

Going Smoke Free:

A Guide for Landlords



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Allen County Smoke-Free Housing Project



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Disclaimer: The information contained in this document is for informational purposes only and is not offered, or intended to be, and should not be construed to be legal advice nor to be a substitute for obtaining legal advice from a licensed attorney.



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Introduction

Are you a landlord or management company with questions and concerns about tenants smoking in your building(s)? If so, you are not alone. Whether you own a duplex and rent out the second unit, manage a six-building condominium complex, or are a property management firm with apartment buildings in multiple states, drifting secondhand smoke is an issue you are probably confronting now, or will need to address in the near future.

Landlords, management companies, property owners, condominium associations and public housing authorities are all hearing from tenants who are bothered by and/or suffer health consequences from secondhand tobacco smoke that drifts into their unit from a unit occupied by a person who smokes. In response, they are increasingly choosing to adopt non-smoking policies for their buildings, which protect both the health of tenants and the financial health of owners.

Smoke-free apartments and condominiums are the future of multi-unit housing, and there is a lot of information available for people who are interested in adopting non-smoking policies for their buildings. The National Apartment Association has voiced its support for smoke-free apartment policies stating, “Smoke-free apartment communities not only promote a healthy resident population, but also a healthy bottom line for owners and investors.”

In July 2009, the federal Housing and Urban Development (HUD) Office of Public & Indian Housing issued a memorandum titled *Non-Smoking Policies in Public Housing*, which “strongly encourages Public Housing Authorities to implement non-smoking policies in some or all of their public housing units.” In September 2010, HUD’s Multi-Family Housing Section issued a notice titled *Optional Smoke-Free Housing Policy Implementation* to encourage owners and managers of HUD Multi-Family Housing rental assistance programs, such as Section 8, to adopt and implement smoke-free policies for some or all of their properties. In May 2012, HUD re-issued the *Non-Smoking Policies in Public Housing* memorandum. These documents are significant developments for clarifying the right of local public housing authorities, as well as providers of Section 8, senior, and disabled affordable housing to adopt smoke-free policies for the buildings under their control. HUD’s support for smoke-free housing is key because buildings receiving HUD funding often serve individuals and families who are among the most vulnerable to the negative health impacts of secondhand smoke exposure.



This document is for property owners, landlords, and property managers who are interested in exploring a smoke-free policy for their multi-unit buildings. The information contained in this document is for informational purposes only and is not offered, or intended to be, and should not be construed to be legal advice nor to be a substitute for obtaining legal advice from a licensed attorney. Read on if you are interested in a policy that can help you save money, reduce tenant complaints, improve the health of your tenants and building, and increase your market share.



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Secondhand Smoke Facts

Everyone knows that smoking is harmful, but what many people do not realize is that secondhand smoke can also be extremely harmful to the health of non-smokers as well. Most exposure to secondhand smoke occurs in the home and workplace and can cause many long-lasting and debilitating illnesses or make breathing problems worse, especially in infants, children and older persons.

According to the Centers for Disease Control (CDC), Secondhand smoke – the smoke from the end of a burning cigarette, cigar or pipe, or the smoke that has been breathed out by the person or people smoking it – contains more than 7,000 chemicals, including hundreds that are toxic and about 70 that can cause cancer.¹

In children, secondhand smoke causes the following¹:

- Ear infections
- More frequent and severe asthma attacks (sometimes fatal)
- Respiratory symptoms (e.g., coughing, sneezing, shortness of breath)
- Respiratory infections (i.e., bronchitis, pneumonia)
- A greater risk for sudden infant death syndrome (SIDS)

In adults who have never smoked, secondhand smoke can cause heart disease and/or lung cancer.

Heart Disease

- For nonsmokers, breathing secondhand smoke has immediate harmful effects on the cardiovascular system that can increase the risk for heart attack. People who already have heart disease are at especially high risk.^{1,2}
- Nonsmokers who are exposed to secondhand smoke at home or work increase their heart disease risk by 25–30%.¹
- Secondhand smoke exposure causes an estimated 46,000 heart disease deaths annually among adult nonsmokers in the United States.³

Lung Cancer

- Nonsmokers who are exposed to secondhand smoke at home or work increase their lung cancer risk by 20–30%.¹
- Secondhand smoke exposure causes an estimated 3,400 lung cancer deaths annually among adult nonsmokers in the United States.³



Photo Provided by CDC Public Health Image Library

The U.S. Surgeon General stated in a 2006 report, “There is no safe risk-free level of exposure to secondhand smoke.”



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Legal Rights of Landlords

Landlords and apartment owners have the legal right to make their rental property smoke free, just as they are free to decline to rent to pet owners. There is no constitutional “right to smoke.” The U.S. Constitution does not extend special protection to smokers. Since there is no protected right to smoke, property owners and landlords are free to adopt a smoke-free policy.⁴ Landlords and property managers are free to make buildings totally smoke-free as long as they abide by state law and notice requirements. Owners of section 8 or public housing have the same right to ban or otherwise restrict smoking, according to the U.S. Department of Housing and Urban Development.

- As a landlord or property manager, it’s your choice. If tenants are smoking in your apartment building, and you wish to eliminate the health risks of secondhand smoke, not to mention smoke damage and fire hazards, it is completely up to you as the landowner to make that choice. Like other activities that cause annoyance, irritation, or health problems, smoking – even in private dwellings – can be controlled or banned outright.
- Landlords not only have the right to prohibit smoking, but may also be liable under a variety of legal theories for failure to prohibit smoking when a tenant is affected by secondhand smoke.⁵ In a number of cases, tenants affected by secondhand smoke were able to recover against their landlords for failing to protect them from secondhand smoke.⁶
- The property manager, owner, or owner’s association can implement a smoke-free policy. Often these policies are phased in gradually with new leases containing a clause that prohibits smoking both indoors and on all grounds. If owners seek to make their complexes smoke-free, they must “grandfather” in (exempt) those smoking residents currently living at the complex until the lease has been changed after providing proper legal notice of the change.
- In privately owned, non-subsidized housing, the written contract (lease or rental agreement) you have with your tenants determines your rights and responsibilities. The lease or rental agreement governs whether and how changes may be made during the term of the agreement. It also determines what you are required to do in order to change the terms of the lease at the time of renewal. Notifying residents about your policy well in

advance of making it effective isn’t only a good idea, it’s the law. Neglecting to tell both your new and old residents about your smoking policy is a breach of the duty to provide notice. Depending on the terms of your lease agreement, you may only be required to give 30 days’ notice when implementing a smoke-free policy, but it is recommended that you provide at least 90 days advance warning. This extra time will give those who smoke a chance to adjust their lifestyle to the new policy. Your posted notifications should include the wording that will be in your lease or covenants.





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Maintenance Costs

Allowing smoking in your building is expensive and dangerous. Smoke-free policies save owners money by reducing cleaning and re-painting costs and lowering the risk of fire. Apartment owners estimate that the cost of refurbishing an apartment after a smoking tenant moves out can range from \$500 to \$3,500 compared to \$240 to \$560 when a non-smoking tenant moves out.⁶ (See chart below.)

Smoking is a leading cause of residential fire and the number one cause of fire deaths in the United States.⁶ According to the U.S. Fire Administration, the fatality rate in smoking-related fires is nearly four times higher than the overall residential fire rate.⁷ Smoking materials (cigarettes, lighters, matches, etc.) are the leading cause of home and total fire deaths in the United States.⁸ In 2010, U.S. fire departments responded to an estimated 90,800 smoking-material fires in the U.S.¹¹ These fires resulted in an estimated 610 civilian deaths, 1,570 civilian injuries and \$663 million in direct property damage.⁹ By adding a smoke-free policy, you can help protect against property damage and losses to your business. More importantly, you will also be protecting your tenants and employees.

Further, recent research suggests that smoke-free apartment buildings may have increased rental and re-sale value. Real estate agents agree that as the number of public places in which a person can smoke has shrunk, so has the number of buyers who are even willing to consider the property of a smoker.¹⁰ Cigarette smoke causes a great amount of damage to the inside of an apartment. The cost of removing nicotine stains, eliminating smoke odors, and repairing damaged, burned, or singed materials can be significant. Apartment turnover costs can be two to seven times greater when smoking is allowed, compared to the cost of maintaining and turning over a smoke-free unit.⁶

The Monetary Impact

Costs to rehabilitate a unit where smoking is prohibited vs. a unit where smoking is allowed:

	Non-Smoking	Light Smoking	Heavy Smoking
General Cleaning	\$240	\$500	\$720
Paint	\$170	\$225	\$480
Flooring	\$50	\$950	\$1,425
Appliances	\$60	\$75	\$490
Bathroom	\$40	\$60	\$400
TOTAL	\$560	\$1,810	\$3,515

Data reflects surveys from housing authorities and subsidized housing facilities in New England. Collected and reported by Smoke-Free Housing New England, 2009.⁶

A non-smoking policy saves you money... by reducing maintenance costs, turn-over time and costs, Property Casualty Insurance and reducing fire risk.





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Adopting a Smoke-free Policy

Apartment owners, managers, condominium associations, and public housing authority boards may all adopt policies eliminating or restricting smoking in multiunit housing facilities under their control. As with smoke-free policies in workplaces, public places, and other settings, smoke-free policies in multi-unit housing do not ban smokers from using the smoke-free facilities, but simply prevent smokers from smoking in settings where secondhand smoke affects others. In other words, smokers are not prohibited from living in smoke-free multiunit housing, as long as they adhere to the smoke-free policy.

It protects the health of your tenants and employees.

Secondhand smoke is not just a nuisance, but poses a serious health danger to nonsmokers. Secondhand smoke is classified as a “toxic air contaminant” putting it in the same class of other contaminants including asbestos, lead, vehicle exhaust, and a host of other chemicals strictly regulated in the U.S.¹¹ The EPA has identified secondhand smoke as a major cause of cancer. The U.S. Surgeon General has said there is no safe level of exposure to secondhand smoke and has said that “eliminating smoking in indoor spaces is the only way to fully protect nonsmokers from secondhand smoke exposure; separating smokers from nonsmokers, cleaning the air, and ventilating buildings cannot completely eliminate secondhand smoke exposure.”¹



- Smoking affects the health of smokers and nonsmokers alike. Drifting secondhand smoke is a health hazard and decreases tenants' quality of life. Secondhand smoke is a leading trigger of asthma attacks and other breathing problems and a known cause of Sudden Infant Death Syndrome (SIDS).¹
- Ventilation systems do not protect families from secondhand smoke. Most air filtering systems are designed to remove the odors caused by secondhand smoke, not the toxic particles from tobacco smoke. Research demonstrates that 65% of air can be exchanged between units and that smoke travels through tiny cracks and crevices, involuntarily exposing individuals in adjacent units.¹² Unfortunately, secondhand smoke doesn't respect boundaries, seeping through light fixtures, wall electric outlets, ceiling crawl spaces, and doorways into all areas of a building with smokers. Therefore, the only way to truly protect your tenants and employees from the health risks of secondhand smoke is to prohibit smoking from all indoor spaces within a building.
- The Centers for Disease Control (CDC) recently warned people with heart problems to avoid all buildings that permit smoking indoors.¹³ As little as 30 minutes of exposure to secondhand smoke can have serious, and possibly lethal, effects to those with heart conditions, according to the British Medical Journal.¹⁴ Children exposed to cigarette smoke in the home are twice as likely to develop and suffer from asthma.



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Health professionals are also now talking about the dangers of thirdhand smoke. Thirdhand smoke is the tobacco smoke contamination, or smoke residue, that remains after a cigarette, cigar or other tobacco product has been extinguished.¹⁵ The toxins linger in carpets, sofas, clothes, hair, skin and on other surfaces long after smoking has stopped.¹⁵ Thirdhand smoke builds up over time and resists normal household cleaning.¹⁶ It can't be eliminated by airing out rooms, opening windows or using fans or air conditioners, or confining smoking to only certain indoor areas.¹⁶ Once on surfaces, tobacco residue can easily be reintroduced into the air, resulting in particles that over time could contribute to cancer and breathing problems.^{17,18}

It's what renters prefer

Providing smoke-free apartments will help attract tenants, because the demand for smoke-free housing is strong. Most tenants want to live in a non-smoking building because they want to breathe smoke-free air in their apartments. According to a recent survey conducted in the Midwest, nearly three quarters of renters would prefer to live in smoke-free apartments.¹⁹

Surveys taken in other parts of the country show a similar preference for smoke-free apartments. In Ohio, close to 80% of adults are nonsmokers, and among people 65 and older about 93% are nonsmokers²⁰; yet, currently, most renters complain that they cannot find smoke-free apartments to rent.

Everyone deserves to breathe clean air.

Non-smoking units are easy to fill because most tenants want to live in a non-smoking building. In Ohio, as in the nation, an increasing number of families have a smoke-free home rule. Currently, 66.7% of Ohio homes have this rule.²⁰ Secondhand smoke complaints and requests for unit transfers drop following the implementation of a smoke-free policy.⁶ Nationwide, less than 21% of the general population smokes, so it makes sense that a majority of tenants want to live in a smoke-free environment.⁶ Children and people with asthma and other respiratory problems are especially at risk of serious illnesses caused by secondhand smoke; for them, smoke-free apartments are particularly important.





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Implementing a Smoke-free Policy

The best way to get rid of secondhand smoke in a multi-unit building is to make the building completely smoke free. More and more landlords are making their properties smoke-free. It is legal and simple to do. The easiest way to implement a smoke-free policy is to make buildings smoke-free as you develop them, including clear language in your lease that notifies incoming tenants of the policy. You can also implement a smoke-free policy in a building already built and filled with residents. When current tenants renew their leases, the landlord simply has them sign a lease addendum that bans smoking. New tenants sign the addendum when signing their lease.

Implementing a smoke-free policy is the best way to protect people from secondhand smoke exposure. Local campaigns educate the community about the health effects of secondhand smoke, and regulations passed at the local level have high rates of compliance because people were involved in the process and understand why the law was passed. A successful effort requires a lot of planning and organization. If you're implementing a smoke-free policy, it is best to have a clearly organized communication plan for talking with your tenants.



Some smokers adopt the attitude that no one can tell them what to do in their own homes. In such cases, you may need to point out that their lease or condominium agreement contains covenants, conditions, or terms prohibiting persons living in the building from taking part in behaviors that unreasonably interfere with the enjoyment of another (assuming such a nuisance clause does exist).

You may wish to consider separating the units of smokers and nonsmokers, or designating some building of a multi-unit building complex as smoke-free. By advertising that you offer a smoke-free environment, you may find that there is a good-sized market for such accommodations.

The following steps can help you ensure that your move to smoke-free housing runs as smoothly as possible:

Step 1: Make a Plan – Decide whether all or part of your property will become smoke-free and when you are going to implement and enforce the new policy. Keep in mind, smoke-free policies are about the smoke, not the smoker. You cannot refuse to rent to those who smoke, just simply require that all tenants abide by the policy while on the premises.

There are many options to consider with a new policy. Will you prohibit smoking on the entire property grounds, 25 feet from doorways/entrances/windows or only in the building? If you allow smoking on the grounds, where will those tenants go to smoke? Will you provide a space? What about patios and balconies? All these questions and more need to be thought through with staff, administrators, and tenants as well.



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Step 2: Hold a Meeting – Gather your employees and tenants for an informational meeting to explain why you’ve decided to go smoke-free and how the change will benefit them. Build tenant support. When you’re not sure how tenants feel about a smoke-free policy and you want their input, a brief survey might be in order. Answers to your questions can help you determine what type of policy to implement.

Step 3: Communicate wisely – The success of your smoke-free policy will be relative to how well you communicate the policy with your tenants. This does not have to be complicated or overly time-consuming, but doing things like including articles in your tenant newsletter, holding tenant meetings so opinions can be voiced, sending a letter to tenants, providing adequate signage, and supplying information on the harmful effects of secondhand smoke will all help with policy enforcement down the road.

Step 4: Inform Your Tenants – Host information sessions about the upcoming change. Formally notify your tenants of the change, when it will take effect, and what the policy covers (e.g., when and where smoking will be allowed – if at all). Remind them that the most important reason for the policy is to prevent exposure to secondhand smoke. Inform potential tenants as well. Include information regarding your smoke-free policy on all housing applications to ensure incoming tenants are aware of the rules before they move in to your building. When new tenants sign a lease, include a clear smoke-free provision in your contract.



Work creatively with tenants toward an agreeable solution. Creative solutions may relate to when and where smoking is to occur, as well as improvements to the actual physical structure. Keep in mind that air filtration and other ventilation systems do not eliminate the health hazards caused by secondhand smoke. Ventilation is not a possible alternative to creating safer and healthier smoke-free living environments for your tenants.

Step 5: Modify Your Leases – Update the language in your lease to include the new smoke-free policy. Make sure that you are familiar with all aspects of the new smoke-free lease language, especially covenants, conditions, or terms that may prohibit persons living in the building from engaging in disruptive behavior. Explain the new smoke-free lease language, highlight and discuss the reasons this new policy is going into effect, and give your tenants an opportunity to ask questions. When adopting a smoke-free policy, include a lease provision or addendum that outlines the restrictions and penalties under your policy. When new or renewing tenants sign the lease, have them initial that they have read and understand the policy.

Be sure to follow the rules of your lease before adopting new policies. Make sure you are familiar with the terms of the lease agreement for existing residents. The lease or



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rental agreement governs whether and how changes may be made during the term of the agreement. It also determines what you are required to do in order to change the terms of the lease at the time of renewal. After both parties have signed a lease, it cannot be modified without the consent of both of the parties. Therefore, residents who have fixed-term leases will be exempt from the smoke-free policies.

Step 6: Post Signs – Remind tenants and inform visitors of the new policy by posting signs throughout the property. Also, include communication to remind existing tenants, incoming guests, and maintenance workers of the policy.

Step 7: Promote Your Smoke-Free Status – Advertise your new status to help attract tenants who are interested in smoke-free living. Include “smoke-free” in all advertisements for your vacant units. Smoke-free policies are amenities, no different than including hot water, laundry facilities, or allowing pets. Approximately 75% of tenants want to live in a smoke-free environment, and including a notice that your building is smoke-free can attract more attention to your listing.²¹

Step 8: Follow up – Check back in with your tenants just before the policy goes into effect and afterward. There may be an occasional conflict between tenants that needs to be resolved. There is a greater chance that people will follow the policy if you address any infractions early. If there is a conflict between tenants, be open and understanding, but make sure that smokers know that, if necessary, you are willing to end their lease agreement.

Many housing units that have adopted smoke-free policies offer some type of cessation services (quit-smoking support) to their tenants. Though you are not asking people to quit smoking with a smoke-free policy, this type of policy provides incentive and support to those who are considering quitting. Providing tenants with local cessation information is a way to show that you care about their well-being. See Appendix for local cessation resources.

Remember, smoke-free policies not only impact residents, but also their guests and your employees. When you adopt a smoke-free policy, make it clear that all guests, maintenance workers, and staff are prohibited from smoking as well.





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Enforcing a Smoke-free Policy

Smoke-free policies are largely self-enforcing. Because tenants expect and tend to prefer a smoke-free environment, they will abide by the policy.⁶ A recent survey of owners with smoke-free policies found that an overwhelming majority of them reported that staff time spent on managing the building did not increase after the establishment of a smoke-free policy. In fact, enforcing a smoking policy is a lot less of a headache than mediating disputes between smokers and non-smokers without a policy in place.²²

-  **You aren't telling people to quit smoking.** The purpose of the policy is to protect your property from damage and fire danger. When implementing a policy, remind tenants that this policy has been adopted to help protect all tenants, including people who smoke, from secondhand smoke exposure.
-  **Include smoke-free policies as part of your lease or house rules.** New tenants should initial each paragraph of the lease, including that which prohibits smoking on your property. Make sure that your tenants are aware of the consequences for violating the lease or house rules and that smoking by guests is also forbidden.
-  **Ensure that you have adequate smoke-free signage.** Make sure you have the tools to remind your tenants, and their guests, of your smoke-free policy.
-  **Smoke-free policies are self-enforcing.** Your tenants are your greatest allies. If a tenant complains about smoking in your units, try to resolve the issue politely and in a timely fashion.
-  **Smoking can be costly to tenants, too.** The cleaning and maintenance of a unit where tenants smoke is very costly. Make your tenants aware that they will be held financially responsible for violating the policy. Let tenants know that violating the building's smoke-free policy may result in loss of their security deposit.
-  **Treat smoking like any other lease violation.** Smoking violations are just like any other. How would you respond to a noise complaint? Pet complaint? Inappropriate disposal of garbage? A smoke-free policy needs to be addressed, enforced, and respected the same as other house rules and lease provisions.
-  **Be prompt, uniform, and consistent.** Lack of enforcement with one tenant may hamper enforcement with future tenants. Prompt, consistent action will send a clear message to everyone in your building that smoking is not allowed.
-  **Smoking is seldom the only violation.** A tenant who breaks one lease condition may be breaking others. If you come to a point where you need to evict, be sure to include all lease violations in your eviction notice, including all instances of recorded smoking violations.

"As a landlord, you not only have the legal right to adopt a smoke-free policy, but the law gives you the ability to enforce this policy as you would any other lease clause."

- G. Steven Rowe, Former
Maine Attorney General

Adapted from Smoke-Free Housing Coalition of Maine

Allen County Smoke-Free Housing Project



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Resources

Americans for NonSmokers' Rights (<http://www.no-smoke.org>)

American Lung Association Smokefree Housing Initiative

Smoke-free Multi-unit Housing: Bringing Healthy Air Home, available at:
www.lung.org/assets/documents/healthy-air/smoking-in-multiunit-housing.pdf

Making the Case for Smoke-free Multi-unit Housing, available at:
www.lung.org/about-us/our-impact/top-stories/making-the-case-for-smokefree.html

Smoke-free Policies in Multi-unit Housing: Steps for Success, available at:
www.lung.org/stop-smoking/about-smoking/smokefree-housing.html

Centers for Disease Control and Prevention

Healthy Homes Manual, available at:
www.cdc.gov/healthyhomes/Healthy_Homes_Manual_WEB.pdf

GASP of Colorado (Group to Alleviate Smoking Pollution) (<http://mysmokefreehousing.org>)

Live Smoke Free Minnesota (<http://www.mnsmokefreehousing.org>)

Massachusetts Smoke-Free Housing Project
(<http://makesmokinghistory.org/secondhandsmoke/housing.html>)

Michigan Smoke-free Apartments (<http://www.mismokefreeapartment.org>)

National Center for Healthy Housing (<http://www.healthyhousing.org/>)

Ohio Department of Health (<http://www.odh.ohio.gov/>)

Smoke-Free Environments Law Project (Michigan) (<http://www.tcsg.org/sfelp/home.htm>)

Smoke-Free Housing Coalition of Maine (<http://www.smokefreeforme.org>)

State of Ohio, Department of Commerce, Division of State Fire Marshal
(<http://www.com.ohio.gov/fire/>)

U.S. Department of Housing and Urban Development

Non-Smoking Policies in Public Housing, available at:
<http://portal.hud.gov/huddoc/12-25pihn.pdf>

Optional Smoke-free Housing Policy Information (HUD Letter), available at:
http://publichealth.columbus.gov/uploadedFiles/Public_Health/Content_Editors/Planning_and_Performance/Cardiovascular_Health/Tobacco-Free_Collaborative/huddoc.pdf

HUD Encourages PHAs to Become Smoke Free, available at:
http://publichealth.columbus.gov/uploadedFiles/Public_Health/Content_Editors/Planning_and_Performance/Cardiovascular_Health/Tobacco-Free_Collaborative/sept09.pdf

U.S. Fire Administration (<http://www.usfa.fema.gov/statistics>)

Appendix

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Allen County Smoke-Free Housing Project

Legal Basis for Smoke-free Multi-unit Housing

Federal Law	There is no constitutional right to smoke, and no law stops the adoption of smoke-free policies in multiunit housing, including policies that make individual units smoke-free. Smoke-free policies are not discriminatory, since smoking is not a protected act and smokers are not a protected class. In some cases, it may be necessary to grandfather for a limited amount of time (e.g., until their leases come up for renewal).
Federal Statutes: Americans with Disabilities Act	The Americans with Disabilities Act permits smoke-free policies. Smoking is not considered a disability, therefore smokers are not protected under the Fair Housing Act or the Rehabilitation Act. Some health conditions affected by secondhand smoke (SHS) could be considered a disability (emphysema, heart conditions, asthma, COPD). Multi-unit housing facilities may be required to provide nonsmoking tenants who are affected by SHS infiltration accommodations for these conditions on a case-by-case basis.
Federal Statutes: Fair Housing Act	No law or regulation requires making a dwelling available to someone who would “constitute a direct threat to the health or safety of other individuals.”
State Statute Designation	Most state smoking restrictions focus on workplaces and public places rather than multi-unit housing. Some state laws restrict smoking in common areas in multiunit housing complexes. Utah law establishes SHS as a potential nuisance, giving tenants grounds for legal action. In addition, Utah law also specifically allows condominium associations to restrict smoking in units, common areas, and facilities. In Oregon, a disclosure law requires a property owner to notify prospective tenants of a multi-unit housing facility’s smoking policy and the areas where smoking is permitted.
Local City/County	A number of communities have adopted ordinances addressing SHS infiltration in multi-unit housing. These ordinances range from requirements that apartment managers disclose units where smoking is occurring to policies making indoor and/or outdoor common areas smoke-free to policies making individual units in some or all buildings smoke-free. These policies may initially apply only to new properties or may cover existing properties as well. Communities and states can also use tax credits, bonus points in competitive grant proposals, and other financial incentives to encourage the adoption of smoke-free multi-unit housing policies.

Source: CDC’s *Healthy Home Manual – Smoke-Free Policies in Multiunit Housing (2011)*



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SMOKE-FREE LIVING

Allen County Smoke-Free Housing Project

Restoring a Smoke-Damaged Apartment

Curious about what to clean, restore, and replace when converting to a non-smoking unit? According to Kennedy Restoration Co., the following items in a smoke-damaged apartment will need to be cleaned, restored, or replaced.

Clean

Floors, baseboards, and trim
Walls and Ceilings
Doors and door openings
Door chime
Shelving
Closet organizers and rods
Cabinetry-inside and out
Countertops
Ceramic tile
Outlets & switches
Light fixtures
Window units, frames, and sills
Range and hood
Refrigerator
Dishwasher
Sinks
Toilets, bathtubs and showers
Vanity
Mirrors
Blinds
Exhaust Fans and Ceiling Fans

Seal (1 coat) & Paint (2 coats)

Baseboards and trim
Doors and door openings
Window frames and sills
Shelving
Vanity
Cabinetry
Floor underlayment (seal for odor control)

Remove and Replace

Carpet
Carpet pad
Curtains
Vinyl
Smoke or burn-damaged countertops, linoleum, furnishings, etc.

Other

Prepping and masking for painting
Ozone treatment
Thermal fogging
Floor protection (plastic film)

(Individual units may vary, but a thorough restoration of a 2-bedroom apartment could cost up to \$15,000.)

“Once the home is cleaned and restored, keeping it smoke-free leads to many benefits for the property manager and the owner. We have seen more timely lease-ups, which leads to increased rents and a very satisfied client. It is definitely worth the time, investment, and commitment.”

Barb Casey, Marketing Director, Kennedy Restoration

Source: Housing Authority of Portland, OR



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No-Smoking Policy Implementation: Sample Timeline

This is a sample timeline and is not intended to serve as a “one size fits all” recommendation. Property managers and owners are advised to follow a timeline that works best for their community.

<p>2-4 months out</p>	<ul style="list-style-type: none"> • Contact local county health department, public health organization, or a smoke-free property management company for advice/assistance; survey residents for their opinions on a smoke-free policy. • Meet with legal counsel for review of policy and existing lease agreements. Select language/addendum to use for new policy and an “in effect” date. • Choose a transition plan (depending on terms of existing lease agreement) For example: Effective date for all current and new residents will be January 1 • Develop the policy Include: <ol style="list-style-type: none"> 1. Where smoking is and is not allowed. 2. Who the policy applies to (tenants, guests, staff, service persons, etc.) 3. Definition of smoking 4. Effective date(s) • Review sample enforcement plans (if available) and decide on a plan
<p>45 days out</p>	<ul style="list-style-type: none"> • Give residents notice • Order signage/stickers • Post flyers announcing tenant meeting
<p>1 month out</p>	<ul style="list-style-type: none"> • Hold tenant meeting (Optional; now or two weeks out) Have property manager explain why they are going smoke-free and explain the lease addendum • Invite local public health organizations to offer information for residents who would like to quit smoking • Begin drafting press releases with quotes from local public health organization(s) (<i>Optional</i>)
<p>2 weeks out</p>	<p>Post signage at properties</p>
<p>“In Effect Day”</p>	<ul style="list-style-type: none"> • New lease addendum in effect for new residents and current residents depending on on their existing lease agreement • Press release out (<i>Optional</i>) • Update advertising to include “Smoke-free building/property” amenity

Source: American Lung Association in Oregon and Multnomah County Health Department



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**Sample Resident Letter and Non-Smoking Policy Survey
for Use by Owners and Property Managers**

[Date]

Dear Head of Household – or – Resident:

We are pleased that you have chosen to reside at [name of building/property]. The [name of management company, apartment building or Public Housing Agency] has been studying the changes that are occurring in the management of apartments. Many owners are deciding to regulate the use of tobacco products within their properties. Apartment building owners are adopting smoke-free policies for a number of reasons. Secondhand smoke is a health hazard, especially for children, the elderly and persons with chronic diseases. There is no safe level of exposure to secondhand smoke. In addition, smoking materials are the leading cause of fire deaths in the United States. To ensure the health and safety of all persons living here, we are considering adopting a no-smoking policy for our building(s) and individual units.

We would like to hear from you! Let us know what you think about having rules about tobacco use in the building and on the grounds. Please fill out the enclosed survey so we can find out how residents feel about smoke-free buildings and apartments at [name of building/property] and return it to [name of office, etc.]. Your opinions are very important to us.

Taking part in this survey is **voluntary**. Your answers and your name will be kept confidential. No one will see your name, address, or your answers. We would like to hear from you and we greatly appreciate you sharing your answers with us. We will send reminders to those who do not respond to the survey within ten days. If you do not want to get these reminders, send us back your blank survey.

As a thank you for returning the survey, enclosed [insert incentive, if desired].

If you have questions, please call _____. Thank you for your help with this important project.

Sincerely,

Your Management Team/Landlord



SMOKE-FREE LIVING

Allen County Smoke-Free Housing Project

Non-Smoking Policy Survey

Please mark the answer that best describes you and your situation.

1. Would you prefer to live on a property:

- Where smoking is allowed everywhere on the property
- Where smoking is allowed in apartments, but not in indoor common areas
- Where smoking is allowed outdoors, but not in apartments or indoor common areas (Smoke-free Building)
- Where smoking is NOT allowed anywhere, indoors and outdoors (Smoke-free Property)

2. Which statement best describes you or your household?

- No one in my household smokes, and I support a smoke-free policy in my development.
- I, or another member of my household smokes, but I (we) would be willing and able to comply with a smoke-free policy at our development.
- A smoke-free policy would be a serious issue for my household.

These are the reasons: _____

This is the end of the survey. Thank you for your feedback!



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Sample Smoke-Free Housing Policy

Disclaimer: All Smoke Free Housing policies should be reviewed by an attorney knowledgeable about local and/or state ordinance statutes before policy is adopted.

Policy: Effective [DATE], the use of all tobacco products (cigarettes, cigars, pipes, and smokeless tobacco) is prohibited on all housing unit properties and grounds. This includes all indoor and outdoor areas (apartments, entry areas, walkways, grassed areas, picnic areas, parking lots, vehicles owned by the housing unit and private vehicles parked on housing unit property).

This policy applies to all employees, visitors, residents, subcontractors, volunteers, and vendors.

Exception*: Current residents who use tobacco products that have entered into a lease agreement prior to [DATE] will be permitted to continue to use tobacco products in their apartments for twelve months after the effective tobacco free policy is in effect. Therefore, on [DATE], all housing sites will be tobacco free and at that time all smokers will need to adhere to the set policy. This exception shall not extend to visitors or anyone other than the lease holder/occupant.

Purpose: Tobacco is the single greatest preventable cause of disease and premature death in the United States. Our mission is to provide a safe and healthy living environment; therefore it is our responsibility to provide those surroundings, provide resources and model behavior that discourages the use of all tobacco products.

Responsibility: It is the responsibility of [DEVELOPMENT NAME] staff to educate residents and visitors about the tobacco free policy. Signage and printed material will be available for visitors at the main entrances at each of the housing complexes.

It is the responsibility of supervisors to educate their employees about this policy. Violation of this policy will be treated like any other policy infraction as stated in the employee handbook.

It is the responsibility of housing managers to educate new residents about this policy. Violation of this policy will be treated like any other violation of lease.

All individuals associated with the housing unit (employees and residents) have a responsibility to promote this policy and ensure that all visitors, vendors, subcontractors, new residents and fellow employees are aware the housing unit maintains a tobacco free campus. New residents, visitors, vendors and subcontractors will be reminded of it and asked to adhere to the policy by any housing unit staff.

Cessation Resources:

All employees and residents will be offered information regarding cessation programs and provided with access to tools to assist them in quitting if they so choose, including how to contact the Ohio Tobacco QuitLine.

Effective Date:

Approved: _____

Approved: _____

*Except for those residents whose lease comes due later than that date. Be sure to check with legal counsel.

**Sample Letter to Tenant for Smoke-Free Housing Policy
for Use by Owners and Property Managers**

Disclaimer: All Smoke Free Housing policies should be reviewed by an attorney knowledgeable about local and/or state ordinance statutes before policy is adopted.

(Date)

To our valued residents –or– Dear Tenant:

This letter is to inform you of a policy that is being implemented in regards to smoking on the property.

Beginning _____, all NEW residents and residents renewing their current lease will be required to adhere to a newly adopted No Smoking Policy.

CURRENT residents will be grandfathered in under existing rules, yet will be required to adhere to the policy beginning _____, except for those residents who are on a lease which expires later than that date. That lease will be honored and this policy will become effective at the lease expiration date.

This policy was passed to protect the health of our residents, staff and guests. Secondhand smoke is a Class A carcinogen, which means it is a cancer-causing agent and there is no safe exposure level. Secondhand smoke can travel through doorways, windows, wall joints, plumbing spaces and even light fixtures, so secondhand smoke from one unit can adversely affect the health of residents in other units.

The policy outlines the following: No person may smoke in common areas including the courtyard, balconies, parking area and decks, in apartment units or within _____ feet of any building associated with the property. Please make visitors aware of this policy as well.

Please read the attached No Smoking Lease Addendum thoroughly. ALL community residents who have a lease expiring on or before _____ are required to sign this addendum and return it to the leasing office by _____.

Thank you for your cooperation in this matter. Should you have any questions regarding this policy, please contact the management office –or– (Name of landlord/manager, phone number). We will be happy to assist you in any way possible in making this a smooth transition.

Sincerely,

Your Management Team/Landlord



SMOKE-FREE LIVING

Allen County Smoke-Free Housing Project

Model Lease Language

To help ease your transition to smoke-free apartment buildings and condominiums, we have made model lease language available for you to discuss with your legal counsel for possible inclusion in your new or renewal leases. This lease language can be used:

- To implement a smoke-free policy in a multi-unit dwelling.
- In apartment complexes, adding these provisions to the lease.
- For condominiums, this language can be added to the Conditions, Covenants, and Restrictions (CC&Rs) and implemented immediately or at a specified future date.

Remember, going smoke-free is typically most easily done gradually, as new individuals apply to become tenants.

Tips

New Buildings:

Establishing a smoke-free policy should be relatively easy in a new building, as your tenants will have no pre-existing expectations:

1. Advertise your units as smoke-free in newspaper and real estate ads.
2. Revise your lease/rental agreements to include smoke-free provisions.
3. Post "Smoke-Free Area" or "No Smoking" signage in designated areas.
4. Educate employees on how to field questions regarding the building's smoke-free policy.

Existing Buildings: Phase-In

With an existing building, you may find it easier to "phase in" the changes:

1. Install "Smoke-Free Area" or "No Smoking" signage in designated areas.
2. Remove ashtrays and receptacles for smoking materials, or move them a reasonable distance (or whatever your policy entails, such as "25 feet from all buildings") from facility entrances together with applicable signs.
3. Discuss your decision with tenants and look to get their support.
4. Announce the change to all tenants in the form of a letter. Require tenants to sign a copy stating their intent to comply with the new policy. For existing tenants, their understanding and acceptance of the policy will begin upon renewal of their individual leases, which are updated with the new smoke-free lease language.
5. Educate employees on how to field questions regarding the building's smoke-free policy.

Source: Smoke Free Housing Coalition of Maine



No Smoking Policy Model Lease Addendum

The following model lease addendum is provided as guidance for the development of a lease addendum when a “No Smoking Policy” is implemented by their agency. This document does not constitute legal advice, but only suggests possible language that might be considered in a lease addendum to be used with the implementation of a No Smoking Policy. Because of the variety of possible provisions for individual housing units’ no smoking policies, parts of this model lease addendum may or may not be useful. Any housing unit seeking to use a no smoking policy lease addendum should obtain its own legal review of such a document from legal counsel before seeking to implement it.

Tenants should be asked to acknowledge having received a copy of the No Smoking Policy along with the Lease Addendum, both of which should be placed in the tenant’s file.

Model Lease Addendum:

All of these terms and provisions appearing in _____ Housing Unit’s No Smoking Policy (the Policy) are specifically made a part of the Dwelling Lease in force at the applicable property(ies) named in the Policy and are hereby agreed to by both parties.

SCOPE: This policy applies to any and all persons entering a designated _____ Housing Unit non-smoking property, including tenants and their guests and visitors, contractors, and employees.

POLICY:

1. Smoking is not permitted in individual units or the common spaces of a designated Housing Unit community or facility of any type after the effective date of the Policy, unless otherwise specified. "Smoke" or "smoking" means the possession or use (carrying or smoking) of any kind of lighted pipe, cigar, cigarette, or any other lighted smoking equipment or tobacco product or other substance.
2. “Individual units” are defined as the interior and exterior spaces tied to a particular multi-family apartment dwelling unit. This includes, but is not limited to, bedrooms, hallways, kitchens, bathrooms, patios, balconies, and unit entryway areas. *(This provision could be extended to single family dwelling units rented by a housing authority, if desired.)*
3. “Common spaces” are defined as areas within the building interior that are open to the public, including but not limited to entryways, community patios or balconies, roof terraces, lobbies, hallways, elevators, management offices, public restrooms, community rooms, community kitchens, stairwells, parking garages and carports, and any other area of the building that is accessible to employees, residents and guests or any other person.
4. The Housing Unit shall post “No Smoking” signs at entrances and exits, common areas, hallways, etc., and enforce compliance with this policy.

5. Smoking is only permitted in areas outside the building that are a minimum of 25 feet away from any entrance to the building or from windows and air intake vents through which smoke could enter the building. All residents and guests are required to dispose of their smoking materials in appropriate collection receptacles provided by the Housing Unit at least 25 feet from the building, except in designated areas.
6. All residents will be given two (2) copies of the smoking policy. After review, the resident will sign both copies and return one to the Landlord. The signed copy will be placed in the resident file and shall be a permanent part of the resident's lease and file.
7. Although the _____ Housing Unit prohibits smoking in all interior parts of the community and within 25 feet of the building, there is no warranty or guaranty of any kind that individual apartments or the apartment community is smoke-free. Smoking in certain limited outside areas is allowed as provided above. Enforcement of our no smoking policy is a joint responsibility that requires resident cooperation in reporting incidents or suspected violations of smoking.

RESIDENT RESPONSIBILITY

1. It shall be the resident's responsibility to inform his/her household members, and guests of this No Smoking Policy and for ensuring compliance with the policy.
2. The resident shall prohibit smoking by his/her household members or guests while on the premises that would violate this Policy.
3. Failure to comply, or repeated violations, to this addendum shall be cause for lease enforcement action up to and including termination of resident lease agreement.

Note: This No Smoking Policy is an agreement between the head of household (spouse and all other parties to the Lease) and the _____ Housing Unit and must be signed as an addendum to the Lease.

I have read the No Smoking Policy as written above and understand its provisions. I agree to abide by these provisions fully, and understand that failure to comply with any part of the above after sufficient notice of the violation shall be cause for termination of my Lease. I have received a copy of this policy.

RESIDENT

_____ **HOUSING UNIT**

Head of Household (print name)

Manager (print name)

Head of Household Signature Date

Manager Signature Date

Unit No.

Management Office

Spouse or Other Adult Member Date

Street Address Zip Code



SMOKE-FREE LIVING

Allen County Smoke-Free Housing Project

Enforcement Recommendations for Policy Violations

If you have a smoke-free policy in your multi-unit building, you are probably aware that these policies are generally self-enforcing and the stipulations are respected and followed by most of your tenants and guests. But what happens when a resident disobeys the smoke-free policy? Follow our recommendations for prompt, standardized enforcement of your smoke-free policy.

When a violation occurs (whether directly witnessed by staff or reported by others):

- *Gather evidence.* Look for signs of smoking, including stains on the walls, ash trays inside the unit and burn marks. Also, document where tobacco smoke odors are present inside the building.
- *Document the violation.* Anytime you, or another witness, report the presence of someone violating the smoke-free policy be sure to document the violation in a journal or record. In addition, note that if someone is violating one stipulation of the lease they are likely disobeying others. It is important to note any and all lease violations and enforce them promptly and consistently with each and every tenant.
- *Follow the guidelines of your lease.* If your lease requires at least three written warnings before contract termination, or simply a 30 day notice to terminate, be sure to follow the restrictions and provisions of your lease when following through with any lease violations.

Notice of Incident and Notice of Infraction Guidelines (see attached):

- *Notify tenants of violation.* With each infraction, send a Notice of Smoking Incident to the violator; a written notice that lets tenants know that you have been made aware that they have been noncompliant with your smoke-free policy.
- *Include all violations in your notice.* As mentioned, it is rare that a tenant violating the non-smoking policy is responsible for a single infraction. Fill out a Notice of Infraction documenting all lease violations of the tenant and submit a copy to them with written notice, keeping a copy for your records.
- *Move forward with an eviction.* Choosing to evict should always be a last resort option for landlords, regardless of violation. If you choose to move forward with the eviction process provide documentation of all infractions, not just smoking violations, made by the tenant(s) involved. Remember, evictions are both expensive and time consuming; friendly mediation should be attempted before any notice to evict is presented.

Source: Smoke-Free Housing Coalition of Maine



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Allen County Smoke-Free Housing Project

Secondhand Smoke Communication Record

This form can be used to track everything you do, or say, to resolve problems with secondhand tobacco smoke. Be as specific as possible – include dates, times, locations, types of communication, what was communicated, and the purpose and result of the communication. Keep copies of any correspondence (letters, emails, etc.).

Date, time, location (if applicable)	Type of communication (letter, phone call, email, etc.)	Who did you talk to or write to?	What was the purpose and what did you ask for?	What happened?

Source: GASP of Colorado (Group to Alleviate Smoking Pollution)



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SAMPLE NOTICE OF INFRACTION

PROPERTY/ADDRESS: _____ DATE: _____

RESIDENT/LEASEE: _____ UNIT NO.: _____

Please be advised that we have recorded one of the following incidents in your tenant record:

1. Infraction of property regulations described in Rules & Regulations
2. Violation of term(s) of your lease

One of the above was committed on: _____
(Date)

by: ____ You, ____ Your child/children, or ____ a visitor or guest to your apartment.

Description of incident:

- ____ 1. Destruction of property
- ____ 2. Disturbing or harassing other residents
- ____ 3. Excessive noise from your unit
- ____ 4. Drunk and disorderly
- ____ 5. Illegal activities on the premises
- ____ 6. Failure to maintain unit in clean and sanitary condition
- ____ 7. Smoking in unit/building interior
- ____ 8. Smoking in unauthorized outdoor areas
- ____ 9. Leaving garbage, trash or other obstruction in public areas
- ____ 10. Allowing unauthorized persons to live in the unit
- ____ 11. Failure to allow Landlord or his agent to enter the unit
- ____ 12. Alteration or addition to property not authorized by Landlord or his agent in writing
- ____ 13. Installation of appliance without written consent of management
- ____ 14. Breach of building security
- ____ 15. Other: _____

Remarks: _____

Failure to comply with your lease terms or with the Rules and Regulations may be cause for termination of your lease.

If you have any questions regarding this matter, please call or stop by the rental office.

Tenant Signature

Date

Manager/Landlord Signature

Date



SMOKE-FREE LIVING

Allen County Smoke-Free Housing Project

Smoking Cessation Resources in Allen County

Coping Strategies

2444 Cable Court, Lima

Contact: Stephanie Zimmerman, PhD (*Psychologist*)

Phone: 419-204-5677

Hypnosis for smoking cessation as well as cessation counseling and therapy.

Clinical Neuropsychological Services, Inc.

1045 Mackenzie Drive, Lima

Contact: Dr. Sohrabb Dadfar, PhD, LICDC (*Psychologist*)

Phone: 419-222-5672

Counseling for nicotine addiction.

Lima Memorial Health Systems

1001 Bellefontaine Avenue, Lima

Contact: Rita Nees, *Respiratory Care Practitioner*

Phone: 419-226-5036

Cessation counseling available upon request by the Respiratory Care Department in individual sessions.

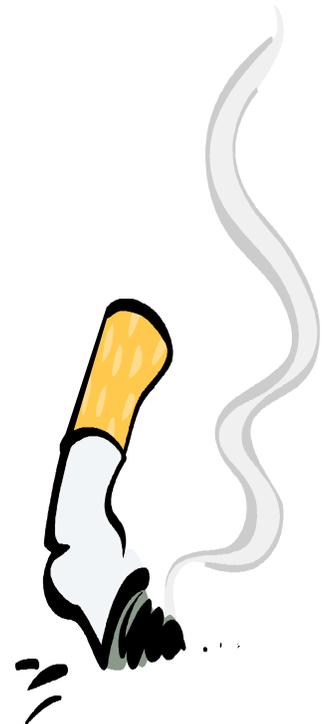
Blanchard Valley Health System – Bluffton Hospital

139 Garau Street, Bluffton

Contact: Bruce Parkins, *Cardiopulmonary Department*

Phone: 419-369-2309 or 419-230-4052

Individual counseling, inpatient lecture, and pamphlets.
Youth advisement available.



Websites and Self Help Materials

Ohio Tobacco Quit Line

<http://Ohio.Quitlogix.org>



Whether you are thinking about quitting, are not yet ready to quit, or have already quit, this online support program can help you with each step of the way. Available 24 hours a day, 7 days a week, it provides the latest information and research-based tools in efforts to quit, step-by-step guides and motivational messages for cutting down and quitting tobacco.

QuitLine: 1-800-QUIT-NOW (784-8669)

The Ohio Tobacco Quit Line is Ohio's FREE tobacco quit line counseling service for those who are ready to end their tobacco addiction. It is available to uninsured Ohioans, Medicaid recipients, and pregnant women. Callers whose health plans or employers are members of the Ohio Tobacco Collaborative will also be served. All other callers will be referred back to their health plans or employers.

American Lung Association

www.lungusa.org/stop-smoking/how-to-quit

Most smokers today know that smoking is bad for their health and harmful to people around them. They know they should quit but they also know it is going to be hard. This website offers resources to help smokers figure out their reasons for quitting and then take the big step of quitting for good.

HelpLine: 1-800-LUNG-USA (586-4872)

You may also email questions to: questions@alacallcenter.org.

American Cancer Society

www.cancer.org/Healthy/StayAwayfromTobacco

Quitting tobacco is not easy, but it can be done. Whether you're a smoker, someone who uses smokeless tobacco, or just someone trying to help a friend or loved one, you'll find the information you need on this website.

Become An Ex

www.becomeanex.org

The EX Plan is a free quit smoking program that can show you a whole new way to think about quitting. It is based on personal experiences from ex-smokers as well as the latest scientific research from experts at Mayo Clinic.

Smokefree.gov

www.smokefree.gov

Smokefree.gov is intended to help you or someone you care about quit smoking. Different people need different resources as they try to quit. The information and professional assistance available on this website can help to support both your immediate and long-term needs as you become, and remain, a non-smoker.



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For more information about this toolkit, contact:

Shelly Miller, Health Educator
Allen County Health Department
219 E. Market Street
Lima, Ohio 45801

419-228-4457

smiller@allenhealthdept.org