



Making Your Condominium Smokefree



Breathe a sigh of relief with Alaska's smokefree housing options.

Market Demand

About 91% of Alaskans think people should be protected from secondhand smoke exposure and support prohibiting smoking at home. However, only 48% of those who rent report that their landlord has rules preventing smoking. Making your property smokefree could increase interest in your rental units.

Reduce Cleaning & Maintenance Costs

If you own rental units, it's important to take note of the costs of tenants smoking in their homes. It can cost up to \$3,000 more to clean and refurbish units with heavy smoking.

Help with Resale & Resale Value

A Canadian study reported that smoking can reduce the value of a property by 30%. A home that costs \$388,648 (average price in Alaska) could be reduced to \$272,054. Over half of the realtors noted that most buyers are less likely or unwilling to buy a home where people have smoked.

Protect From Fire

Condo associations can see financial benefits in terms of fire prevention by eliminating on-premises smoking. Fires can spread outside individual units, causing damage to common areas and other units in the building.

You Have the Right to Go Smokefree

Prohibiting smoking is not discriminatory. The act of smoking is not a protected activity or right. A person's status as a smoker is not a protected category or recognized disability. Smokefree policies do not mean a person cannot smoke, they simply cannot smoke in the areas your policy covers.

The Alaska Smokefree Workplace Law prohibits smoking:

- in common areas of multiunit housing
- within 20 feet of doors, windows, and ventilation in areas where the law applies

This law does not prohibit entities from creating their own policies that go beyond these guidelines.

Avoid Liability

People with serious breathing disabilities or smoke allergies have legal protection under certain laws such as the Americans with Disabilities Act and Fair Housing Act. They can seek protection from secondhand smoke in condominiums via these laws.

Lawsuits against individual condo owners can occur as well. Possible avenues include:

- Trespass
- Nuisance
- Harassment
- Covenant of Quiet Enjoyment
- Warranty of Habitability

Protect the Health of Your Household & Neighbors


Smoke can travel between units through doorways, cracks in walls, electrical lines, ventilation systems, and plumbing. Opening windows, using fans, and heating, air conditioning and ventilation systems cannot eliminate secondhand smoke exposure.

Policy Considerations for Condominiums

Condominiums can utilize their Declaration of Covenants, Conditions, and Restrictions (CC & R) and the Rules to address smoking in their complex. Avenues include:

- Amending the CC & Rs to restrict smoking
- Amending the CC & Rs' nuisance provision to include drifting secondhand smoke
- Have the HOA board adopt a new Rule restricting smoking

This breakdown comes from ChangeLab's "How to Make a Condo Complex Smokefree."

	Amend CC & Rs to Restrict Smoking	Amend CC & Rs Nuisance Provision	Adopt a Rule to Restrict Smoking
Voting	Requires condo owners' input, using your formal procedures.		Board vote. Not all HOA members included.
Drafting	Should be written by a lawyer.		Does not need a lawyer.
Expenses	Lawyer fees, costs of printing and distributing ballots.	Lawyer fees and costs of printing and distributing ballots. Lawyer fees should be less than restricting smoking because drafting is less complicated.	Nothing needed unless you choose an expense (like lawyer or ballots).
Enforcement	Board and individual owners can sue noncompliant owner. Board can also fine and restrict rights of noncompliant owner. Individual owner may be able to sue board if board fails to act to enforce the provision.		Only board can enforce a Rule. Typically done by fining noncompliant owner.
Other Considerations	Creates an avenue for participation among owners. This can increase compliance with a new policy. However, enough votes are needed for policy to be passed. CC & R can be enforced in more ways than a Rule.	Making smoking a nuisance would not eliminate smoking in the condo. It just allows homeowners to use the nuisance provision more easily if needed. This approach would be more useful if banning smoking in units is not feasible.	May work best for making common areas smokefree as they are less controversial than restricting smoking in individual units. (It could be possible for the Board to restrict smoking everywhere). May work better for complexes where the board actively enforces Rules.



Need More Help?

Contact the American Lung Association in Alaska at SmokefreeHousingAK@Lung.org.

We can assist you with:

Survey language and implementation



Advertising

Sample policy language



Presentations

Smokefree signage



Resources for adults and youth seeking to quit the habit



Troubleshooting concerns

You can also visit SmokefreeHousingAlaska.org for more information.



References

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5. smoke-free-web.pdf (fletcherilton.com)
6. tclc-syn-condos-2006.pdf (publichealthlawcenter.org)
7. No-Constitutional-Right-Smoke-Toke-2019.pdf (publichealthlawcenter.org)
8. CLS_Condo_FactSheet_FINAL_20120517_0.pdf (changelabsolutions.org)