

Tips for Residents on Dealing with Tobacco Smoke Infiltration from Neighboring Units in Apartments and Condominiums

GASP of Colorado (Group to Alleviate Smoking Pollution)

The Web links underlined in [blue](#) relate to the tips provided in this paper.

Many residents have been suffering from tobacco smoke intrusion into their residences from neighboring units. We hope you find the following information and suggestions helpful in dealing with this issue. You are not alone and many people are working to increase the implementation of smoke-free policies in multi-unit residences. For additional information or assistance, please contact [GASP of Colorado](#). **Please note that nothing in this paper shall constitute legal advice.**

Important Note: If you decide to take action to eliminate or reduce tobacco intrusion in your residence, then writing them down is highly recommended. Feel free to use GASP's tracking [form](#) for this purpose.

1) Determine where the smoke is coming from

Tobacco smoke often migrates through ventilation systems but also can come through gaps around plumbing fixtures, baseboards, sprinkler heads, light-fixture openings, plaster cracks, bathroom fans, and other unsealed openings. Sealing the largest openings with foam or mineral wool may help. Other [sealing options](#) may help reduce the tobacco smoke coming into a unit; however, these options may not eliminate the harm caused by the exposure to secondhand smoke. No air-filtration device currently available can get all the toxic or cancer-causing chemicals in tobacco smoke out of the air, according to the 2006 [U.S. Surgeon General's Report on Secondhand Smoke](#).

2) Examine the lease

Many activities, which occur in one apartment, but which cause annoyance, irritation, or health problems in another are often, regulated or prohibited outright in a lease. Common examples are the playing music too loudly, having late-night parties, storing paint or other flammable materials, playing ball or other activities that cause excessive vibrations, etc. Smoking may be another restricted activity, particularly when tobacco smoke that drifts from one unit to another is objectionable or creates health problems for a resident. If your lease has such a clause, bring it to the attention of the management, as smoking may constitute a breach of the lease, covenants, or condominium regulations. Colorado's [Clean Indoor Air Act of 2006](#) also requires that all common areas and 15 feet from the main entryway of any public building be smoke-free. Experts agree that there is no [constitutional right to smoke](#), even in one's own dwelling.

3) Obtain medical documentation

If you or others in your residence have a health condition such as asthma, hay fever, allergies, pulmonary, or cardiac disease that makes them more sensitive to exposure to tobacco smoke, then a letter should be obtained from your physician. Once a letter is obtained from a doctor, inform the management (and possibly to the persons who are smoking) by sending them a copy of the letter by certified mail, return receipt requested. Before putting anything in writing, please review the [letter-writing tips](#) GASP has developed.

Even in cases where there is no recognized medical condition, it may be possible to obtain such a letter by demonstrating to a physician that exposure to tobacco smoke causes specific problems (such as headache or sore throat). If these efforts do not produce results and you have a medical condition that is made worse by secondhand smoke, you may be able to file a complaint under the Colorado Fair Housing Act (see item number 7).

4) Put it in writing

To have management take the issue seriously, write them a letter and send a copy to a local health department. Feel free to use the suggestions provided in our [letter-writing template](#). Educate the management about the [economic benefits](#) of smoke-free policies such as the reduced costs of cleaning up after smokers, fire danger, etc. Because 83% of all adults in Colorado do not smoke, there is a market niche for smoke-free housing. The management may assume that they cannot implement a no-smoking policy in a building; however, the [Colorado law](#) allows such policies and several hundred buildings have already implemented them. If you have a good relationship with management and feel you can discuss the problem without getting too emotional, you may want to try talking to management first and then follow it with a letter if necessary. For some good talking points to use with management, visit <http://smokefreeoregon.com/housing/tenants/index.php>

5) Seek out others for support

A common complaint coming from many people is more likely to be taken more seriously than a complaint from only one person. Other people in your building may also be experiencing problems with tobacco-smoke coming into their units. Try to contact other neighbors, participate in resident meetings, write an article for an apartment newsletter, and post notices in elevators and on building bulletin boards. Other residents may be sympathetic and lend valuable support. Conducting resident surveys with the consent of management may help convince management that most residents support a smoke-free policy.

[Local health departments](#) with tobacco-prevention programs may be able to provide guidance, assistance, or educational materials. Tenants' rights groups may also be helpful.

Educate people about the dangers of secondhand smoke. People who might not otherwise be concerned about tobacco smoke may view it quite differently if they know that secondhand smoke causes lung cancer, heart disease, has 250 toxic and cancer-causing chemicals, and causes 50,000 deaths each year. For more information about secondhand smoke, visit the [GASP Web site](#) or the [Surgeon General's Web site](#).

6) Consider and propose different remedies

There may be other steps which can be taken, and which could be suggested to the management. These include patching up any leaks; adding more fresh-air intake into the ventilation system; changing, cleaning, or installing better filters; and restricting the amount of air exhausted through the ventilation system. Most smokers — 85% — want to quit smoking. Offer to help them quit smoking, and consider offering to help pay for

the costs. Let them know about the [Colorado Quit Line](#) Web site and phone number 1-800-QUIT-NOW (800-784-8669).

7) Consider your Fair Housing Act options

There are usually no legal costs involved in filing a Fair Housing Act complaint if you or other residents have a disability related to exposure to secondhand smoke. HUD residents with a medical disability may be able to seek some assistance through several [agencies](#). Filing a complaint is not easy, but may lead to a resolution. For example, a complaint filed in 2007 led to a smoke-free policy being implemented in an entire building in Boulder. For more information about the process, review the [Fair Housing Act & Secondhand Smoke](#) paper and contact [GASP of Colorado](#) for some tips and suggestions before proceeding with a complaint.

8) Consider obtaining legal advice

You may wish to seek the advice of an attorney to discuss the feasibility of bringing some sort of legal action. When considering taking legal action, a resident will generally have a better case if they can demonstrate and document that they have made every attempt to resolve the problem first. Keep in mind that going to court can be expensive, take a long time, and there is no guarantee of winning. If you have never obtained legal help you may want to read these general [tips](#) about hiring a lawyer.

GASP of Colorado can provide some attorney referrals but cannot provide legal advice. A list of legal resources that may be able to assist is available [on-line](#) and through GASP. For lawyer referrals experienced in real estate law also contact the [Colorado Trial Lawyers Association](#) (303-831-1192) or the [Colorado Bar Association](#) (303-860-1115). The [United Way](#) may also be able to help provide legal referrals. Once an attorney is hired, they may want to contact the [Tobacco Control Legal Consortium](#) (1-651-290-7506) for additional legal research on the issue.

9) Should moving be considered?

Why isn't the person causing the problem asked to cease the activity or move? Unfortunately there are no laws in Colorado that currently prohibit smoking in the individual units in multi-unit residences. Moving might be considered as an option as it may be easier and less expensive than a lawsuit if it is possible to get out of the lease. However, make sure the next place is a smoke-free building. The [Colorado Guide to Smoke-Free Housing](#) may be helpful since it provides a list of multi-unit residential buildings that do not allow smoking inside or on the entire property. Also check <http://www.craigslist.org>.

10) Web resources

Smoke-free housing is gaining momentum throughout the US and Canada. Check out the resources and tips for property owners and residents provided by other groups working on smoke-free housing.

Where Can You Obtain Further Assistance?

[GASP of Colorado](#) can provide many other papers, fact sheets, sample surveys and letters, and other materials that are not posted on this Web site. GASP may also be able

to assist with writing letters and complaints, or provide referrals to our health partners or other groups. However, GASP of Colorado cannot provide legal assistance or advice.

Your tax-deductible [donation](#) of \$50 or more to GASP helps support educational and advocacy programs like these. The Group to Alleviate Smoking Pollution (GASP of Colorado) is a 501-C-3 statewide nonprofit organization established in 1977 that promotes and advocates for smoke-free policies, educates the public about the dangers of secondhand smoke, and provides assistance for people having problems with tobacco-smoke pollution. GASP of Colorado is supported by member and public donations and receives some tobacco prevention funding from the state of Colorado.

**Nothing in this paper shall constitute legal advice.
Please consult an attorney before pursuing legal action.**

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