



# FACT SHEET

INFORMATION FOR

# APARTMENT OWNERS AND PROPERTY MANAGERS



## ON DRIFTING SECOND-HAND SMOKE

**S**econd-hand smoke is more than a nuisance; it is a “Class A” carcinogen that poses a serious health risk to adults and children. Drifting second-hand smoke in multi-unit dwellings where no smoke-free policies exist is an emerging health issue and presents a considerable challenge for apartment owners.

While the vast majority of hotels in Canada and the United States provide smoke-free accommodations, often designating whole floors or sections as smoke-free, there are very few smoke-free rental units available for British Columbians who want — and need — to live free from breathing second-hand smoke.

The following information provides suggestions on steps that can be taken to minimize or eliminate the problem of drifting second-hand smoke.

### Benefits Of Smoke-Free Buildings

- Reduced cleaning and maintenance costs. Tobacco smoke leaves a dirty yellow coating on walls and exposed surfaces and permeates the premises, even after cleaning the drapes and carpets and painting the walls.
- Tapping into a sizable market of British Columbians who want to live in smoke-free environments, as well as the thousands of people who suffer from respiratory and heart diseases that are exacerbated by exposure to second-hand smoke.
- Less risk of fires. In BC, smoking materials are three times as likely to be the cause of fires in apartment buildings, compared to one and two-family dwellings. (Fire Losses in British Columbia in 2000, Office of the Fire Commissioner).

### Did you know?

- It is legal for landlords to include a “no-smoking” clause in tenancy agreements. This can apply to units or the entire building.
- 84% of British Columbians don’t smoke. (Canadian Tobacco Use Monitoring Service)

- Ventilation systems may dilute the smell of tobacco smoke, but they do not eliminate the carcinogens that are invisible and odourless.
- Over 260,000 British Columbians suffer from asthma and an estimated 168,000 British Columbians are living with chronic heart disease and stroke. (Statistics Canada; Heart and Stroke Foundation)

- A survey conducted in Minnesota in 2001 found that almost half of rental households had experienced drifting smoke, and over one-third said it bothered them a lot or so much that they moved or would move because of it. Only 20% of those affected by the smoke told their landlord about the problem. ([www.ansrmn.org](http://www.ansrmn.org))



# INFORMATION FOR **APARTMENT OWNERS AND PROPERTY MANAGERS** ON DRIFTING SECOND-HAND SMOKE IN MULTI-UNIT DWELLINGS

## Possible Steps to Minimize the Problem

- In smoke-free rental buildings, enforce the policy by giving written notice to comply with the policy, or be prepared to end the tenancy in cases of non-compliance.
- In rental buildings without smoke-free policies, work with tenants to resolve all reasonable complaints about drifting second-hand smoke. Landlords have a responsibility to protect tenants from substantial interference with their “quiet enjoyment” of the premises. There may be a basis for breach of “quiet enjoyment” if there is evidence that the landlord was aware of the problem and failed to take reasonable steps to correct it.
- Ensure that municipal bylaws that prohibit smoking in public areas of buildings are enforced. Consider posting “no smoking” signs in common areas such as hallways, stairways, elevators and laundry rooms.
- Minimize drifting smoke by making reasonable repairs or modifications to the premises, such as sealing cracks and weather-stripping doors.
- If all reasonable efforts fail to resolve the problem, consider evicting the tenant(s) who smoke, if it can be shown that their behaviours are persistently and significantly interfering with, or seriously jeopardizing the health of other tenants.

## Possible Steps to Eliminate the Problem

In BC, apartment owners can choose to adopt a total or partial smoke-free policy that prohibits smoking in sections of the building, or the entire premises, including indoor units and outdoor balconies and patios. With new buildings this is not a problem because tenants have no pre-existing agreements or leases. With existing buildings, smoke-free policies may need to be phased-in over time.

### Considerations For Converting To Partial or Total Smoke-Free Buildings

- If you choose to move toward a smoke-free rental building, begin by converting vacant units into smoke-free units, with the intention of converting the entire building or a section of the building to be smoke-free. Landlords can tell prospective tenants who want to reside in smoke-free environments that they are in the

## Young v Saanich Police Department, et al 2003 BCSC 926 (Victoria Supreme Court)

An Arbitrator in BC found that the landlord in this case had sufficient cause to terminate the tenancy of Young *even though his tenancy agreement did not have a “no-smoking clause”* because the odour of medically approved marijuana that was emanating from his suite disturbed the other tenants, deprived them of the enjoyment of their suites and was likely to cause the landlord to continue to lose tenants. To force the landlord and its tenants to tolerate Mr. Young’s marijuana smoke constituted undue hardship. The Arbitrator’s decision was upheld in Victoria Supreme Court in 2003.

process of implementing a smoke-free policy, but it must be phased-in over time.

- Notify your tenants in writing that you are moving toward a smoke-free or partially smoke-free building. While existing tenants who smoke may be excluded from the policy, explain that you will be gradually converting to smoke-free units as tenants leave the building.
- Include a clause in all new tenancy agreements prohibiting smoking by tenants and their guests in the rental unit and elsewhere on the property including balconies. It should be clearly stated that tenants are responsible for informing their guests of the smoke-free policy and prohibiting smoking on the premises.

### For More Information

Clean Air Coalition of BC  
[www.cleanaircoalitionbc.com](http://www.cleanaircoalitionbc.com)

[www.tobaccofree.ca](http://www.tobaccofree.ca)

BC Residential Tenancy Policy Guideline 6.  
Right to Quiet Enjoyment  
[www.pssg.gov.bc.ca/rto/policies/GL06.pdf](http://www.pssg.gov.bc.ca/rto/policies/GL06.pdf)

Non-Smokers’ Rights Association, Canada  
[www.nsra-adnf.ca](http://www.nsra-adnf.ca)

