

A Landlord's
Guide to

No-Smoking Policies



HIGHER PROFITS

HAPPIER TENANTS

SAFER HOUSING



“For me it was the repainting each time,
the extent of cleaning, professional carpet
cleaners, hoping you would get the smell out.
I just finally decided it wasn’t worth it.”



The Portland-Vancouver Metro Area Smokefree Housing Project is a partnership between the American Lung Association of Oregon, Multnomah County Health Department and Clark County Public Health. Together with our Advisory Board, we want to show landlords how no-smoking rules are a win-win for business and for health.

NON-SMOKING HOUSING

"... being an early implementer of smoke-free policies, a property management company could earn a reputation in the market for doing a better job of recognizing and offering the amenities tenants want, while at the same time ensuring higher retained earnings as a result of lower maintenance and related costs."

— John Campbell, national landlord trainer and consultant

Good for Business and Health

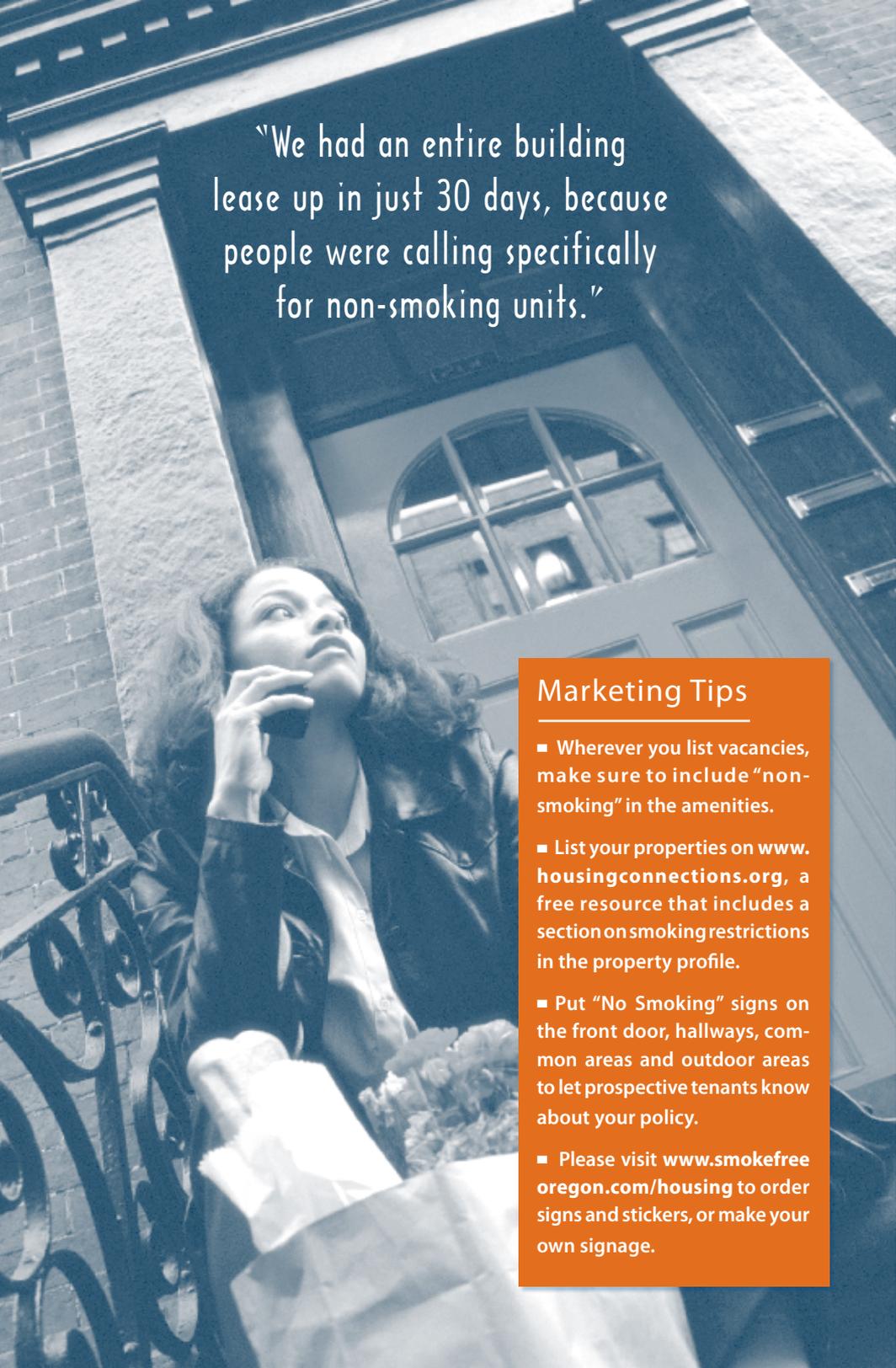
Have you been thinking about a no-smoking rule for your rentals? If you are like other landlords, you are sick and tired of the time and money it takes to repaint, replace carpet, and turn over apartments where tenants have been smoking indoors. You know that smoking is a major fire hazard and a liability. Maybe your tenants have complained about tobacco smoke drifting from neighboring units. You have heard that other landlords have eliminated these headaches by adopting a no-smoking rule, and you are wondering if it will work for you, too.

Well, good news! You can adopt a no-smoking rule. Just as you might prohibit pets, you can prohibit smoking at your rental properties, even inside individual units and in outdoor areas. It is entirely legal.

On our website, www.smokefreeoregon.com/housing, we have additional resources for landlords and tenants to help address this issue. See the last page of this booklet for a list of helpful articles and handouts that can be found on our website.

"The debate is over. The science is clear: secondhand smoke is not a mere annoyance, but a serious health hazard."

— U.S. Surgeon General Richard Carmona, 2006

A low-angle, black and white photograph of a woman with long, dark, curly hair talking on a mobile phone. She is wearing a dark jacket and is holding several shopping bags. She is standing on a porch or balcony with a decorative metal railing. In the background, there is a brick building with a large arched window. The overall tone is professional and informative.

“We had an entire building lease up in just 30 days, because people were calling specifically for non-smoking units.”

Marketing Tips

- Wherever you list vacancies, make sure to include “non-smoking” in the amenities.
- List your properties on www.housingconnections.org, a free resource that includes a section on smoking restrictions in the property profile.
- Put “No Smoking” signs on the front door, hallways, common areas and outdoor areas to let prospective tenants know about your policy.
- Please visit www.smokefreeoregon.com/housing to order signs and stickers, or make your own signage.

MARKET DEMAND

Non-smoking housing is an exciting market opportunity for Portland-Vancouver metro area landlords.

In the summer of 2006, we commissioned research on both landlords and tenants in the Portland-Vancouver metro area. Here is what we found:

Most renters would prefer non-smoking buildings

- Three-quarters would rather live in a non-smoking building.
- 52% would even pay extra rent.
- Three-quarters say it is okay for landlords to prohibit smoking inside rental units to keep secondhand smoke from drifting into other units.
- Most renters, regardless of income, age, or gender, would prefer a no-smoking rule.
- Over a third of renters in multi-unit buildings say they are regularly exposed to a neighbor's secondhand smoke.

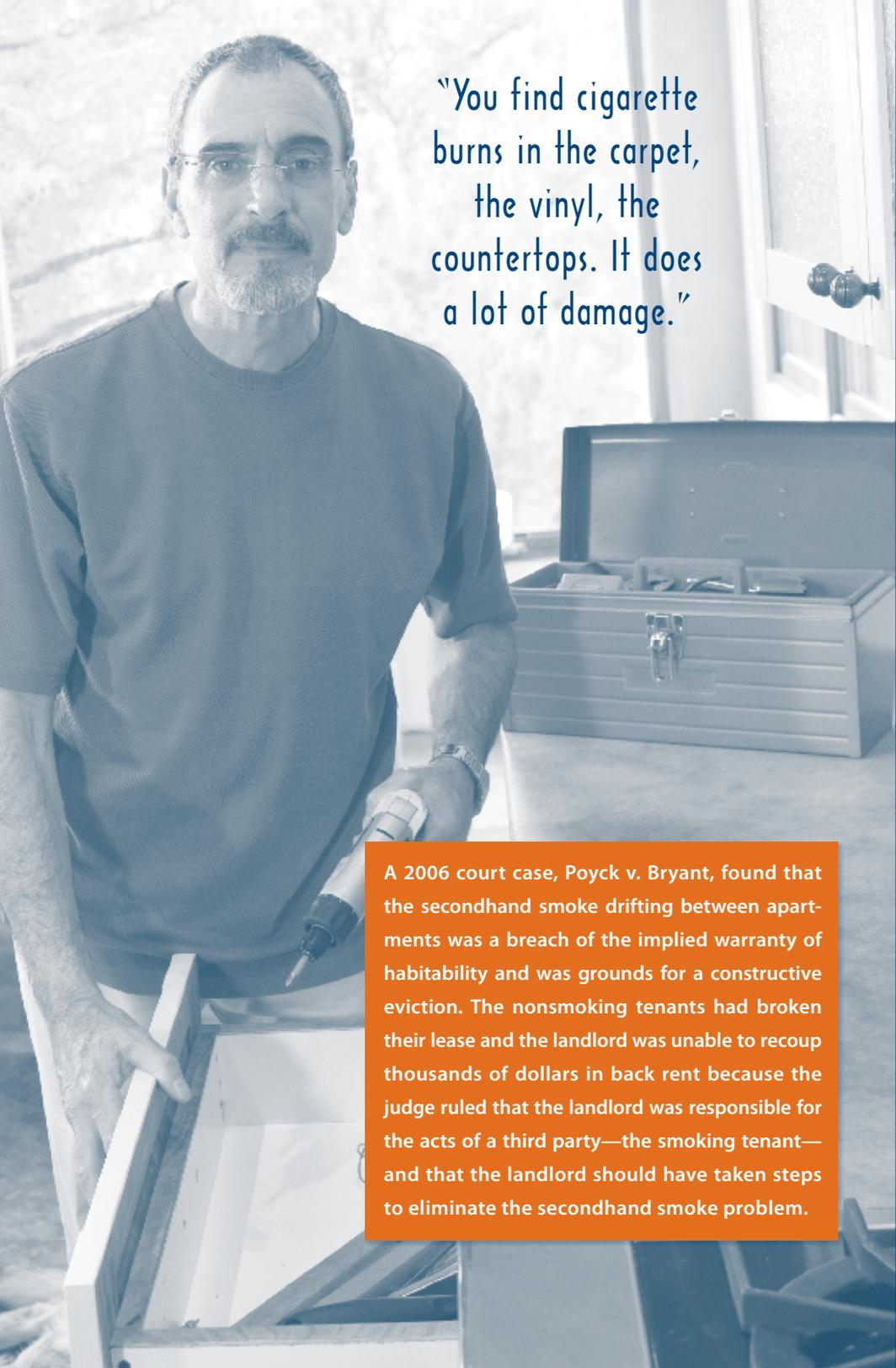
Most renters don't smoke and most smokers smoke outside

- Three-quarters of renters do not smoke at all.
- 19% of renters smoke daily—but only 11% smoke inside regularly.
- Two-thirds of smokers agree that even small amounts of secondhand smoke are hazardous to your health.

Statistics are from the market survey report, "Smoke-free Rental Housing in the Portland Metro Area." Campbell DeLong Resources, Inc, 2006.



Many landlords say that a no-smoking rule helps them attract and keep tenants who take good care of their units.



“You find cigarette burns in the carpet, the vinyl, the countertops. It does a lot of damage.”

A 2006 court case, *Poyck v. Bryant*, found that the secondhand smoke drifting between apartments was a breach of the implied warranty of habitability and was grounds for a constructive eviction. The nonsmoking tenants had broken their lease and the landlord was unable to recoup thousands of dollars in back rent because the judge ruled that the landlord was responsible for the acts of a third party—the smoking tenant—and that the landlord should have taken steps to eliminate the secondhand smoke problem.

PROTECT YOUR INVESTMENT

Your property is an important investment. Protect it! A no-smoking rule will help you save money by reducing damage to your property, preventing fires, and avoiding liability.

A no-smoking rule is one of the easiest ways to reduce damage to your units and keep your costs down:

If you have tenants who smoke, you know what it does to your property: burn marks on the counters, yellow walls, trashed carpets, a horrible odor, and worse. A no-smoking rule will help you spend less time and money on cleaning, repairs and painting. It will keep your units in better condition, making them more attractive to prospective tenants and to buyers if you decide to sell.

A no-smoking rule will also protect your property from fires:

The Hartford Insurance Company reports that more people die in fires caused by smoking than by any other type of fire. Smoking is the #1 cause of residential fire deaths in Oregon and Washington, causing more expensive property damage than most other types of fires. A no-smoking rule will reduce the risk of fires at your rental properties and you may even be able to get an insurance discount. Ask your broker.

A no-smoking rule will help you avoid potential legal liability due to nonsmoking tenants' exposure to secondhand smoke:

Several common law theories, including constructive eviction and breach of the warranty of habitability, have been used to bring successful legal action against landlords and smoking tenants. Tenants with certain disabilities may also be able to request reasonable accommodations to protect them from secondhand smoke. Ventilation and air sealing technologies are not effective ways to eliminate secondhand smoke according to the American Society of Heating, Refrigerating and Air Conditioning Engineers.



Landlords who adopted no-smoking rules tell us they would never go back.



“It started with a couple floors. We told people that in a year it would be non-smoking, and we’d give them resources to help them quit.”

Policy Checklist

- List the places where smoking is and is not allowed.
- State who the policy applies to (tenants, guests, staff, service persons).
- Set the effective date of the policy.
- Define smoking.
- Optional: Designate a smoking area outside at least 25 feet away from doors, windows, and major walkways.

DEVELOPING YOUR NO-SMOKING RULE

When you are opening a new building or complex, the easiest thing to do is prohibit smoking from the beginning. When converting an existing building or complex, you may need to phase in the policy as you fill vacancies or as leases are renewed. You can also “go smokefree” after a certain date if you follow landlord-tenant law requirements, including giving advance notice and having tenants agree to the changes in writing.

Write your rule into the rental agreement in “other rules” or add a lease addendum using our sample lease language.

Sample Lease Language



SMOKING: Due to the increased risk of fire, increased maintenance costs, and the known health effects of secondhand smoke, smoking is prohibited in any area of the property, both private and common, indoors and within 25 feet of the building(s) including entryways, balconies

and patios. This policy applies to all owners, tenants, guests and service persons. Tenants are responsible for ensuring that family members, roommates and guests comply with this rule.

(If you are “phasing in” the policy)

All new and renewed leases in your building prohibit smoking as described here. Please be aware that, until all leases have been renewed, you may have neighbors whose current lease does not prohibit smoking.

DEFINITION

SMOKING: The term ‘smoking’ means any inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, or other tobacco product in any manner or any form.

Please visit our website www.smokefreeoregon.com/housing for additional resources

“We do an addendum to the lease, and tenants have to sign it.”



Helpful Talking Points

- Tenants and their families will be safer from fires.
- The air will be healthier for everybody who lives in a non-smoking building.
- There will be less damage to the units.
- A no-smoking rule is not a 'no-smoker rule.' Smokers will simply have to step outside (as most smokers already do), and away from the building.
- If a smoker is ready to quit, free resources include the Tobacco Quit Line at 1-800-QUIT-NOW and Freedom From Smoking at lungusa.org.

HOW TO ENFORCE YOUR NO-SMOKING RULE

A no-smoking rule is just like any other rule you enforce.

Tips for Getting Tenants to Comply:

1. Advertise the units as non-smoking to attract tenants who either don't smoke or only smoke outside. Talk to prospective tenants about it when showing the property.
2. Put the no-smoking rule in the lease agreement and read through the rule with tenants as they sign their lease.
3. Post signs in the building and on the property.
4. Inform tenants that if they smoke in their units, they will be financially responsible for bringing the unit back to rentable condition, which could cost thousands of dollars.
5. Use the same warning/enforcement methods for smoking rule violations that you use for any other rule.
6. Visit the properties regularly and perform inspections, just as should always be done for all rentals.
7. Optional: Provide a designated smoking area outside, away from windows and doors (25 feet is a good distance).

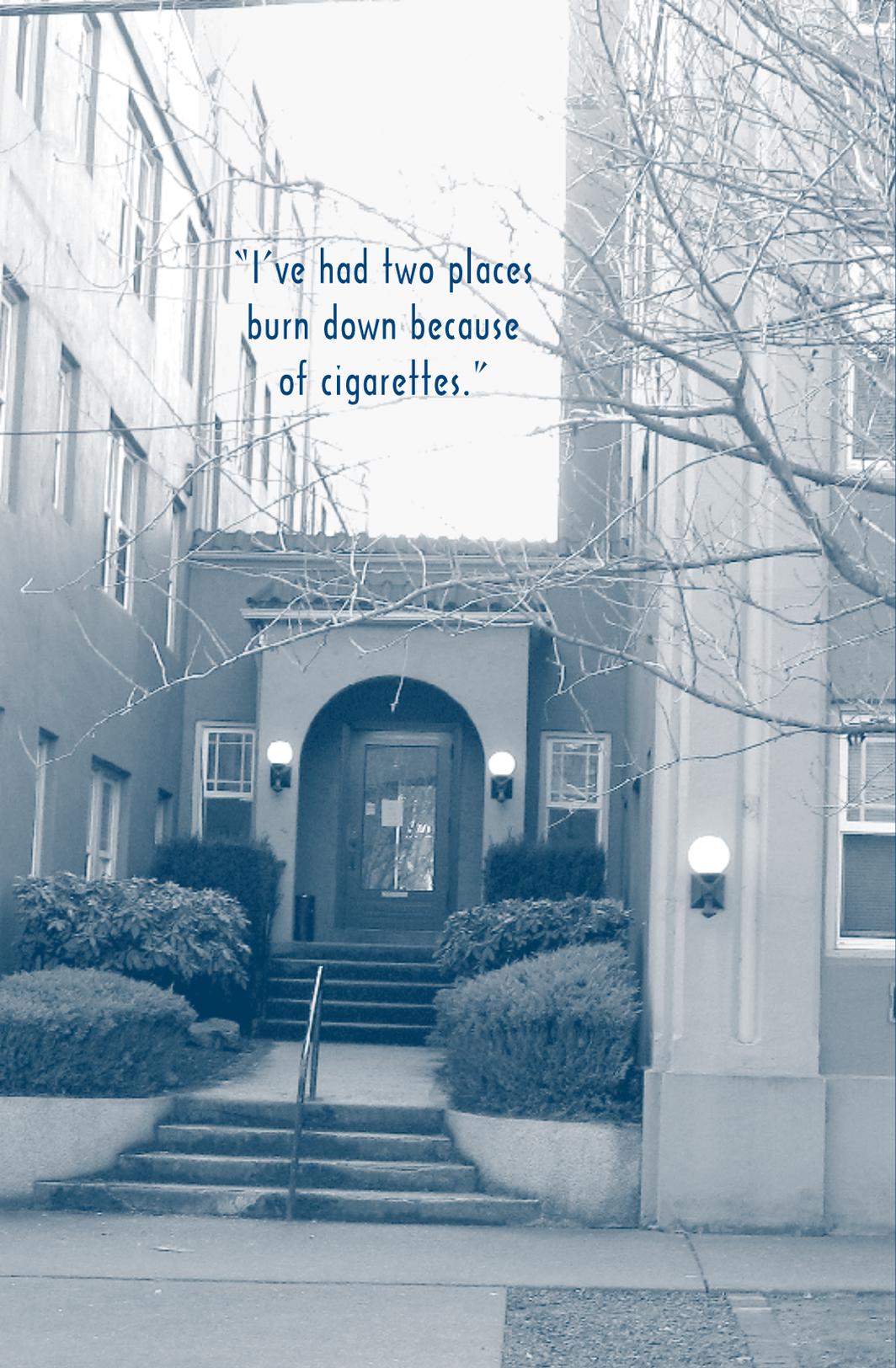
Talking to Your Tenants:



Giving your tenants advance notice about the no-smoking rule will help you gain compliance with the policy. You might want to go “over and above” your normal procedures for announcing rule changes. A little bit of extra work at the beginning could help you avoid headaches later on. Some landlords choose to survey their tenants to find out how many smoke inside their units, how many would prefer a no-smoking rule, and how many would want to move. Smokefreeoregon.com/housing has sample survey questions and a sample tenant handout to help you explain your rule to tenants.

Enforce your no-smoking rule just like any other rule.

"I've had two places
burn down because
of cigarettes."



FREQUENTLY ASKED QUESTIONS

Q. What do I have to gain from a no-smoking rule?

A. A no-smoking rule will help protect your property from damage and fires. You will save money on turnover expenses because apartments will cost less to clean, repair, and repaint. As more people become aware of the health hazards of secondhand smoke, no-smoking is an amenity that most Portland-Vancouver metro area tenants want.

Q. Is a no-smoking rule legal?

A. Yes. It is legal to prohibit smoking at your properties, inside and out. It is your property and you have the right to set reasonable rules to protect it. It is not discrimination to prohibit smoking. Smoking is a behavior, not an inborn characteristic. It is not a disability and smokers are not a protected class. As when changing any rule, be sure to follow landlord-tenant law (give notice, have tenants sign their agreement with the rule change, apply it equally, etc.).

Q. Can I adopt a no-smoking rule in HUD-assisted housing?

A. Yes. You can adopt a no-smoking rule for new tenants at HUD-assisted housing, but you may have to “grandfather” existing tenants until their leases renew. If you want to change the model lease, you will have to get HUD approval, but changes can be made to “House Rules” without HUD approval.

Q. Do no-smoking rules work only in higher end properties?

A. No. Many local landlords are already enjoying success with no-smoking rules at all kinds of properties, in all sections of the metro area. Three quarters of renters, even those with household incomes under \$25,000, would rather live in a non-smoking building. Three out of four metro area renters are nonsmokers. Our survey found that only 19% of metro area renters smoke on a daily basis, but only 11% smoke inside.

Q. My tenants are complaining about secondhand smoke. What can I do about it until the no-smoking rule goes into effect?

A. Ask tenants to smoke outside or away from the building. You could try to reduce the secondhand smoke drifting between your tenants’ units by sealing the units off or by improving the ventilation, but be aware that neither will eliminate the problem.

REFERENCES:

LOCAL RESEARCH

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"Fire in Washington." The Washington State Fire Marshall. 2004. www.wsp.wa.gov/fire/2004firpt.pdf

RESOURCES FOR LANDLORDS



Visit www.smokefreeoregon.com/housing for the following resources:

- Order form for signs & stickers.
- Tenant Handout—to explain the benefits of a no-smoking rule.
- Sample Tenant Survey—to find out how many tenants would prefer a no-smoking rule.
- Market Survey Report: “Smoke-free Rental Housing in the Portland Metro Area.”
- Landlord Focus Group Report “Opinions of Experienced Metro-Area Landlords Regarding Smoking Policies and Practices.”
- Fact sheet on Secondhand Smoke.
- Articles about HUD-assisted housing, the Fair Housing Act, the American with Disabilities act, legal cases and how they relate to secondhand smoke and no-smoking policies.

Secondhand Smoke Facts

- Secondhand smoke kills 53,000 non-smoking Americans and 800 non-smoking Oregonians every year.
- Secondhand smoke contains more than 43 cancer-causing agents and many other toxins, including formaldehyde, cyanide, carbon monoxide and arsenic.
- Secondhand smoke exposure causes heart disease and lung cancer in adults and sudden infant death syndrome and respiratory problems in children.
- There is no risk-free level of secondhand smoke exposure: even brief exposure adversely affects the cardiovascular and respiratory systems.
- Only smokefree environments effectively protect people from secondhand smoke exposure indoors.

Smokefree Housing Advisory Board:

Metro Multi-Family Housing Association
City of Portland Bureau of Housing & Community
Development, Healthy Homes Initiative
HousingConnections.org
Fair Housing Council of Oregon
Housing Authority of Portland
Vancouver Housing Authority
Portland Development Commission
Tobacco Free Coalition of Clark County
Tobacco-Free Coalition of Oregon
Tobacco Free Tri-Counties
IRCO/Asian Family Center
Lifeworks
Native American Rehabilitation Association
Oregon Human Development Corporation

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