

# Tips for Residents Experiencing Secondhand Smoke in Apartment Communities That Do Not Allow Smoking



Arizona Smoke-Free  
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[www.AzSmokeFreeLiving.org](http://www.AzSmokeFreeLiving.org)



If you are being affected by exposure to tobacco smoke coming 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, a growing number of multi-family residential communities have implemented no-smoking policies that encompass all apartment buildings and, in some cases, the entire community. 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. Ask what solutions the property manager or owner can offer and let he/she know you are willing to help. You may also 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 together to show concern and support for resolving tobacco smoke exposure within the community.

### 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 Reduction 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. Write down the areas where you notice smoke may be entering into your unit.

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**

Look for a clause that outlines the no-smoking policy in your lease (or in an addendum) and review it. If there is not a no-smoking clause in your lease, reference the “[Tips for Residents Experiencing Secondhand Smoke in Apartment Communities That Allow Smoking](#)” document for additional information. Some leases may contain a mediation clause that outlines specific steps for addressing complaints. You may be required to follow these steps before seeking further assistance.

#### **5. 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, talk with your property manager or owner about the Americans with Disabilities Act policy. You may need to obtain a letter from a medical professional to document the health risk when exposed to secondhand smoke. 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 and send the letter from your medical professional and the Request for Reasonable Accommodation Form 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 #6), 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.

## **6. 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.

## **7. 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](mailto:info@azsmokefreeliving.org).

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



*Let's Share Fresh Air*

Contact us today!

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