



Smoke Free Housing for Condominium Owners and Homeowner Associations

OVERVIEW

Condominium owners can be affected by secondhand and third-hand smoke in the same way as apartment tenants. Tobacco smoke drifts throughout buildings from one condo unit to the next, seeping into units through crawl spaces, attics, basements, light fixtures, plumbing, walls and can enter from people smoking outside doorways and on balconies and patios. Third-hand smoke can then settle into carpet, walls and other surfaces. Additionally, heating, ventilation, and air conditioning systems can also distribute tobacco smoke throughout a building.

Smoke Free policies are quickly becoming the standard for multi-unit housing in the U.S.¹ There are no federal or state laws that prohibit an owner from banning smoking in their buildings or on their properties. Smoke free-policies do not exclude a smoker from renting or require them to quit smoking; it only state that a smoker cannot smoke while on the property or can only smoke in designated areas.

It is legal to ban smoking?

- Smoking is not a legal right. Smoke free policies do not infringe on the legal rights of individuals.⁴
- Federal or state law does not restrict owners, landlords or managers from adopting “no smoking” policies. In fact, the [US Department of Housing and Urban Development](#) strongly encourages owners and managers to adopt smoke free policies for their properties.⁵
 - Owners who have HUD-assisted housing units that decide to make the smoke free policy a condition of the lease may need HUD approval of the lease change.
 - It is not necessary to seek HUD approval for changes to house rules if the change meets HUD standard criteria for house rules.
- Although the Connecticut General Statutes Sec. 19a-342 exempts public housing authorities from having to ban smoking on properties, the law does not prevent owners from implementing their own smoke free policies.
- A smoke free policy is no different than a “no pets” and “no loud music” policy.
- Owners may not deny a person the right to live on the property because they smoke but owners can regulate that the person not smoke on the property

Ventilation is Not a Solution

- According to the American Society of Heating, Refrigeration and Air-Conditioning Engineers ([ASHRAE](#)):
 - There is no known ventilation or air cleaning system that can eliminate all the toxins from another resident’s smoke.

- Sealing outlets, cracks and other places where smoke seeps through does not eliminate smoke traveling from unit to unit.
- ASHRAE encourages smoke-free policies as "the only complete solution to the problem of secondhand smoke."¹¹

Reasons for Smoke-free Policies

- Smoke-free policies protect residents.
- In 2010, the U.S. Surgeon General released a report stating there is no safe level of exposure to tobacco smoke.
- Health effects of SHS include cardiovascular disease, respiratory infections, asthma, bronchitis, stroke, ear infections and Sudden Infant Death Syndrome (SIDS).
- Smoking is the leading cause of home fires and the number one cause of fire deaths in the United States.
- Cigarettes cause approximately 1 out of 4 fires and these fires kill 700-900 people every year.²
- Property losses from smoking-material fires total hundreds of millions of dollars every year.³
- Cleaning and maintenance costs decrease when smoking is prohibited.

Condo Associations Can Legally Make their Buildings Smoke-Free

- Smoking is not a legal right. Smoke free policies do not infringe on the legal rights of individuals.
- Smoke-free policies establish guidelines for where smoking is permitted. The policies do not mean that a smoker is banned from live there.
- Most condominium buildings have a Homeowners Association (HOA). If you own a condo in the complex, you are automatically a member of the HOA.
- The HOA can vote to restrict smoking in common areas, such as laundry rooms, clubhouses, lobbies, stairwells, hallways, pool areas and playgrounds, as well as restrict smoking in individual units including patios and balconies.⁵
- HOA members can vote to amend the Complex's by-law documents, the Declaration of Covenants, Conditions and Restrictions (CC&R) and the Rules.
- Often, the CC&R or rules contain a "nuisance clause" that prohibits owners and their guests from engaging in any activity that interferes with another owner's peace and well-being. Tobacco smoke can be added to the definition of a nuisance in these documents.⁶
- For additional information, read your own association's rules for changing building policies. Contact the Association's legal counsel before changing the CC &R since this is a legally binding document.

Owners have Rights that Protect Them

- Voluntary compromises and settlements to SHS complaints can be reached by reviewing and enacting the “nuisance clause’ in the CC & R and Rules.
- The Fair Housing Act (FHA) prohibits discrimination in housing against persons with disabilities, including people living in condominium complexes with more than four units.⁷
- People with severe breathing problems or other chronic conditions that are worsened by secondhand smoke may qualify under the FHA.
 - To qualify, the reaction to the SHS must substantially limit one or more major life activities. To be “substantial,” the impairment must be severe and long-term.⁸
 - To file a FHA claim contact the U.S. Housing and Urban Development at http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_op/p/complaint-process or call 1-800-669-9777
- Condominium owners can take legal action against a condominium board or the smoker. Owners have been successful in their SHS claims using common laws that have included:
 - Breach of the covenant of quiet enjoyment
 - Negligence
 - Breach of warranty of habitability
 - Nuisance
 - Harassment
 - Constructive eviction
 - Trespass⁹
- For additional legal options refer to [Legal Options for Condominium Owners Exposed to Secondhand Smoke](#)

STEPS TOWARD SMOKE-FREE POLICIES

- Talk with your neighbors to find out their interest in smoke free policies for the complex. Distribute a survey to collect the information and/or a petition to go smoke free. ([see sample](#))
- Read through the association's CC&R and Rules to understand how to changes can be made.
 - Gather the survey and petition results and information on the benefits of smoke free policies.
 - Attend the association member and board meetings. Plan to speak during an open forum at a board meeting, or request to be added to the agenda to discuss going smoke free and educate the members on the benefits.
- Have the board and membership vote on the policies.
- Work with the condo board to follow the appropriate procedures for changing building policy, including contacting legal counsel if appropriate
- Educate and notify the residents of the changes. Post signs to notify resident's, guests and service people of the smoke free policy.

This information is for educational purposes only and is not to be construed as a legal opinion or as a substitute for obtaining legal advice from an attorney.

Adapted from <http://www.smokefreewashington.com/apartments/condos.php>

STRATEGIES AND TOOLS TO GO SMOKE FREE

- National Center for Healthy Housing: www.nchh.org
- Smoke-Free Environments Law Project: www.tcsg.org/sfelp/home.htm
- Tobacco Technical Assistance Consortium: www.ttac.org
- Tobacco Control Legal Consortium: www.tclconline.org
- Technical Assistance Legal Center: www.phlpnet.org/tobacco-control
- American's for Nonsmoker's Rights Foundation: www.no-smoke.org
- Smokefree Apartment House Registry, <http://www.smokefreeapartments.org>

SOURCES

- [1] American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc. , ASHRAE Position Document on Environmental Tobacco Smoke, 2008
- [2] TobaccoFree Kids.org
- [3] <http://www.usfa.dhs.gov/downloads/pdf/tfrs/v5i5.pdf> U.S. Fire Administration / FEMA
- [4] Technical Assistance Legal Center, There is No Constitutional Right to Smoke, Public Health Institute 2005
- [5] Public Health Law & Policy Technical Assistance Legal Center, How to Make a Condo Complex Smokefree Factsheet, 2008
- [6] Susan Schoenmarklin, Tobacco Control Legal Consortium, Legal Options for Condominium Owners Exposed to Secondhand Smoke (2006).
- [7] Susan Schoenmarklin, Tobacco Control Legal Consortium, Infiltration of Secondhand Smoke into Condominiums, Apartments and Other Multi-Unit Dwellings: 2009 (2009).
- [8] Susan Schoenmarklin, Tobacco Control Legal Consortium, Legal Options for Condominium Owners Exposed to Secondhand Smoke (2006).
- [9] Susan Schoenmarklin, Tobacco Control Legal Consortium, Infiltration of Secondhand Smoke into Condominiums, Apartments and Other Multi-Unit Dwellings: 2009 (2009)

SAMPLE DOCUMENTS

Smoke-Free Amendment to CC&Rs

Living in a smoke-free home is a choice everyone should have, and now _____ (name of condominium complex) homeowners have that choice too. After more than two years of diligent research and careful consideration, it has become clear that the trend in multi-unit housing is toward smoke-free living. Condominium developments, apartment buildings, and housing authorities all over the world are instituting smoke-free policies, and now the Board of Directors is proud to offer _____ (name of complex) homeowners the opportunity to do so also.

What the Amendment Will Do

This amendment is designed to gradually transition the _____ (name of complex) to a smoke-free environment. If the amendment is approved, beginning _____, (date) all new sales and rental agreements must stipulate that no smoking is permitted anywhere on the premises, including inside individual units and on balconies and patios. Over the course of a year, as units are sold and leases expire, smoking will be reduced at the _____. (name of complex)

Any complaints of drifting secondhand smoke however will continue to be addressed by management, and the nuisance clause in section _____ of the existing CC&Rs will be enforced to protect the health and wellbeing of non-smokers.

Beginning _____, (date) smoking will no longer be permitted anywhere on the premises, and the _____ (name of complex) will officially become smoke-free.

Health Benefits of a Smoke-Free Complex or Building

Secondhand smoke is a toxic air pollutant that contains over 250 known toxins and carcinogens. The U.S. Environmental Protection Agency has classified it a Group A carcinogen.

The U.S. Surgeon General stated that there is **no safe level of exposure to secondhand smoke**, and even low levels of exposure can be harmful to the health of non-smokers. There are irritant, respiratory, cardiovascular, developmental, reproductive, and carcinogenic effects of exposure. Infants and children are especially at risk and are disproportionately affected.

There is **no effective way to contain secondhand smoke at its point of origin**. Neighbors' smoke eventually finds its way into your unit through open windows and doors, tiny cracks and openings in the wall, electrical outlets, and spaces around pipes and plumbing fixtures. **Conventional air cleaning systems can remove large particles, but not the smaller particles or the gases found in secondhand smoke.**

The most effective method is to be smoke free.

Legal Advantages of Smoke-Free Policies

State and federal courts have made it clear that smoking is not a protected activity under the law, and **non-smokers have the right to protect themselves from exposure to secondhand smoke.**

A smoke-free policy in the CC&Rs will guarantee protection to non-smokers, and **will protect the Association and homeowners with non-smoking tenants from potential lawsuits arising from legal violations.**

Proactively addressing the problem of secondhand smoke at _____ (name of complex) will facilitate a smoother transition to a smokefree environment.

Financial Rewards of Smoke-Free Housing

Nearly 85% of Connecticut residents do not smoke. Now that most people have become more aware of the dangers associated with exposure to secondhand smoke, and understanding the legality and enforceability of smoking prohibitions, **the demand for smoke-free housing increasing.**

It is in the best interests of _____ (name of complex) homeowners to adopt smoke free housing polices.

Your Vote is Very Important

The _____ (name of complex) Board of Directors unanimously supports and endorses this amendment. Information about smoke-free housing is available at the front desk in the lobby, and you are encouraged to carefully review all the material. Also, a special town hall meeting will be held on _____ (date) to address whatever questions and concerns residents may have about the amendment. Please check the _____ (name of complex) website and bulletin board for details about this meeting.

It is very important that you vote because the amendment needs a minimum of _____ (number needed) votes to pass. PLEASE VOTE!

Smoke-Free Language for the Covenants, Conditions and Restrictions of Condominium and Townhouse Developments

ENCLOSED COMMON AREA RESTRICTION

- a.** No owner, family member, tenant, resident, guest, business invitee, or visitor shall smoke cigarettes, cigars, or any other tobacco product, marijuana, or illegal substance within the enclosed common area of the project.
- b.** Smoking shall be permitted within all other areas of the project unless it unreasonably annoys other residents. The resident of a unit shall take all reasonable precautions to ensure that smoke does not permeate or spread beyond the boundaries of his/her unit. If one resident's smoking annoys another or spreads beyond the boundaries of his/her unit, smoking may be prohibited within the unit as a nuisance upon written notification to the smoker and all remedies against the smoker may be pursued by a resident or the association as if the smoking was any other nuisance prohibited by these Covenants, Conditions and Restrictions.
- c.** "Enclosed common area" shall include, but is not limited to, the lobbies, halls, laundry rooms, stairs, elevators, recreation or multi-purpose rooms, garages, rest rooms, pool cabanas, and manager's office, if any.
- d.** "Smoking" shall include the inhaling, exhaling, burning, or carrying of any lighted cigarette, cigar or other tobacco product, marijuana, or illegal substance.
- e.** "Business invitee" shall include, but is not limited to, any contractor, agent, household worker, or other person hired by the owner, tenant or resident to provide a service or product to the owner, tenant, or resident.
- f.** Any owner who sells his unit shall specifically disclose to all potential buyers and realtors that smoking is prohibited within the enclosed common areas of the project. Any owner who rents or otherwise allows someone other than the owner to reside within or occupy the unit shall disclose to all persons who reside within his unit that smoking is prohibited in all enclosed common areas prior to their residency or occupancy.
- g.** Each owner is responsible for the actions of all other persons residing within or visiting his/her unit and shall be subject to disciplinary action or a court action for an injunction, or any remedies available for the violation of this section. This section may be enforced in a court of law by any resident or the association. If any resident or the association is required to hire legal counsel to enforce this section, the resident or the association shall be entitled to recover his/her or its attorneys fees and costs incurred, whether or not litigation has been commenced. The association may collect the attorneys fees and costs it incurs through the use of a special assessment levied against the owner of the unit and an assessment lien, if necessary.

This material is being distributed by:

The Smokefree Apartment House Registry, 10722 White Oak Ave. Suite 5, Granada Hills, CA 91344
Phone: 818-363-4220 FAX: 818-363-2260 Email: smokefreeapartments@pacificnet.net

OUTDOORS COMMON AREA RESTRICTION

a. No owner, family member, tenant, resident, guest, business invitee, or visitor shall smoke cigarettes, cigars, or any other tobacco product, marijuana, or any illegal substance within the enclosed or unenclosed common areas of the project.

b. Smoking shall be permitted within all other areas of the project unless it unreasonably annoys other residents. The resident of a unit shall take all reasonable precautions to ensure that smoke does not permeate or spread beyond the boundaries of his/her unit or exclusive use common area. If one resident's smoking annoys another or spreads beyond the boundaries of his/her unit, smoking may be prohibited within the unit as a nuisance upon written notification to the smoker and all remedies against the smoker may be pursued by a resident or the association as if the smoking was any other nuisance prohibited by these Covenants, Conditions and Restrictions.

c. "Common area" means the entire project, except for within the units. "Common area" shall include, but is not limited to, the spas, swimming pools, barbeque area, grass and landscaped areas, tennis courts, playgrounds, walkways, sidewalks, driveways, basketball courts, lobbies, halls, laundry rooms, stairs, elevators, recreation or multi-purpose rooms, storage rooms, garages, rest rooms, pool cabanas, and manager's office, if any.

d. "Smoking" shall include the inhaling, exhaling, burning, or carrying of any lighted cigarette, cigar or other tobacco product, marijuana, or any illegal substance.

e. "Business invitee" shall include, but is not limited to, any contractor, agent, household worker, or other person hired by the owner, tenant or resident to provide a service or product to the owner, tenant, or resident.

f. Any owner who sells his unit shall specifically disclose to all potential buyers and Realtors that smoking is prohibited within all common areas of the project. Any owner who rents or otherwise allows someone other than the owner to reside within or occupy the unit shall disclose to all persons who reside within his unit that smoking is prohibited in all common areas prior to their residency or occupancy.

g. Each owner is responsible for the actions of all other persons residing within or visiting his/her unit and shall be subject to disciplinary action or a court action for an injunction, or any remedies available for the violation of this section. This section may be enforced in a court of law by any resident or the association. If any resident or the association is required to hire legal counsel to enforce this section, the resident or the association shall be entitled to recover his/her or its attorneys fees and costs incurred, whether or not litigation has been commenced. The association may collect the attorneys fees and costs it incurs through the use of a special assessment levied against the owner of the unit and an assessment lien, if necessary.

h. The Board of Directors shall have the authority and power to enact rules and regulations which it deems necessary to enforce this restriction, including a schedule of fines which may be imposed after notice and a hearing.

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EXCLUSIVE USE COMMON AREA RESTRICTION

- a.** No owner, family member, tenant, resident, guest, business invitee, or visitor shall smoke cigarettes, cigars, or any other tobacco product, marijuana, or illegal substance within the outside common area, enclosed common area or exclusive use common area of the project.
- b.** Smoking shall be permitted within the units unless it unreasonably annoys other residents. The resident of a unit shall take all reasonable precautions to ensure that smoke does not permeate or spread beyond the boundaries of his/her unit. If one resident's smoking annoys another or spreads beyond the boundaries of his/her unit, smoking may be prohibited within the unit as a nuisance upon written notification to the smoker and all remedies against the smoker may be pursued by a resident or the association as if the smoking was any other nuisance prohibited by these Covenants, Conditions and Restrictions.
- c.** "Outside common area" means the entire project, except for within the units. "Outside common area" shall include, but is not limited to, the spas, swimming pools, barbeque area, grass and landscaped areas, tennis courts, playgrounds, walkways, sidewalks, driveways, and basketball courts.
- d.** "Enclosed common area" shall include, but is not limited to, the lobbies, halls, laundry rooms, stairs, landings, elevators, recreation or multi-purpose rooms, storage rooms, rest rooms, pool cabanas, garages, and manager's office, if any.
- e.** "Exclusive Use Common Area" shall include, but is not limited to, patios, balconies, decks, garages, carports, storage rooms or spaces, parking spaces, doorsteps, stoops, and porches. This restriction shall apply whether the exclusive use common area is owned by the owner of the condominium or townhouse unit, by all owners as tenants-in-common, or by the condominium or townhouse association.
- f.** "Smoking" shall include the inhaling, exhaling, burning, or carrying of any lighted cigarette, cigar or other tobacco product, marijuana or illegal substance.
- g.** "Business invitee" shall include, but is not limited to, any contractor, agent, household worker, or other person hired by the owner, tenant or resident to provide a service or product to the owner, tenant, or resident.
- h.** Any owner who sells his unit shall specifically disclose to all potential buyers and Realtors that smoking is prohibited within all areas of the project, except within the unit. Any owner who rents or otherwise allows someone other than the owner to reside within or occupy the unit shall disclose to all persons who reside within his unit that smoking is prohibited in all areas other than within the unit prior to their residency or occupancy.
- i.** Each owner is responsible for the actions of all other persons residing within or visiting his/her unit and shall be subject to disciplinary action or a court action for an injunction, or any remedies available for the violation of this section. This section may be enforced in a court of law by any resident or the association. If any resident or the association is required to hire legal counsel to enforce this section, the resident or the association shall be entitled to recover his/her or its attorneys fees and costs incurred, whether or not litigation has been commenced. The association may collect the attorneys fees and costs it incurs through the use of a special assessment levied against the owner of the unit and an assessment lien, if necessary.

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UNIT RESTRICTION FOR EXISTING DEVELOPMENT

- a.** No owner, family member, tenant, resident, guest, business invitee, or visitor shall smoke cigarettes, cigars, or any other tobacco product, marijuana or illegal substance anywhere within the boundaries of the project or complex. This prohibition shall include the outside common area, enclosed common area, exclusive use common area and units within the project.
- b.** "Smoking" shall include the inhaling, exhaling, burning, or carrying of any lighted cigarette, cigar or other tobacco product, marijuana, or illegal substance.
- c.** "Business invitee" shall include, but is not limited to, any contractor, agent, household worker, or other person hired by the owner, tenant or resident to provide a service or product to the owner, tenant, or resident.
- d.** Any owner who sells his unit shall specifically disclose to all potential buyers and Realtors that smoking is prohibited everywhere within the project, including within the units. Any owner who rents or otherwise allows someone other than the owner to reside within or occupy the unit shall disclose to all persons who reside within his unit that smoking is prohibited within all common areas and the unit prior to their residency or occupancy.
- e.** Each owner is responsible for the actions of all other persons residing within or visiting his/her unit and shall be subject to disciplinary action or a court action for an injunction, or any remedies available for the violation of this section. This section may be enforced in a court of law by any resident or the association. If any resident or the association is required to hire legal counsel to enforce this section, the resident or the association shall be entitled to recover his/her or its attorneys fees and costs incurred, whether or not litigation has been commenced. The association may collect the attorneys fees and costs it incurs through the use of a special assessment levied against the owner of the unit and an assessment lien, if necessary.
- f.** The Board of Directors shall have the authority and power to enact rules and regulations which it deems necessary to enforce this restriction, including a schedule of fines which may be imposed after notice and a hearing.
- g.** The restriction set forth in subparagraph "a" above shall not apply to owners, tenants, residents or occupants of units in which title was acquired by the owner prior to the enactment of the restriction and the owner, tenant, resident or occupant began occupying the unit prior to the enactment of the restriction ("existing units"). The restriction will be enforceable as to existing units once the unit is sold, transferred or conveyed to a new owner or the owner, a new tenant, resident or occupant begins to occupy the unit after the enactment of the restriction. The ability to smoke in a unit shall not be sold, transferred, or conveyed to any person who acquires title after the enactment of the restriction.

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UNIT RESTRICTION FOR A NEW DEVELOPMENT

- a.** No owner, family member, tenant, resident, guest, business invitee, or visitor shall smoke cigarettes, cigars, or any other tobacco product, marijuana or illegal substance anywhere within the boundaries of the project or complex. This prohibition shall include the outside common area, enclosed common area, exclusive use common area and units within the project.
- b.** "Smoking" shall include the inhaling, exhaling, burning, or carrying of any lighted cigarette, cigar or other tobacco product, marijuana, or illegal substance.
- c.** "Business invitee", shall include, but is not limited to, any contractor, agent, household worker, or other person hired by the owner, tenant or resident to provide a service or product to the owner, tenant, or resident.
- d.** Any owner who sells his/her unit shall specifically disclose to all potential buyers and Realtors that smoking is prohibited everywhere within the project, including within the units. Any owner who rents or otherwise allows someone other than the owner to reside within or occupy the unit shall disclose to all persons who reside within his unit that smoking is prohibited within all common areas and the unit prior to their residency or occupancy.
- e.** Each owner is responsible for the actions of all other persons residing within or visiting his/her unit and shall be subject to disciplinary action or a court action for an injunction, or any remedies available for the violation of this section. This section may be enforced in a court of law by any resident or the association. If any resident or the association is required to hire legal counsel to enforce this section, the resident or the association shall be entitled to recover his/her or its attorneys fees and costs incurred, whether or not litigation has been commenced. The association may collect the attorneys fees and costs it incurs through the use of a special assessment levied against the owner of the unit and an assessment lien, if necessary.
- f.** The Board of Directors shall have the authority and power to enact rules and regulations which it deems necessary to enforce this restriction, including a schedule of fines which may be imposed after notice and a hearing.

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Sample Petition for Smoke Free Condominiums

Inasmuch as there are great health, safety and property resale benefits to a 100% smoke free condominium complex, we, the undersigned members of the

_____ Condominium Association, hereby petition the board of directors to amend the bylaws to designate that all condominium buildings become 100% smoke free as of (date), and to prohibit smoking within 25 feet* of a condominium building.

This 100% smoke free policy shall be extended to all public enclosed spaces owned by the Condominium Association.

Current condominiums can be exempted from this requirement, but in the event any condominium property under the jurisdiction of the association is to be sold, rented or leased to another person, the current condominium owner shall be required to notify the new owner/tenant of the 100% smoke free policy. (Wisconsin Initiative on Smoking and Health, Smoke Free Condominiums)

Adapted from the Wisconsin Initiative on Smoking and Health.

SMOKING IS NOT ALLOWED IN
<ALL COMMON AND INDIVIDUAL UNITS>

Under the Rules and Regulations of the
<Your Association Here>:

- 1. No owner, family member, tenant, resident, guest, business invitee, or visitor shall smoke cigarettes, cigars, or any other tobacco product, marijuana or illegal substance in outside common areas, enclosed common areas, and exclusive use common areas (**balconies and patios included**) within the project.**
- 2. “Smoking” shall include the inhaling, exhaling, burning, or carrying of any lighted cigarette, cigar or other tobacco product, electronic cigarette or similar lighted device, marijuana, or illegal substance.**
- 3. “Business invitee” shall include, but is not limited to, any contractor, agent, household worker, or other person hired by the owner, tenant or resident to provide a service or product to the owner, tenant, or resident.**
- 4. Any unit owner who sells his/her unit shall specifically disclose to all potential buyers and Realtors that smoking is prohibited within all common areas in the project. Any owner who rents or otherwise allows someone other than the owner to reside within or occupy the unit shall disclose to all persons who reside within his/her unit that smoking is prohibited within all common areas prior to their residency or occupancy.**
- 5. Each owner is responsible for the actions of all other persons residing within or visiting his/her unit and shall be subject to disciplinary action or court action for an injunction, or any remedies available for the violation of this section. This section may be enforced in a court of law by any resident or the association. If any resident or the association is required to hire legal counsel to enforce this section, the resident or the association shall be entitled to recover his/her or its attorney’s fees and costs incurred, whether or not litigation has been commenced. The association may collect the attorney’s fees and costs it incurs through the use of a special assessment levied against the owner of the unit and an assessment lien, if necessary.**
- 6. The Board of Directors shall have the authority and power to enact rules and regulations which it deems necessary to enforce this restriction, including a schedule of fines which may be imposed after notice and a hearing, as described in the Rules and Regulations.**

Note: Drifting smoke from within a unit that enters another unit is also prohibited and will be enforced under the nuisance provision of the CC&Rs. Violation of any provision of the CC&Rs, Architectural Guidelines or Rules & Regulations may result in fines.

Adapted from Smoke free Apartment House Registry, <http://www.smokefreeapartments.org/condos.html>

SMOKING IS NOT ALLOWED IN ALL COMMON AND EXCLUSIVE COMMON AREAS (such as patios and balconies)

Under the Rules and Regulations of the Pasadena Collection Homeowners Association:

1. No owner, family member, tenant, resident, guest, business invitee, or visitor shall smoke cigarettes, cigars, or any other tobacco product, electronic cigarettes or other similar lighted devices, in outside common areas, enclosed common areas, and exclusive use common areas (**balconies and patios included**) within the project.

2. "Smoking" shall include the inhaling, exhaling, burning, or carrying of any lighted cigarette, cigar or other tobacco product, electronic cigarette or similar lighted device, marijuana, or illegal substance.

3. "Business invitee" shall include, but is not limited to, any contractor, agent, household worker, or other person hired by the owner, tenant or resident to provide a service or product to the owner, tenant, or resident.

4. Any unit owner who sells his/her unit shall specifically disclose to all potential buyers and Realtors that smoking is prohibited within all common areas in the project. Any owner who rents or otherwise allows someone other than the owner to reside within or occupy the unit shall disclose to all persons who reside within his/her unit that smoking is prohibited within all common areas prior to their residency or occupancy.

5. Each unit owner is responsible for the actions of all other persons residing within or visiting his/her unit and shall be subject to disciplinary action or court action for an injunction, or any remedies available for the violation of this section. This section may be enforced in a court of law by any resident or the association. If any resident or the association is required to hire legal counsel to enforce this section, the resident or the association shall be entitled to recover his/her or its attorney's fees and costs incurred, whether or not litigation has been commenced. The association may collect the attorney's fees and costs it incurs through the use of a special assessment levied against the owner of the unit and an assessment lien, if necessary.

6. The Board of Directors shall have the authority and power to enact rules and regulations which it deems necessary to enforce this restriction, including a schedule of fines which may be imposed after notice and a hearing, as described in the Rules and Regulations.

Note: Drifting smoke from within a unit that enters another unit is also prohibited and will be enforced under the nuisance provision of the CC&Rs. Violation of any provision of the CC&Rs, Architectural Guidelines or Rules & Regulations may result in fines.

Adapted from Smoke free Apartments House Registry

CONDOMINIUM LIVING AND SECONDHAND TOBACCO SMOKE SURVEY

The purpose of this survey is to determine the opinions of people who live in our condominium with regard to tobacco smoke. All responses will be kept anonymous.

Upon completion, please return to _____.

	YES	NO	NO OPINION
1. In the last year, have you had tobacco smoke drift into your home?			
2. Have you complained to the condominium board about the tobacco smoke drifting into your home?			
3. Would you prefer to live in a building where smoking is banned from the enclosed common areas such as:			
a. Hallways			
b. Recreation rooms			
c. Laundry rooms			
d. Elevators (Smoking in elevators is prohibited by law)			
4. Would you prefer to live in a building where smoking is banned from certain outdoor areas such as:			
a. Swimming pools			
b. Breezeways			
c. Balconies			
5. Would you prefer to live in a building which has smoking and non-smoking sections including the units?			
6. Would you prefer to live in a building which is totally non-smoking including the units?			
7. Do you think secondhand smoke is harmful to your health?			
8. Does tobacco smoke give you headaches, make your eyes water or burn, make you cough, or make you feel ill in general?			
9. Do you smoke?			
10. Do you allow smoking in your home?			
11. Do you have children (0-12 years) living with you?			
12. Do you have teenage minors (13-17 years) living with you?			
13. Do you have elderly residents (over 65 years) living with you?			
14. Do you or someone who lives with you suffer from chronic illnesses such as asthma, chronic bronchitis, heart disease, diabetes, arthritis, cancer or a cancer survivor?			
15. Do you--			
a. Rent the unit?			
b. Own and live in the unit?			
c. Own but rent out the unit?			
16. If you are an owner who rents out the unit, did you know that you can require "No Smoking" in the unit?			

Thank you for your participation.

SAMPLE SIGNS



This is a
Tobacco Free
Property.

Thank you for observing our policy.



This is a
Tobacco Free
Complex.

Thank you for observing our policy.



**This is a
Smoke-Free
Property**

**Thank You for
Not Smoking**



This is a
Smoke Free
Complex.

Thank you for not smoking.



**THANK YOU FOR
OBSERVING OUR
NO SMOKING
POLICY**



**SMOKING IS PERMITTED IN
THIS AREA**



**Smoking is
prohibited within
50 feet of all
building entrances**

Thank you for not smoking.



**Smoking is
prohibited within 25
feet of all building
entrances**

Thank you for not smoking.



**DESIGNATED SMOKING
AREA**

**SMOKING
PROHIBITED**



**EXCEPT IN
DESIGNATED
AREAS**