

Resident Complaints About Smoking in Apartments and Condos

The Colorado Clean Indoor Act prohibits smoking of tobacco and marijuana in the common areas of residential buildings and within 25 feet of the main entrance as of July 2019. It does not prohibit smoking in the units of a multiunit building, and such laws exist only in some local communities in California.

GASP provides a number of tips and resources to assist multiunit-building residents. Housing providers are not required to prohibit smoking in an entire building, so some residents are forced to move or continue to live in an unsafe and unhealthy environment. In this special report GASP documents a variety of the e-mail complaints received from Colorado residents. The names of the residents and the city they live in have been left out, as many residents are afraid to go public about their concerns. In addition, some e-mails have been edited for clarity and due to length.

Tobacco Smoke Drifting Into My Apartment

"One or more people on my floor smokes very heavily. Most nights, the hallways of the building smell like smoke, and the smell seeps its way into my apartment unit. Some nights, it is hard to breathe in my own apartment. Some mornings, I wake up with phlegm in my throat, and when I cough it out, I discover that the phlegm is gray. Any clothing item not stashed away in my closet smells like smoke. I really want something to be done about this awful problem. I am going to approach the building manager about this issue, but I want to equip myself with resources before I meet with him. What can be done about this issue? I like my apartment and I want to keep living here, but this problem is endangering my health."

"With the current hot weather, I have to have my windows open. Several residents, manager, and maintenance person smoke in the central outside courtyard. Some residents sit on the stairs and smoke every day. My whole apartment smells like an ashtray. The apartment manager has threatened me with eviction for simply calling him with maintenance requests. Therefore, I have to remain anonymous as I cannot afford to move out at this time."

"I am very sensitive to smoke and the tenant below me smokes like a chimney. I feel unhealthy most of the time because of the filthy air I am forced to breathe. I don't know what to do. I pay a lot of money for rent and I feel like I am being abused. Can you tell me what I can do? Can you at least point me in a direction to get out of this dilemma?"

"I recently moved into this facility and signed a lease that all smoking had to be done outside and at least 25 feet from the building. I moved here because I don't smoke and never have, and I thought it would be a great place. However, I noticed the halls were full of smoke at times and it permeates the halls and under the doors. I have asthma and just had a bout with cancer. The people in the apartment below me smoke by the window and it rolls up into my apartment through the windows. I have spoken to the manager many times about this and she claims the people have the right to smoke because they were in here before the rule was put into effect. I don't agree. If I signed a lease telling me not to smoke because it is a nonsmoking building, then everybody should not smoke."

Marijuana Smoke Entering My Housing

"I live in a townhome complex where patios are 10 ft apart. I have a neighbor who smokes cigarettes and marijuana all day long as she does not work. This is usually 13-15 hours a day. My HOA says that smoking is not considered "noxious or offensive" and is considered "generally part of today's society". I have tried to battle this as I should not have to breath in her smoke and pot as I do NOT smoke and do NOT do drugs. My HOA says I can complain to the board but they have dismissed this as a non- issue when contacting the president. How do I get rights in this situation?? I cannot have my dog barking or stereo playing on my patio as to not "offend" my neighbors so why is this health hazard as well as my having to breath in her drugs considered not a problem. I have tried to talk to the people who smoke this and they say they can do what they want on their patio. YES I WANT TO BE ON MY PATIO TOO without having to breath her smoke and pot all day. I work from home and this person does not work at all so she sits on her patio and smokes all day every day.... all year long... no matter the weather. I want to know what my rights are in this. How can this multi-unit dwelling say that nonsmokers have no rights???? PLEASE HELP ME!!"

"I need a test to detect marijuana smoke that is coming through a bathroom exhaust vent in my ceiling from the condo unit above me."

"I live in a smoke-free building. The lease states this including marijuana. The apartment next to me smokes cigarettes and marijuana. I have to walk through the smoke to enter or leave my apartment. I have asthma and migraines from the smoke which also infiltrates my apartment. I have contacted the management company several times and the corporate office with no resolution. Please advise what else I can do to stop this."

"This question is in regards to my daughter who is in a non-smoking apartment building in Fort Collins. She notified management in September 2018 that her neighbor was smoking marijuana and the odor was coming into her apartment."

Management has been slow to respond and instances of odor were intermittent until the past couple of months. Management inspected the neighbor's apartment in February and issued a cease and desist for any smoking in the apartment, including tobacco. Neighbor now has an ash tray outside his door and smokes tobacco on walkway ... my daughter must walk past his apartment to get to her apartment (they are on the second floor and his apartment is by the stairs.) Manager says it is legal for him to smoke on the walkway, but my daughter is exposed to his second-hand smoke. Is he in violation of the Clean Air Act smoking on the common walkway which is the only egress for my daughter from her apartment? If so, what recourse does she have? We are also concerned about the marijuana odor that continues to seep into her apartment from what appears to be hot-boxing in his bathroom. FYI, he has not stopped despite the cease and desist, and my daughter must "prove" that she is smelling smoke."

"With the advent of new laws allowing possession of marijuana for personal use, we are now experiencing residents smoking pot on their patios in our apt complex. Are there any specific guidelines about this? The smoke and lingering odor are offensive and unhealthy. What steps can I take?"

"Just this week, my downstairs neighbors must have changed their smoking habits (marijuana?), because now the smell is in my apt. in the mornings and evenings (daytimes?) I work, so not sure). I have had to close my lanai windows and other windows because the smoke is coming in that way as well as through the walls. I have allergies and asthma and can't continue to live here (Windsor Gardens) if this doesn't stop. I moved here just eight months ago and this smoke issue would happen about once a month and that I could tolerate. But this week, it's every day."

I am Gasping and I Need Your Help!

"I recently moved into a new apartment and I knew it was a smoking building but I have lived in smoking buildings before. This one is VERY different as my downstairs neighbor smokes and the building isn't properly ventilated. My apartment is filled with smoke all the time. I am living in a cloud of smoke and it is uncomfortable and it is hazardous to my health. No one will help me. The landlord thinks this is not a problem and I should just live with it. Do I have any rights? Is there anything I can do to get out of my lease?"

"Thank God I found your Web site! I've been suffering from my neighbor's secondhand smoke for almost two years, and it has adversely affected my health. I even have a note from my doctor, which I gave to my landlord. I renewed my lease because on my extremely limited income I can't afford pay anymore for rent. Recently I inherited some money from a deceased relative and the first thing I wanted to do — after yet another miserable respiratory infection — was to remove myself from the situation and find a smoke-free place. My landlord does not want to allow me to break the lease and says I knew this when I renewed my lease. She says she's powerless to make the building smoke-free while tenants' leases are still in effect, and has made no efforts to investigate ways to alleviate the problem. Can you help me?"

"My neighbors smoke and it is getting into my apartment from the heating vents. The building will not take responsibility for the problem, and management says this was never a smoke-free facility. They told me to move at my own expense and to pay a fee to break the lease. There has to be legal rights for tenants and I need to know where to go for information and legal advice. Any information you could provide would be great."

"Is it legal to write a lease that prohibits the tenants from smoking in or around the house? If the tenant violates the lease agreement what are the legal actions I can take for damage recovery?"

Problems in Town Houses and Condominiums

"We hate smoking and understand the effects it has on the environment and on a person's health. What prompted us to look up help, find your group, and contact you now is because our family is severely suffering in our town home! Everyday cigarette smoke seeps through our walls, windows, vents, etc. We have contacted our landlord twice about the problem and have also explained to our neighbors, the smokers, that we are allergic and the health effects the smoke is causing for us. Our neighbors are getting very defensive about their habits and I am sure this is only the beginning of this. I am contacting your group to see what kind of information I can get about this issue."

"I own my condo and have problems with the neighbor's secondhand smoke coming from their front or back patio into my windows and back sliding door. I live in a small unit and there is nowhere to get away from it. The neighbor's smoke also seeps into my fireplace and through my closet in my bedroom. I am not sure what to do or what can be done. I have a high sensitivity to smoke, my face swells, I choke, my lungs hurt, I vomit, and I get disoriented. It seems like my body reacts to smoke of any kind. It is horrible and I was wondering what to do."

"We purchased a home in Colorado recently. It had new paint and carpet and looked great when we bought it. We received no report that the previous owners and tenants were smokers. One month into our new home we began to smell cigarette smoke. It has gradually gotten worse. We have closed off the worst-smelling rooms. What can we do? We never wanted a smoker's house!" Can GASP Help Me?"

"Do you have a list of housing developments/ buildings in Denver that are smoke-free? My Realtor doesn't know of any. Do you have any resources that might help me convince my current HOA to do some remediation (weather-stripping door jambs, air filter...etc.)?"

"Our downstairs neighbors smoke and the smell comes into our apartment every night. Our place is unlivable on weekends. In our lease agreement, it says no occupant may threaten the health, comfort, or convenience of another occupant. I think the landlords are violating this as we cannot even be in our living room for a large part of the day."

"Hello! I am really hoping you can tell me when you will be updating your list of non-smoking apartments at mysmokefreehousing.com? I'm looking to move here in a couple months and would really love to live in a no-smoking building. All the places I've checked out allow smoking and pets. OK, some pets I can handle but not the smoke! Please let me know what you know or what you can tell me! Thanks for your help!"

A Positive Outcome Thanks to GASP

"I have been working with another resident for several years to my apartment complex to become nonsmoking. Finally, both buildings are nonsmoking. Tenants are no longer allowed to smoke anywhere in the buildings, only outside. Thank you for all the help and information that you gave to us."

"Thank you so much for the information at mysmokefreehousing.org and the resources it provides. I was able to make a case to our condo complex's board, and the majority of residences voted to make the building smoke free. The building has 25 units and we are now fully smoke-free. Thank you so much."

***This document is provided as a public service and is not intended as legal advice.
Please consult an attorney before implementing a smoke-free policy.***

MySmokeFreeHousing.org

- Tips on how to implement a policy • Sample leases and resident surveys • HUD toolkits and memos • Enforcement tips, free signage • Links to other web resources • Health information about secondhand tobacco and marijuana smoke

MySmokeFreeHousing.com

- Lists thousands of multiunit residential buildings and properties in Colorado with no-smoking policies • Offers a free listing to publicize your buildings