



# Support for Smokefree Housing

To protect apartment tenants from drifting secondhand smoke in their homes, landlords and local governments are exploring ways to create smokefree common areas and individual units of multi-unit housing. This fact sheet outlines the benefits of laws and policies to create smokefree housing.

## **Tenants are exposed to drifting secondhand smoke, a known health hazard.**

- Landlords report that drifting secondhand smoke is the second most common complaint from tenants, after food odors.<sup>1</sup>
- Secondhand smoke drifts into neighboring units through open windows and doors, by way of shared ventilation systems, under doors, and even through openings for electrical wiring, plumbing, and duct work.<sup>2</sup>
- The U.S. Surgeon General has concluded that there is no risk-free level of secondhand smoke exposure.<sup>3</sup>
- Secondhand smoke causes nearly 3,000 deaths from lung cancer and 46,000 deaths from heart disease every year in the United States.<sup>4</sup>
- Harmful residues from tobacco smoke can be absorbed by carpeting, drapes, and upholstered furniture, then emitted back into the air – exposing people to “thirdhand smoke,” a potential health hazard.<sup>5</sup>

## **Smoking in multi-unit housing is a fire risk.**

- Cigarettes, cigars, and pipes are the primary cause of fire-related injuries and deaths in the home.<sup>6</sup> Restricting smoking can decrease the likelihood of accidental fires.
- One in four deaths from home fires caused by smoking is of neighbors or friends of the smoker.<sup>7</sup>
- Insurance companies now offer owners of smokefree apartment buildings substantial discounts on fire insurance.<sup>8</sup>

### **Smokefree housing can save – even earn – money for landlords.**

- By prohibiting smoking in a unit, landlords can minimize the time, effort, and cost of refurbishing and turning over a unit. Landlords can spend hundreds or even thousands of dollars repainting, replacing carpets and drapes, and repairing burn holes on countertops and floors.<sup>9</sup>
- Some renters are willing to pay more to live in a smokefree apartment complex.<sup>10</sup>
- Smokefree housing may help landlords avoid costly lawsuits brought by renters who are exposed to secondhand smoke and who seek monetary compensation.

### **Smokefree multi-unit housing is legal!**

- Local governments have the legal right (through what is known as the “police power”) to adopt laws to protect residents’ health and safety, including smokefree housing laws.
- Tenants’ privacy rights are not violated by a smokefree housing law or policy. The “right to privacy” does not include the right to smoke, even in one’s home. Courts have found that the fundamental right to privacy does not include smoking.<sup>11</sup>
- Smoking restrictions in multi-unit housing do not discriminate against people who smoke. There are no constitutional guarantees allowing a person to smoke wherever she or he wishes.<sup>12</sup>

### **Many communities already have smokefree multi-unit housing.**

- Approximately 15 communities in California have laws requiring that some or all multi-unit housing units be smokefree.<sup>13</sup>
- Nationally, more than 230 housing authorities have adopted policies to create smokefree units.<sup>14</sup>

*ChangeLab Solutions is a nonprofit organization that provides legal information on matters relating to public health. The legal information provided in this document does not constitute legal advice or legal representation. For legal advice, readers should consult a lawyer in their state.*

- <sup>1</sup> Center for Energy and Environment and Association for Nonsmokers – Minnesota. *Survey of Multifamily Building Owners and Managers in Minnesota Regarding Movement of Secondhand Smoke in Buildings and Designation of Smoke-Free Buildings*. In-depth survey of 49 multifamily building owners and managers managing 899 buildings, conducted January 9 – April 27, 2001. Available at: [www.mncee.org/Innovation-Exchange/Reports-and-Technical-Documents/Survey-of-Multifamily-Building-Owners-and-Managers](http://www.mncee.org/Innovation-Exchange/Reports-and-Technical-Documents/Survey-of-Multifamily-Building-Owners-and-Managers).
- <sup>2</sup> Wagner J, Sullivan DP, Faulkner D, et al. “Environmental Tobacco Smoke Leakage from Smoking Rooms.” *Journal of Occupational and Environmental Hygiene*, 1(2): 110-118, 2004. Available at: <http://eetd.lbl.gov/IEP/pdf/LBNL-51010.pdf>.
- <sup>3</sup> US Department of Health and Human Services, Office of the Surgeon General. *How Tobacco Smoke Causes Disease: The Biology and Behavioral Basis for Smoking-Attributable Disease: A Report of the Surgeon General*. 2010, p. 9. Available at: [www.surgeongeneral.gov/library/tobaccosmoke/report/full\\_report.pdf](http://www.surgeongeneral.gov/library/tobaccosmoke/report/full_report.pdf).
- <sup>4</sup> US Department of Health and Human Services, Centers for Disease Control and Prevention. *Tobacco Use: Targeting the Nation’s Leading Killer*. 2011, p. 2. Available at: [www.cdc.gov/chronicdisease/resources/publications/aag/pdf/2011/Tobacco\\_AAG\\_2011\\_508.pdf](http://www.cdc.gov/chronicdisease/resources/publications/aag/pdf/2011/Tobacco_AAG_2011_508.pdf).
- <sup>5</sup> Sleiman M, Gundel LA, Pankow JF, et al. “Formation of Carcinogens Indoors by Surface-mediated Reactions of Nicotine with Nitrous Acid, Leading to Potential Thirdhand Smoke Hazards.” *Proceedings of the National Academy of Sciences*, 107(15): 6576–6581, 2010. Available at: [www.pnas.org/content/early/2010/02/04/0912820107](http://www.pnas.org/content/early/2010/02/04/0912820107).
- <sup>6</sup> Hall JR. U.S. *Smoking-Material Fire Problem*. Quincy, MA: National Fire Protection Association, 2008, p. 4. Available at: [www.nfpa.org/assets/files//PDF/OS.Smoking.pdf](http://www.nfpa.org/assets/files//PDF/OS.Smoking.pdf).
- <sup>7</sup> Hall JR, Ahrens M, Rohr K, et al. *Behavioral Mitigation of Smoking Fires Through Strategies Based on Statistical Analysis*. US Department of Homeland Security, 2006, p. 17. Available at: [www.usfa.dhs.gov/downloads/pdf/publications/fa-302-508.pdf](http://www.usfa.dhs.gov/downloads/pdf/publications/fa-302-508.pdf).
- <sup>8</sup> Cushing G. “Apartment Owners Realize Benefits from Smoke-Free Multi-Unit Housing Trend.” *Apartment Management*, April/May 2011, p. 13-14. Available at: [www.caanet.org/WorkArea/DownloadAsset.aspx?id=1486](http://www.caanet.org/WorkArea/DownloadAsset.aspx?id=1486)
- <sup>9</sup> National Apartment Association. “Clearing the Air: Industry Discusses Trend Toward Smoke-Free Housing.” *UNITS*, December 2007. p.10. Available at: [www.smokefreehome.org/documents/UNITSReprint.pdf](http://www.smokefreehome.org/documents/UNITSReprint.pdf).
- <sup>10</sup> See Campbell DeLong Resources, Inc. *Smoking Practices, Policies, & Preferences in Oregon Rental Housing 2008* State-wide survey of 300 Oregon renters, conducted July 11-20, 2008. Available at: [www.smokefreehousinginfo.com/pdfs\\_and\\_other\\_docs/Oregon\\_Statewide\\_Renter\\_Survey\\_-\\_2008\\_-\\_CDRI.pdf](http://www.smokefreehousinginfo.com/pdfs_and_other_docs/Oregon_Statewide_Renter_Survey_-_2008_-_CDRI.pdf); see also National Apartment Association, *AIMS Property Management Update: No-Smoking Policies in Apartments*, National Apartment Association and National Multi-Housing Council, 2008. Available at: [www.tcsg.org/sfelp/NAA-SFMemo.pdf](http://www.tcsg.org/sfelp/NAA-SFMemo.pdf).
- <sup>11</sup> Graff SK. *There is No Constitutional Right to Smoke*. St. Paul: Tobacco Control Legal Consortium, 2008, p. 2. Available at: [www.changelabsolutions.org/publications/no-constitutional-right-smoke](http://www.changelabsolutions.org/publications/no-constitutional-right-smoke).
- <sup>12</sup> *Id.* at 3.
- <sup>13</sup> American Lung Association in California Center for Tobacco Policy and Organizing. *Matrix of Local Smokefree Housing Policies*, 2010. Available at: [www.center4tobaccopolicy.org/CTPO/\\_files/\\_file/Matrix\\_of\\_Local\\_Smokefree\\_Housing\\_Policies\\_October\\_2010\(1\).pdf](http://www.center4tobaccopolicy.org/CTPO/_files/_file/Matrix_of_Local_Smokefree_Housing_Policies_October_2010(1).pdf).
- <sup>14</sup> Smoke-free Environments Law Project, Housing Authorities/Commissions which have adopted smoke-free policies, [www.tcsg.org/sfelp/SFHousingAuthorities.pdf](http://www.tcsg.org/sfelp/SFHousingAuthorities.pdf).