

Notice Requirements for Implementing a Smoke-Free Policy



A fact sheet for apartment managers on implementing a smoke-free apartment policy in Minnesota

Introduction

While implementing a smoke-free policy is beneficial to both landlords and tenants, the new policy may cause concern for some tenants. To ensure a smooth policy implementation process, landlords may find the following methods and steps to be helpful when notifying tenants of the policy change.

If a landlord and tenant agree to a change in the lease, such as inclusion of a smoke-free lease addendum, the change can be made at any time. In Minnesota, apartment buildings with 12 or more units are required to have a written lease, so the amendment to the lease for those properties must be in writing as well.

About the Policy Implementation Methods

Phase-in Method: The smoke-free policy is phased into the building as tenants renew their lease. Since many tenants may be on a 12-month lease, it usually takes about a year for the building to be completely smoke free.

Quit Date Method: The building manager announces a smoke-free date and all tenants sign a smoke-free lease addendum before that date. It usually takes a few months to notify tenants and make the building completely smoke free.

It is most likely that the Phase-in Method will be used with fixed term leases and that the Quit Date Method will be used for periodic term (month-to-month) leases, but both methods can be used for any lease terms. Contact Live Smoke Free at (651) 646-3005 if you would like more information on using these methods with your buildings.

Fixed-Term Leases (Definite Terms) & the Phase-in Method

Definition: In fixed-term leases, the unit is rented for a set length of time, and the tenant is responsible for paying rent for the entire period.

Process: Fixed-term leases generally state the termination notice requirements in the lease.

Notice Recommendation: For tenants with fixed-term leases and a notification period stated in the lease, tenants should be notified of the implementation of the smoke-free policy at least 30 days in advance of the termination notice period stated in their lease. If the lease does not have a notification period specified, the landlord should allow 30 days for the tenant to make a decision prior to a standard 30-day notification period.

Phase-in Method: New and renewing tenants are required to sign a new lease with the smoke-free lease addendum. Existing smokers are allowed to smoke until the end of their definite term lease and then be required to sign the new provision upon renewal. If they do not wish to sign the new smoke-free provision, management should inform the tenant that their lease will expire, and they will have to move out at the end of their lease term.

Fixed Term Lease Notification Example:

Tenant's lease is up for renewal on June 1st. The lease states that tenants must give 30 days notice to end the lease.

	April							
1								
	30							

Landlord gives notice of policy change on April 1st.

	May							
	1							
	31							

Tenant has until May 1st to notify landlord if he/she plans to move.

June							
1							
						30	

Smoke-free policy goes into effect on June 1st.

Periodic Tenancies (Month-to-Month Terms) & the Quit Date Method

Definition: Periodic tenancies do not have a specific lease term stated in the lease; generally the unit is rented on a month-to-month basis.

Process: Notice to terminate a periodic lease is required a day before the start of the next full lease term.

Notice Recommendation: For periodic tenancies, the landlord should send a letter to tenants at least 60 days prior to implementation of the smoke-free policy. This would allow the tenants 30 days in which to decide whether to sign the smoke-free lease addendum or to terminate their tenancy by providing adequate notice of termination.

Quit Date Method: If the building consisted of all periodic tenancies, a landlord could set a date at least two months in the future for adoption of the smoke-free policy and would thereby provide sufficient time for all tenants to either choose to accept the policy or to provide notice of termination of the lease and leave.

Periodic Tenancy Notification Example:

Unit is rented on a month-to-month basis. Tenant must give 30 days notice to end their tenancy.

	April							
1								
	30							

Landlord gives notice of policy change on April 1st.

Tenants who wish to end tenancy before smoke-free policy goes into effect must notify landlord by April 30th.

	Мау								
1									
					31				

All tenants who pay rent on May 1st are agreeing to stay through June or longer.

June							
					1		
						30	

Smoke-free policy goes into effect on June 1st.

A Note About Subsidized Housing and Housing Outside of Minnesota

This fact sheet provides guidelines for notice requirements based on Minnesota State landlord/tenant law. If your property is not in Minnesota, check with an attorney in your jurisdiction for notice requirements in your area. The Department of Housing and Urban Development (HUD) has similar notice requirements for properties receiving federal subsidies, but owners and landlords of federally supported properties are encouraged to contact their local housing authority or HUD office to confirm. Please contact Live Smoke Free at (651) 646-3005 if you have specific questions about adopting a smoke-free policy in subsidized housing.

Prepared by Warren Ortland, staff attorney with the Tobacco Law Center. Mr. Ortland provides legal consulting services to the Live Smoke Free multi-housing program. This fact sheet should not be considered legal advice or a substitute for obtaining legal advice from an attorney who can represent you. If you have specific legal questions, we recommend that you consult with an attorney familiar with the laws of your jurisdiction.

About Live Smoke Free

Live Smoke Free is a program of the Association for Nonsmokers—Minnesota that focuses on assisting apartment managers and renters in the Twin Cities metro area in finding solutions to the problem of secondhand smoke in apartment buildings.

Smoke-Free Apartments: Healthier Buildings, Happier Tenants, A Smart Investment.

www.mnsmokefreehousing.org

About The Tobacco Law Center

The Tobacco Law Center is a public interest law and policy think tank that helps local, state, national and international officials and tobacco control advocates use the power of law to address the epidemic of tobacco use.

Improving Health Through the Power of Law.

www.tobaccolawcenter.org