



Clear Gains in Smoke-Free Housing

Lessons From the Field

It is clear from the increasing availability of smoke-free multi-unit buildings that property owners and managers recognize the financial and health benefits of adopting these policies. Owners and managers have said that these benefits definitely outweigh the issues that arise as a result of smoke-free policies.

These issues and responses to them are addressed below and are based on the experiences and practices of [Wisconsin property owners and managers](#).

What is grandfathering? Should I allow it?

A smoke-free grandfathering clause in the lease allows current tenants to smoke while prohibiting new tenants from smoking. The grandfather clause can be for a defined period of time or it can be until the tenant vacates the property.

Grandfathering does have some negatives:

- *Enforcement difficulties*: it is difficult to know who is and who isn't violating the policy.
- *Grandfathered "smoking" units*: smokers of the building sometimes congregate in the grandfathered units.
- *Not smoke-free*: a grandfather clause does not create a smoke-free building because smoke is still present and can travel from unit to unit.
- *New tenants deceived*: new tenants may feel deceived as they believed they were moving into a smoke-free building, when in fact, they did not.

For these reasons, [Clear Gains strongly advises property owners to refrain from this practice](#).

What is an e-cigarette? Should I include it in my policy?

An electronic cigarette, or e-cigarette, is a battery operated device that, when heated, releases an aerosol or "vapor" that can contain nicotine and chemical substances. When deciding whether to include e-cigarettes to your policy consider:

- *Enforcement issues*: many e-cigarettes look like conventional cigarettes making enforcement difficult if e-cigarettes are not included in the policy
- *Fire hazards*: e-cigarettes have caused fires
- *Health effects*: the health effects of e-cigarette use is unknown and e-cigarettes have not been proven as an effective quitting device.

[Clear Gains recommends that e-cigarettes be included in all smoke-free policies](#).

What areas should I make smoke-free?

A voluntary smoke free policy can extend beyond the common areas mandated by the Clear Air Law to include individual units, entrances, patios/balconies, or the entire property. [To ensure that smoke does not drift in from open windows or doors, Clear Gains recommends that smoking be prohibited, at a minimum, in the first three areas](#). To help with compliance, some property owners have created a designated outside smoking area. Before doing this, determine if construction and maintenance expenses are available and ensure that the designated area is at least 25 feet away from windows, doors, and vents. Other property owners have chosen to ban smoking on the entire property, eliminating confusion about where smoking can and cannot occur.

What if I have tenants with a mental illness?

It is a common misconception that individuals with a mental illness need to smoke in order to cope with their disease and that these same individuals cannot quit smoking. [The reality is that people with mental illnesses can and do quit smoking](#). The implementation of a smoke free policy may help these individuals decrease the number of cigarettes they smoke which may help them quit altogether.

How do I enforce the smoke-free policy?

It is not unusual to have complaints about a violation. [A well written lease can make enforcement easier](#). The lease should contain:

- A definition of smoking
- Where smoking is and is not allowed
- The tenant's and landlord's responsibility in regards to the smoke-free policy.

The lease or lease addendum can contain example evidence to determine if a violation has occurred such as smells, clogged filters, burns, and others. Remember to outline your enforcement procedure, from verbal warnings to eviction.

Refer to the [Clear Gains Sample Lease](#) for more details.

Clear Gains: Wisconsin's Smoke-free Housing Initiative provides educational resources and assistance for property owners and tenants. This site also provides access to the [Clear Gains Smoke-free Housing Finder](#). This new tool allows property managers to publicize their smoke-free property(s) at no cost and allows tenants to search for smoke-free housing.

For more information please visit the Clear Gains website at www.wismokefreehousing.com or contact Deborah Grayson at Deborah.Grayson@lung.org or 262-703-4834.