



Implementing a Smoke-Free Policy

Andrew Noble from the Non-Smokers' Rights Association (NSRA) and Claire Harvey from Toronto Public Health will provide information on the importance of a smoke-free policy and how to implement one.


Smoke-free Buildings: Challenges and Solutions

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Agenda

1. Introductions
 2. Tobacco Overview
 3. Smoke-free Policy
 - a) What is it?
 - b) Benefits
 - c) How to Guide
- 

Introductions: Who we are



Introductions: Who we are



Andrew and Claire

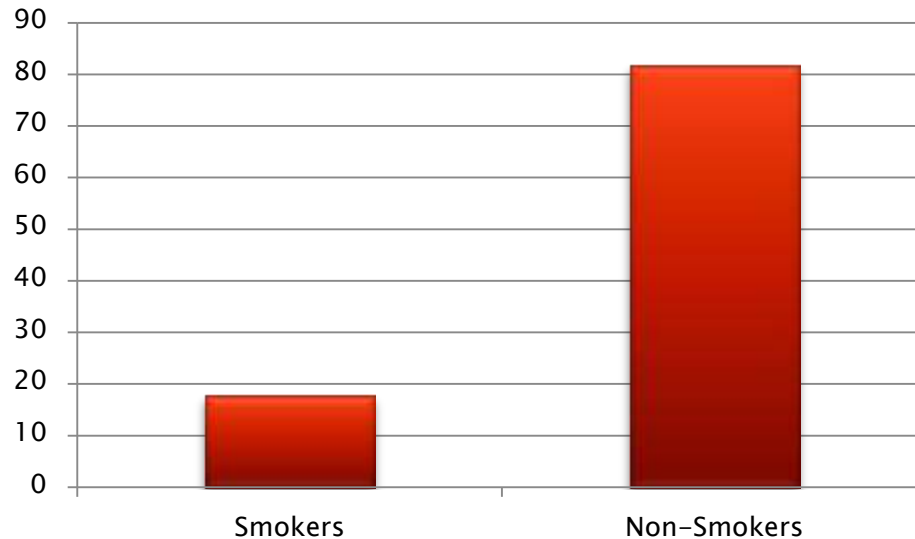
Introductions: Who are you?



Tobacco Overview: Smoking Patterns

Smoking rate in Ontario

Over-all, the smoking rate is about 18%



Canadian Community Health Survey 2013

Tobacco Overview: Smoking Patterns

Among Daily Smokers:

15.8 cigarettes per day is the average

That is 5767 cigarettes per year



Tobacco Overview: Second-hand smoke

More than just stinky and annoying

A toxic mix of
more than 4,000
chemicals

No safe level of
exposure



Smoking in multi-unit housing: How does it get out of the smoker's unit?

Cracks, electric sockets, ducts, pipes, etc



Smoking in multi-unit housing: How does it get out of the smoker's unit?

Also—Balconies!



Smoke-free Policy: What is it?

- ▶ A policy would include a clause in the lease that prohibits smoking in areas such as :



Units



Balconies

Smoke-free Policy: What is it?

- ▶ It does **not**:
 - Prevent smokers from renting



Rent to him



But he cannot do
this inside

Smoke-free Policy: Benefits

Cost of Rehabilitating A Residential Unit

	Non-Smoking	Light smoking	Heavy Smoking
General Cleaning	\$240	\$500	\$720
Paint	170	225	480
Flooring	50	950	1425
Appliances	60	75	490
Bathroom	40	60	400
Total	\$560	\$1810	\$3515

2009 Study by Smoke-free
Housing New England

Smoke-free Policy: Benefits

Keeps housing in a state of good repair



Walls from smoker's unit

Smoke-free Policy: Benefits

Offers a healthier indoor environment for both tenants and landlords



Smoke-free Policy: Benefits

Reduces the risk of fires

On average, 539
fires were caused
by smoking per
year between
2008-2012



Office of the Fire Marshal and Emergency Management (2008-2012)

Smoke-free Policy: Benefits



Prevent the
Loss of Money



Improve Health

Smoke-free Policy: How to guide

Steps



1. Develop Policy
2. Communications
3. Enforcement

Smoke-free Policy: How to guide

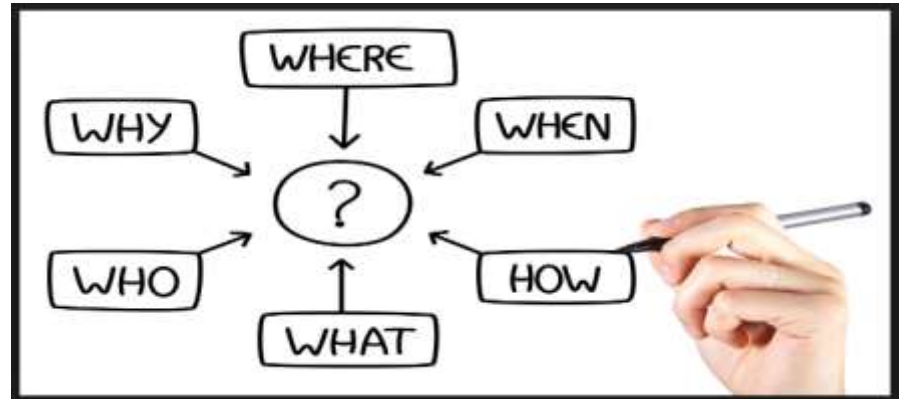
Develop Policy

- What does your policy look like?
- Stakeholders
- Timing

Smoke-free Policy: How to guide

What does your policy look like?

- Entire property smoke-free?
- Include balconies?
- Provide an outside smoking area?



Smoke-free Policy: How to guide

Stakeholders

- Tenants
- Neighbours
- Others

Smoke-free Policy: How to guide


Timing

- Decide on a start date.
(e.g. Summer)
- ***Grandfathering***
- Addendums to lease

Ontario law requires that smoke-free policies be grandfathered (i.e. affect new tenants only unless an addendum has been signed)

Smoke-free Policy: How to guide

Communications

- Notify existing tenants
 - Advertisement
 - Application Form
 - Lease
 - Signage
- 

Smoke-free Policy: How to guide

Notify Existing Tenants

- Do it in writing and explain the policy and the reasons



Smoke-free Policy: How to guide

Advertisement

- Be clear the unit is smoke-free

Fully Furnished BSMT Apartment



Date Listed: 05-May-15
Price: \$1,000.00
Address: Toronto, ON
[View map](#)

Bathrooms (#): 1 bathroom
For Rent By: Owner
Furnished: Yes
Pet Friendly: No

Description

FURNISHED 1 BDRM BSMT FLAT

Danforth & Woodbine

FEATURES:

- Separate entrance
- Fully furnished with antiques throughout
- Large bedroom/study with queen-sized bed, desk and walk-in closet
- All bed linens & towels provided
- Living area with Italian leather recliner and flat-screen TV
- Kitchenette with multiple appliances, pots & dishes
- Private 3-piece bathroom
- Shared laundry
- All utilities, High-speed Wi-Fi, and Cable TV included
- Safe, quiet, friendly neighbourhood, close to large park
- Steps to TTC, walk to Danforth shopping, cycling distance to downtown
- \$1000/month
- Students welcome

No smoking. No pets, please, as there are cats in the house (they do not have access to the flat).
Call for more information and to view: 416-425-8246

Smoke-free Policy: How to guide

Application

- Mention it here too

APARTMENT APPLICATION
LEE & LAMONT REALTY 40 WEST ST. SUITE 10, VERNON, CT 06066
(860) 875-0000

Number of occupants: _____ Adults: _____ Children: _____ Date desired: _____ Unit
& Complex: _____ Rent: _____ Security Deposit: _____

TENANT 1. Date of birth _____ Social Security Number _____
Name _____
Home Phone () _____ Work Phone () _____
E-Mail Address _____ Cell Phone () _____
RESIDENCES FOR THE PAST 3 YEARS:
Current Address _____ City _____ State _____ Zip _____
Present Rent \$ _____ Is heat included? YES / NO _____ From _____ To _____
Reason for vacating _____
Present landlords name _____ Phone # () _____
Previous Address _____ City _____ State _____ Zip _____
Present Rent \$ _____ Was heat included? YES / NO _____ From _____ To _____
Reason for vacating _____
Previous landlords name _____ Phone # () _____
EMPLOYMENT:
Place of employment _____ Department _____ Phone # () _____
Mailing Address _____
Supervisor's name _____ Employment dates _____ to _____
Gross yearly income \$ _____ Net weekly or monthly \$ _____
A COPY OF A CURRENT PAY STUB IS REQUIRED TO PROCESS THIS APPLICATION
Vehicle _____ Make _____ Model _____ Color _____ Year _____ Plate Number _____

COMPLETE THIS SECTION IF YOU HAVE CHILDREN WHO WILL BE LIVING IN THE UNIT:
Child's name _____ D.O.B. _____ Social Security # _____
Child's name _____ D.O.B. _____ Social Security # _____
Child's name _____ D.O.B. _____ Social Security # _____

TENANT 2. Date of birth _____ Social Security Number _____
Name _____
Home Phone () _____ Work Phone () _____
E-Mail Address _____ Cell Phone () _____
RESIDENCES FOR THE PAST 3 YEARS:
Current Address _____ City _____ State _____ Zip _____
Present Rent \$ _____ Is heat included? YES / NO _____ From _____ To _____
Reason for vacating _____
Present landlords name _____ Phone # () _____
Previous Address _____ City _____ State _____ Zip _____
Present rent \$ _____ Was heat included? YES / NO _____ From _____ To _____
Reason for vacating _____
Previous landlords name _____ Phone # () _____
EMPLOYMENT:
Place of employment _____ Department _____ Phone # () _____
Mailing Address _____
Supervisor's name _____ Employment dates _____ to _____
Gross yearly income \$ _____ Net weekly or monthly \$ _____
A COPY OF A CURRENT PAY STUB IS REQUIRED TO PROCESS THIS APPLICATION
Vehicle _____ Make _____ Model _____ Color _____ Year _____ Plate Number _____

Smoke-free Policy: How to guide

Lease

- Include explanation of the policy
- Include transition issues such as grandfathering



Smoke-free Policy: How to guide

Signage

- Signs can set the tone



Welcome to our
smoke-free building.

Thank you for not smoking in common areas
or in individual units.

NIJSA
PublicHealth ♦♦

Smoke-free Policy: How to guide

Enforcement

- Be Prepared
- Keep Records
- Warning Letters
- Landlord and Tenant Board

Smoke-free Policy: How to guide

Be Prepared

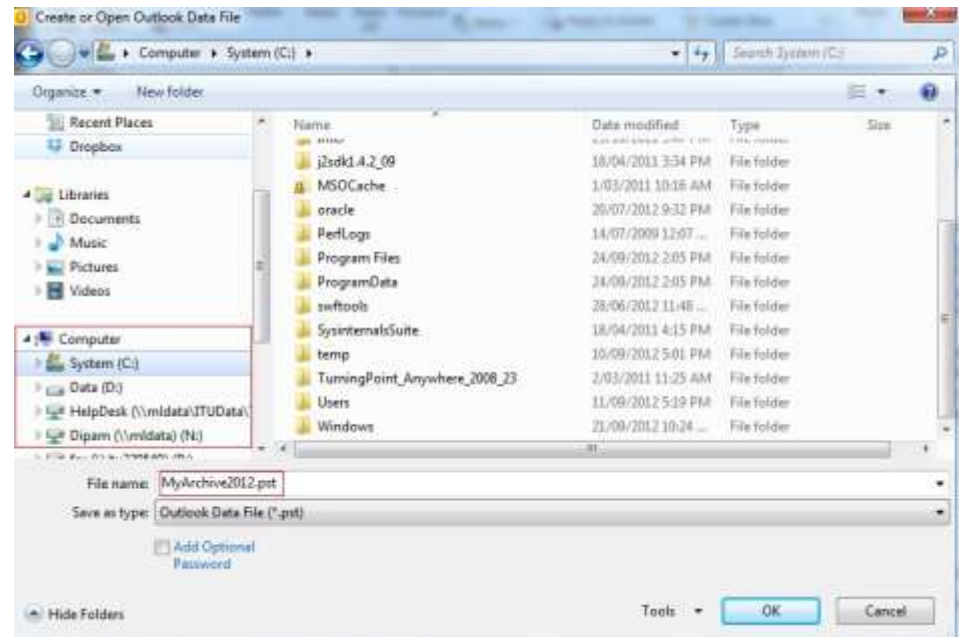
- How will you enforce it?
- Have a plan in place a head of time



Smoke-free Policy: How to guide

Keep Records

- Logs
- Letters
- Emails
- Text messages



Smoke-free Policy: How to guide

Progressive Enforcement

- Speak with tenant
- Put it in writing indicating why you have the policy that you are prepared to enforce
- File with board, if necessary

Smoke-free Policy: How to guide

Landlord and Tenant Board

- Interfering with reasonable enjoyment
- Damage
- Emphasize effect of smoking



Smoke-free Policy: How to guide

Landlord and Tenant Board

- We have posted 10/11 cases since 2010 where landlords have been successful
- Not aware of cases where measurement of smoke was necessary
- As always though—stronger evidence more effective

Smoke-free Policy: How to guide

Landlord and Tenant Board

Thunder Bay, Feb. 2012:

It is ordered that:

Order Page 1 of 2

File Number: NOL-07219-12

1. The Tenant shall not smoke in the rental unit or in the residential complex.
2. In the event that the Tenant fails to follow the provisions outlined under paragraph 1 of this order, then the Landlord shall be entitled to apply to the Board, no later than 30 days after a breach of this order, without notice to the Tenant, for an order terminating the tenancy and evicting the Tenant pursuant to Section 78 of the *Residential Tenancies Act 2006*.
3. Should the Landlord choose to make application to the Board pursuant to paragraph 2, then the Landlord shall be required to submit a sworn affidavit(s) from the person(s) who personally observed the breach of this order.
4. The Tenant shall pay to the Landlord \$170.00 for the cost of filing the application.
5. If the Tenant does not pay the Landlord the full amount owing on or before March 9, 2012, he will start to owe interest. This will be simple interest calculated from March 10, 2012 at 3.00% annually on the balance outstanding.

2012 CanLII 21953 (ON LTB)

February 28, 2012
Date Issued

Lisa Stevens
Member, Landlord and Tenant Board

Northern-RO
199 Larch Street, Provincial Building, Suite 301
Sudbury ON P3E5P9

Smoke-free Policy: How to guide

Human Rights

A housing provider has a duty to explore accommodation requests from tenants with any form of disability. Tenants may also be asked to cooperate and help facilitate the provision of accommodation for themselves, and where appropriate, for their fellow tenants as well.

However, given the inherent risks associated with smoking, a housing provider may have little or no obligation to accommodate a tenant's need to smoke when to do so would amount to undue hardship, for example, by negatively affecting the health and safety of other tenants. For more information, see the "Undue Hardship Standard" section of this *Policy*.

Policy on Human Rights and Rental Housing, 2009

Smoke-free Policy: How to guide

More info on legal issues

www.smokefreehousingon.ca/sfho/landlords-laws-and-legal-issues.html



The screenshot shows the website for Smoke-Free Housing Ontario. The header includes a search bar, navigation links (Site map, Français, NSR/NSR, smokefreehousing.ca), and contact information (About Us, Contact Us, Smoke-Free Housing Directory, News). The main banner features the organization's logo and the tagline "Helping increase options for smoke-free living" with a photo of a smiling couple. Below the banner is a navigation menu with tabs for Overview, Tenants, Landlords, Condominiums, Housing Co-ops, and Public Health Agencies. The "Landlords: Laws & Legal Issues" page is displayed, containing a sidebar with links like "Why Go Smoke-Free?", "Survivors", "Laws & Legal Issues", "Learn", "Legal Options", "Case Law Summaries", "How-to Guide", "Common Questions", "Tools & Resources", and "Success Stories". The main content area discusses the challenges landlords face in implementing no-smoking policies, states that such policies are legal and non-discriminatory, and provides information on the Ontario Landlord and Tenant Board for adjudication. It also mentions the "balance of probabilities" standard of proof used by the board.

Search Site map Français NSR/NSR smokefreehousing.ca About Us Contact Us Smoke-Free Housing Directory News

SMOKE-FREE HOUSING ONTARIO

Helping increase options for smoke-free living

Overview Tenants Landlords Condominiums Housing Co-ops Public Health Agencies

Landlords: Laws & Legal Issues

Many landlords tell us that they would love to be able to implement a no-smoking policy, but don't want to include anything in the lease that they can't enforce. Others are under the impression that no-smoking policies are illegal or discriminatory. The good news is that no-smoking policies are legal, non-discriminatory AND enforceable.

This section aims to simplify and clarify the issue by presenting information on:

- the [laws](#) that have a bearing on the problem of second-hand smoke infiltration in multi-unit dwellings in Ontario;
- a [legal opinion](#) on the prevention of smoking in multi-unit dwellings in Ontario that was commissioned by the former Ontario Tobacco-free Network, a provincial interagency network consisting of the Canadian Cancer Society, Ontario Division, the Heart and Stroke Foundation of Ontario and the Lung Association, with input from the Non-Smokers' Rights Association; and
- relevant [case law](#) from the Ontario Landlord and Tenant Board.

Landlords and tenants who cannot resolve their differences amicably can file applications for adjudication at the [Ontario Landlord and Tenant Board](#).

The Board is a quasi-judicial dispute resolution mechanism with exclusive authority to rule on residential tenancy matters as set out under the Residential Tenancies Act, 2006. Adjudicators are appointed. Although adjudicators prefer to be consistent, their decisions are not bound by precedent and do not necessarily reflect official Board positions. Decisions are made using the "balance of probabilities" standard of proof, which essentially comes down to a question of credibility—adjudicators must decide whose side of the story is more likely to be truthful.

Relatively uncommon just 5 years ago, it appears that Ontario landlords are increasingly willing to take their second-hand smoke issues to the Board for adjudication. We have a modest collection of such decisions, including some recent applications involving landlords successfully enforcing their no-smoking policies.

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Poll question follow-up

- ▶ How many are considering a smoke-free policy in your building?
- ▶ How many need to be convinced that this is a good idea?

Questions



Thank you !

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Claire Harvey, charvey1@toronto.ca

www.smokefreehousingon.ca

www.toronto.ca/health