



# Secondhand Smoke Exposure and Tenants' Rights

## Dangers of Secondhand Smoke

The mixture of smoke coming from the burning ends of cigarettes and smoke exhaled by smokers is called "secondhand smoke." Secondhand smoke causes heart disease, asthma, lung cancer, respiratory infections, decreased respiratory function, and other health problems. Even a little exposure to secondhand smoke can be dangerous; the U.S. Surgeon General reported in 2006 that "the scientific evidence indicates that there is no risk-free level of exposure to secondhand smoke."<sup>1</sup> In Minnesota, approximately 580 deaths result each year as a result of exposure to secondhand smoke, and about 66,000 people are treated for illness or disease due to exposure.<sup>2</sup>

## Secondhand Smoke in Apartment Buildings in Minnesota

Secondhand smoke can travel through gaps along baseboards, through light fixtures, and in and out of doorways. The path smoke takes through a building is unpredictable. Generally it will move into units above the smoker's apartment, but it may move into adjacent units on the same floor or even into units below. Air cleaners and smoke eaters do not effectively protect against the movement of secondhand smoke in buildings; the only effective protection is to eliminate smoking in indoor spaces.<sup>3</sup>



## Reducing/Eliminating Exposure

### Common Areas

The Minnesota Clean Indoor Air Act (MCIAA) prohibits smoking in the common areas of rental multi-unit apartment buildings. Rental apartment buildings are defined as buildings with 3 or more rented living units. Indoor common areas include rental offices, entrances, hallways, laundry rooms, party rooms, exercise rooms, public restrooms, enclosed garages and indoor swimming areas. If you notice someone smoking in a common area, you can let them know of the restriction, or you can inform the landlord. If either of these steps does not resolve the matter, you can contact the Minnesota Department of Health at (651) 201-4601, or (800) 798-9050 (toll-free outside the metro area), or by visiting their web site at <http://www.health.state.mn.us/divs/eh/indoorair/mciaa>.

### Individual Dwelling Units

If smoke is coming into your apartment from another unit, you should write down what you are experiencing. Try to determine the source of the secondhand smoke and record the days and times of the day when the smoke is most noticeable. Keep a record of what you do to try to keep the smoke out. Keep track of all health problems and illnesses you experience as a result of secondhand smoke coming into your apartment, and talk with doctor about your health issues.

You have several options to attempt to stop secondhand smoke from entering your apartment:

- **Contact the smoker** directly and ask him or her to stop smoking.
- **Let your landlord know about the issue.** Although you may want to discuss the problem with your landlord informally at first, you should put your complaint in writing and keep copies of any letters and notes of telephone conversations with the landlord. These will be useful to you in case you need to use one of the legal options described on the next page.
- **Seek assistance from a third party.** You can talk with your neighbors to determine if they are experiencing the same problem and enlist their support. You can contact the building owner, if different from the person managing the building, and inform them of the issue. The owner may have already been considering making the building entirely smoke free.
- **You can get more information** on resources from the Live Smoke Free program at (651) 646-3005, or at <http://www.mnsmokefreehousing.org>. Suggestions for some quick fixes are available on the program's website at <http://www.mnsmokefreehousing.org/tenants/quickfix.html>.



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## Legal Options

Minnesota law requires that your apartment be "inhabitable" or livable. If the secondhand smoke coming into your apartment makes it unlivable and discussions with your landlord have not helped, you could consider legal options. Keep in mind, however, that lawsuits are not cheap and may take a long time to resolve. Some of the legal options that are available include:

- **Alternative dispute resolution (ADR).** Mediation and arbitration are forms of alternative dispute resolution that you could try before resorting to a lawsuit. These options are generally less expensive than filing a lawsuit and can provide results more quickly.
- **Legal services programs.** Depending on your income level, you may be able to receive free representation from a legal services provider. Go to <http://www.lawhelpmn.org> for assistance in locating a legal service provider in your area.
- **Telephone support or self-help services.** HOME Line offers free telephone support for tenants anywhere in Minnesota, except the city of Minneapolis. You can reach them at (612) 728-5767 or in greater Minnesota at (866) 866-3546. If you live in Minneapolis, contact Housing Services at (612) 673-3003. Also, check with the housing court or conciliation court in your area to see if self-help or walk-in clinics are available.
- **Attorney referral services.** State and county bar associations offer attorney referral services for assistance in finding an attorney with a landlord-tenant law specialty. Brief meetings with an attorney can be arranged for little or no fee.
- **The Minnesota Attorney General's Office** publishes a handbook on landlord and tenant law and may be able to answer some of your questions regarding your rights. The contact number is (651) 296-3353 or toll-free (800) 657-3787.



## Help with Disabilities

If you have a serious health condition that is affected by secondhand smoke, federal and state law may provide a way to get relief from the smoke coming into your apartment. The federal Fair Housing Act, the Americans with Disabilities Act and the Minnesota Human Rights Act require landlords to make reasonable accommodations so that individuals with a handicap or disability can use and enjoy their apartment.



For more information on housing and disabilities:

- Department of Housing and Urban Development (HUD), Minneapolis Field Office at (612) 370-3000, TTD – (612) 370-3186
- Minnesota Department of Human Rights at (651) 296-5663, (800) 657-3704, or TTY – (651) 296-1283

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<sup>1</sup>U.S. Department of Health and Human Services. *The Health Consequences of Involuntary Exposures to Tobacco Smoke: A Report of the Surgeon General – Executive Summary*. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Coordinating Center for Health Promotion, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. 2006.

<sup>2</sup>Waters, H.R., Stevens, S.S., Alesci, N.L., Samet, H. *The Economic Impact of Secondhand Smoke in Minnesota*. Johns Hopkins Bloomberg School of Public Health in collaboration with Blue Cross and Blue Shield of Minnesota. 2007.

<sup>3</sup>American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc. *Environmental Tobacco Smoke*. 2005.