



Are Smoke-Free Multifamily Policies Legal in Colorado?

More than 13,000 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 in all buildings and the entire grounds. The Group to Alleviate Smoking Pollution provides a list at 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 like policies that restrict pets, noises, odors, and other nuisances. If a housing provider decides to prohibit smoking anywhere on their properties, they should 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 most 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?

There is no right to smoke tobacco according to the U.S or Colorado Constitution, according to the [Public Health Law Center](#). 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.

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Information about GASP and secondhand smoke | gaspforair.org^[1]_{SEP}
Smoke-free housing listings and resources | mysmokefreehousing.org
Information on secondhand marijuana smoke | smokeissmoke.com