



Smoke-free by-laws: know your options

Smoke-free by-laws can be introduced in your apartment complex to protect you and other tenants from secondhand smoke exposure

► Cancer Council NSW recommends a 100% smoke-free policy in apartment complexes

The NSW Government has provided model by-laws that prevent smoke-penetration from entering common areas or any other lot/apartment. However, Cancer Council NSW recommends a 100% smoke-free by-law on common property and all lots.

► Rationale for Cancer Council NSW's 100% smoke-free by-law

Smoke originating in one unit can penetrate nearby lots and common property.¹ Implementing 100% smoke-free policies are the most effective way to protect non-smoking residents from secondhand smoke.^{1,2} In a 2012 survey of residents in the US, partial bans – where smoking was permitted in private lots only – were associated with greater exposure to secondhand smoke than when smoking was permitted in common areas.³ A complete ban is the only way to ensure that residents are not exposed to secondhand smoke.

► Possible wording of a 100% smoke-free model by-law

An owner or resident of a lot, and any invitee of the owner or resident, must not smoke tobacco or any other substance on the lot or on common property.

► Did you know?

- Lots refer to apartments or individual dwellings
- Common property refers to shared areas within an apartment complex

■ Extract from Strata Schemes Management Regulation Released August 2016, enforced from 30 November 2016

■ Schedule 3 Model by-laws for residential strata schemes

(Clause 37)

Note. These by-laws do not apply to a strata scheme unless they are adopted by the owners' corporation for the strata scheme or lodged with the strata plan.

■ Smoke-penetration

Note. Select option A or B. If no option is selected, option A will apply.

■ Option A

1. An owner or resident, and any invitee of the owner or resident, must not smoke tobacco or any other substance on the common property.
2. An owner or resident of a lot must ensure that smoke caused by the smoking of tobacco or any other substance by the owner or resident, or any invitee of the owner or resident, on the lot does not penetrate to the common property or any other lot.

■ Option B

1. An owner or resident of a lot, and any invitee of the owner or resident, must not smoke tobacco or any other substance on the common property, except: (a) in an area designated as a smoking area by the owners' corporation, or (b) with the written approval of the owners' corporation.
2. A person who is permitted under this by-law to smoke tobacco or any other substance on common property must ensure that the smoke does not penetrate to any other lot.
3. An owner or resident of a lot must ensure that smoke caused by the smoking of tobacco or any other substance by the owner or resident, or any invitee of the owner or resident, on the lot does not penetrate to the common property or any other lot.

➤ **The full Strata Schemes Management Regulation 20167 is available from the NSW Legislation website**

■ Model (example) by-laws about smoke-penetration are available

In 2016 the NSW Government changed the regulations for the management of strata schemes. The result of this was the inclusion of model, or example, by-laws about smoking in apartment buildings. By-laws are not laws that are enforced by the government, instead they are rules that a community or corporation agree upon. As such, they are governed by the strata schemes in each individual apartment complex. Owners' corporations can decide which by-laws they want to use from the list of possible model by-laws. They can write a new by-law or they can decide not to have any by-laws about people's smoking behaviour.

Cancer Council NSW commends the NSW Government for providing model by-laws that specifically address smoke-penetration in strata schemes in order to protect

owners and tenants from exposure to secondhand smoke. However, all options for reducing exposure to secondhand smoke should be available to tenants when addressing the issue of smoke-penetration in apartment complexes.

■ Some strata schemes in NSW have already adopted smoke-free by-laws

Cancer Council NSW in 2015 randomly sampled 1,308 strata schemes and found that around 200 of them have already implemented smoke-free by-laws. Some strata schemes have even implemented 100% smoke-free by-laws.⁴ This is part of a growing trend of Australians choosing to make their homes smoke-free.^{5, 6} There are no known challenges to these by-laws being implemented since 2011.

REFERENCES

- ¹ King, B.A., et al., *Prevalence and predictors of smoke-free policy implementation and support among owners and managers of multiunit housing*. *Nicotine Tob Res*, 2010. 12(2): p. 159-63.
- ² Russo, E.T., et al., *Comparison of indoor air quality in smoke-permitted and smoke-free multi-unit housing: findings from the Boston Housing Authority*. *Nicotine Tob Res*, 2015. 17(3): p. 316-22.
- ³ Wilson, K.M., et al., *Tobacco smoke incursions in multi-unit housing*. *Am J Public Health*, 2014. 104(8): p. 1445-53.
- ⁴ Cancer Council NSW. *Achieving smoke-free apartment living: a summary of two research projects*. 2016 [Accessed 13/10/2016]; Available from: <http://www.cancercouncil.com.au/133538/cancer-prevention/smoking-reduce-risks/achieving-smoke-free-apartment-living-a-summary-of-two-research-projects/>.
- ⁵ NSW Ministry of Health Centre for Epidemiology and Evidence. *NSW Population Health Survey*, (SAPHaRI). 2015 [Accessed 12 September 2016]; Available from: <http://www.health.nsw.gov.au/surveys/adult/Pages/default.aspx>.
- ⁶ Australian Institute of Health and Welfare. *National Drug Strategy Household survey*. 2013 [Accessed 12 September 2016]; Available from: <http://www.aihw.gov.au/alcohol-and-other-drugs/ndshs-2013/>.
- ⁷ New South Wales Government. *Strata Schemes Management Regulation*. 2016 [Accessed 12 September 2016]; Available from: <http://www.legislation.nsw.gov.au/>.