summer, smoke can waft through an open window or be drawn inside by air conditioning units. It should also be determined and specified within the policy whether smoking on balconies, patios and limited common areas attached to or outside of the dwelling will be permitted.

4. **New Construction** — When apartment communities are under construction, it is important to determine whether a smoke-free policy will be implemented. New construction eases the process in creating a smoke-free environment compared to the challenges facing owners during implementation in a pre-existing community. Implementing a smoke-free policy for new construction will ease certain aspects of maintaining the property and increase the longevity of interior spaces. As the new community is designed, it offers an opportunity to identify an outdoor smoking space at an appropriate site if it is to be permitted.
5. **Renovation** — If you are renovating an apartment building, this may be an optimal time to reopen as a smoke-free building. The changes necessary to accommodate both smoke-free and smoking-permitted apartments in an older building are cost prohibitive. It is far less-challenging to designate

the entire building smoke-free and ease enforcement as well as additional expenses associated with maintaining units that permit smoking.

6. **Insurance** – Insurance agencies report that some insurers offer a credit or premium reduction for the owner and/or resident on their property/liability insurance if they forbid smoking in their apartment building (owner) or their apartment (resident). Ask your insurance carrier about qualifying for a reduced rate if the building and/or community goes smoke free. In addition, encourage residents to contact their insurance company to see whether a lower rate can be negotiated for renters' insurance.
7. **Discrimination Concerns** – A smoke-free policy is not discriminatory. There is no "right to smoke" provision under any federal, state or local laws. Smokers are not a protected class. Smoking is a behavior, not an inborn characteristic, like race or sex, and therefore prohibiting smoking does not unfairly target a particular group. Also, a smoke-free policy does not mean you cannot rent to smokers; they just have to smoke in designated areas or off property.
8. **Reasonable Accommodation** – Under the Americans with Disabilities Act (ADA), the Federal Fair Housing Act (FHA), or state law, you may be required to make reasonable changes to your rules and policies to accommodate a resident whose disability is made worse by secondhand smoke drifting into their unit. For example, you may be asked to prohibit smoking in common areas or hallways in the building if the smoke is entering a resident's unit. You may also be asked to relocate a resident to a vacant unit in the complex to remove them away from drifting smoke.
9. **Signage** – Signage concerning the smoke-free community status should be visible in areas such as at building entrances and in common areas as an important component of achieving compliance. If smoking is prohibited in outdoor areas, be sure to post signs indicating the policy in multiple places, especially where smokers may congregate. Clear signage communicates the smoke-free policy with residents, guests, staff and others so that everyone knows exactly where smoking is allowed and prohibited. Consider framing some signs in a positive manner, such as "Welcome to our smoke-free building/community." and, "Thank you for not smoking indoors."
10. **Enforcement** – Enforcement of non-smoking policies should be handled similarly to other procedures used for violations of rules, such as noise, disorderly conduct or parking in prohibited areas. You may decide to issue a warning before you proceed with a breach of contract. To effectively enforce these measures, you must ensure all residents are aware of the no-smoking policy and have included this in the signed lease agreement.
11. **Resident Communication** – Communicate what your smoke-free policy requires of residents as well as the penalties associated with non-compliance. Send a letter to all residents when the policy is adopted, and again when the policy goes into effect. Consider holding a meeting for residents shortly before the policy goes into effect to allow residents to voice concerns and get answers to questions. You may also provide information about how to access local cessation resources in case residents who smoke are interested in quitting.

In addition, it is important to clarify what a smoke-free policy means: Residents do not have to quit smoking, nor do they have to move out of their home; they simply cannot smoke in prohibited areas. The purpose of a smoke-free building is to provide a cleaner, safer and healthier living environment for all residents, including smokers and their families.

12. **Employee Policy** – When adopting a smoke-free policy for your community, it is important that a similar policy be in place for employees at the community. If residents can only smoke in designated

areas, then employees must comply with rules, too. This will maintain consistency and underscore the importance of your policy to all residents.

Related Links and Forms

NAA No-Smoking Addendum

About NAA

The National Apartment Association (NAA) serves as the leading voice and preeminent resource through advocacy, education and collaboration on behalf of the rental housing industry. As a federation of 152 state and local affiliates, NAA encompasses more than 82,000 members representing more than 10 million apartment homes globally. NAA believes that rental housing is a valuable partner in every community that emphasizes integrity, accountability, collaboration, community responsibility, inclusivity and innovation. NAA thanks its strategic partners Lowe's Pro Maintenance Supply Headquarters and Yardi. To learn more, visit www.naahq.org.