



## Questions and Answers about SMOKE-FREE HOUSING

**Q. Is it legal to make apartment buildings housing non-smoking?**

**A.** Yes. Under federal and Colorado law it is perfectly legal for apartment buildings to have their own smoke-free policies. Landlords and apartment managers can make all of their building(s) smoke-free. In federally subsidized housing, a landlord cannot refuse to rent a unit to a smoker, but the landlord can prohibit smoking in the apartment.

The current law (Colorado's Clean Indoor Air Act) already prohibits smoking in restrooms, lobbies, hallways and other common areas in apartment buildings. Though it does not include any resident's own apartment, landlords can set their own smoke-free policies for apartments and determine whether or not there will be designated outdoor areas for smoking. Landlords who set smoke-free policies are encouraged to help residents prepare by providing adequate notice of the change.

**Q. Are smokers specially protected under the law?**

**A.** No. According to the US Constitution and the courts, smoking is not a fundamental right and people have no legal right to smoke. Smokers are not a protected legal class, and there is no "right to smoke" under law.

**Q. Do non-smokers with disabilities have legal protection against secondhand smoke (SHS) that comes into their apartment from neighbors smoking?**

**A.** Yes, under the Americans with Disabilities Act and the Fair Housing Act, non-smokers with certain disabilities that affect their ability to breathe may have legal protection if a doctor documents that their medical conditions are affected by the SHS.

**Q. Is Secondhand smoke (SHS) really that dangerous?**

**A.** Yes, SHS contains chemicals and poisons that are harmful to people and pets. Those chemicals are especially dangerous in closed-in spaces like a home or car. These poisons remain in the apartment even after someone smokes. Elderly persons and children are especially at risk. Breathing SHS can cause lung cancer in adults. Children can get ear infections, asthma, and respiratory problems from the exposure. The 2006 Surgeon General's report says there is no safe level of exposure to SHS. Thirdhand smoke (the residue left after smoking) may also be hazardous.

**Q. Why are smoke-free policies so important?**

**A.** Smoke-free air improves the health of Larimer County residents, especially for persons living in subsidized housing who often have higher levels of exposure to SHS and may be more at risk to getting sick from SHS because they may have less access to regular health care. Providing smoke-free housing also helps prevent fires and it can save landlords money since less apartment clean-up is needed after a renter moves.

**Q. What support is available for residents?**

**A.** See [www.raisesmokefreekids.org](http://www.raisesmokefreekids.org) for information on SHS. In Larimer County, about 86% of residents don't smoke and most of those who do already step outside their homes to smoke). You can get free phone coaching on how to quit smoking and free patches that help you quit at the Colorado Quitline, 1-800-QUIT-NOW (1-800-784-8669).