

**COMPLAINT RE: PROHIBITED SMOKING IN MULTI-UNIT RESIDENCE
(Berkeley Municipal Code 12.70.035)**

On the following date and time at the address listed below, I, the Complainant, witnessed a violation of BMC 12.70.035 (prohibited smoking in a unit or common area of a multi-unit residence) as follows:

Date of violation: _____ Time of violation: _____

Location of violation, i.e. where the smoke is coming from:

Note: This must be in the same multi-unit residence as where the Complainant resides, e.g. hallway, common area, another unit, etc.

Duplex (2 units): Yes or No _____

Name, if known, and address of person responsible for violation (tenant(s)/owner-occupant):

Complaint - [describe violation and your observations; it is recommended to attach evidence (photos of smokers, statements from 3rd party witnesses, etc.) in support of your complaint]:

I acknowledge the following:

1. I am a resident in a multi-unit residence within the City of Berkeley;
2. This Complaint is **not confidential** and may be shared with the person responsible for the violation;
3. If this is the 3rd complaint, City of Berkeley Code Enforcement staff will review the complaint and if they find the complaint contains enough information to move forward, they will consider the matter for further action.
4. If an administrative citation is issued, and the recipient(s) appeals, I will be called to testify at an administrative appeal hearing. I agree to make myself available to testify, and understand that if I fail to testify, the citation may be dismissed.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed in Berkeley, California, on _____ at _____ ☐ am/pm ☐

[Signature]

[Print name]

Complainant's Address: _____

Please note that a copy of your complaint will also be sent to your Landlord/Property Manager if and only if you complete the contact information below **[optional]**:

Landlord/Property Owner Name: _____

Landlord/Property Owner Address: _____

Mail to: City of Berkeley, Tobacco Prevention Program
1947 Center Street, 2nd Floor
Berkeley, CA 94704

Completed forms are accepted by mail and in-person at 1947 Center St, 2nd floor. Please allow 10 days processing. **Please refer to the "Prohibited smoking in Multi-unit residence Complaint Form Information Sheet" for more information.**

If you would like to receive confirmation that your form has been received, please provide your email address and phone number.

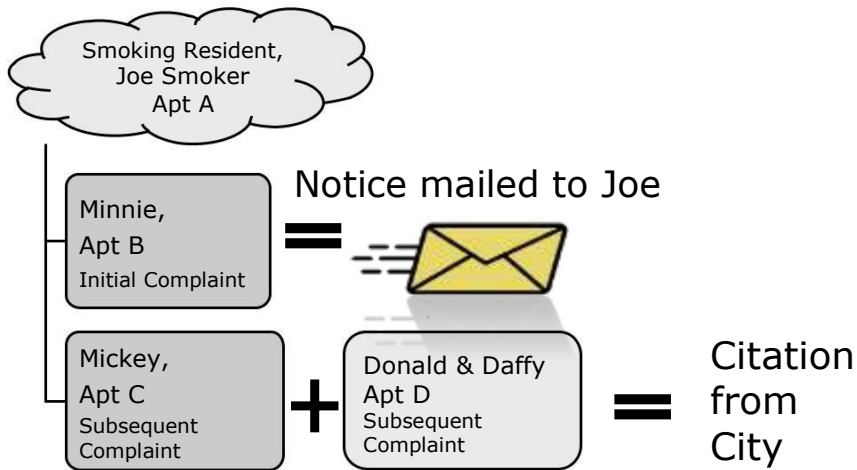
[Email Address]

[Phone Number]

PROHIBITED SMOKING IN MULTI-UNIT RESIDENCE COMPLAINT FORM **INFORMATION SHEET**

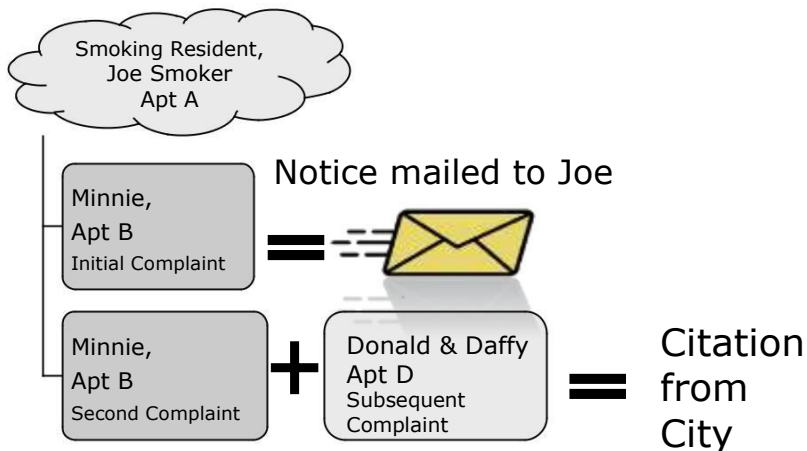
1. Only mailed forms and forms dropped off in person (at address below) will be accepted. Emailed forms will not be processed. Mail to: City of Berkeley, Smoke-Free Multi-Unit Housing Complaint, 1947 Center Street, 2nd Floor, Berkeley, CA 94704
2. Please fill out the complaint form as completely as possible. **Incomplete forms may delay the processing of your complaint.** Please allow 10 days processing.
3. Please identify the person who is responsible for the violation. If the violation is by a renter ("tenant") or owner-occupant in your building, list the tenant or owner-occupant by name and address, including unit number. If the violation is by a visitor/guest of a tenant or owner-occupant, list the tenant or owner-occupant. To file a complaint, you must live in the same building as the responsible person. See Berkeley Municipal Code Section 12.70.035 (C): The tenant(s) of a unit, or owner-occupant(s) of an owner-occupied unit, shall be deemed the person(s) responsible for the violation where the violation was caused by the tenant(s) or owner-occupant(s) of the unit, or one or more persons subject to the control of, or present by invitation or permission of, the tenant(s) or owner-occupant(s).
4. If it is the first complaint, or the last complaint was more than six months ago, a notice will be sent to the person(s) responsible with a summary of the ordinance and information about the health effects of second hand smoke.
5. If it is the second complaint within a six month period, a note is made and no additional notice will be sent to the person(s) responsible. The second complaint can be made by the same resident as the first complaint or by a resident in another unit in the same building. ***The second complaint must be dated at least 10 days after the date on the notice sent by City of Berkeley to the person(s) responsible.*** You may call the Tobacco Prevention Program (see #10) for this information.
6. If it is the third complaint, information about the person(s) responsible is sent to the City Enforcement team and a citation may be issued. ***Please note the issuance of a citation is an absolutely discretionary process based on the City's resources, competing time constraints, and whether it is clear that the complaints are being filed in good faith.*** Only two complaints may be made by tenants in the same unit. All three complaints may not be made by tenants in the same unit.
7. If you live in a two-unit building, a citation may be issued based only on complaints lodged by you or other tenants in your unit against the responsible person.
8. Appeal process: If an administrative citation is issued, and the recipient(s) appeals, you will be called to testify at an administrative appeal hearing. If you fail to testify, the citation may be dismissed.
9. The City encourages complainants to address the issue with their landlord first, if possible. Please understand that alternative options for enforcement exist – such as small claims court.
10. For more information, please visit www.cityofberkeley.info/smoke-free_MUH or call (510) 981-5330.

City Enforcement Example 1



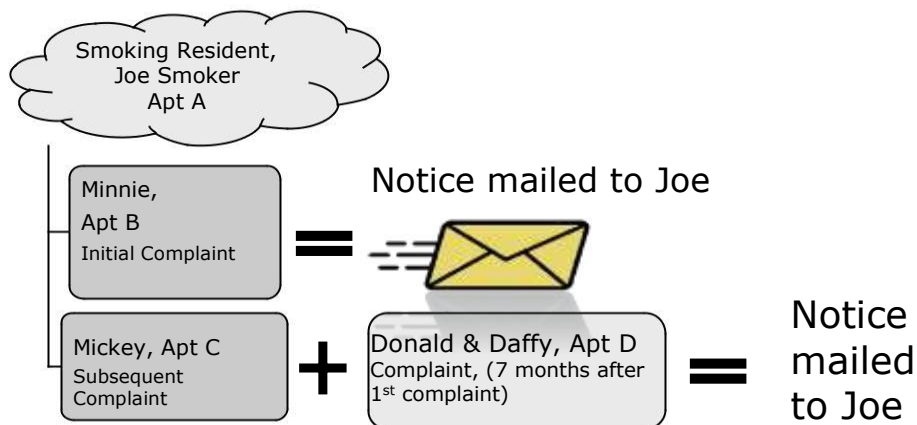
2nd & 3rd complaints must be postmarked within 6 months of the date of the 1st complaint; 2nd complaint must be dated at least 10 days after date on Notice

City Enforcement Example 2



2nd & 3rd complaints must be postmarked within 6 months of the date of the 1st complaint; 2nd complaint must be dated at least 10 days after date on Notice

City Enforcement Example 3



If subsequent complaints are sent more than 6 months after the date of the 1st complaint, the timing restarts, the complaint is treated as the 1st complaint, and a notice is sent.