

Resources for Tenants Dealing with Neighbor Smoke



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What Do You Need to Know?

If you're a California tenant dealing with smoke entering your rental from a neighboring unit, it's important to act quickly to protect your health and your rights.

Unfortunately, Tenant Law Group cannot assist all tenants who contact our firm with direct legal representation. However, we believe in empowering all California renters with information. This document is a free resource for tenants navigating issues specifically related to secondhand smoke, including some practical tips and legal aid resources to assist you in remedying the situation.



1 Check Your Building's Rules and Regulations

(if the Neighbor Lives in the Same Building) or Local Noise Ordinances (if the Neighbor Does Not Live in the Same Building).

- **Building Rules and Regulations:** Building-wide rules and regulations often accompany lease agreements. If the neighbor lives in the same building, check your lease to see if any rules and regulations are attached. If so, look for any specific rules pertaining to smoking. Rules and regulations for buildings typically include restrictions on smoking.
- **Local Smoking Ordinances:** If the neighbor does not live in the same building, building rules and regulations would not apply. Research your city's or county's ordinances pertaining to smoke. You can usually find this information on your city's website or by contacting the local government.

2 Document the Problem

- **Keep a Log:** Start documenting when and where the smoke enters your apartment. Note the dates, times, duration, and type of smoke (e.g., cigarette, marijuana, or cooking smoke).
- **Record Evidence:** Take photos or videos showing the smoke's presence if visible and consider taking notes on any health symptoms or impacts, such as coughing or headaches.
- **Perform an Air Quality Test:** Some indoor air quality tests can capture the evidence needed to show your landlord that the problem exists.



3 Communicate with Your Neighbor

- **Take a Polite Approach:** Sometimes, the neighbor may not be aware their smoke is affecting you. Consider approaching them politely or leaving a note explaining the issue and asking them to smoke in designated areas, if applicable.
- **Share a Written Request:** If you aren't comfortable with a face-to-face conversation, you can write a polite note/letter or email outlining the problem. If you write a letter, make a photocopy or take a picture of it before leaving it under your neighbor's door.

4 Understand Local Laws and Ordinances

- **Quiet Enjoyment:** Under California law, tenants have a legal right to quietly enjoy their rental unit. Excessive smoke that disrupts your living conditions violates this right.¹
- **California Law:** Landlords have the right to prohibit smoking of cigarettes or other tobacco products in and around a rental property as long as it is written into the lease agreement.²



1. See Cal. Civ. Code § 1927("An agreement to let upon hire binds the letter to secure to the hirer the quiet possession of the thing hired during the term of the hiring, against all persons lawfully claiming the same.") Many local rent ordinances include similar prohibitions.

2. See Cal. Civ. Code § 1947.5.



5 If Your Neighbor Won't Stop, Notify Your Landlord in Writing

- **Send a Complaint and Request Action:** If the problem persists and your overtures to your neighbors are unsuccessful, prepare a writing (e.g., letter or email) to your landlord detailing the issue and asking the landlord to remedy the situation as soon as possible. Be sure to state that it is interfering with your ability to quietly enjoy your rental unit. Share any relevant documentation, such as your log of incidents. It is ultimately your landlord's responsibility to remedy the issue, so do not feel obligated to propose a solution.
- **Health and Safety Concerns:** If the smoke is causing health issues, mention this to your landlord.

6 If Your Landlord Does Not Respond Timely, Send Another Writing

- **Send a Follow-Up Complaint Requesting Action:** If your landlord has not addressed the issue in a reasonable period (e.g., a few days to a week, depending on the severity of the problem), prepare another writing to your landlord. In this one, re-explain the issue, indicate that you had made a prior request, add that it is interfering with your ability to quietly enjoy your rental unit, and ask your landlord again to remedy the situation by a date certain. Again, share any relevant documentation, such as your log of incidents. If the smoke has continued to create health issues for you or another roommate or family member in your rental unit, mention this as well.



7 Request Repairs or Modifications

- **Take Action To Keep the Smoke out:** Although it is ultimately your landlord's responsibility to remedy the issue, if your landlord is unresponsive, you may wish to take action to remedy the issue yourself.
- **Seal Gaps:** Sometimes smoke enters through gaps around windows, doors, or ventilation systems. If your landlord is unable or unwilling to ask your neighbors to stop, ask your landlord to seal gaps or improve the ventilation in your rental unit to prevent smoke from entering.
- **Air Filters:** Request that the landlord provide air purifiers or filtration systems if the smoke issue is persistent and is affecting your health.

8 Explore Mediation Options

- **Mediation Services:** If direct communication with your neighbor and landlord still doesn't resolve the issue, consider using mediation services to help reach a compromise. Many California cities offer free or low-cost mediation services to resolve disputes between tenants and neighbors.
- **Neighborhood Dispute Resolution Programs:** Look into local programs to see if there is one available in your area.



9 File a Complaint with Local Authorities

- **Public Health Department:** If the smoke violates local smoke-free laws or poses a health risk, contact your local public health department or housing authority to inquire about lodging a complaint. They may conduct an investigation and take action to enforce local laws. This step should only be taken after unsuccessful requests with the neighbors and your landlord.
- **Code Enforcement:** In some areas, smoke intrusions may violate building codes or ordinances. Contact your local Code Enforcement agency for more information.

10 Seek Legal Help

- **Legal Aid:** If the issue persists and your landlord does not take appropriate action, seek legal advice. Many tenant rights organizations in California can provide free legal advice or representation.
- Examples:
 - [Bay Area Legal Aid](#)
 - [Tenants Together](#)
 - [Legal Aid Foundation of Los Angeles \(LAFLA\)](#)
 - [Central California Legal Services \(CCLS\)](#)



11 Request to Break the Lease (as a last resort)

- **Breaking the Lease:** If the smoke problem is severe and significantly affects your health or ability to live in your rental unit, you can break your lease due to uninhabitable living conditions. However, this is a complex legal step that may invite undesirable consequences from unscrupulous landlords and should be done with legal guidance.



Where Can I Get Legal Help as a Tenant in California?

If you're a California tenant and Tenant Law Group is unable to represent you, the following legal aid and advocacy organizations can assist.

Tenant Law Group Legal Aid Directory



See the full list by scanning the QR code or clicking the link to visit our [website](#).

This document provides general information about landlord-tenant laws in California and is not intended as legal advice. We encourage you to consult with a qualified tenant rights attorney or local tenant advocacy organization for guidance specific to your situation.

