

How to Implement a Smoke-free Policy: A Protocol for Condominiums



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The steps that follow are guidelines only. Depending on the size and nature of the condominium as well as the applicable law, the route to a smoke-free policy will vary. In addition, there is typically more than one mechanism available. For example, a prohibition on smoking in condominium units could be achieved by amending the declaration or rule. However, regardless of which governing documents are used, a no-smoking policy is a win-win situation— reducing costs and improving the indoor air quality for all residents.

Step 1: Do your homework

- Talk to the residents to find out who is experiencing second-hand smoke infiltration. The board of directors' property management and the owners will be able to make a much better decision if they know more about the problem.
- Get informed about the dangers of second-hand smoke. Did you know, for example, that second-hand tobacco smoke is so toxic there is no safe level? Or that both tobacco and cannabis smoke contain carcinogens and can trigger asthma attacks?
- Learn about the severe limitations of mechanical and repair 'solutions'. The fact is smoke is extraordinarily hard to contain and the only effective means of preventing exposure is to have an entirely smoke-free building.
- Review your current governing documents. The declaration, bylaws and rules will help inform you about the next steps.
- Read about other condos that have gone smoke-free. Information can be found on www.smokefreehousingon.ca You can find sample smoke-free language on the site.
- Become familiar with the *Condominium Act*. Carefully following the Act will help ensure that the right process is followed.

Step 2: Form a smoke-free policy committee or working group

- With the approval of the board of directors, form a smoke-free committee to study and work on the issue.
- Review the current situation, including complaints about second-hand smoke.
- Identify options, both in terms of the extent of a possible no-smoking policy as well as how it could be legally implemented (for example, by declaration or rule). Get legal advice, if needed.
- You may also wish to survey residents. A survey will help you learn more about the problem as well as the types of policies owners would support. A survey could answer questions such as:
 - What is the extent of the problem of second-hand smoke infiltration?
 - How many residents have health issues that are made worse by allowing smoking?
 - How many households already prohibit smoking inside?

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- What level of support could be expected for smoke-free bylaw options?
- Draft a policy. Consider input from all stakeholders (e.g. residents, property managers, board of directors) and decide on extent of policy:
 - Includes patios and balconies?
 - Includes buffer zones around doorways, operable windows and/or air intakes?
 - Includes entire property?
 - Provides designated smoking area(s) outside?
- Decide on a start date
 - Allow time for proper consultation and education. Focus messaging on the benefits of a smoke-free policy for all residents: safety, better indoor air quality and enhanced property values.
 - Spring and summer implementation sometimes work well because it allows residents to get used to smoking outside.

Step 3: Consider “grandfathering” issues

- Grandfathering, or exempting current owners or their tenants from a new rule or declaration, is a complex issue. Although grandfathering can sometimes be extremely useful in getting enough votes to pass a smoke-free policy, permitting current owners to smoke indefinitely can create ongoing problems with second-hand smoke.
- Grandfathering for a specified length of time, e.g. 6 months or one year, can sometimes be a useful compromise
- Please note, there is no legal requirement in Ontario for condos to grandfather smoke-free rules or declarations

Step 4: Develop a communications strategy

- Keep stakeholders (owners, tenant residents, board members, property managers) informed of what’s happening throughout the process.
- Remind tenants that they are required to follow the condo rules, declarations and bylaws.
- Check all relevant legislation and governing documents. There will be specific steps that must be taken to communicate the change. Failure to follow a specific protocol could jeopardize the whole process. Get legal advice, if needed.
- Once a start date has been chosen for a no-smoking policy, give owners and residents advance notice (e.g. 3 months).
- It may also be prudent to communicate with local realtors about the new smoke-free policy.
- Consider a broad communication strategy to raise awareness of the problem of second-hand smoke infiltration and the benefits of a smoke-free policy.

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- Use different vehicles to communicate with owners as well as tenants:
 - Use a newsletter or website
 - Social media
 - Send individual notices
 - Conduct face-to-face meetings
- Make the messaging positive and focus on the health benefits as well as the financial gains.
- Install signage (“Welcome to Our Smoke-free Building”) in the common areas
- Consider purchasing and installing butt stops and a smokers’ garden gazebo or shelter. Note that to remain in compliance with the *Smoke-free Ontario Act*, the shelter cannot have more than two walls and a roof.
- Consider additional communications 6 months – 1 year post-policy to remind residents of the policy and to thank them for their support.
 - Until there is absolutely no smoking permitted in the building, be sure to let everyone know you are in a transition process. If you do not take this step, some people might move in expecting an entirely smoke-free building.

Step 5: Develop an enforcement plan

- Be consistent and clear. All residents should feel that enforcement is being applied equitably
- Follow your governing documents and appropriate legislation (e.g. *Condominium Act*) when it comes to enforcement.
- Keep excellent records of incidents, complaints, etc.
- The enforcement plan could include the following steps:
 - Send a friendly written reminder clarifying the smoke-free policy on the first reported breach of the policy.
 - Send a warning letter(s) for the second breach (and x additional breaches) of the policy.
 - Hold one or more meetings with the resident violating the policy to discuss the problem and to explore possible solutions. Follow up with a letter clearly summarizing the content of the meeting. If the resident is a tenant, consider sending a copy to the owner.
 - Consider mediation, if both parties are willing.
 - Take legal action, if needed.