

# THE CHRISTOPHER CLEAN AIR INITIATIVE

## QUESTIONS AND ANSWERS

The following is a list of questions and answers that Christopher residents may have regarding the adoption of a smoke-free policy.

### 1. How does secondhand smoke harm health?

The U.S. Environmental Protection Agency, the U.S. National Toxicology Program, the U.S. Surgeon General, and the International Agency for Research on Cancer have all classified secondhand smoke as a known human carcinogen (a cancer-causing agent).

The evidence clearly shows that secondhand smoke can cause lung cancer. Research also suggests that secondhand smoke may increase the risk of breast cancer, nasal sinus cavity cancer, and nasopharyngeal cancer in adults and the risk of leukemia, lymphoma, and brain tumors in children.

Secondhand smoke increases the risk of heart disease by about 25%–30% and increases the risk of stroke by 20%–30%.

Secondhand smoke exposure has been found to reduced fertility, and exposure during pregnancy can cause gestational complications, low birth weight, and preterm delivery.

Children exposed to secondhand smoke are at increased risk of sudden infant death syndrome, ear infections, colds, pneumonia, bronchitis, and more severe asthma.

***There is no safe level of exposure to secondhand smoke. Even low levels of secondhand smoke can be harmful.***

[National Cancer Institute. Secondhand Smoke and Cancer. December 4, 2018.

<https://www.cancer.gov/about-cancer/causes-prevention/risk/tobacco/second-hand-smoke-fact-sheet>]

### 2. Do I have a “right” to smoke in my unit?

Smoking is not a constitutional right, and smokers are not protected by any anti-discrimination laws. Smokers are not a protected class under fair housing laws. Every court that has considered the issue has declared that no fundamental “right to smoke” exists.

Non-smoking residents, however, do have rights to not be exposed to secondhand smoke such as noted in the 2006 U.S. Surgeon General’s report, “*The Health Consequences of Involuntary Exposure to Tobacco Smoke*.” The report states: “A review of potential legal remedies for residents affected by secondhand smoke concluded that state regulations, such as sanitary codes, provide general language for protecting the health of residents in multi-unit buildings. Residents can also use traditional claims of nuisance, warranties of habitability, and the right of quiet enjoyment.”

### **3. Can The Christopher Board of Directors make me stop smoking in my unit?**

Condominium associations can prohibit smoking. To adopt a condominium bylaw amendment, Maryland House Bill 789 (enacted in 2017) requires at least 60% of owners who are in good standing to vote for the amendment.

Smoking, like other activities that cause harm, annoyance, irritation, or damage property can be regulated or prohibited outright—even in private dwellings.

### **4. Shouldn't I be able to do whatever I want in my own unit?**

People should be allowed to do what they want in their own apartments, but not if it causes harm or damage to their neighbors and their property. Smoke does not stay in the smoker's apartment. No condominium unit can be made airtight. Secondhand smoke drifts through vents, doors, windows, hallways, electrical outlets, and through gaps around fixtures and walls. It spreads to neighboring units and is not only a nuisance, but a known health hazard.

Condominium owners agree to be bound by the rules governing the administration, maintenance, and use of the property. The Maryland Court of Appeals recognized this arrangement, stating that "inherent in the condominium concept is the principle that to promote the health, happiness, and peace of mind of the majority ... each unit owner must give up a certain degree of freedom of choice which he might otherwise enjoy in separate, privately owned property."

### **5. Can a smoke-free policy be enforced?**

A smoke-free policy is enforced in the same manner as other condominium bylaws: A resident who violates the policy would be reported to management and a warning and/or fine issued. Refusal to comply would be referred to The Christopher Board of Directors, and—as with any other condominium rule—the board ultimately can request that a resident who repeatedly violates the policy have his right to occupy the building terminated.

According to the U.S. Surgeon General, "concerns about how to enforce a smoke-free policy are ... unfounded, as the majority of landlords with smoke-free policies report little to no problems with enforcement."

[U.S. Department of Health and Human Services. The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General. 2006. <http://www.surgeongeneral.gov/library/secondhandsmoke/>]

### **6. Can modifications be made to keep smoke from spreading outside a smoker's unit?**

Air purifiers and weather stripping cannot prevent the spread of secondhand smoke. According to the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE), enhanced ventilation and air cleaning mechanisms cannot wipe out the potential health effects of secondhand smoke. A 2005 ASHRAE document states: "At present, the only means of effectively eliminating health risk associated with indoor exposure is to ban smoking activity."

## **7. Can smokers who bought or signed leases prior to the smoke-free policy be “grandfathered in”?**

All Christopher residents should be treated equally. Plus, we would gain none of the benefits of a smoke-free policy if existing residents are grandfathered in. A smoke-free policy that allows some residents to continue smoking in their units would be difficult, if not impossible, to enforce and would defeat the purpose of the ban. A new resident may blame an existing owner for their secondhand smoke.

A smoke-free policy does not ban smokers from living at The Christopher or require smokers to quit. But smokers would not be allowed to smoke anywhere on the property. If a resident who smokes would like to quit, smoking cessation resources (classes, nicotine replacement therapy, prescription medications) are available.

## **8. Can smoking be restricted to balconies?**

Tobacco smoke drifts back inside units through doors and windows when smoking occurs on patios and balconies, even if doors and windows are closed.

## **9. Does a smoke-free building have any advantages for investors?**

Absolutely. A smoke-free policy significantly decreases the risk of fire and reduces cleaning and maintenance costs. Many property insurance companies offer a discount for buildings with smoke-free policies.

Plus, smoke-free condominiums may have higher resale value than units in buildings that allow smoking. As the number of public places in which a person can smoke has shrunk, so has the number of buyers who are willing to consider purchasing the property of a smoker.

## **10. Why should The Christopher adopt a smoke-free policy now?**

Properties surrounding The Christopher are smoke-free. New condominiums and apartments in Bethesda are opening with smoke-free policies in place. Existing condominiums and co-ops—including, but not limited to the Lionsgate, Fairmont Plaza, Grosvenor Park I, Grosvenor II, and Promenade Towers—have passed bylaws to become smoke-free.

We don't want The Christopher to be the last condominium to follow suit, or we may see the number of smokers in the building rise and our property values drop.