
How-to Implement a No-Smoking Policy for Existing Buildings in the Non-Profit Housing Sector

This section is tailored for non-profit housing providers who want to implement or pilot a no-smoking policy in one or more of their multi-unit complexes. It would also apply to those interested in converting all their buildings to smoke-free status over time. Regardless of your situation, you will need to 'phase-in' the no-smoking policy as existing tenants vacate the premises, and make all future tenancies smoke-free.

Some people assume that no-smoking policies are inappropriate for non-profit or social housing because of higher smoking rates and reduced housing options for tenants. In our opinion, these arguments offer all the more reason for housing providers to adopt no-smoking policies.

While it is true that some non-profit/social housing providers face different realities and challenges than many landlords with market rate buildings, in most cases no-smoking policies for social housing make sense. Adopting a no-smoking policy for social/non-profit housing will involve many of the same steps suggested for existing buildings in market rate buildings, plus a few additional considerations.

Here are 5 steps to consider as you go smoke-free:

1. Communicate with residents from the outset

The first step in your process will be to communicate with your residents. If residents hear through the grapevine that the building is transitioning to smoke-free status, tenants who smoke may become unnecessarily concerned that they are being unfairly targeted and that they might be evicted. Communicating with tenants is key to avoiding any conflicts between the smoking and non-smoking tenants, and will ensure that these groups aren't pitted against each other.

Further, since low-income tenants often have fewer options when it comes to housing, it will be especially important to communicate with your tenants to reassure them that existing tenants will continue to be allowed to smoke, and that no one will be evicted during this process.

Surveys and meetings can be effective tools to address tenant concerns and identify which buildings or sections would be most appropriate to designate as smoke-free. Send a letter to explain that due to increased complaints from residents, and to protect the health of residents whose health is at risk due to smoke entering their homes from neighbouring units, you are planning to designate one or all of your buildings as smoke-free.

Issues to consider include:

- i. To reduce potential tensions between smoking and non-smoking tenants, explain that your no-smoking policy is not about targeting or passing judgment on smokers, but about protecting non-smoking residents whose health is at risk from unwanted exposure to smoke on a regular and on-going basis.
- ii. Indicate that you will be conducting a resident survey to identify the percentage of smokers in buildings, and where in the building the most smoking residents reside (optional).
- iii. Indicate that you will be calling a resident meeting to explore options for transitioning to smoke-free status once the survey is completed (optional).

Strike a committee or working group (if applicable)

If you are a medium or large sized landlord, consider striking a committee or working group to deal with this issue.

- What is your long-term vision? Do you eventually want to convert all of your units to non-smoking, or do you foresee reserving a certain percentage where smoking will continue to be permitted?
- Review second-hand smoke related complaints. These may offer some early hints as to the type of no-smoking policy you develop.
- Solicit input from your employees and other stakeholders--including them in the process from the outset will encourage buy-in and support.

Conduct a resident survey

This will help you choose the building(s) most appropriate for designating as smoke-free and to determine support for this initiative.

Conducting a survey will:

- Let tenants know you want their input.
- Identify which building (or section) has the fewest number of smokers.
- Identify the number of households that already prohibit smoking inside.
- Identify the number of households where one or more people smoke.
- Identify smoking units so you can make informed decisions when re-renting vacant units in the designated smoke-free building. You can then alert new tenants you are transitioning to smoke-free status, and there are still smoking units in the area.
- Prevent you from placing new tenants with chronic health conditions next to a smoking unit.
- Identify the extent of the problem of second-hand smoke (i.e. number of tenants affected).
- Identify the level of support for this initiative.

Consider whether you want to mail the survey or conduct a survey door-to-door. While the door-to-door might be time-consuming, it will ensure a greater response rate. Offering the chance to win a prize for participating in the survey will improve the response rate as well.

Visit our website for a Sample Tenant Survey and Cover Letter located in the Tools & Resources section.

Organize a Resident meeting (if applicable)

You might consider holding a meeting with tenants to discuss the survey results and seek their input and support concerning how best to move forward on a smoke-free policy. Further, you may want to enlist a person with dispute resolution skills to help conduct the meeting.

It will also be a good opportunity to discuss your reasons for going smoke-free and how it will impact existing tenants. While there may be some resistance, holding a meeting will be a good opportunity to:

- Reassure existing tenants that they will be grandfathered for as long as they remain in the unit, and reassure them that they will not be evicted during this process.
- Ask for residents to share their experiences so that there is an understanding of the extent of the problem, and ensure that you seek their input to be part of the solution. It's important that the community take some ownership of the problem and finding solutions.
Discuss your other reasons for wanting to go smoke-free, including:
 - The vast majority (85%) of British Columbians do not smoke.

- A Recent survey of British Columbians living in apartments and condos found that one-half experienced second-hand smoke infiltrating their homes.
 - Just like people are protected from second-hand smoke in workplaces and public places, people don't want to have to breathe other people's smoke in their own homes.
 - Increased complaints from residents about second-hand smoke infiltrating their homes.
 - Reducing the risk of fires caused by cigarettes.
 - Reducing the maintenance and clean-up costs.
- Discuss the issue of second-hand smoke complaints. If there is a dispute between tenants about second-hand smoke, be clear that as the landlord, you have a responsibility to address the problem. While smoking will continue to be allowed in grandfathered units, every tenant is entitled to 'quiet enjoyment', and if there is significant smoke entering other units on a persistent basis, it will be addressed. Go to the Legal Information section of our website for information on Quiet Enjoyment and tips for addressing complaints of second-hand smoke.

2. Develop your policy

Once you have made the choice of which building(s) to designate as smoke-free, you will need to decide the type of policy you want to implement. We conducted a survey of housing providers (see Why Go Smoke-free section on website) and found that those with the strongest no-smoking policies (smoking banned in entire building, including units and balconies) experienced the greatest benefits, including reduced complaints, lower maintenance costs and reduced risk of fires.

Most appealing to non-smoking tenants, and easiest to enforce, is to make your entire property smoke-free. However, depending on your client population, you may want to designate an outside smoking area to accommodate your smoking residents.

A. Identify where smoking will not be allowed. Things to consider:

- Banning smoking in the entire building, including inside rental units, balconies and patios (Our landlord survey found that the most common sources of second-hand smoke transfer included patios, balconies and open windows).
- Banning smoking on the entire grounds up to the property line (to avoid problems such as smoke traveling into patios, or cigarette litter on your property).
- Designating an outdoor smoking area at an appropriate distance (seven metres) from units, patios and entranceways to accommodate smoking tenants (Optional).

Important: Province-wide tobacco control legislation, effective since April 2008, bans smoking in all indoor public places and workplaces, including

- Common areas of apartment buildings, condominiums and dormitories, including elevators, hallways, parking garages, party or entertainment rooms, laundry facilities, lobbies; and
- Within 3 metres (buffer zones) of public entranceways to apartment buildings, open windows and air intakes. The buffer zone is greater in many municipalities, so check with your local municipality for the buffer zone requirements.

B. Clearly identify whom the no-smoking policy applies to:

- All tenants, visitors and guests
- All resident managers/caretakers
- All staff and service personnel
- All existing tenants who move into another unit in the same building or other landlord properties

C. Definition of smoking. Here is a sample 'no-smoking clause' for inclusion in tenancy agreements and recommended by the Rental Owners and Managers Society of BC:

No-Smoking Clause: *It is a material term of this tenancy agreement that smoking of any combustible material in the rental unit or on the residential property is prohibited.*

D. Add an additional clause to the tenancy agreement to warn new tenants that:

"The building is transitioning to smoke-free status and that until the transition has been completed, smoking will still be allowed in the 'grandfathered' units of the building."

3. Implement your policy

- Choose an effective date and notify existing tenants and staff:
 - Set a date that the new policy will be implemented in the designated building(s).
 - Inform your existing tenants by letter. It's important to communicate with existing tenants to explain the new policy and reassure them that they will be exempted from the policy. Refer to the following sample tenant notification letter.
 - Inform existing resident managers/caretakers by letter. While existing resident managers are 'grandfathered' while off duty in their rental units (Provincial laws banning smoking in all indoor public places and workplaces continue to apply to resident managers while on duty), all new resident managers must abide by your no-smoking policy. You can refer to the following sample resident manager letter.
- Amend your tenancy agreements for all new tenancies. To implement and properly enforce your no-smoking policy, you must choose one of two options:
 - Incorporate the no-smoking policy into all new tenancy agreements; OR
 - Add an Addendum to the tenancy agreement listing all the terms of the no-smoking policy and ensure both landlord and tenant sign it. (Landlords and tenants can agree to and include additional terms in a tenancy agreement, such as whether smoking is permitted on the premises)
- Consider incentives. You may consider offering incentives to smoking tenants residing in the designated no-smoking building or section (if appropriate for your situation). For example:
 - Consider offering the option for smoking tenants to move to another building you own or a section in your complex where smoking is permitted. If only two tenants smoke, perhaps offer to pay their moving expenses to move into another building you own where smoking is permitted.
 - For tenants who smoke, but want to cooperate with the new no-smoking policy affecting smoking in their residence, you may consider offering incentives such as:
 1. Offering to subsidize nicotine replacement therapy for a specified time to help them quit if they are interested in quitting;
 2. Offering to subsidize nicotine replacement therapy for a specified time if they agree to smoke outside on the property or in a designated smoking area, rather than inside their units.
- Consider portable subsidies. For those whose health is currently being compromised, and can't wait for the building to be converted to smoke-free status – you may consider helping them get on the waiting list for a portable rent supplement. Unfortunately, the waitlist can be lengthy

(months/years), as each time a supplement comes available it is granted to the person at the time with the highest medical need.

- Provide cessation resources. (Optional) Let all your residents know that there is support available to help them quit if any of them are interested. While the purpose of going smoke-free is primarily to protect your property and your non-smoking residents, there may be people who would like information on quitting.
 - British Columbians can access FREE province-wide quit smoking services at QuitNow.ca, including: 24/7 helpline {1.877.455.2233}, online quit program, texting program {text QUITNOW to 654321} and community forums to connect with other people trying to quit. British Columbia residents can also access FREE nicotine replacement products like nicotine gum and nicotine patches by calling 8-1-1.

4. Promote your policy

- Post “no-smoking” signage in appropriate locations on the property. (Download official no-smoking signage at www.bc.lung.ca , free of charge, which complies with the amended BC Tobacco Control Act banning smoking in common areas of apartments and three metres from entrances.).
- Register your smoke-free building on our online Smoke-Free Housing Registry.
- Ensure that new tenants understand that you are transitioning to a smoke-free building before they sign the tenancy agreement. Inform potential tenants that:
 - There are still grandfathered tenants that smoke in the building and you can’t guarantee a 100% smoke-free environment until the transition is complete.
 - Explain that while smoking is permitted in grandfathered units, complaints of second-hand smoke will still be addressed if it is found that significant smoke is infiltrating their homes.

5. Develop an enforcement plan

Be prepared. Know ahead of time how you will respond to any problems. Experience with smoke-free workplaces and public places, along with smoke-free buildings in other jurisdictions, indicates that most people follow the rules. You do not have to personally witness a tenant smoking to enforce your policy. In all likelihood your tenants will be the biggest advocates of your policy and will readily let you know when someone is not following the rules.

- Enforce a no-smoking policy the same way other policy violations are enforced, such as loud music or a no-pets policy, i.e. as a breach of the tenancy agreement.
- Ensure staff is educated in the proper procedures for enforcing a no-smoking policy. See the How-to Guide section of the website for information on enforcing a no-smoking policy.
- Review the policy with all new tenants. Advise new tenants a violation of the smoking policy is a breach of a material term of the tenancy agreement and could lead to eviction.

Keep in mind that lack of enforcement with one resident may hamper enforcement with other residents. Prompt, consistent action will send a clear message to all tenants that smoking is not allowed.

Tips for enforcing a no-smoking policy breach

If a tenancy agreement includes a no-smoking clause, this is a material term of the tenancy agreement. A breach or violation by the tenant gives the landlord the right to end the tenancy if necessary.

Use the same warning/enforcement methods for the smoking policy that you use for any other policy.

Here are some steps for getting tenants to comply with a no-smoking policy:

1. Talk to the tenant and try to achieve a verbal agreement for the tenant to comply. Go over the no-smoking clause with the tenant.
2. If agreement is reached, it can be helpful to put it in writing for future reference. Have the tenant sign a copy of the dated letter from the landlord to tenant, confirming the discussion and the tenant's agreement to abide by the no-smoking clause.
3. If the smoking continues, issue a Caution Notice (see Tools & Resources section) advising the tenant(s):
 - a. They have breached the tenancy agreement (give specific examples of the breach);
 - b. To cease the violating behaviour. Include a specific statement regarding the compliance required, such as "cease smoking anywhere on the residential property" or "confine your smoking to the designated area of the property"; and
 - c. That failure to comply could result in a Notice to End Tenancy.
4. Be sure to document any and all violations, and if possible, get witnesses who would be able to testify to incidents of smoking by tenant if necessary.
5. If the tenant fails to comply, issue a one-month Notice to End Tenancy for Cause using the appropriate Residential Tenancy Branch Form. Be sure the notice is served on the tenant. Note that you must issue a breach letter/caution notice before you can legally issue a Notice to End Tenancy.
6. If the tenant disputes the notice, the landlord must provide evidence to prove the reasons for ending the tenancy, so it is imperative to document all actions taken.

Addressing complaints of second-hand smoke

While your building is converting to smoke-free status, it is still important to address complaints of second-hand smoke migrating from 'grandfathered' units where smoking is still allowed into non-smoking units. Some steps to consider:

- Clarify with staff that while grandfathered tenants may be allowed to smoke in their units, complaints of second-hand smoke must still be addressed.
- In the absence of a no-smoking clause in the tenancy agreement, if a landlord receives complaints that smoke from a neighbouring unit is significantly bothering other tenants, the second-hand smoke can constitute a breach of Quiet Enjoyment.
- If warranted, a landlord can issue a Notice to End Tenancy for Cause if it can be proven that the smoke is infiltrating the homes of other tenants, and there is evidence that the smoke infiltration is severe enough to cause an unreasonable disturbance. Note: it must be more than a temporary discomfort or inconvenience. This is especially important if a landlord is seeking to evict a tenant for cause.

Note: Go to the Legal section of the website for more information on Quiet Enjoyment and tips for addressing complaints of second-hand from grandfathered units.