

Proposed State Law: Protection of Non-Smokers from Secondhand Smoke in Residential and Lodging Properties

Union of Saints

Purpose

The purpose of this proposal is to protect residents, tenants, guests, and other members of the public from involuntary exposure to tobacco and other combustible smoke while preserving reasonable opportunities for individuals who smoke to do so in designated areas.

Residents and guests should be able to reasonably enjoy the outdoor and common areas associated with their homes, apartments, condominiums, hotels, and other places of temporary or permanent domicile without being required to breathe secondhand smoke.

Findings

1. Every resident and guest should have a reasonable opportunity to enjoy their home and its associated outdoor areas without involuntary exposure to smoke.
2. Smoking in outdoor areas immediately adjacent to buildings can cause smoke to enter windows, doors, ventilation systems, balconies, patios, and other areas occupied by nonsmokers.
3. Secondhand smoke does not remain confined to the person who is smoking. It can permeate shared air and affect other residents and guests who did not choose to participate in the activity.
4. When smokers repeatedly occupy or “hog” shared patios, entrances, balconies, courtyards, picnic areas, or other common spaces, nonsmokers may effectively lose access to those areas because using them requires exposure to smoke.
5. A person should not have to choose between **using a shared outdoor space and breathing clean air**.
6. Residential and lodging properties should be designed and operated so that smoking by one individual does not substantially interfere with the reasonable use and enjoyment of the property by others.

Proposed Requirement

Designated Smoking Areas

Any apartment complex, condominium property, hotel, motel, extended-stay facility, or other residential or lodging establishment that permits smoking on its premises shall designate specific smoking areas that:

- Are located a reasonable distance from occupied buildings;
- Are not located directly beside entrances, exits, windows, ventilation intakes, patios, balconies, playgrounds, or other commonly occupied areas;
- Are positioned so that smoke is reasonably unlikely to enter occupied portions of the property;

- Do not require nonsmokers to pass through a concentrated smoking area to enter or exit the building;
- Are clearly identified as designated smoking areas; and
- Are maintained separately from common recreational and social areas intended for general use.

Protection of Common Areas

Smoking should be prohibited in shared outdoor areas intended for general resident or guest use, including, where applicable:

- Community patios;
- Shared balconies;
- Courtyards;
- Picnic areas;
- Pool areas;
- Outdoor seating areas;
- Building entrances;
- Walkways immediately adjacent to occupied buildings; and
- Other common areas where smoke exposure would substantially interfere with the use and enjoyment of the space by nonsmokers.

Equal Enjoyment of Residential Property

The intent of this proposal is **not to prohibit adults from smoking**. Rather, it is to prevent one person's smoking activity from effectively eliminating another person's ability to use shared residential amenities.

A smoker should be able to smoke in a legally designated area. A nonsmoker should likewise be able to sit on a patio, open a window, walk into their residence, or enjoy a common area without being subjected to secondhand smoke.

No person should have to surrender the use of otherwise available residential or recreational space simply because another person has chosen to smoke there.

Principle Behind the Proposal

The central principle is simple:

One person's freedom to smoke should not require another person to surrender their freedom to enjoy their home, breathe reasonably clean air, or use shared residential spaces.

This approach creates a balance rather than treating either group as having superior rights. Smokers retain a place where smoking is permitted, while nonsmokers retain meaningful access to the rest of the property without involuntary smoke exposure.