

## The Legality of Smoke-Free Multiunit Policies in Colorado

More than 7,000 multiunit apartments and condominiums in Colorado have adopted policies restricting smoking in all units, common areas, balconies, patios, and entrances. Many of these also prohibit smoking on the entire grounds. Visit [mysmokefreehousing.com](http://mysmokefreehousing.com) for the most up-to-date list.

The [Colorado Clean Indoor Air Act](#) allows housing providers to make any part of their property non-smoking and prohibits smoking in all indoor common areas. It also covers vaping and marijuana smoking. HUD requires housing authorities that provide public housing to have a smoke-free policy and encourages the implementation of no-smoking policies in other HUD-subsidized housing.

Policies that restrict or prohibit smoking in apartments or condominiums units are similar to policies that restrict pets, noises, odors, and other nuisances. If a housing provider decides to prohibit smoking anywhere on or in their properties, they must include this prohibition in the lease or an addendum incorporated to the lease. Simply posting a sign may not do the trick. However, posting signs throughout the property will help with compliance with the policy.

Condominiums and HOA rules may require a vote of the majority of the owners and/or Board prior to instituting a no-smoking policy for anything other than common areas.

### Is There a Constitutional Right to Smoke?

According to the [Tobacco Control Legal Consortium](#)

No, there is no right to smoke tobacco according to the U.S or Colorado Constitution.

The “right to privacy” in the U.S. Constitution includes only marriage, contraception, family relationships, and the rearing and educating of children.

While certain groups of people — such as groups based on race, national origin and gender — receive greater protection against discriminatory acts under the U.S. Constitution than do other groups of people, people who smoke, by virtue of that status, have never been identified as a protected class.

No-smoking policies are not discriminatory because smoking is a behavior, not a condition of birth, and can be overcome or stopped.

*This fact sheet is provided as a public service and is not intended as legal advice.*

For more information on smoke-free housing in Colorado, visit [mysmokefreehousing.org](http://mysmokefreehousing.org)