

Condominium Associations: Did you know that no-smoking policies are a growing trend in real estate?

Within recent years secondhand smoke has become an increasing health concern for many individuals. Due to this increasing concern, market demand is high for smoke free housing. In Oregon, 87% of homeowners already do not allow smoking inside their homes. Secondhand smoke is a known carcinogen and has many dangerous side effects. This deadly toxin drifts throughout a building, entering units through crawl spaces, light fixtures and walls. It affects everything and everyone and can cause tensions between neighbors. According to the American Society of Heating, Refrigeration and Air-Conditioning Engineers, secondhand smoke cannot be controlled by ventilation, air cleaning, or the separation of those who smoke from those who do not. ASHRAE encourages smoke free policies as “the only complete solution to the problem of secondhand smoke.”

A common misconception is that no-smoking policies in condominiums are illegal. In fact, property management companies and condo associations have the legal right to make their properties smoke free. Adopting no-smoking policies, even in individual units, at the time the condominium is created is the simplest option. However, even after the community is established, homeowner associations and condominium boards can adopt no-smoking policies.

If smoke infiltration violates the Covenants, Conditions and Restrictions (CC&R's) nuisance clause, condo associations may prohibit smoking to the extent needed to abate the nuisance fully, up to and including prohibiting smoking in individual units. For more information regarding the legal aspect of smoke free condos, visit the “Condominiums” section of www.smokefreehousingNW.com to download “Legal Options for Condo Owners”, a Law Synopsis published in December 2006 by the Tobacco Control Legal Consortium.

Adopting no-smoking policies for condos is doable. The first step for condo association boards and management companies is to read “How to Make a Condo Complex Smoke free” by the Technical Assistance Legal Center, also available on www.smokefreehousingNW.com. This will provide an overview of the process and answer many initial questions associated with making the transition. Before making the policy change, it may be beneficial to conduct a resident survey to assess the demand for no-smoking rules. A sample resident survey is available on www.smokefreehousingNW.com.

HOA boards have three options to make a condo complex smoke free: 1) Amend CC&Rs to prohibit smoking in units or common areas, 2) Amend nuisance provision of CC&Rs to state that secondhand smoke is a nuisance or 3) Adopt a rule prohibiting smoking in units or common areas. Once a policy has been put in place, the final

step is to communicate the new policy to residents of the community—send notices, communicate through a community newsletter and announce at HOA meetings.

There are many good reasons to make a condo complex smoke free – strong market demand from residents, decreased property maintenance costs, and maintaining a unit’s resale value. For more information, please visit the “Condominiums” section of: www.smokefreehousingNW.com today!

This article is submitted by the Portland-Vancouver Metro Area Smokefree Housing Project, a partnership of the American Lung Association in Oregon and the health departments of Multnomah, Clackamas, Washington and Clark (WA) counties.