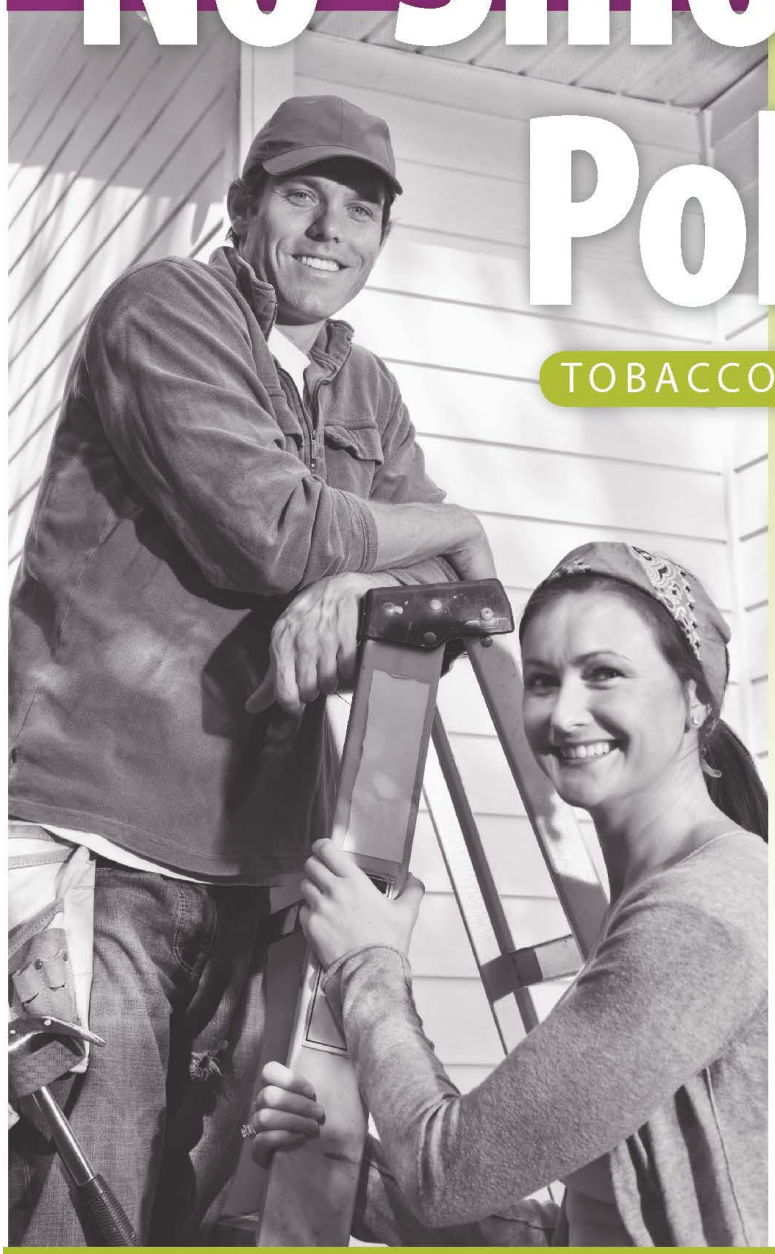
A CLARK COUNTY

# Landlord's Guide to No-Smoking Policies

TOBACCO AND MARIJUANA



HIGHER PROFITS

HAPPIER RESIDENTS

SAFER HOUSING

HEALTHIER LIVING

www.smokefreewashington.com

"For me it was the repainting
each time, the extent of cleaning,
professional carpet cleaners,
hoping you would get the smell out.
I just finally decided it wasn't worth it."

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SMOKEFREE HOUSING

# Non-Smoking Housing

**"... a landlord who wishes to attract a large number of quality applicants will gain a distinct competitive advantage by offering housing that is smoke-free...in the minds of many residents, smoke-free housing is an idea whose time has come and a need in the marketplace that remains unfilled."**

— John Campbell, national landlord trainer and consultant

## Good for Business and Good for Health

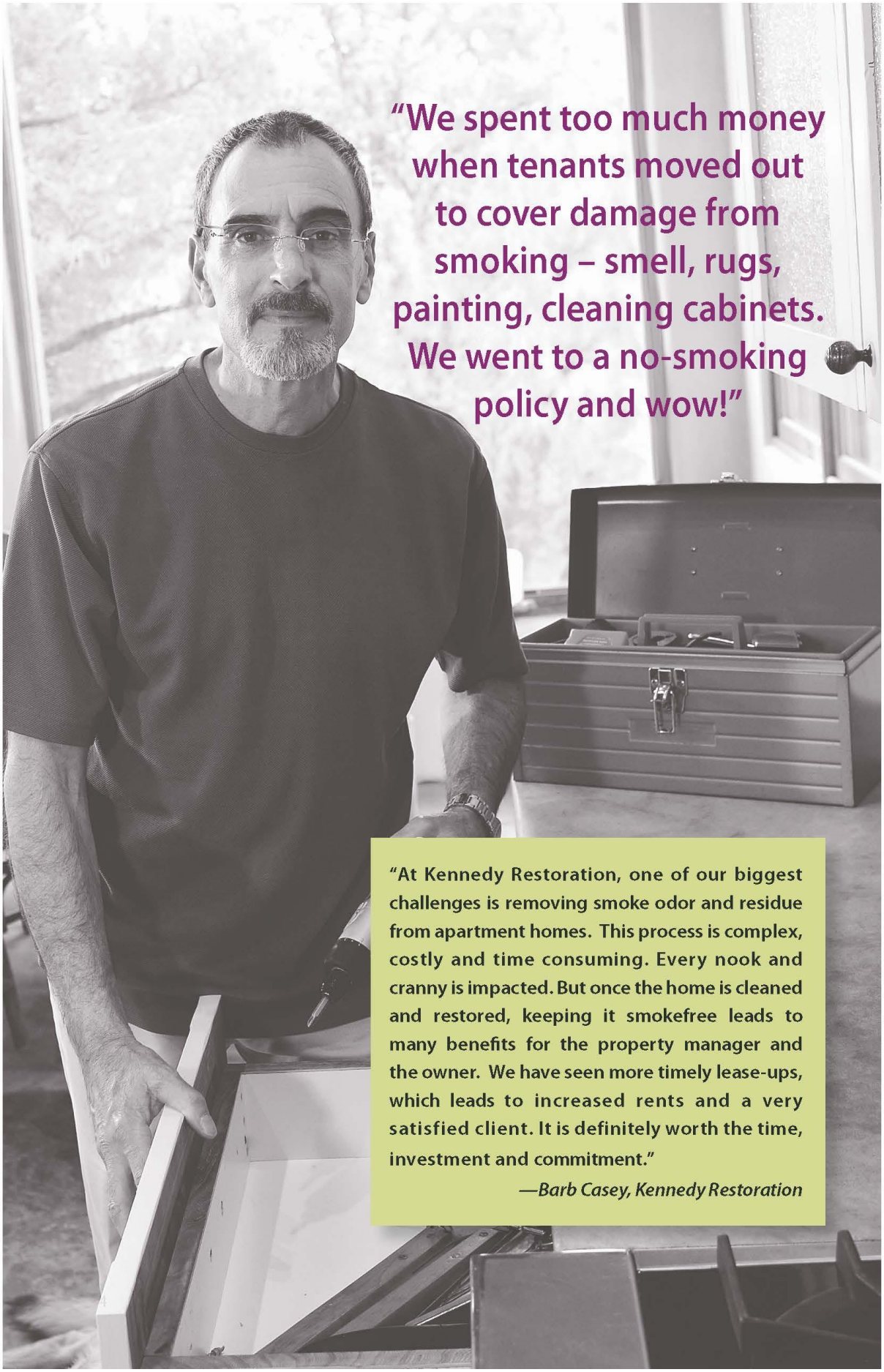
Have you been thinking about a no-smoking rule for your rentals? If you are unsure if such a rule would work in rentals where many residents smoke, the information contained in this booklet may help you.

You know that smoking is a major fire hazard and a liability. Maybe your residents have complained about tobacco smoke drifting from neighboring units. You have heard that other landlords have eliminated these headaches by adopting a no-smoking rule, and you are wondering if it could work for you too.

And, now that possession and use of marijuana by adults is legal in Washington, landlords are wondering about their ability to set rules about the use of marijuana in their rental units.

Well, good news! **You can adopt a no-smoking rule that prohibits the smoking of tobacco and marijuana* inside your units.** Just as you might prohibit pets, you can prohibit tobacco and marijuana smoking inside individual units. You can also prohibit tobacco smoking in outdoor areas. It's entirely legal, and many landlords in Vancouver have found that implementing a no-smoking policy was easier than they thought-- even in buildings where many renters smoke.

*NOTE: Washington voter Initiative 502 legalized recreational marijuana use, including smoking it. Landlords are free to set rules for conduct on their property, including no-smoking policies. Prohibiting smoking tobacco and marijuana including medical marijuana is legal. Please obtain legal counsel or contact the Fair Housing Council for guidance on the use of medical marijuana at your rental properties.



**"We spent too much money when tenants moved out to cover damage from smoking – smell, rugs, painting, cleaning cabinets. We went to a no-smoking policy and wow!"**

"At Kennedy Restoration, one of our biggest challenges is removing smoke odor and residue from apartment homes. This process is complex, costly and time consuming. Every nook and cranny is impacted. But once the home is cleaned and restored, keeping it smokefree leads to many benefits for the property manager and the owner. We have seen more timely lease-ups, which leads to increased rents and a very satisfied client. It is definitely worth the time, investment and commitment."

*—Barb Casey, Kennedy Restoration*

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SMOKEFREE HOUSING

# Asset Management

**Your property is an important investment. Protect it! A no-smoking rule will help you save money by reducing damage to your property, avoiding liability and preventing fires.**

**A no-smoking rule is one of the easiest ways to reduce damage to your units and keep your costs down:**

If you have residents who smoke, you know what it does to your property: burn marks on the counters, yellow walls, trashed carpets, a horrible odor, and worse. A no-smoking rule will help you spend less time and money on cleaning, repairs and painting. It will keep your units in better condition, making them more attractive to prospective tenants and to buyers if you decide to sell.

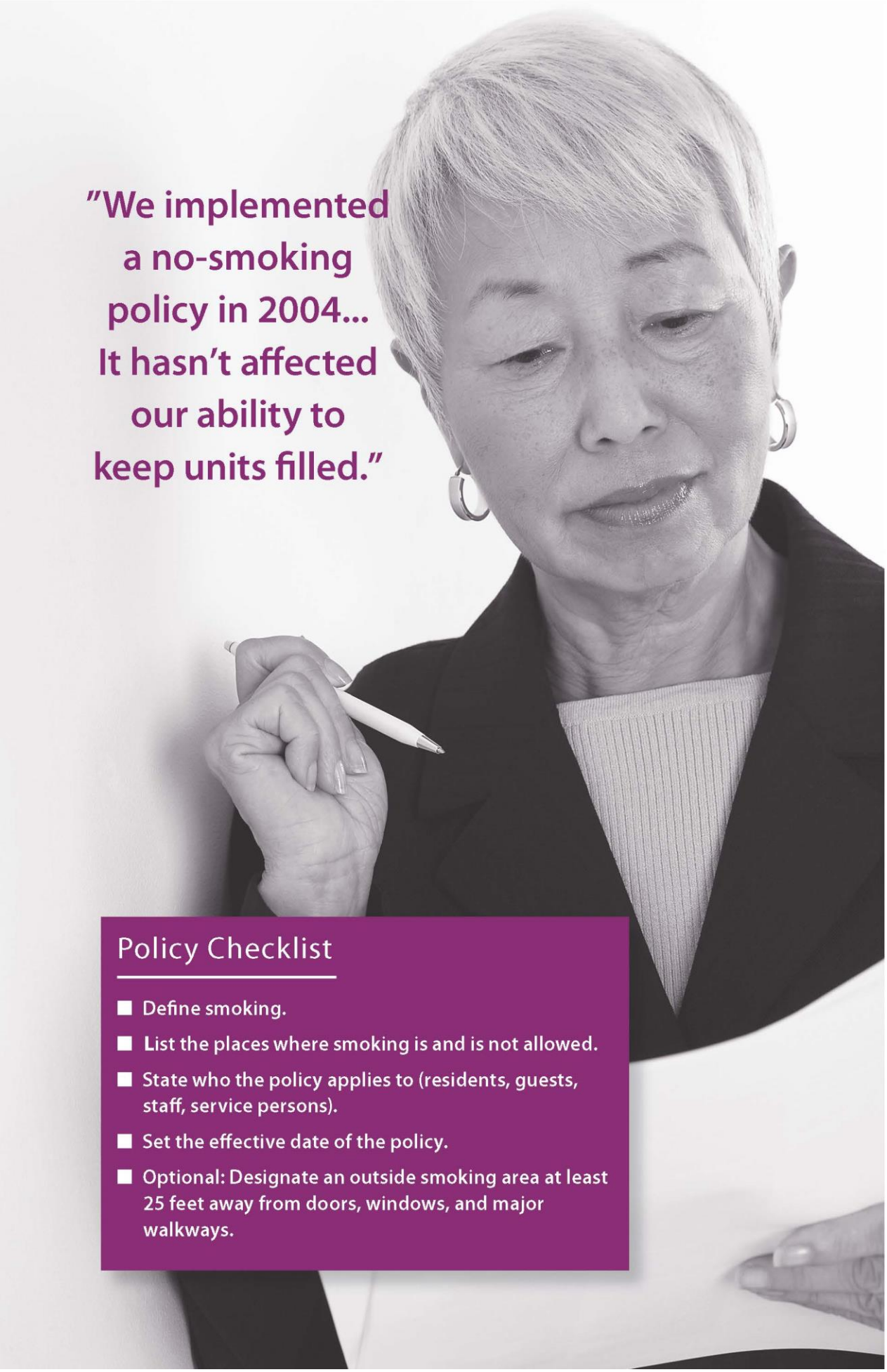
**A no-smoking rule will also protect your property from fires:**

The Clark County Fire Marshall confirms that more people die in fires caused by smoking than by any other type of fire. Smoking is the #1 cause of fire deaths in Washington, causing more expensive property damage than most other types of fires. A no-smoking rule will reduce the risk of fires at your rental properties and you may even be able to get an insurance discount. Ask your broker.

**A no-smoking rule will help you avoid potential legal liability due to nonsmoking tenants' exposure to secondhand smoke:**

Residents with certain disabilities may be able to request reasonable accommodations to protect them from secondhand smoke, something more likely than a resident seeking legal redress for the "right to smoke". Courts have consistently upheld a landlord's right to enact policies that protect their property, including prohibiting smoking. Neither the act of smoking nor smokers themselves are protected under fair housing laws.

**Landlords who adopted no-smoking rules tell us they would never go back.**



"We implemented a no-smoking policy in 2004... It hasn't affected our ability to keep units filled."

## Policy Checklist

- Define smoking.
- List the places where smoking is and is not allowed.
- State who the policy applies to (residents, guests, staff, service persons).
- Set the effective date of the policy.
- Optional: Designate an outside smoking area at least 25 feet away from doors, windows, and major walkways.

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SMOKEFREE HOUSING

# Developing Your No-Smoking Rule

When you are opening a new building or complex, the easiest thing to do is prohibit smoking from the beginning. When converting an existing building or complex, you may need to phase in the policy as you fill vacancies or as leases are renewed. You can also "go smokefree" after a certain date if you follow landlord-tenant law requirements, including giving advance notice and having residents agree to the changes in writing.

Use our sample lease language at **www.smokefreewashington.com**

## Sample Lease Language

**SMOKING:** Due to the increased risk of fire, increased maintenance costs and the known health effects of secondhand smoke, smoking is prohibited in any area of the property, both private and common, indoors and within 25 feet of the building(s) including entryways, balconies and patios. This policy applies to all owners, residents, guests and service persons. Residents are responsible for ensuring that family members, roommates and guests comply with this rule.

**DEFINITION**

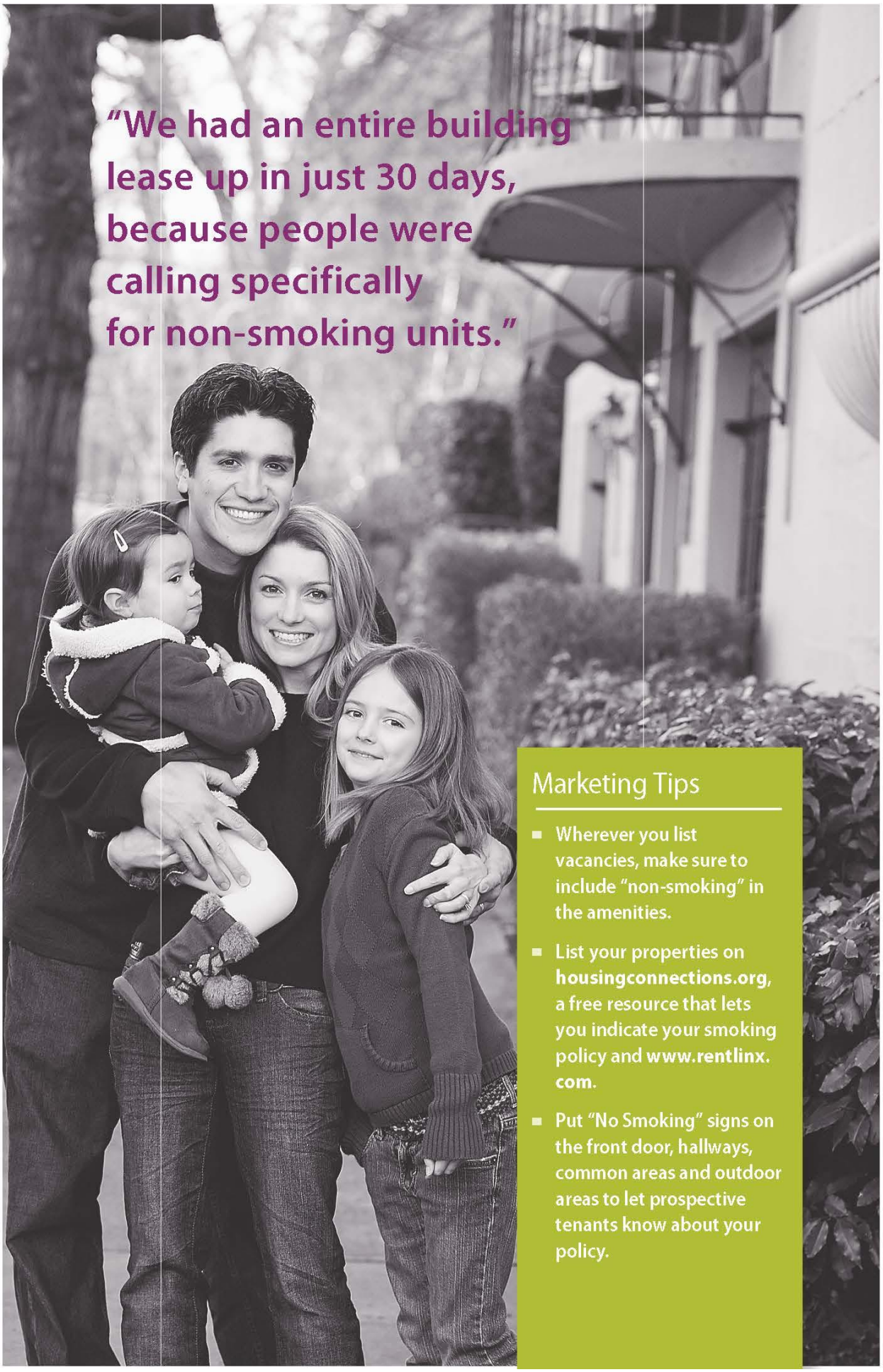
SMOKING: The term "smoking" means any inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, or other tobacco or marijuana product in any manner or any form.

**(If you are "phasing in" the policy)**

All new and renewed leases in your building prohibit smoking as described here. Please be aware that, until all leases have been renewed, you may have neighbors whose current lease does not prohibit smoking.

**"The debate is over. The science is clear: secondhand smoke is not a mere annoyance, but a serious health hazard."**

— U.S. Surgeon General Richard Carmona, 2006



**"We had an entire building lease up in just 30 days, because people were calling specifically for non-smoking units."**

## Marketing Tips

- Wherever you list vacancies, make sure to include "non-smoking" in the amenities.
- List your properties on **housingconnections.org**, a free resource that lets you indicate your smoking policy and **www.rentlinx.com**.
- Put "No Smoking" signs on the front door, hallways, common areas and outdoor areas to let prospective tenants know about your policy.

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SMOKEFREE HOUSING

# Market Demand

**The trend of transitioning rental properties to no-smoking continues to grow and Vancouver landlords are increasingly taking advantage of this exciting market opportunity. In the summer of 2012 we conducted a survey of landords in central Vancouver. Here is what we found:**

- At least half of all multi-family properties are covered by a no-smoking rule. This doesn't include rentals we already knew had no-smoking rules in place, such as Vancouver Housing Authority and Columbia Non-Profit Housing properties.
- Since 2007 nearly 30% of landldords have transitioned units to no-smoking.
- Almost three-quarters of landlords who advertise their units as "no-smoking" say it doesn't make it harder to find good residents.

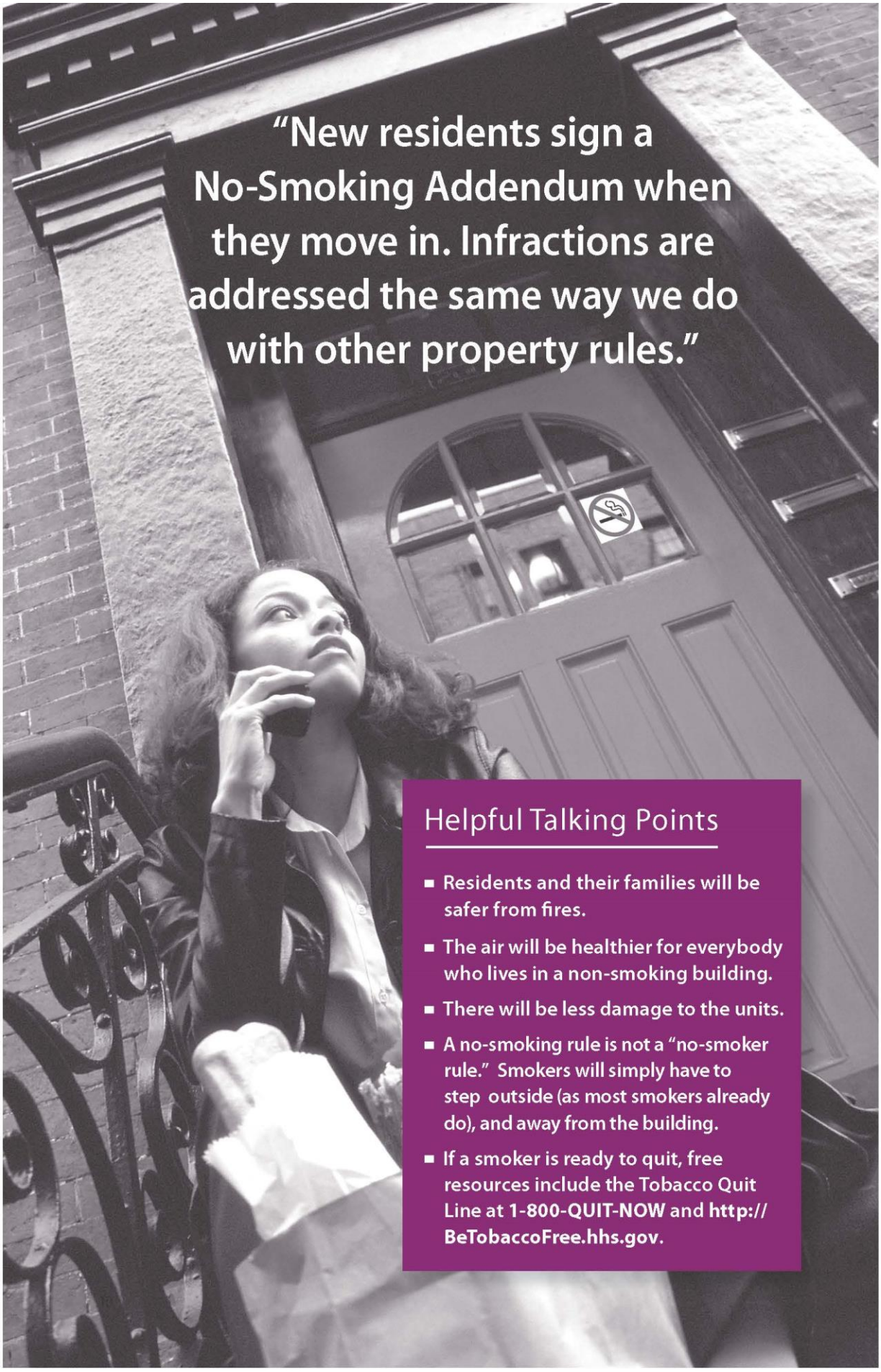
**What we learned supports earlier research done with renters:**

- Most renters, regardless of income, age, or gender, would prefer a no-smoking rule.
- Three-quarters do not smoke at all.
- 19% of renters smoke daily – but only 11% smoke inside regularly.
- Two-thirds of smokers agree that even small amounts of secondhand smoke are hazardous to your health.

Washington landlords find no-smoking policies:

- ✔ have no effect on vacancy rates or turnover
- ✔ are easy to enforce.

**Many landlords say that a no-smoking rule helps them attract and keep tenants who take good care of their units.**



"New residents sign a No-Smoking Addendum when they move in. Infractions are addressed the same way we do with other property rules."

## Helpful Talking Points

- Residents and their families will be safer from fires.
- The air will be healthier for everybody who lives in a non-smoking building.
- There will be less damage to the units.
- A no-smoking rule is not a "no-smoker rule." Smokers will simply have to step outside (as most smokers already do), and away from the building.
- If a smoker is ready to quit, free resources include the Tobacco Quit Line at **1-800-QUIT-NOW** and **http://BeTobaccoFree.hhs.gov**.

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SMOKEFREE HOUSING

# How to Enforce a No-Smoking Rule

**A no-smoking rule is just like any other rule you enforce.**

## Tips for Getting Residents to Comply:

1. Advertise as non-smoking. Many people look for this and consider it an amenity. Talk about it when showing the property. Point out where the designated smoking area is located if you have one.
2. Put the no-smoking rule in the lease agreement and read through the rule with tenants as they sign their lease.
3. Post signs in the building and on the property.
4. Inform residents that if they smoke in their units, they will be financially responsible for bringing the unit back to rentable condition, which could cost thousands of dollars.
5. Use the same warning/enforcement methods for smoking rule violations that you use for any other rule.
6. Visit the properties regularly and perform inspections, just as should always be done for all rentals.
7. Optional: Provide a designated smoking area outside, away from windows and doors (25 feet is a good distance).

## Talking to Your Residents:

Giving your residents advance notice about the no-smoking rule will help you gain compliance with the policy. You might want to go "over and above" your normal procedures for announcing rule changes. Some landlords choose to survey their residents to find out how many smoke inside their units, how many would prefer a no-smoking rule, and how many would want to move. Some landlords might hold a resident meeting to let everyone share their thoughts. Anything you do to get the conversation going and to give your residents as much advance notice as possible can help you avoid headaches later on. Find sample materials for communicating with residents at **www.smokefreewashington.com**.

"I've had two places
burn down
because of cigarettes."

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SMOKEFREE HOUSING

# Frequently Asked Questions

**Q. Is a no-smoking rule legal?**

**A.** Yes. It is legal to prohibit tobacco and marijuana smoking at your properties, inside and out. It is your property and you have the right to set reasonable rules to protect it. It is not discrimination to prohibit smoking, smoking is not a legal right. *Remember: no-smoking rules are about the smoke, not the smoker.*

**Q. Do no-smoking rules work at properties where many residents smoke?**

**A.** Yes. Many Clark County landlords are already enjoying success with no-smoking rules at all kinds of properties. Smokefree policies do not preclude someone who smokes from living in the building; they simply require that all residents abide by the policy while on the property. Three quarters of renters, even those with household incomes under $25,000, would rather live in a non-smoking building. Only 9% of Washington residents who smoke do so inside.

**Q. Can I adopt a no-smoking rule in HUD-assisted housing?**

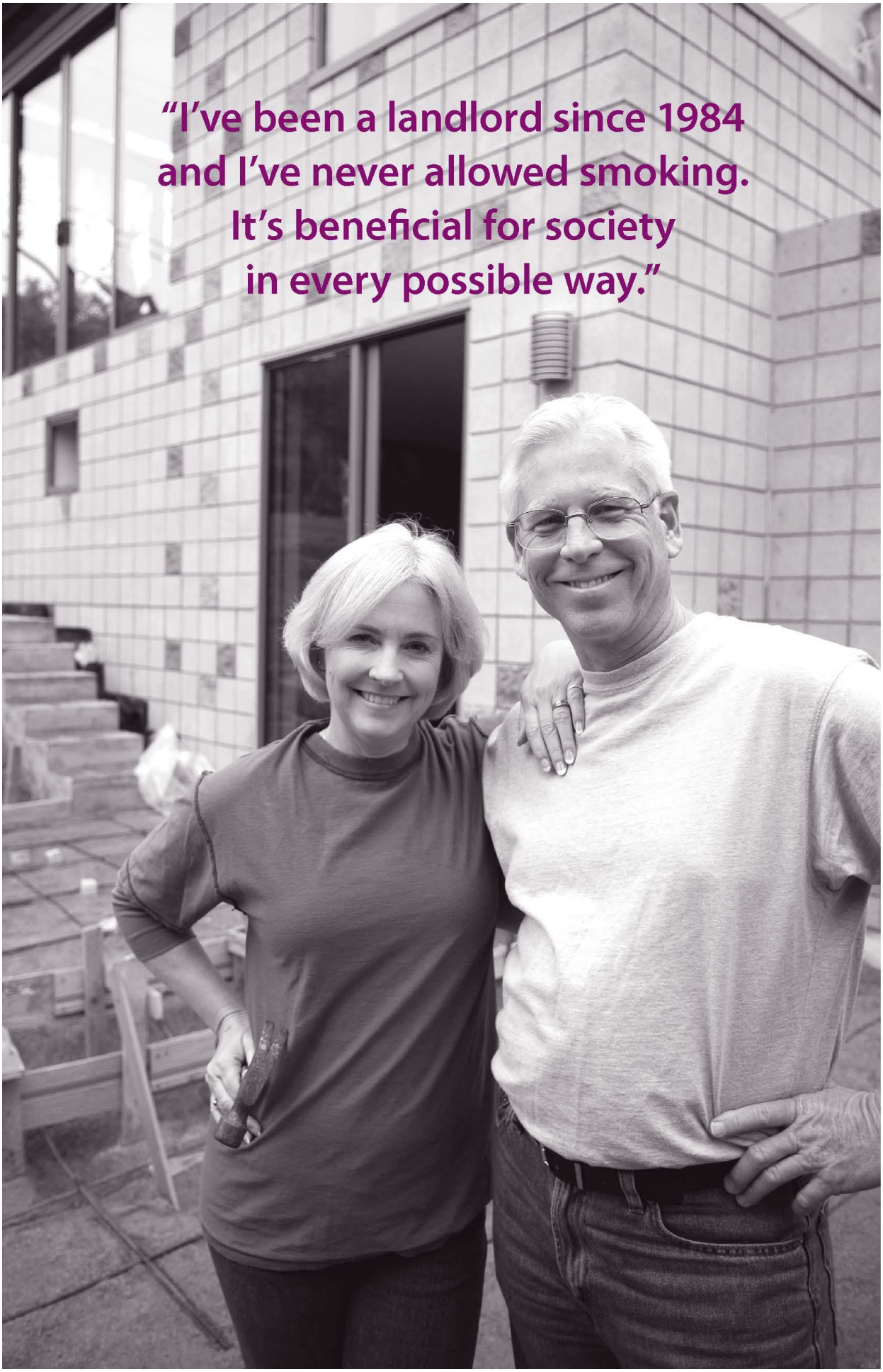
**A.** Yes. You can adopt a no-smoking rule for new residents at HUD-assisted housing. HUD strongly encourages owners and management agents to implement smokefree housing policies. You do not have to "grandfather" existing residents until their leases renew. Changes can be made to "House Rules" without HUD approval.

**Q. What do I have to gain from a no-smoking policy?**

**A.** No-smoking is an amenity that most residents want. A no-smoking policy will help protect property from damage and fires. You will save money on turnover expenses because apartments will cost less to clean, repair and repaint. Having a no-smoking policy can also prevent resident-to-resident conflicts over drifting secondhand smoke.

**Q. What is the landlord's responsibility to protect residents from secondhand smoke?**

**A.** Fair Housing laws can allow a reasonable accommodation for a resident who has a disability made worse by exposure to secondhand smoke. Implementing a no-smoking rule could save you having to deal with legal consequences.


"I've been a landlord since 1984
and I've never allowed smoking.
It's beneficial for society
in every possible way."

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SMOKEFREE HOUSING

# Resources for Landlords

**Visit www.smokefreewashington.com for the following resources:**

- Sample lease language
- Tenant Notification Letter
- Tenant handout – to explain the benefits of a no-smoking rule
- Warning letter
- Smoke-free Housing Interactive Guide
- Information about secondhand smoke
- Industry and trade journal articles supporting going smoke-free.
- Resources for quitting smoking.

## Secondhand Smoke

- Secondhand smoke kills 50,000 non-smoking Americans every year.
- Secondhand smoke contains more than 43 cancer-causing agents and many other toxins, including formaldehyde, cyanide, carbon monoxide and arsenic.
- Secondhand smoke exposure causes heart disease and lung cancer in adults and sudden infant death syndrome and respiratory problems in children.
- There is no risk-free level of secondhand smoke exposure; even brief exposure adversely affects the cardiovascular and respiratory systems.
- Only smoke-free environments effectively protect people from secondhand smoke exposure indoors.

*Unless otherwise noted, quotes in this publication were provided by Central Vancouver landlords surveyed in 2012.*

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## References:


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- Opinions of Experienced Metro-Area Landlords Regarding Smoking Policies & Practices, Campbell DeLong Resources, Inc., November 2006.
- Washington State Landlord & Owner Survey, 2006 and 2012.

### HOUSING

- Smokefree Housing: A Toolkit for Owners/Management Agents of Federally Assisted Public and Multi-family Housing. **www.hud.gov**

### SECONDHAND SMOKE

- "The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General." June 27, 2006. **www.surgeongeneral.gov/library/secondhandsmoke/**
- "Environmental Tobacco Smoke Position Statement." The American Society of Heating, Refrigerating, and Air-Conditioning Engineers. June 2005. **www.ashrae.org/doclib/20058211239_347.pdf**
- How Tobacco Smoke Causes Disease; the Biology and Behavioral Basis for Smoking-attributable Disease; A report of the Surgeon General, 2010. **www.smokefreewashington.com/protect_your_loved_ones/health_effects.php**

### FIRES

- "The Smoking Material Fire Problem", report of the National Fire Prevention Association, March 2012.



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