

Tips for Residents Experiencing Secondhand Smoke in Apartment Communities That Allow Smoking



Arizona Smoke-Free
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www.AzSmokeFreeLiving.org



If you are being affected by exposure to tobacco smoke from a neighboring unit in your apartment building, **you are not alone!** While there are no statewide laws currently regulating tobacco smoking inside an individual unit in multi-family residences in Arizona, property managers and owners can choose to implement no-smoking policies. The following information may help you resolve your health risk, but please note that **nothing in these recommendations shall constitute legal advice.**

1. Talk to your property manager or owner

Schedule an appointment with your property manager or owner to discuss the situation, following your community's procedure. Be positive, polite, stick to the issue, and offer solutions. Solutions can include conducting a resident survey, holding a residents' meeting, relocating to a different unit in another building, or ending your lease early to find a smoke-free apartment community. Provide information to your property manager or owner about the **dangers of being exposed to secondhand smoke** and explain the **benefits of a smoke-free policy**. Emphasize that property managers and owners can **legally** make their properties smoke-free. For federally assisted public and multi-family housing properties, point out that adding a no-smoking policy to the house rules may be easier to accomplish than making a formal lease change; the U.S. Department of Housing and Urban Development (HUD) has a smoke-free housing **toolkit**.

2. Keep track of your actions

If contacting your property manager or owner does not resolve the issue and you plan to pursue steps to eliminate or reduce tobacco smoke coming into your residence, write down all of the steps you take to resolve the issue. The "**Drifting Tobacco Smoke Resolution Efforts**" form can be used to help document your actions.

3. Determine where the smoke is coming from

Tobacco smoke often migrates through ventilation systems, but also through gaps around plumbing fixtures, baseboards, door jams, door gaps, sprinkler heads, light fixture openings, plaster cracks, bathroom fans, lighting fixtures, and other unsealed openings. Sealing the largest openings with foam, spray foam, or mineral wool, if permitted, may limit exposure. However, it will not eliminate secondhand smoke. The **American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE)** maintains the position that there is no reliable engineering approach available to control the health risks of secondhand smoke. Additionally, the **2006 U.S. Surgeon General's Report on Secondhand Smoke** advises that there is no safe level of exposure to **secondhand smoke**.

Observe if smoking is occurring in common areas. Note that the Smoke-Free Arizona Act (A.R.S. § 36-601.01) requires the common areas of apartment communities to be smoke-free. Smoking is prohibited inside public buildings and within 20 feet of entrances, open windows, and ventilation systems of enclosed common areas of multi-family housing, such as the main office, laundry room, fitness center, activity center, or clubhouse. To report smoking occurring in common areas or if no-smoking signs are not placed in common areas, contact the Smoke-Free Arizona office at 1-877-AZ-STOPS or by completing an online [form](#). Please note that the Smoke-Free Arizona Act does not apply to individual apartment units. However, property managers and owners can choose to implement their own policy prohibiting smoking within individual apartment units or anywhere on the property. There is no constitutional right to smoke, even in one's own rented dwelling, if there is a no-smoking rule (property managers and owners have the right to set reasonable rules, such as no smoking).

4. Examine the lease

Some activities that occur in one apartment unit, but cause annoyance, irritation, or health problems in another apartment unit are often regulated or prohibited in a lease agreement. Because drifting tobacco smoke can create or exacerbate health problems for another resident, it may be considered a nuisance. If your lease has a clause that prohibits nuisances that harm or disrupt the peaceful enjoyment of your apartment, bringing the issue to the attention of your property manager may help resolve the issue. Some leases may contain a mediation clause that outlines specific steps for addressing this type of complaint. You may be required to follow these steps before seeking further assistance.

5. Talk with your neighbors and the property manager or owner

If your attempt to speak with the property manager or owner does not resolve the issue, you may consider talking with neighbors to see if they are experiencing similar issues. If they are, you may consider making an appointment with your property manager or owner together to show concern and support for resolving tobacco smoke exposure within the community.

Arizona Smoke-Free Living is also a resource that can help with the implementation of no-smoking policies. Encourage your property manager to contact Arizona Smoke-Free Living. You can also contact Arizona Smoke-Free Living with the contact information for your apartment community and we will attempt to work with your property manager directly.

Arizona Smoke-Free Living can be contacted by visiting www.AzSmokeFreeLiving.org, by calling (602) 258-7505, or by emailing info@azsmokefreeliving.org.

6. Obtain medical documentation and document your issue in writing

If you or a family member has a lung condition (such as asthma, hay fever, allergies, or chronic obstructive pulmonary disease [COPD]), heart disease, or any other health condition that is affected by secondhand smoke, you may consider submitting a request for reasonable accommodation in writing. The Fair Housing Act requires that housing providers address requests for reasonable accommodation from a disabled applicant/resident. An accommodation is simply a change to the way the property manager or owner does business or an adjustment to the policies, practices, or procedures. If a resident has a disability that is adversely affected by smoking, he or she can ask for a reasonable accommodation from the housing provider to reside in a smoke-free environment. The housing provider should respond to the request and engage in an interactive process to try to identify a solution that is reasonable for both the resident and the housing provider.

To begin the process of requesting a reasonable accommodation, you may need to obtain a letter from a medical professional documenting the health risk. Once you obtain a letter from your medical professional, inform your property manager or owner through a [Request for Reasonable Accommodation form](#). Document your progress on the “Resolution Efforts” form. Send the letter from your medical professional and the Request for Reasonable Accommodation via certified mail (return receipt requested) to your property manager or owner.

If these efforts do not produce positive results in a timely and reasonable manner and you have a medical condition that is made worse by secondhand smoke, you may consider filing a complaint under the Arizona Fair Housing Act (see section #7), or by contacting the Arizona Attorney General’s office. If you contact the Arizona Attorney General’s office, a representative will follow up with you regarding your complaint and can also advise you or may offer mediation services to help resolve your issue. The representative may also contact the housing provider to resolve the issue.

The Arizona Attorney General’s office can be contacted through its [website](#), by calling (602) 542-5025, or by visiting in-person at 1275 West Washington St., Phoenix, AZ 85007-2926.

7. Consider filing a complaint under the Fair Housing Act

People with a disability related to, or affected by exposure to, secondhand smoke may be able to file a complaint under the Fair Housing Act by contacting the Southwest Fair Housing Council or the Arizona Attorney General’s office. Be patient with this process and follow up, as needed.

The Southwest Fair Housing Council can be contacted through its [website](#) or by calling (602) 252-3423. The Arizona Attorney General’s office can be contacted through its [website](#),

by calling (602) 542-5025, or by visiting in-person at 1275 West Washington St., Phoenix, AZ 85007-2926.

8. An attorney may be able to help

In general, you will want to demonstrate and document that you have made every attempt to resolve the problem on your own, without legal assistance. Keep in mind that going to court can be expensive, be time-consuming, and there is no guarantee the final decision will be in your favor. Click [here](#) for general tips about hiring an attorney.

9. Moving may be an option

You may consider moving and terminating your lease early if attempts to resolve the situation are unsuccessful. Contact your property manager or owner to confirm the steps and details for early lease termination. Also, visit the [Smoke-Free Housing Directory](#) for a list of apartment communities offering a smoke-free amenity. View [Tips for Residents](#) for resources and recommended questions to ask while looking for a smoke-free apartment community.

Further assistance is available

Arizona Smoke-Free Living can provide additional support to assist you as you attempt to find a resolution. You may contact us at (602) 258-7505 or at info@azsmokefreeliving.org.

Nothing on this pamphlet shall constitute legal advice. Please consult an attorney before pursuing legal action.

Tips for Writing a Letter to an Apartment Property Manager or Owner Regarding Drifting Secondhand Tobacco Smoke

1. Start on a positive note. Start by explaining why you like the apartment community, your unit, and/or any special services offered to you by the property manager or owner.
2. State your concern. Clearly explain your concern by sharing the facts about the situation and about the effects of **secondhand smoke** exposure on you. Avoid emotional statements as much as possible.
3. Share the benefits of a smoke-free policy. Mention the **economic** and **health** benefits of a smoke-free policy.
4. Explain the impact on your health. Briefly list the symptoms you are experiencing and the guidance you received from your healthcare provider. Attach any letters received from your healthcare provider supporting your position.
5. Ask for a response and offer your assistance. Clearly request a response by a specific date and offer to connect the property manager or owner with agencies or other groups, such as Arizona Smoke-Free Living, for guidance and assistance with a smoke-free policy. Arizona Smoke-Free Living offers **steps for adopting a smoke-free policy**, **tips for property managers**, and a **toolkit of sample documents**.
6. End on a positive note. Reinforce that you are willing to assist in any way you can and that you look forward to working together to resolve the issue at hand.
7. Deliver the letter via certified mail with a return receipt through the U.S. Postal Service. This will ensure that the letter is received and provide you with good documentation.
8. Follow-up after or to request a response. If the response is positive, be sure to thank your property manager or owner either by phone or by letter. If there is no response within 14 business days, or if it is negative, it may be appropriate to deliver a second notice of request before contacting an outside agency for further assistance. Be sure to kindly request that the response from the property manager or owner specifies how and when the situation will be addressed.

Nothing on this pamphlet shall constitute legal advice. Please consult an attorney before pursuing legal action.

— SAMPLE LETTER —

[your street address]
[city, state zip code]
[date (month, day, year)]

[name of apartment community]
Attn: [name of property manager or owner]
[street address]
[city, state zip code]

Dear [name of property manager or owner],

I enjoy living at [name of apartment community] and want to continue living here because [insert the reasons you enjoy the community]. As much as I like this community, I am experiencing serious health issues due to tobacco smoke drifting into my apartment unit from an adjoining apartment unit. The situation has become intolerable for me and your assistance is requested to resolve the problem.

Secondhand smoke is a serious health hazard that can lead to disease and premature death. There is no safe level of exposure. Even brief exposure can be harmful to people's health. Secondhand smoke:

- exposes residents to over 7000 chemicals, about 70 of which are known to cause cancer in humans
- causes or worsens respiratory tract infections, such as pneumonia and bronchitis, especially in infants, children, and older adults
- can trigger a heart attack in people with pre-existing conditions

With these facts in mind, [name of apartment community] and the health of all residents would benefit from implementing a no-smoking policy. Below are some of the benefits to be gained:

- Attract more tenants. According to a 2012 survey of Maricopa County renters, 7 in 10 renters would choose to live in a smoke-free apartment community over one where management allows smoking.
- Save money by reducing the need for repairs. Smoke causes serious property damage.
- Eliminate the leading cause of residential fire deaths. Every year, fires caused by cigarette result in hundreds of millions of dollars in damages and are the leading cause of death nationally.
- Potentially reduce your insurance premiums. Some insurance companies may offer property owners and residents discounts on general liability insurance premiums if they implement a no-smoking policy. No-smoking rules reduce the risk of fires, injury and death.

I have experienced [add list of symptoms] for [add amount of time (i.e., weeks, months)] that my healthcare provider has confirmed are directly caused from exposure to tobacco smoke. Please see the attached letter from my healthcare provider for more details.

Given the seriousness and urgency of the situation, I am asking that you consider adopting a no-smoking policy at [name of apartment community]. Arizona Smoke-Free Living, a group that can assist with planning and implementing no-smoking policies, is available to assist us in this matter, if needed.

I would appreciate a written response to this letter within 14 business days.

Thank you very much for your assistance on this important matter.

Sincerely,




Let's Share Fresh Air

Contact us today!

Arizona Smoke-Free Living
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102 West McDowell Road
Phoenix, AZ 85003
(602) 258-7505
info@AzSmokeFreeLiving.org
www.AzSmokeFreeLiving.org

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