



Condominium: no smoking in all common areas.

The administrator is responsible for compliance with regulations in common areas.

Go Lucia Izzo - Since 2003 in Italy there is a **ban on smoking**, practically in all closed areas, with the exception of specially designated areas for smoking (duly reported) and private places not open to the public. It was the **Sirchia law** no. 3/2003 to establish and retain it in the years to come, in particular with the new bans introduced in Italy to implement the provisions of **Directive 2014/40 / EU**.

In practice, **Legislative Decree no. 6/2016** extended this prohibition also to the external affiliates of **university, hospital, hospital and pediatric IRCCS**, and the external departments of gynecology and obstetrics, neonatology and pediatrics departments of hospital and hospital facilities and IRCCS

Still, the ban on smoking has been extended to the **driver of motor vehicles**, in the parking or on the move, and passengers on board in the presence of children under the age of eighteen and pregnant women.

No smoking: even in Condominium?

The doubt has arisen in relation to the **condominium areas**, particularly in those environments (stairs, gardens, garages) that **are in communion** and therefore can be freely used by all condominiums.

Article. **1102 of the Italian Civil Code**, dedicated to communion but applicable to the Condominium in view of the recall of art. 1139 of c. C., Stipulates that each participant can use the common thing, **provided that he does not alter the destination and does not prevent other participants from doing so** in accordance with their right.

Androns, landings, lifts, stairs and environments intended to host condominium meetings, for example, are not **considered comparable to private homes**, where smoking is permitted under law. In fact, these spaces are also shared with other subjects, not just the other condominiums, but whoever for some reasons are there **to travel or work** (posters, technicians, doorman, etc.).

Therefore, the Minister of Health stated in **footnote 1505 of 24 January 2005** that antifouling provisions should also be extended to such environments as the abovementioned subjects must be guaranteed the **respect of the right to health**, the fundamental right of the individual and the general interest Of the community, constitutionally guaranteed and **inspired by anti-smoking legislation**, aimed at protecting non-smokers from passive smoking.

No smoking: in Condominium, the administrator is responsible.

The ban **must be respected in Condominium by the administrator**, as stipulated by the State-Regions Agreement of December 16, 2004, intervened to implement Article 51, paragraph 7 of Law 3/2003.

The rule stipulates that "executives responsible for the administrative and service structures of public administrations, companies and public agencies or private persons operating public



services, or **those in charge of private facilities, shall establish and affix the full prohibition of such indications in the premises where the prohibition is applicable**".

It is up to the administrator, therefore, to prepare the **necessary anti-smoking signage and to observe compliance** with the rules, to the extent of its liability and the payment of the related financial penalties.

However, the other condominiums and stables of the building may **also make verbal summons** against the offender and proceed in case of non-compliance with the prohibition and call, **signaling violations to the competent authorities**.

No problem, of course, for those who **smoke inside their homes** and their property, such as balconies, gardens, terraces. However, **the Court of Cassation, 7875/2009**, recognized the annoying, annoying, unhealthy, passive smoke-induced smoking cigarette emissions by a **group of individuals, albeit limited**.

In the present case, the inputs deemed to be molesties were those from the bar on the ground floor that had damaged the resident on the first floor of **Condominium**. The Supreme Court confirmed the compensation of 10 thousand euros to the damaged condominium.

Also, it is good to remember that cigarette butts must be safely disposed of **without throwing them from the balcony**, as this behavior is likely to be configured as a **"dangerous jet of things"** (barring cigarettes from the balcony is punished by arresting up to a Month or fine up to € 206/00).

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