

## Tenants' Frequently Asked Questions

**Q.** What can I do about secondhand smoke coming into my apartment unit?

**A.** If secondhand smoke is drifting into your apartment, your health may be at risk. Think about whether you would like to move to a non-smoking building or try to work with neighbors and the landlord to make your building non-smoking. It is important to document the problem as in as much detail as you can. Write down where and when smoke is coming into your apartment. Put all of your requests to your landlord in writing and keep copies of everything. Ask your doctor if they would be willing to write a letter on your behalf on how secondhand smoke is affecting your health.

**Q.** Is there anything I can do RIGHT NOW about the smoke?

**A.** Please note that the only way to avoid the health hazards of secondhand smoke is by living in a completely smoke-free building. However, right now you can:

1. Talk to the smoking neighbor. Your neighbor may not realize that their smoke is a problem for you. Politely let your neighbor know that smoke is coming into your apartment.
2. Ask your landlord to improve air filtration by:
  - a. Adding more fresh air intake into the ventilation system
  - b. Clean, change, or install better filters in the ventilation system
3. Seal off your apartment and the smoker's apartment:
  - a. Install door sweeps
  - b. Fill or patch any cracks in the walls
  - c. Insulate the air spaces around plumbing pipes
  - d. Insulate and place outlet covers over electrical outlets

**Q.** Are there any laws prohibiting smoking in multi-unit housing buildings?

**A.** Colorado's Clean Indoor Air Act law prohibits smoking in restrooms, lobbies, hallways and other common areas in public and private buildings, condominiums, and other multi-unit residential facilities. However, it is perfectly legal for multi-unit housing facilities to implement their own smoke-free policies beyond the Colorado Indoor Air Act, including private resident units, outdoor areas, etc. (See next question)

Common areas in apartments, lodges, and retirement facilities are covered in these sections of the law:

25-14-204. General smoking restrictions.

(1) Except as provided in section 25-14-205, and in order to reduce the levels of exposure to environmental tobacco smoke, smoking shall not be permitted and no person shall smoke in any indoor area, including, but not limited to:

(p) Restrooms, lobbies, hallways, and other common areas in public and private buildings, condominiums, and other multiple-unit residential facilities;

(u) The common areas of retirement facilities, publicly owned housing facilities, and nursing homes, not including any resident's private residential quarters;

For more information about Colorado's Clean Indoor Air Act visit: [www.smokefreecolorado.com](http://www.smokefreecolorado.com)

**Q. Is it Legal to Make Multi-Unit Housing Non-Smoking?**

- A.** Yes, it is legal for multi-unit housing facilities to implement their own smoke-free policies, including private resident units, their grounds, parking lot, etc. There is no “right-to-smoke” according to the U.S. Constitution and no court has ever recognized smoking as a fundamental right nor has any court ever found smokers to be a protected class. “No Smoking” rules for apartment units or condominiums are in the same legal category as “no pets” or “no loud noise” rules. They are legal policies that reduce property damage and protect tenants’ right of quiet enjoyment.

**Non-Smoking Policies Can Be Implemented**

- \* Federal anti-discrimination laws do not protect people who smoke.
- \* It is legal to advertise a unit (residential or commercial) as "smoke-free."
- \* It is legal to ask tenants to acknowledge in the lease or month-to-month rental agreement that they do not smoke and/or will not smoke in the unit they are renting.
- \* Nearly 83% of Colorado adults do not smoke, and more than 85% smokers want to quit.

**Q. Where can I find a listing of smoke-free properties?**

- A.** For the most current listings of smoke-free housing in Colorado, please go to: [www.mysmokefreehousing.com](http://www.mysmokefreehousing.com). Also, you can use [denver.craigslist.org](http://denver.craigslist.org) and put "smoke-free" or "no-smoking" in your search field under the housing category.

**Q. Can I sue?**

- A.** You may wish to seek the advice of an attorney to represent you and consider the feasibility of bringing legal action against the offending tenant, the landlord or condominium, or both, under theories of nuisance or negligence, breach of the covenant of quiet enjoyment, etc. Keep in mind that going to court can be expensive, take a long time, and can get expensive.

**Q. I keep getting the run-around on this issue. Where can I go for help?**

- A.** We hope this information has been helpful to you. **YOU ARE NOT ALONE** and many people are concerned with this issue and are working to make smoke-free housing the norm, not the exception. For additional information or assistance, please contact:

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Updated January 2009