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Utah Tobacco Laws



SECOND HAND SMOKE AMENDMENTS

What Are the Second Hand Smoke Amendments?

The Second Hand Smoke Amendments are actually a series of various existing statutes that primarily relate to apartments, condominiums, and nuisance laws.

It is important to note that beyond an individual being able to propose changes in apartment or condominium smoking policies via lease agreements or association policies, some of the amendments may necessitate a person's seeking assistance from their legal advisor.

The information provided is for educational and informational purposes only and is not meant to replace advice from your legal advisor.

The Amendments:

- Give authority to condominium associations to restrict smoking in units, common areas, and yard space §57-8-16-7(a),(b)
- Give authority for apartment rental contracts to include prohibitions on smoking in units, on the premises, or both. §57-22-5-1(h)
- Establish that any tobacco smoke that drifts into any residential unit a person rents, lease, or owns is a nuisance under the law. §78B-6-1101(3)
- Provide that residents of condominiums, apartment, or private homes may seek injunctive relief and/or damages if exposed to nuisance tobacco smoke. §78B-1101(3)
- Exempt rental units, such as for vacations, or available for only 30 days or less at a time, from the nuisance tobacco provisions. §78B-6-1101(5). These units are not exempt from restrictions placed by a condominium association. §57-8-16-7(a),(b).
- Provide authority for an apartment renter to file a nuisance action under §78B-6-1101 even if the renter has signed away his rights to file a nuisance in a rental contract.

Utah Tobacco Quit Line
1.800.QUIT.NOW

HELPFUL RESOURCES

[Multi-Unit Guide](#)
[How-To Policy Guide](#)
[Quitting Resources](#)

Utah's Second Hand Smoke Amendments

For More Information:
1-877-220-3466 (Toll Free, In-State)
801-538-6260 or 801-538-6754

Spring 2000

What the Amendments Do

The Amendments were passed by the Utah State Legislature in 1997. They specifically apply to tobacco smoke that drifts into any residential unit a person rents, leases, or owns from another residential or commercial unit.

The Amendments:

1. Give Authority to condominium associations to restrict smoking in units, common areas, and yard space §57-8-16-7(a),(b)
2. Give authority for apartment rental contracts to include prohibitions on smoking in units, on the premises, or both. § 57-22-5-1(h).
3. Establish that any tobacco smoke that drifts into any residential unit a person rents,

leases, or owns is a nuisance under the law. §78-38-1(3)

4. Provide that residents of condominiums, apartments, or private homes may seek injunctive relief and/or damages if exposed to nuisance tobacco smoke. §78-38-1(3)

5. Exempt rental units, such as for vacations or available for only 30 days or less at a time, from the nuisance tobacco provisions. §78-38-1(4),(5). These units are not exempt from restrictions placed by a condominium association. §57-8-16-7(a), (b).

6. Provide authority for an apartment renter to file a nuisance action under §78-38-1(1) even if the renter has signed away his rights to file a nuisance

in a rental contract.



Tobacco smoke affects non-smokers

Second Hand Smoke Drifts to Other Dwellings

Tobacco smoke is comprised of over 4,000 chemicals, 43 which are known to cause cancer in humans. These chemicals take the form of very tiny particles, gases, and vapors that are activated and inhaled when tobacco is lit and the chemicals are released into the air.

Unfortunately, smoke from tobacco doesn't just affect the person using it. Tobacco smoke is similar to water— It can flow through tiny cracks in units, follows pipelines, and can "leak" through the walls from one unit to another. Smoke that drifts from one

unit to another can also be spread through air intakes of heating and cooling systems. Individual unit air cleaners are costly and provide little protection against the health effects of second hand smoke.

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Health Problems

Second Hand Smoke exposure has been linked to:

- ◆ Burning or itching eyes
- ◆ Runny nose
- ◆ Coughing
- ◆ Upper respiratory infections in children
- ◆ The development of asthma
- ◆ Triggering asthma attacks.
- ◆ Lung cancer
- ◆ Heart disease
- ◆ Impaired lung function in children

Creating a Smoke-free Apartment or Condominium

A smoke-free apartment or condominium can be accomplished in two ways: a voluntary policy or through an ordinance.

Voluntary Policy

A voluntary policy is a policy made by an owner, manager(s) or property management company in which they voluntarily decide to prohibit



Smoke-free Community

smoking in an individual unit, or in an entire building that may be leased, owned or rented. A voluntary policy could also prohibit smoking in common areas, patios, and balconies.

Ordinances

An ordinance is a law that is enacted by state and local city or county authorities. A local entity may pass an ordinance to define

and regulate conduct that is detrimental to the public health safety and well being of its community.

In 1997, the State of Utah enacted the Secondhand Smoke Amendments which established that smoking is a nuisance under the law, and gave apartments and condominiums the authority to prohibit smoking in units common areas, or on the premises.

Voluntary Policy

- * Talk about going smoke-free. As a manager or owner you can discuss with your tenants ways to make their environment smoke-free.
- * Don't allow smoking in your apartment or condominium. Politely ask individuals to smoke outside, away from entrances and air intakes.
- * Amend the rental lease, or condominium association

agreement. Include language so tenants are aware of the smoking policy and their obligations not to smoke or allow others to smoke in the unit.

- * If you allow smoking, specify in the lease where smoking is allowed.
- * Make signs available that indicate a smoke-free environment. Remember you

are targeting a behavior that annoys other tenants and causes health problems. If there is more than one building in a complex, designate buildings as "smoking" and "non-smoking."

- * Offer incentives to support a smoke-free policy. For example, moving into a freshly painted unit helps to create a smoke-free building.

Implementing A Voluntary Policy

There are numerous ways to implement a voluntary policy in your unit or complex.

Phase In: Consider phasing in smoke-free units in all or part of the building(s). When a smoker vacates, simply rent as a "smoke-free" unit. Smoke-free policies can also be grandfathered in.

Designate specific areas as smoke-free: Separate levels, patios, areas where children play

or hallways can be designated for smokers and non-smokers. Select the area with the smallest number of smokers to become the non-smoking area.

Prohibit smoking in common areas: Common use areas such as hallways, balconies, doorways, playgrounds, swimming pool areas etc., can be designated smoke-free.



Include an additional security deposit: Require an additional security or cleaning deposit for smokers. This will cover additional cleaning expenses caused by smoke damage.

Secondhand Smoke Amendments

The secondhand smoke amendments were passed by the Utah State Legislature in 1997. These amendments apply specifically to tobacco smoke that drifts into any residential unit a person rents, leases, or owns from another residential or commercial unit.

The amendments:

- * Give authority to condominium associations to restrict smoking in units, common areas, and yard space §57-8-16-7(a)(b).
- * Give authority for apartment rental contracts to include
 - prohibitions on smoking in units, on the premises, or both §57-22-5-1(h).
 - * Establish that any tobacco smoke that drifts into any residential unit a person rents, leases, or owns is a nuisance under the law §78-38-1(3).
 - * Provide that residents of condominiums, apartments, or private homes may seek injunctive relief and/or damages if exposed to nuisance tobacco smoke §78-38-1(3).
- * Exempt rental units, such as for vacation or available for only 30 days or less at a time, from the nuisance tobacco provisions §57-8-16-7(a)(b).
- * Provide authority for an apartment renter to file a nuisance action under §78-38-1(1) even if the renter has signed away his rights to file a nuisance.

Steps for Promoting Smoke-free Policies

- * Know the facts about the dangers and health effects of secondhand smoke.
- * Talk to residents and building owners. Find out their overall attitudes about smoking and if they support smoke-free areas. Consider a door-to-door survey.
- * Raise awareness about the problem of SHS in apartments and condos.
- * Include tenants in developing a plan to eliminate SHS. Present survey results and facts on the harmful effects of secondhand smoke.
- * Notify tenants of the plan. Send each unit a written notice of the new policy.
- * Implement the new policy. Post the policy in common areas and include the smoke-free requirements in rental and/or lease agreements.
- * Post "No Smoking" signs in appropriate areas.

Talk to residents to determine overall attitudes about smoking

How to Reduce Secondhand Smoke

As an owner or manager, there are repairs and changes that may reduce your tenants exposure to SHS. These changes will help to reduce the health risks associated with SHS exposure, but **will not** eliminate the drift of smoke **100%**.

- * Post "No Smoking" signs in areas where smoking is not allowed.
- * Weatherproof doors and windows to help stop smoke from getting in or out.
- * Install pads and seals around outlets and switches.
- * Fill openings in floors and walls: Foam is good for filling and sealing cracks and gaps around openings.
- * Ask smokers to restrict smoking by not smoking near openings or windows.



Post "No Smoking" signs in areas where smoking is not allowed

Smoke-free Housing in Utah

Utah's Smoke-free Apartment and Condominium Guide

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Apartment and condominium residents, managers, and owners can now breathe easier. The Utah Smoke-Free Apartment and Condominium Guide, an online resource, promotes smoke-free housing in Utah. Nationally, 50,000 people die each year as a result of secondhand smoke (SHS) exposure. Additionally, hundreds of thousands of people exposed to it suffer various other illnesses, such as asthma and bronchitis. While many Utahns appear to be taking steps to avoid SHS, recent UDOH data show more than 25,000 children still live in homes where they are exposed. "Smoke-free policies not only protect tenants' health, but they are also a sound business practice," says Cassandra Fairclough, Health Program Specialist, UDOH. "Adopting smoke-free policies is simple and inexpensive. These policies can reduce fire hazards, cleaning and maintenance costs, and time spent addressing tenant complaints about smoke drifting from

unit to unit. Insurance costs may also go down for those housing units that are smoke-free." The Utah Smoke-Free Apartment and Condominium Guide includes useful tools for managers and owners to help create smoke-free environments. The advantages of smoke-free units/buildings; how to eliminate drifting smoke; and types of smoke-free policies are just a few of the resources available to managers. The Web site also provides tenants with information about the health effects of SHS, ways to reduce exposure to SHS, tips on what one should know before renting, and how to resolve problems.



Did You Know?

The Utah Department of Health has a resource guide available for those interested in implementing secondhand smoke policies in multiple- dwelling units. The Utah Secondhand Smoke Policy and Implementation Guide can be viewed at

<http://www.tobaccofreeutah.org/shsguide.html>

Smoke-free Apartment and Condominium Statewide Directory

The Smoke-free Apartment and Condominium Statewide Directory is a list of properties that provide smoke-free environments. The listing is provided as a free service to managers, owners, and renters. There are two types of listings in the directory:

- All buildings and units of the complex are smoke-free.

- One or more of the buildings of a complex are smoke-free.

If you are interested in listing your smoke-free property in the directory, visit <http://www.tobaccofreeutah.org/aptcondo/guide-lom.htm#housing> for an online application. A Spanish version is also available.

For more info call: 1-877-220-3466

Utah Department of
Health

April 2005

SECONDHAND SMOKE GUIDANCE FOR APARTMENTS AND CONDOMINIUMS

SHS (Secondhand Smoke)

There are 53,000 people who die each year as a result of SHS exposure.² Additionally, hundreds of thousands more suffer various other illnesses, such as asthma, or bronchitis.

SHS from one housing unit may seep through cracks, or travel by a shared ventilation system and enter into the living space of another. This drifting smoke can make a home uncomfortable and an unhealthy place to live.

Smoke-free apartments or condominiums are not only a good health policy, but make sense legally.

The law allows owners and managers to prohibit smoking in any unit(s) or building(s).

Managers and owners who ignore the issue of smoke, face a growing likelihood of lawsuits by tenants suffering from the effects of SHS exposure.



SHS can make a home uncomfortable and an unhealthy place to live

Benefits of a Smoke-free Apartment or Condominium

The greatest benefit of a smoke-free facility is the elimination of the health risks associated with SHS. In addition:

- * Making rental units smoke-free can save money by reducing the damage that smoke causes e.g. extra cleaning costs, painting costs, and property damage such as cigarette burns on carpets.
- * Smoke-free units reduce fire damage, which may also reduce insurance costs.
- * Adopting a smoke-free policy attracts tenants because there is a market for smoke-free housing.³

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Secondhand Smoke Facts

- Environmental Tobacco Smoke has been classified as cancer causing and is considered a "nuisance" under Utah state law.
- More than 4,000 chemicals are found in a single puff of smoke.¹
- Secondhand smoke kills 53,000 Americans every year.²