

# PROTECT YOURSELF FROM SECONDHAND SMOKE IN YOUR HOME GUIDE





Dear Resident,

Is secondhand smoke drifting into your home from a neighbor's unit, the hallway, or outdoors?

Vista Community Clinic wants to help you have clean, fresh air to breathe in your home. As a trusted source of information in your community, we offer steps to take to make sure you and your loved ones are safe and healthy.

This guide explains the dangers of secondhand smoke and the different ways to keep the smoke out of your home. The guide also has a checklist of things you can do, sample letters for your landlord and neighbors, and other easy-to-use resources.

Please call or write us if you have any questions or need more help.

In Health,

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# Table of Contents

## **INTRODUCTION ..... 1**

## **SECONDHAND SMOKE .....2**

- What is Secondhand Smoke?
- Secondhand Smoke Hurts You and Your Family
- How Does Secondhand Smoke Get into Your Home?
- What is Thirdhand Smoke?

## **MAKE YOUR HOME SMOKEFREE.....5**

- Step 1: Find out if there is already a smokefree policy
- Step 2: Set a Clear Goal
- Step 3: Talk to your neighbors
- Step 4: Talk to Your Landlord or Property Manager
- Step 5: Track Your Efforts to Achieve Your Goal

## **LEGAL RIGHTS TO LIMIT SMOKING .....8**

- Owner’s rights to limit smoking
- Your Legal Rights as a Tenant
- Legal Help

## **OPTIONS FOR SMOKEFREE POLICIES ..... 10**

- Voluntary Policies
- Legislative Policies
- Becoming an Advocate for Smokefree Policies

## **RESOURCES..... 13**

- Useful Websites
- Sample Letter to your Landlord or Property Manager
- Sample Letter to your Neighbor
- Sample Letter from Your Healthcare Provider
- Reasonable Accommodation Sample Demand Letter
- Tracking Tools



# Introduction

Secondhand smoke is harmful to your health. Many people living in apartments, condominiums, and townhouses suffer from secondhand smoke. These homes are types of multi-unit housing. The smoke from nearby units or people smoking outside can drift into your home. Drifting secondhand smoke can make your home uncomfortable and an unhealthy place to live.

If you have smelled smoke in your home or your family has had health problems caused by secondhand smoke, this guide will help you protect your family. The guide discusses:

- The dangers of secondhand smoke
- How you can make your home smokefree
- Legal rights to limit smoking
- Options for smokefree policies
- Becoming an advocate for smokefree policies

Be patient while you work to bring about change. It takes a long time for big changes to happen. In the meantime, your family and your neighbors can choose to keep your homes smokefree.



# Secondhand Smoke

## WHAT IS SECONDHAND SMOKE?

Secondhand smoke is the smoke that comes from a burning cigarette, hookah, pipe, or cigar. It is also the smoke a person breathes out when they smoke. This smoke has over 7,000 chemicals and at least 70 of them can cause cancer.<sup>1</sup>

Secondhand smoke also includes the vape cloud or aerosol from electronic smoking devices (e-cigarettes or vapes) and marijuana smoke or aerosol.<sup>2</sup> The aerosol from vaping and secondhand smoke from marijuana also have some of the same chemicals that can cause cancer.<sup>1</sup>

## SECONDHAND SMOKE HURTS YOU AND YOUR FAMILY

There is no safe level of exposure to secondhand smoke, according to the U.S. Surgeon General. Breathing it for even a short time can hurt you—it might make you cough and wheeze. Breathing it for a long time can cause diseases and lead to heart attacks, stroke, or cancer.<sup>1</sup>

Secondhand smoke causes 41,000 deaths in the United States every year. In California, each year it kills over 3,600 people who do not smoke. Secondhand smoke hurts pets too. It can cause cancers and lung disease in cats, dogs, and birds.<sup>1</sup>



### Children who breathe secondhand smoke get sick more often and can have:<sup>2</sup>

- Ear infections
- Colds
- Asthma episodes
- Coughing and shortness of breath
- Lung infections such as bronchitis or pneumonia



### Pregnant people who smoke or breathe secondhand smoke can have:<sup>2</sup>

- Babies born too soon
- Miscarriages
- Babies born too small
- Babies born with breathing problems
- Babies with a higher risk of sudden infant death syndrome (SIDS)



### Adults who breathe secondhand smoke can have:<sup>2</sup>

- Heart disease
- Lung cancer and other lung diseases
- Strokes
- Asthma episodes
- Other cancers, including breast cancer

## How Does Secondhand Smoke Get into Your Home?

If you live in an apartment, condo, or townhouse then you may notice smoke that comes from another home or from outside. Even if no one smokes in your home, secondhand smoke can still get into your unit. Secondhand smoke can:

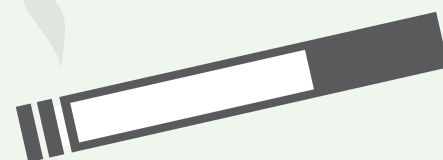
- Travel through doors and windows from another unit or outside
- Drift through shared air and heating vents from another unit
- Enter from gaps or cracks around electric outlets, walls, or pipes

**25ft**

**Smoke from a single cigarette can drift 25 feet or more in every direction.<sup>3</sup>**

**60%**

**More than 60% of the air in one unit can come from nearby units.<sup>2</sup>**





**50%**

**About half of multi-unit housing residents who do not allow smoking in their home have had secondhand smoke drift in from other units or from outside.<sup>4</sup>**

Using air filters and sealing up cracks cannot stop secondhand smoke from drifting throughout a building.

The best way to protect you and your family is to live in a building that has a 100% smokefree policy.



## What is thirdhand smoke?

If you have ever smelled smoke on someone's clothes or hair, or smelled smoke in a room where no one is smoking, you have been with thirdhand smoke. It is made of dust or particles of smoke—a residue—that stays on surfaces long after the smoke is gone.

This residue has some of the same harmful chemicals found in secondhand smoke and can also cause health problems, especially for children. Young children can be exposed to it when they touch rugs, furniture, or other objects in a room where smoke settled.<sup>5</sup>



# Make your home smokefree

Maybe you have already taken the first step to making your home smokefree. You do not smoke in your home and you ask others not to smoke in your home. But if you have problems with secondhand smoke, here are some more steps you can take:



## STEP 1: FIND OUT IF THERE IS ALREADY A SMOKEFREE POLICY

Before you talk with your neighbors, landlord, or property manager, see if your lease or rental agreement has a smokefree policy included. If yes, does it cover all tobacco or smoked products (such as e-cigarettes or vaping devices, hookah, or marijuana)?

If your property already has a smokefree policy, your first step is to let your landlord know there has been a violation. They probably have a process for residents who do not follow the rules.

If your lease agreement does not restrict smoking, you may want to talk to your neighbors, landlord, or property manager about adopting a smokefree policy.



## STEP 2: SET A CLEAR GOAL

Your main goal is clear—you want to breathe smokefree air in your home. There are lots of ways to meet this goal! Think about how you want the problem solved.



- Do you want the existing smokefree policy to be enforced?
- Do you want the building to be smokefree?
- Do you want outside areas to be smokefree?
- Do you want to move to a smokefree unit?
- Do you want out of your lease?

Once your goal is very clear, it will be easier to talk to your neighbors and landlord.



### STEP 3: TALK TO YOUR NEIGHBORS

If your neighbor is smoking:

- If you feel comfortable you can talk to the neighbor who is smoking. They may not be aware there is a problem.
- If you do not feel comfortable talking with your neighbor directly, you can send a letter about your concerns. There is a **Sample Letter to Your Neighbor** in the appendix.
- Approach your neighbor with respect and try to find a solution together. See if you can reach an agreement about when and where they smoke.

Talk with other neighbors to find out if they have also had problems with secondhand smoke. You can work with your neighbors to make your building or complex smokefree. This can include:

- All indoor areas used by you and your neighbors, such as elevators
- All outdoor common areas such as courtyards, walkways, and the pool
- Inside some units or all units on the property
- Outside parts of each unit, such as the porch, balcony, or patio



## STEP 4: TALK TO YOUR LANDLORD OR THE PROPERTY MANAGER

Talk to your landlord or property manager about the situation. If no one speaks up, your landlord will not know there is a problem.

If your building does have a smokefree policy, your landlord needs to know someone was smoking.

If your building does not have a smokefree policy, ask them about creating one. Ask neighbors who are affected by the secondhand smoke to come to the meeting with you.

It is better to have an in-person meeting or send a letter if possible. A **Sample Letter to Your Landlord or Manager** is in the appendix.



## STEP 5: KEEP A RECORD OF YOUR EFFORTS TO ACHIEVE YOUR GOAL

Keep a record in a notebook, or in the pages provided in this guide, of when smoke drifts into your home. Also, make notes on any interactions or communication with your neighbors, landlord, your healthcare provider, and others about secondhand smoke.

You will find three types of tracking tools in the appendix:

### 1. Contacts with your landlord and neighbors

Keep track of when you talk or write your landlord and your neighbors.

### 2. Secondhand Smoke Exposure

Keep track of when you smell smoke. Write down when, where, and how the secondhand smoke affected you. This can also help when you visit your healthcare provider.

### 3. Healthcare Provider Visits

Tracking your healthcare provider visits will show how the secondhand smoke affected you and what your healthcare provider recommends.

Keep copies of any letters or emails. Send letters by Certified Mail, Return Receipt Requested. A paper trail will demonstrate the seriousness of the issue and what you have done to try to resolve it, especially if you eventually pursue a legal remedy.

## CHANGE TAKES TIME

If your landlord or the property manager agrees to make units smokefree, these changes can be made gradually. Smoking units can be changed to smokefree units when people who smoke leave. It takes time for big changes to happen.



# Legal ability to limit smoking

## OWNER'S ABILITY TO LIMIT SMOKING

California law states that owners and property managers have the ability to make their property smokefree, including inside rental units.

Smokers are not a protected group under fair housing laws—and there is no “right to smoke”.

Owners and property managers can do this by putting a no-smoking rule in their leases. If someone breaks this rule, they could be evicted.

## YOUR LEGAL RIGHTS AS A TENANT

It is always a good idea to try to work with your landlord or property manager to find solutions to secondhand smoke. But if that does not work, you may want to make a legal complaint.

Every person who rents a home in California has the right to property that is safe to live in. This is called the “warrant of habitability.”<sup>7</sup> Landlords must provide units that are fit to live in—that do not harm your health or safety. Even if your lease does not have information about smoking, you can make a case that secondhand smoke is harmful to your health.



Renters with disabilities may have added rights under the Americans with Disabilities Act (ADA). This law gives you the right to ask for reasonable accommodations—you have the right to equal access and enjoyment of housing and common areas.

If you have a health problem that becomes worse if you breathe secondhand smoke, you have the right to ask to be protected from it. See a **Reasonable Accommodation Sample Demand Letter** in the appendix.



## LEGAL HELP

Some lawsuits have ended up holding property owners, managers, and people who use tobacco products responsible for secondhand smoke. For specific legal actions or advice, please contact a lawyer. You can also learn more about your rights and choices from the legal resources in the Appendix.



## Options for smokefree policies

If you want to get a smokefree rule passed where you live, it will be best if everyone takes part in the effort. This includes people who do not smoke or vape and people who use tobacco products. It includes renters, property managers, and owners.

The best rules are the ones that work for everyone.

### VOLUNTARY POLICY

Property owners have a responsibility to protect people who live in multi-unit housing. Property owners or managers can make their own rules about using tobacco on their property. This is called a “voluntary policy.” They can prohibit smoking or vaping in:



- Enclosed common areas, such as hallways or elevators
- Unenclosed common areas, such as pools or courtyards
- Enclosed areas of a unit, such as inside a home
- Unenclosed areas of a unit, such as patios or balconies

Vista Community Clinic and other local agencies can help property owners or managers create the best policy for them.



People living in condominiums can make a building or complex smokefree in a similar way as managers of apartment buildings, duplexes, or townhouses. The Homeowners Association (HOA) has the power to enforce or enact House Rules that control the use of the property within the complex. HOA members can also vote to amend the “Declaration of Covenants, Conditions, and Restrictions” (CC&Rs) to restrict smoking in common areas and/or units. Amending the CC&R can be a lengthy and costly process—we offer more detailed resources to help you in efforts to amend CC&Rs.



## LEGISLATIVE POLICY (LAW)

Multi-unit housing properties are unique in that laws related to a complex vary from state-to-state, and city-to-city. California does not have statewide smokefree laws that protect all residents in multi-unit housing. There are cities and counties in the state that have passed local smokefree laws.

A local legislative policy or law would cover all multi-unit housing complexes in a city, as defined in the policy. Such a law would end confusion about different rules at different complexes and would set a level playing field for all multi-unit housing communities.

As of 2020, there are no laws that prohibit smoking inside multi-unit housing units in San Diego County.

## LOCAL GOVERNMENT POLICIES

In California, local governments can restrict the smoking of tobacco, using e-cigarettes or vaping devices, and marijuana in multi-unit housing. As of January 2021, 83 cities and counties have fully or partially restricted smoking in multi-unit housing.<sup>6</sup>

You can visit American Nonsmokers’ Rights Foundation webpage to see a list of these places: <https://no-smoke.org/wp-content/uploads/pdf/smokefreemuh.pdf>

If you live in one of these cities or counties, call your local officials to report that your multi-unit building is not complying with the ordinance.



## BECOMING AN ADVOCATE FOR SMOKEFREE POLICIES

Once you have done what you can by talking with neighbors, your landlord or property manager, and your healthcare provider, you may feel inspired to advocate for smokefree legislative policies.

Your voice matters! When you share your experience dealing with secondhand smoke in your home and your community you can help officials and other people understand the importance of smokefree policies. Some actions you might do include:

- Writing or calling your elected officials to tell them about your experience
- Making public comments at City Council or Board meetings
- Volunteering or organizing events to help others change their situations

As an advocate, you decide what your actions will look like. Do you enjoy writing? Do you feel comfortable with public speaking? Are you naturally social? Work with your neighbors and local officials to adopt smokefree policies in ways that feel right for you.

Being an advocate means taking action and taking a stand for a cause you believe in.



## YOUR LOCAL TOBACCO CONTROL AGENCY CAN HELP

Local tobacco control agencies have resources that can help you work with your city's elected officials. They may also have projects that could use your help!

You can find your local tobacco control agency by contacting San Diego County offices at 619-692-5514 or email [tobacco@sdcounty.ca.gov](mailto:tobacco@sdcounty.ca.gov)

## Sources

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5. California Thirdhand Smoke Research Consortium. (2020). Thirdhand Smoke Resource Center. <https://thirdhandsmoke.org>
6. American Nonsmokers' Rights Foundation. (2021). U.S. Laws for 100% Smokefree Multi-Unit Housing. <http://no-smoke.org/wp-content/uploads/pdf/smokefreemuh.pdf>
7. California Department of Consumer Affairs. (2009). California Tenants: A Guide to Residential Tenants' and Landlords' Rights and Responsibilities. <https://www.courts.ca.gov/documents/California-Tenants-Guide.pdf>



# Resources



## USEFUL WEBSITES

### Local Community Health Resources

- North Coastal Prevention Coalition <https://northcoastalpreventioncoalition.org/>
- Vista Community Clinic <http://www.vistacommunityclinic.org/>

### Housing Resources

- Fair Housing Authority of San Diego County <https://www.sandiegocounty.gov/content/sdc/sdhcd/fair-housing.html>

### Legal Resources

- Legal Aid Society of San Diego <https://www.lasds.org/>
- Small Claims Court <https://www.courts.ca.gov/selfhelp-smallclaims.htm>

### Tobacco Resources

- American Nonsmokers' Rights Foundation <https://no-smoke.org/at-risk-places/homes/>
- Tobacco Free California <https://tobaccofreeca.com/>
- California Smokers' Helpline <https://www.nobutts.org/>



## SAMPLE LETTER TO YOUR NEIGHBOR

Let your neighbors know that you care. Below is a sample note you can hand to your neighbors. Change the **bolded** words to fit your situation.



### We are in this together

**Hi neighbor!**

Checking in on you to see how you are doing. I hope you are doing well.

I'm writing to my neighbors because **I have been/my family has been** getting a lot of secondhand smoke in **my/our** unit. **I am/members of my family are** worried about some health problems that may be caused by the smoke.

I've learned there's no way to stop secondhand smoke from drifting from one unit to another, even with a strong ventilation system, windows or fans. If you are someone who smokes in your unit, please consider smoking outside.

If you're interested in getting help with quitting smoking or vaping or need ways to manage cravings visit **California Smoker's Helpline** [www.nobutts.org](http://www.nobutts.org).

I appreciate your consideration.

\_\_\_\_\_

(name)

You can contact me at: \_\_\_\_\_

## SAMPLE LETTER TO YOUR LANDLORD OR MANAGER

Change the letter to make it right for your situation. Replace the **bolded** words.

**Renter**  
**789 St., Apt. Z**  
**My Town, CA 92078**

**Date**

**Property Manager/Owner**  
**Property Management Co.**  
**123 St.**  
**Your Town, CA 92078**

Dear Property Manager,

I am writing this letter to request your help in dealing with secondhand smoke in my home. Secondhand smoke has been getting into my home from neighboring **units/common areas/outside my window/doorway/other. I and/or members of my family** have been having health problems due to the secondhand smoke. **Please see the enclosed letter from my healthcare provider.**

So far, I have tried **sealing my apartment/running a fan/asking my neighbors to smoke outside/other** to fix this situation. I would like to request that you:

**(Choose one or more of the following):**

- Enforce the building's no-smoking rule
- Allow me to break my lease without penalty so I can move to a nonsmoking building
- Relocate me to a nonsmoking building that you own or manage
- **Inspect and improve the ventilation system in my unit (though ventilation will not completely remove secondhand smoke)**
- **Consider a no-smoking rule for the apartment building**
- **Do a survey to see how many residents would rather live in a building where smoking isn't allowed**
- **Other:**

Did you know that a no-smoking rule can be good for business? Going smokefree can save you money, protect your property, reduce turnover time and expenses, and help attract other renters interested in a smokefree apartment complex. A no-smoking rule is entirely legal.

Thank you for your consideration. I believe this is a problem that has a win-win solution. I would appreciate a written response to this letter.

Sincerely,

**Renter**

## SAMPLE LETTER FROM YOUR HEALTHCARE PROVIDER

If your health is being worsened by secondhand smoke exposure, talk to your healthcare provider and ask them to write you a letter describing how secondhand smoke is contributing to your illness. Depending on your situation, you may qualify for disability. Below is a sample note you can follow, just replace the **bolded** words with your personal information.

**Healthcare Provider's Medical Office**

**Address**

**Date**

To Whom It May Concern:

**Your name** has been under my care for **5 years (or other length of time)**. **Your name** has been diagnosed with **asthma (or other condition)** which significantly interferes with **their ability to breathe, especially when they are exposed to allergens such as secondhand tobacco smoke**. As a result, **they** qualify as disabled under the federal Fair Housing Act and the California Fair Employment and Housing Act.

**They** have reported to me that **tobacco/marijuana** smoke is drifting into **their** unit **from the neighbor's unit though the ventilation system**. They say that the smoke enters **their apartment 4-5 times a week and they have to go outside or else the smoke will trigger their asthma symptoms**.

Due to their condition, exposure to **tobacco/marijuana** smoke is detrimental to **their** health and increases the risk of **them** suffering an adverse event, such as an **asthma attack**.

I urge you to grant **their** accommodation request to **restrict smoking inside all units as the ventilation systems are shared or allow them to move to a vacant unit away from drifting smoke**. This accommodation is necessary to ameliorate the conditions of **their** disability.

Sincerely,

**Healthcare provider's signature here**

## REASONABLE ACCOMMODATION SAMPLE DEMAND LETTER

Change the letter to make it right for your situation, just replace the **bolded** words with your personal information.

***[Landlord or Property Manager's Name]***

***[Address]***

***[Date]***

Dear ***[Landlord or Property Manager]***:

I am writing to request that you make a reasonable accommodation for my disability. Both federal and state fair housing laws require that housing providers grant reasonable accommodation requests for tenants with disabilities.

I have a disability that significantly impairs my ability to breathe, and this condition is made worse by exposure to tobacco smoke. Tobacco smoke has been entering my unit and is coming from ***[identify where smoke is coming from (for example, neighboring unit) and how it is entering your unit (for example, seems to be coming in through the heater vent)]***.

The smoke enters my apartment ***[describe the frequency (for example, every day)]***. I have attached a log that lists the dates of my exposure. This continual exposure to secondhand tobacco smoke has aggravated my disability by ***[describe your symptoms]***. A doctor's letter is attached, documenting my condition and symptoms.

The U.S. Surgeon General has concluded that there is no safe level of exposure to secondhand smoke. In addition, the California Air Resources Board has declared secondhand smoke a "toxic air contaminant," which means that it may cause or contribute to death or serious illness.

California courts and the US Department of Housing and Urban Development (HUD) have required that reasonable accommodations be made for persons whose disabilities are aggravated by drifting tobacco smoke.

I am requesting ***[describe your accommodation request (for example, ban smoking in the common areas, allow to move to a vacant unit away from the drifting smoke, make the surrounding units nonsmoking, release from rental agreement so can move, etc.)]***. This change will eliminate my exposure to drifting tobacco smoke and alleviate the symptoms of my disability.

## REASONABLE ACCOMMODATION SAMPLE DEMAND LETTER *(CONTINUED)*

The only reason a housing provider may reject an accommodation request is if granting the accommodation would cause an undue financial or administrative burden. However, a housing provider is required to bear some financial and/or administrative burden.

My request to ***[describe your accommodation request (for example, move to a vacant unit away from the drifting smoke, make the surrounding units nonsmoking, release from rental agreement so can move, etc.)]*** is reasonable because there will be little, if any, burden on you if you grant the accommodation.

Please respond in writing to this letter by ***[date]***, confirming whether you will grant my accommodation request. I would like to resolve this issue amicably and informally, if possible. If that cannot be done, please be aware that failure to grant a reasonable accommodation can subject a housing provider to a discrimination claim in which compensatory and punitive damages are awarded, along with prevailing party's attorneys' fees.

Thank you for your consideration and prompt attention in this matter.

***[Signature]***

***[Tenant Name]***

***[Address]***

***[Phone Number]***

cc: ***[Property Management Firm, Homeowners' Association Board, etc.]***

Enclosures:

Letter from ***[doctor's or healthcare provider's name]***

Log of exposure to drifting smoke

## TRACKING TOOLS

### Track Contacts with Landlord and Neighbors

Track your interactions with your landlord and neighbors. Make more copies if you need to.

#1	Date:	Time:
Who did you speak to?		
What happened?		
Follow up needed:		

#2	Date:	Time:
Who did you speak to?		
What happened?		
Follow up needed:		

#3	Date:	Time:
Who did you speak to?		
What happened?		
Follow up needed:		

## Track Secondhand Smoke Exposure

Track your exposure to secondhand smoke (see *example*). Make more copies if you need to.

Date	Time	Length of Time	Type of Smoke	Where in the home it was noticed?	What symptoms did you have?
2/1/21	4:00pm	15 min	Cigarette	Back bedroom	Red eyes, cough

## Track Healthcare Provider Visits

Track your healthcare provider visits (see *example*). Make more copies if you need to.

#1	Date:	Time:
Healthcare Provider:		
Reason for visit? (ex: Asthma attack from secondhand smoke.)		
Outcome from visit? (ex: Nebulizer treatment, new prescription for inhaler. Follow up in 2 weeks. Limit exposure to secondhand smoke.)		

#2	Date:	Time:
Healthcare Provider:		
Reason for visit?		
Outcome from visit?		

#3	Date:	Time:
Healthcare Provider:		
Reason for visit?		
Outcome from visit?		





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