

# Smoke-Free Multi-Unit Housing

Approaches to Protect Tenants from Secondhand Smoke

## Disclosure

State law requires landlords to indicate in new leases where smoking is prohibited on the property. Local governments can require landlords to provide all tenants with this information directly (landlords can also provide this voluntarily).



### Smoke-Free Common Areas

Many indoor common areas, like hallways and laundry rooms, are already required by state law to be smoke-free. Local governments and landlords can also make outdoor common areas, like gardens and pool areas, smoke-free.

### Smoke-Free Units

Local governments and landlords can make some or all individual units smoke-free, including patios and balconies.

### Smoke-Free Buffer Zones

Local governments and landlords can prohibit smoking within a specific distance from all entrances, doorways, or operable windows of a building. Landlords who want to create designated smoking areas for their tenants who smoke should take care to locate them outside of the buffer zone.

Above: Essential elements of smoke-free housing (can be adopted by landlords or local government)

Below: Additional approaches that could be adopted by local government



### Nuisance and Trespass

Local governments can declare involuntary exposure to secondhand smoke a nuisance, and designate unwanted tobacco smoke on residential property a trespass. This may give tenants greater legal recourse against drifting smoke.



### Last Resort Move Out Options

Local governments can also pass a law allowing tenants to break their lease early and without penalty in cases where they're exposed to secondhand smoke from another tenant, and where the landlord fails to take adequate steps to remedy the problem. Local governments can make a landlord's failure to remedy a drifting secondhand smoke problem grounds for a claim of constructive eviction, which might allow tenants to escape their lease without penalty.



### Implied Warranty of Habitability / Implied Covenant of Quiet Enjoyment

Local governments can make drifting secondhand smoke a potential violation of a landlord's responsibility to maintain property in habitable condition and to protect tenants' right to enjoy their unit.