

Smoke-free Housing in Utah

Utah’s Smoke-free Apartment and Condominium Guide

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Apartment and condominium residents, managers, and owners can now breathe easier. The Utah Smoke-Free Apartment and Condominium Guide, an online resource, promotes smoke-free housing in Utah. Nationally, 50,000 people die each year as a result of secondhand smoke (SHS) exposure. Additionally, hundreds of thousands of people exposed to it suffer various other illnesses, such as asthma and bronchitis. While many Utahns appear to be taking steps to avoid SHS, recent UDOH data show more than 25,000 children still live in homes where they are exposed. “Smoke-free policies not only protect tenants’ health, but they are also a sound business practice,” says Cassandra Fairclough, Health Program Specialist, UDOH. “Adopting smoke-free policies is simple and inexpensive. These policies can reduce fire hazards, cleaning and maintenance costs, and time spent addressing tenant complaints about smoke drifting from

unit to unit. Insurance costs may also go down for those housing units that are smoke-free.” The Utah Smoke-Free Apartment and Condominium Guide includes useful tools for managers and owners to help create smoke-free environments. The advantages of smoke-free units/buildings; how to eliminate drifting smoke; and types of smoke-free policies are just a few of the resources available to managers. The Web site also provides tenants with information about the health effects of SHS, ways to reduce exposure to SHS, tips on what one should know before renting, and how to resolve problems.



Did You Know?

The Utah Department of Health has a resource guide available for those interested in implementing secondhand smoke policies in multiple - dwelling units. The Utah Secondhand Smoke Policy and Implementation Guide can be viewed at

<http://www.tobaccofreeutah.org/shsguide.html>

Smoke-free Apartment and Condominium Statewide Directory

The Smoke-free Apartment and Condominium Statewide Directory is a list of properties that provide smoke-free environments. The listing is provided as a free service to managers, owners, and renters. There are two types of listings in the directory:

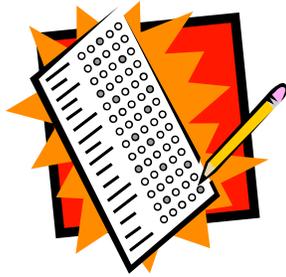
- All buildings and units of the complex are smoke-free.

- One or more of the buildings of a complex are smoke-free.

If you are interested in listing your smoke-free property in the directory, visit <http://www.tobaccofreeutah.org/aptcondo/guide-lom.htm#housing> for an online application. A Spanish version is also available.

Surveys: Tenants Support Smoke-free Housing

As a manager or owner considering implementing smoke-free policies, you may be concerned about how your residents feel toward smoke-free policies. Numerous surveys over the past few years indicate that there is a market for smoke-free apartments and condominiums. For example, the American Lung Association of California's Center for Tobacco Policy and Organizing surveyed 602 residents throughout California. The survey found that:



69% of Californian tenants surveyed support non-smoking policies.

- 46 percent of respondents had experienced secondhand smoke drifting in their apartment
- 59 percent said they believe that secondhand smoke can drift from one apartment to another
- 72 percent said they believe that secondhand smoke can drift in an apartment from the outside
- 69 percent of respondents favored regulations requiring all apartment buildings to offer non-smoking sections where all apartments, patios, and balconies are non-smoking.

For additional survey results, see Smoke-free Law Project at <http://www.tcsg.org/sfelp/public.htm>.

What Should Your Lease Say?

To implement a smoking ban in your complex, you'll need to put the ban into your lease agreement, says James H. Dean, a Utah attorney. You can put a clause in your new leases and add one to the leases of renewing residents, depending on the type of smoke-free policy you are implementing. For example, if the entire community is going smoke-free or only certain areas, you will need to adjust your clause accordingly.

Your clause should do three things:

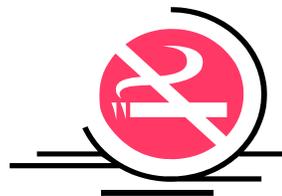
1. **Prohibit smoking in or near the building.** The lease might say "that residents can't smoke in the building or within 25 feet of it." This wording will help to solve the problem of people gathering right outside their doors or leaning out their windows.
2. **Make residents responsible.** Just as you hold residents responsible for the misbehavior of family and friends, hold residents responsible for their smoking as well.
3. **Grandfather current smokers.** Inform new residents that you do have a no-smoking policy, but that current residents who do smoke will be able to continue smoking until their current lease

expires. You should state in the lease that smoke may drift and you are not responsible to enforcing until the lease expires.

"Residents can't smoke in the building or within 25 feet of it"

Sample Model Policy

Due to the increased risk of fire and the known health effects from secondhand smoke exposure, smoking is prohibited in your apartment building or within 25 feet of the building. Residents are responsible for ensuring all guests comply with this rule. Residents acknowledge all new leases are smoke-free and that some residents may continue to smoke until their lease expires.



Post "No Smoking" Signs

Signs available by calling
1-888-220-3466

Utah Secondhand Smoke Amendments

The secondhand smoke amendments were passed by the Utah State Legislature in 1997. These amendments apply specifically to tobacco smoke that drifts into any residential unit a person rents, leases, or owns from another residential or commercial unit.

The amendments:

- * Give authority to condominium associations to restrict smoking in units, common areas, and yard space §57-8-16-7(a)(b).
- * Give authority for apartment rental contracts to include prohibitions on smoking in units, on the premises, or both §57-22-5-1(h).
- * Establish that any tobacco smoke that drifts into any residential unit a person rents, leases, or owns is a nuisance under the law §78B-6-1101(3).
- * Provide that residents of condominiums, apartments, or private homes may seek injunctive relief and/or damages if exposed to nuisance tobacco smoke §78B-6-1101(3).
- * Exempt rental units, such as for vacation or available for only 30 days or less at a time, from the nuisance tobacco provisions §78B-6-1101(4)(a)(5).
- * Provide authority for an apartment renter to file a nuisance action under §78B-6-1101(6) even if the renter has signed away his or her rights to file a nuisance.

Going Smoke-free—Black Hawk Condominiums

The thought of having a smoke-free environment at Black Hawk Condos is very appealing indeed, at least for the majority of the residents. This desire became evident when a survey was administered to all residents. The survey, for all intents and purposes, was quite successful. The Black Hawk HOA Board mailed surveys to 500 residents of which 200 surveys were returned. Seventy-nine percent of respondents own their condo. The survey found that:

- 63 percent of respondents said that smoke from other people's cigarettes bothered them
- 80 percent believed that breathing secondhand smoke from other people's cigarettes is very harmful to one's health
- 94 percent said that smoking is not allowed anywhere inside the condo
- 61 percent were in support of a smoking ban inside the residential units at Black Hawk, 18 percent supported limited smoking in a designated area, and 42 percent supported no restrictions on smoking
- 33 percent were in support of a smoking ban in outside common areas (including patios and porches), 87 percent supported a designated outdoor smoking area, and 19 percent supported no restrictions

It's possible that the first major factor that led the HOA to this course of action was when a young couple

presented their 'case' to the board. The couple's one-year old son had developed breathing problems believed to be caused by secondhand smoke drifting in as a result of their neighbor's smoking. The board discovered that 80 percent of the smoking complaints in Cache Valley, as reported to Bear River Health Department, came from Black Hawk Condos.

"The couple's one-year old son had developed breathing problems.."

As the nuisance of smoking was contemplated in-depth, such factors as cleanliness/litter, resale value, fire hazard, smoke in common and limited common areas, and smoke drifting from unit to unit were all uncovered and/or discussed.

The issue is being actively pursued as we continue to work with the State of Utah, our attorney, and the residents in the community in the exploration of options to become a smoke-free community.

--The Black Hawk HOA Board



Black Hawk Condominiums
Logan, Utah

Utah Department of Health

Utah Department of Health
Environmental Sanitation Program
P.O. Box 142104
Salt Lake City, Utah 84114-2104

For more information:
Phone: (801) 538-6754

[Http://www.tobaccofreeutah.org](http://www.tobaccofreeutah.org)

RETURN SERVICE REQUESTED

The TRUTH



The mission of the Utah Department of Health is to protect the public's health through preventing avoidable illness, injury, disability and premature death; assuring access to affordable, quality health care; and promoting healthy lifestyles.

Frequently Asked Questions About Smoke-free Housing

- 1. Why are smoke-free apartments legal?** The rights of non-smokers to be free from exposure to SHS is protected by both legislation and laws. There are federal and state laws protecting non-smokers. Advertising "smoke-free" or "no-smoking" is also legal.
- 2. Would a smoke-free policy legally or unfairly discriminate against smokers?** No. The privilege to smoke is not a right that is protected under the Civil Rights Act because smokers are not a protected class under federal law.
- 3. Would I lose money if I implement a smoke-free policy?** You could actually save money with a smoke-free policy. Smoking is the cause of a variety of expensive property damages, ranging from extra cleaning costs to fire-related repairs. It can cost up to twice as much to prepare or repair a unit to rent that a smoker has lived in. Additionally, more individuals are requesting smoke-free housing in multiple-dwelling units.

- 4. Would a smoke-free policy instigate a lawsuit from an angry smoker?** You will more likely face a lawsuit from a frustrated non-smoker than from a smoker. Legal cases involving various apartment dwellings throughout the U.S. have been filed and won by tenants.

- 5. Would enforcement of a smoking ban be difficult?**

Once you implement a policy, smoking would be so noticeable that others would report it. You would use the same policy you use for other violations of the rules.



**Smoke-free housing is legal
under the law**