

Talk to Your Landlord or Property Management Company about Tobacco Smoke

If tobacco smoke, marijuana smoke, smoke from Electronic cigarettes or even barbeque smoke is entering your apartment or condominium, it is extremely important that you talk about the problem with whoever is in charge of your building. Surveys have shown that most people with this kind of problem don't complain. But breathing tobacco smoke or marijuana smoke or even barbeque smoke can cause medical problems. It doesn't make sense to allow yourself or the members of your household to be harmed by smoke.

Because there is more research about tobacco smoke, this section will focus on tobacco smoke. Feel free to print out the attachments in order to share them with your landlord, the property management company that manages the building, or the Board of the Homeowners Association if you live in a condominium.

Some landlords and/or staff of property management companies may not have enough information about the problem of drifting tobacco smoke in apartments and in condominium buildings. They may not understand that tobacco smoke can actually move throughout a building through plumbing, electrical systems, and even through microscopic cracks in walls and floors. There have been many scientific studies about this problem. Here is a news release about one study done by the Los Angeles County Department of Public Health. Because tobacco smoke will expand to fill the space available to it, there is a serious health hazard when smoking is allowed inside an apartment or condominium building.

[LA County Reveals Secondhand Smoke Dangers for Non-Smokers in Multi-Unit Housing](#)

When people are smoking outside in a courtyard or on balconies or patios, the smoke will actually be pulled into near-by windows and doors because of the difference in air pressure. Sometimes, even when windows and doors are closed, the smoke will still enter because our buildings are not built to be air tight. When people are smoking in their units with their windows open, the smoke can exit their windows and enter near-by windows.

The California Air Resources Board (ARB), a state agency, has the responsibility for regulating outdoor air. The ARB did a study of tobacco smoke outside and came to the conclusion that tobacco smoke outside is a Toxic Air Contaminant with no safe level of exposure, able to cause illness and even death, as dangerous as the worst industrial air pollutants. For that reason, it is a good idea not to allow smoking on balconies, patios, and in courtyards. Here is a news release from the California Air Resources Board explaining that tobacco smoke should be considered a Toxic Air Contaminant with no safe level of exposure.

[California Identifies Second-Hand Smoke as a "Toxic Air Contaminant"](#)

Apartment owners, nationwide, have the legal authority to require no smoking in their apartment buildings, no matter what size the building is. Landlords can require no smoking in common areas, on balconies and patios and even in units. [There is no Constitutional Right to smoke](#) Some people who smoke will say they have a right to smoke. Actually, that is not true. It is misinformation from the tobacco industry. Choosing to smoke is like choosing to have a pet. Landlords can require no pets (except service animals) and landlords can also require no smoking. The no smoking requirement should be written into the lease or month-to-month contract.

Because the smoke is so dangerous (it can cause illness and even death), it should be considered a nuisance. Landlords have a legal obligation under common law to provide a space which is safe and habitable. When tenants are breathing their neighbor's tobacco smoke, their units are not safe or habitable. In California, a landlord can give the person who is smoking a 30-day notice to "perform or quit." The 30-day notice should state that in 30 days, unless the person stops smoking on the property, the landlord will take legal action to begin an eviction. In California, if the person has been living in the apartment unit for more than one year, the notice should be a 60-day notice.

In California, some landlords are hesitant to begin an eviction process. They worry that the judge will not agree with the request for an eviction. For that reason, it is important for the families who are breathing the smoke to go to court with the landlord and testify about what they are experiencing. For example, when children are breathing tobacco smoke, they may develop asthma. If they already have asthma, the smoke will make their asthma worse. There is no medicine for asthma that will protect a child or an adult from tobacco smoke. When children are breathing tobacco smoke (and adults as well), they are more likely to get sick more often, including colds and lower respiratory infections. Small children can get ear infections and even pneumonia. If families are afraid to go to court, perhaps they can write a letter and get it notarized so that the letter can be given to the judge.

Sometimes even your neighbors who are suffering from breathing tobacco smoke don't understand how dangerous it actually is. Here is a fact sheet you can give to your neighbors to help them understand the dangers of continuing to be exposed.

[Facts about Secondhand Smoke in Apartments and Condos](#)

When tobacco smoke is drifting into apartment and condominium units, the smoke will stick to walls, floors, furniture, window coverings, and even clothing and then will outgas back into the rooms, even when no one is smoking. That is called third-hand smoke and it, also, is very dangerous. Scientists have found chemicals from third-hand smoke in the dust of the air in units that have been smoked in, weeks after the units have been cleaned. Here is a document about third-hand smoke. This is still another reason why it is important for apartment and condominium buildings to become non-smoking.

[Facts About Third-Hand Smoke](#) **[Protecting Your Property from Damage and Yourself from Liability](#)**

When landlords allow smoking in a unit, it costs so much more money to prepare that unit for the next tenant. In order to get it as clean as possible, he/she will need to wash the walls before paint will stick to the walls. He/she will need to replace the rugs and the window coverings. In some units where there has

been a lot of smoking for many years, landlord have even had to replace the glass in the windows because there is a dense, brown coating on the windows that will not wash off. Also, appliances may have to be replaced because they have turned color. Another benefit for landlords is that some insurance companies (CIG – Capital Insurance Group on the West Coast) will give a 10% discount for a smokefree building.

Please visit other sections of this website for more information you may want to give to the management of your building to help them to understand the problem you are having.