

UTAH DEPARTMENT OF HEALTH
**Secondhand
Smoke Guide for
Residents**





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DISCLAIMER

This Resident and Smoke-free Housing Guide is for informational and educational purposes only. Information contained in this guide is subject to change without further notice.

For questions, please consult your local health department. Contact information can be found on page 17.

This guide was produced by the Utah Department of Health Tobacco Prevention and Control Program and Utah's local health departments.



Overview

Are you bothered by secondhand smoke that drifts into your unit from a neighboring unit, the hallway, or outdoors? Secondhand smoke may seep from one unit to another through cracks and crevices, or travel by a shared ventilation system and enter into the living space of another. Secondhand smoke not only causes discomfort and annoyance, it is a serious health hazard.

Air filtration and similar types of other ventilation systems do not eliminate the health hazards caused by secondhand smoke. As a resident, you have the right to live in an environment free from the health risks associated with exposure to secondhand smoke. One solution is to advocate for a smoke-free policy at your apartment or condominium community. Residents who are negatively affected by secondhand smoke may have the right to seek legal action against those who do not make adequate provisions to protect them from the harmful effects of secondhand smoke.

Here are some important things you should know:

- Smoke-free policies in apartments and condominiums are permitted under Utah and federal law.
- Residents who smoke are not a protected legal class, i.e., there is no “right to smoke” under either Utah or federal law.
- Nonsmokers with serious breathing disabilities or smoke allergies may have legal protection under the Americans with Disabilities Act and the Fair Housing Act. Consult a doctor to have your condition documented if secondhand smoke affects your ability to breathe.

Many landlords may not be aware that secondhand smoke is a problem in their buildings, so your first step is to let them know about it. Also, let them know about the **Utah Department of Health Property Manager’s website**, where they can learn about the many benefits of a nonsmoking policy. The multiunit housing tool kit, **MUH Tool Kit**, is also an excellent resource.

As a resident, this guide will provide useful tools you can use to protect yourself from exposure to secondhand smoke so you can live in a smoke-free environment.

This guide includes: information about secondhand smoke; tips; frequently asked questions; information about what you can do if there’s already a problem; and information about how to talk to your landlord, make temporary fixes, and help you find a **smoke-free community**.



What is Secondhand Smoke?

The smoke from neighbors can bother residents who live in apartment complexes and condominiums. Those most affected by secondhand smoke are children.

Did you know?

- Secondhand smoke has more than 7,000 chemicals, 70 of which are known to cause cancer. ¹
- Secondhand smoke kills approximately 41,000 people every year nationally. ²
- Secondhand smoke exposure increases health concerns in children such as coughing, upper respiratory (lung) infections, and asthma.
- Secondhand smoke contains toxic chemicals that cause cancer, and heart and respiratory diseases.
- Ventilation systems alone will not protect you from secondhand smoke exposure. The only solution is to make your apartment or condo smoke-free.
- Secondhand smoke may drift into your apartment or condo from other units.

HOW TO REDUCE SECONDHAND SMOKE

The following suggestions are things you can do to help to reduce secondhand smoke, but they will not make your unit 100% smoke-free. Make sure to refer to your rental agreement to determine what is allowed.

- Fill openings in floors and walls.
- Install fans and open windows. This will help to remove smoke or bring in fresh air.
- Weatherproof doors and windows. Smoke from hallways and windows can enter through poorly sealed areas. You can use weather stripping on doors and windows to help secondhand smoke from getting in.
- Kindly ask smokers not to smoke. You can ask them not to smoke near openings of windows or doors. Some smokers may honor your request, others may not.
- Post “No Smoking” signs on your door and ask your manager or landlord to post signs in areas where smoking is not allowed.
- You can also contact your local health department for additional suggestions and information (see contact information for your local health department on page 17).

HOW TO HANDLE DRIFTING SMOKE

You can protect yourself from exposure to secondhand smoke and live in a smoke-free environment. Below are some suggestions of how to begin:

- Seek smoke-free housing.
- Ask if there is a smoke-free policy for all residents.
- Try to find out where the smoke is coming from.
- Keep track of days and times secondhand smoke drifts into your unit.
- If you feel comfortable, talk to your neighbors about the problem.
- Notify the manager in writing about the drift of smoke and ask them to talk to your neighbors.
- If you're unable to solve the problem alone, you may wish to seek legal advice about the drift of secondhand smoke into your unit.

PROMOTE SMOKE-FREE POLICIES

You can work with other residents and your manager to get smoke-free policies in your complex. Smoke-free areas may include:

- Laundry rooms
- Balconies/patios
- Common areas
- Leisure areas
- Pools
- Hallways and stairwells
- Individual units
- Entire buildings

Policy creation works best when all residents are involved. This includes both smokers and nonsmokers. Cooperation creates policies that work best for the needs of your community.

- Know the facts about the dangers of secondhand smoke.
- Survey other residents to find out if they would support a smoke-free policy.
- Raise awareness about the problem of drifting smoke getting into units.
- Develop a policy about smoking.
- Present the policy to the manager or landlord.

RESOURCES TO HELP RESIDENTS QUIT

More than 70% of Utah smokers plan to quit smoking within a year. Tobacco users are more likely to quit for good when they use proven counseling programs and/or quit medications.

Waytoquit.org offers free and confidential help to Utah residents in finding their best way to quit. Two of these free and confidential resources are online coaching, and telephone-based counseling, which is available through the Utah Tobacco Quit Line (1.800.QUIT.NOW). Young adults can text START to 36072 to sign up for quit help via text messaging.

My Life My Quit is a vaping/tobacco cessation service specially designed to assist Utah teens ages 13 to 17. Parental consent is collected at the time services are requested. More information can be found at **MyLifeMyQuit.org**.

A little inspiration goes a long way. If you're someone who quit using tobacco products, help inspire others to do the same by sharing your quit story here: <https://waytoquit.org/share-your-quit>.

¹ Centers for Disease Control and Prevention (CDC), Smoking & Tobacco Use: Secondhand Smoke (SHS) Facts. Retrieved from https://www.cdc.gov/tobacco/data_statistics/fact_sheets/secondhand_smoke/general_facts/index.htm.

² Centers for Disease Control and Prevention (CDC), Smoking & Tobacco Use: Tobacco-Related Mortality. Retrieved from https://www.cdc.gov/tobacco/data_statistics/fact_sheets/health_effects/tobacco_related_mortality/index.htm



Frequently Asked Questions About Smoke-Free Policies

1. ARE SMOKE-FREE POLICIES LEGAL?

Yes. Smoke-free policies in multiunit housing are legal and permitted under federal and Utah law. Smokers are not a protected class, so there is no “right to smoke” under U.S. law. Legally, a smoke-free policy needs to address the “smoking” behavior, not the individual as a smoker. An individual, who may still rent in a nonsmoking community, must comply with the nonsmoking policy.

2. WHAT ARE THE SECONDHAND SMOKE AMENDMENTS?

The Secondhand Smoke Amendments (SHSA) were passed in 1997 by the Utah State Legislature. These amendments apply to any tobacco smoke that drifts from another residential or commercial unit into any residential unit that a person rents, leases, or owns, and that is found to be a nuisance under law [§78B-6-1101\(3\)](#). These amendments:

- Provide authority for an apartment resident to file a nuisance even if the resident has signed away their rights to file a nuisance. [§78B-6-1106\(2\)](#).
- Provide that residents of apartments and condominiums may seek injunctive relief and/or damages if exposed to tobacco smoke. [§78B-6-1102](#).
- Give authority for rules, regulations, or rental agreements to include prohibitions on smoking tobacco products in residential units, on the premises, or both. [§57-22-5\(1\)\(h\)](#).
- Give authority to condominium associations to restrict smoking tobacco products in units, common areas, and yard space. [§57-8-16\(7\)\(a\),\(b\)](#).
- Exempt temporary rental units, for vacations or available for 30 days or fewer at a time, from the nuisance tobacco provisions. [§78B-6-1101-\(4\)\(a\),\(5\)](#).

3. WHAT'S THE DIFFERENCE BETWEEN SECONDHAND SMOKE AMENDMENTS AND THE UTAH INDOOR CLEAN AIR ACT?

The Secondhand Smoke Amendments (SHSA) apply to drifting tobacco smoke in residential units. The Utah Indoor Clean Air Act (UICAA) applies to no smoking in places with public access. The SHSAs cannot be enforced by the state or local health departments. Managers are responsible for policy enforcement. The UICAA is enforced by the state or local health departments.

4. I HAVE PROBLEMS BREATHING AND LIVE NEXT TO A SMOKER. IS THERE ANYTHING I CAN DO?

Yes. Nonsmokers with serious breathing disabilities, such as asthma or allergies, may have legal protection under the Americans with Disabilities Act and the federal Fair Housing Act. If secondhand smoke seriously affects your ability to breathe, consult a doctor to have your condition documented.

5. WHAT CAN I DO ABOUT SECONDHAND SMOKE DRIFTING INTO MY APARTMENT FROM ANOTHER UNIT?

See **WHAT CAN I DO IF THERE'S ALREADY A PROBLEM?** on page 11 of this guide and **Temporary Fixes** in this guide on page 13.

6. CAN AIR PURIFIERS/FRESHENERS HELP WITH SECONDHAND SMOKE?

The American Society of Heating, Refrigerating and Air-conditioning Engineers (ASHRAE) published a position document on secondhand smoke. The document states, “at present, the only means of effectively eliminating health risks associated with indoor exposure is to ban smoking activity.” The document cautions that devices such as air fresheners, cleaners and purifiers should not be relied upon to control health risks associated with secondhand smoke. It also “encourages elimination of smoking in the indoor environment as the optimal way to minimize secondhand smoke exposure.”

7. I LIVE IN A CONDOMINIUM. CAN WE (OR THE HOA) ADOPT A SMOKE-FREE POLICY?

Yes. Most people assume that when they buy a home, they will be the ones making decisions about their property. If you live in a condo, however, much of the decision-making power lies with the homeowners' association (HOA). The HOA, either through its elected board of directors (the board) or by a vote of the full membership, has the power to enforce or enact regulations to control the use of property within the complex.

Owning a unit automatically means you are a member of the HOA, and any member of the HOA can begin the process of making a complex smoke-free. Many board members are unaware that condos may legally prohibit smoking in part of, or in the entire complex, so it is often up to the HOA members to educate the board.

8. ARE THERE BENEFITS OF GOING SMOKE-FREE THAT I CAN SHARE WITH MY MANAGER/ LANDLORD?

Yes. Making the apartment community smoke-free can reduce maintenance costs and reduce the damage that smoke causes (e.g., costs associated with cleaning carpets, walls, and repairing property from burns). Additionally, insurance rates may be reduced. Incidentally, smoking materials (e.g., cigarettes, cigars, lighters, matches, etc.) are the leading cause of home and total fire deaths in the U.S.³

9. ARE THERE RESOURCES AVAILABLE FOR MY MANAGER OR LANDLORD?

Yes. The Utah Department of Health, some local health departments, and some community agencies work to address issues of secondhand smoke in multiunit housing. You can suggest your manager contact someone at the state or local level to discuss what options are available to establish smoke-free policies. The **MUH Tool Kit** is an excellent resource for managers and landlords, as well.

If you would like more information about smoke-free apartments in Utah, contact the Utah Department of Health at 801-538-6754. If you're interested in looking for communities that have a nonsmoking policy, visit the **Utah Department of Health's Smoke-free Housing Directory**.

³ National Fire Protection Association. The Smoking-Material Fire Problem, John R. Hall, Jr., September 2010.



Questions to Ask Before You Rent

If you're concerned about exposure to secondhand smoke, these are some things you can do to find out more about smoke-free policies at the properties you visit. Remember, properties advertised as smoke-free can have very different policies.

1. FIND OUT IF THE COMMUNITY YOU ARE INTERESTED IN HAS A NONSMOKING POLICY. IF SO, IS THE POLICY VERBAL OR WRITTEN IN THE LEASE OR HOUSE RULES?

- Ask if the policy applies to everyone or just new residents.
- Ask if the policy covers indoor common areas and units, and outdoor areas including decks, balconies, and patios.

2. ASK IF THERE ARE RESIDENTS WHO CURRENTLY SMOKE INSIDE OR OUT. IF YES, WHERE DO THEY SMOKE?

- Ask if they smoke anywhere in the building and understand that, if there is a shared ventilation system, it's likely secondhand smoke may drift into your unit.
- If they smoke outside near your windows, doors, or balcony, smoke could also drift into your unit.
- Ask if there is a requirement to smoke "so many feet" away from the building (for example, 25 feet).

3. ASK ABOUT ENFORCEMENT.

- Does the landlord/manager check to make sure no one is smoking?
- How would the landlord/manager respond if you made a complaint about a neighbor or guest who smokes?
- If a resident or their guest is smoking, what would be done about it?
- Are signs posted to make residents and visitors aware of the no-smoking policy?

4. DID THE PREVIOUS RESIDENTS SMOKE? IF SO, WHAT WAS DONE TO CLEAN THE APARTMENT?

- The residual odors and contamination from secondhand smoke can be hard to eliminate if extensive cleaning is not done properly.

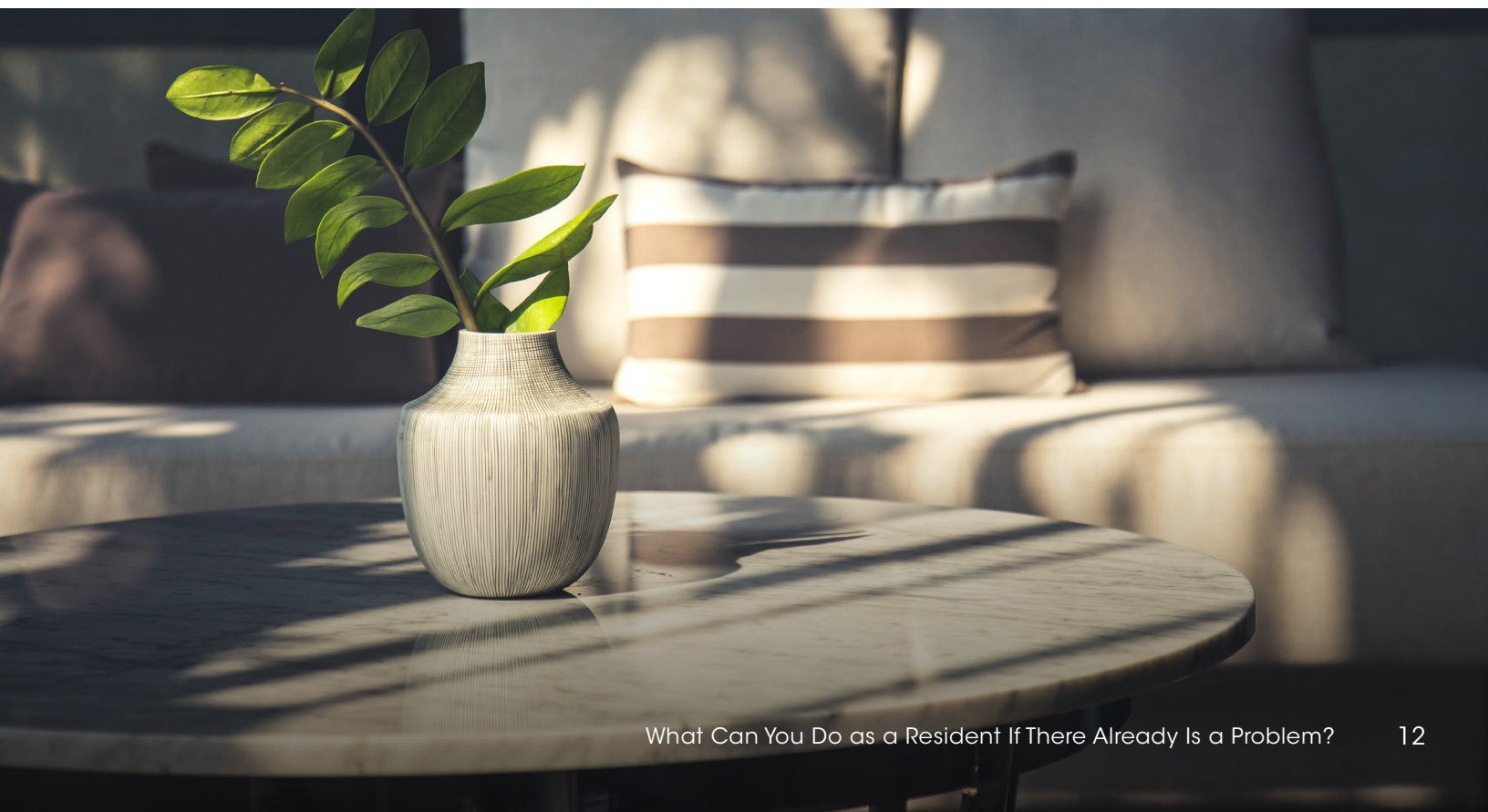
What Can You do as a Resident if There Already is a Problem?

- Keep documentation. When do you smell the smoke: all the time, only in morning or evening? Where do you think the smoke is coming from? Where is the smoke entering your unit? The more information you can provide will help in resolving the problem. Keep a log of when and where you smell the smoke.
- Make a list of solutions you have already tried. What steps have you taken? See Temporary Fixes on page 13 of this guide for possible solutions.
- Talk to your neighbors. Drifting smoke may also be a concern for them. Those with health problems or children with upper respiratory issues are likely to be concerned about the health risks associated with secondhand smoke as well.
- If you feel comfortable, discuss the problem with the neighbor you believe to be smoking. Politely let them know that smoke is coming into your unit. Offer solutions, such as asking them to smoke outside away from the building.
- Keep track of all symptoms and illnesses you experience as a result of the secondhand smoke in your apartment. These may include ear infections, sore throats, asthma attacks and bronchitis. A doctor's letter documenting the illness will be helpful when talking with management.



INFORM YOUR BUILDING MANAGER/LEASING AGENT

- Write a letter to your manager detailing the problem and offer solutions. Let them know what steps you may have already taken (see the sample landlord letter on page 14 of this guide).
- If you or a family member has a health problem caused by secondhand smoke exposure, include a copy of a letter from your doctor documenting the illness.
- Keep copies of any correspondence sent to your manager and document any conversations that may have taken place.
- Follow up with your manager to discuss the situation. Be positive, polite, and stick to the issue. Work together to resolve the problem instead of getting angry.
- Work with management by offering solutions, such as conducting a resident survey, or holding a residents' meeting. Management may be willing to relocate you to a different building, or allow you to end your lease to find a smoke-free community.
- Provide educational materials to your manager about the **dangers** of exposure to secondhand smoke and the **benefits** of a smoke-free community.
- Management may not be aware that smoke-free policies are legal. Under Utah law, managers can prohibit smoking in units, on the premises, or both.



Temporary Fixes

If you are bothered by secondhand smoke in your unit, there are a number of simple repairs that may help in reducing the health risks associated with secondhand smoke exposure in your unit. However, while these changes may help to reduce secondhand smoke, they will not make your unit 100% smoke-free.

The only way to have a 100% smoke-free unit is by having a smoke-free building. The 2010 Surgeon General's Report, *How Tobacco Smoke Causes Disease: The Biology and Behavioral Basis for Smoking-Attributable Disease*, concluded there is no risk-free level of secondhand smoke, and the only way to protect people from the dangers of it is to eliminate the exposure.⁴ If you're interested in how to completely eliminate secondhand smoke from your unit, see Promoting Smoke-Free Policies on page 5 of this guide.

You may be able to do some repairs by yourself, while others may need to be approved by the manager. Check your lease to see what types of repairs are allowed. Keep in mind that these repairs will not eliminate your secondhand smoke exposure 100%. The following are some ideas of simple modifications you can make:

- Multiunit housing developments are separated by walls and floors. Secondhand smoke can travel through these openings. You can fill in the openings by using tape, caulk, or foam. Foam is good for filling and sealing cracks and gaps around pipes or other openings.
- Smoke can travel through the space around electrical outlets and switches. Carefully install pads and seals around electrical outlets and switches. If you don't know how to do this yourself, you could find somebody who does.
- Smoke can come in from gaps at the bottom and sides of doors. Door bottoms, seals, and door sweeps can help stop smoke. Weather stripping can be used on doors and windows to help stop smoke from getting in or out.
- Install fans and increase outside air. Running a fan may help move the smoke outdoors or pull outdoor air into your unit. The success of running a fan may depend on other factors such as the direction of the wind outside or the direction of a draft inside. Air cleaners often mask the smoke odor but do not eliminate smoke in a unit.
- Post a "no smoking" sign on your door indicating you support smoke-free homes.

⁴ U.S. Department of Health and Human Services. **A Report of the Surgeon General: How Tobacco Smoke Causes Disease: What It Means to You.** Atlanta: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2010.



Sample Letter to Your Landlord/Manager

Date _____

Dear (landlord's name, manager, address, etc.)

This letter is to inform you that I (and/or other residents of my rental) suffer from exposure to secondhand smoke that comes into my unit (describe the situation). As you may be aware, the surgeon general recently declared that secondhand smoke is a proven air toxin.

I am enclosing a copy of a letter from my physician documenting the medical condition that is caused or made worse by secondhand smoke. I request (describe the request) to reduce and/or eliminate the exposure to secondhand smoke that I/we are experiencing.

Please let me know in writing how you plan to rectify this problem. The best solution would be for you to adopt nonsmoking policies for the entire property. I am enclosing some educational materials about smoke-free policies and the benefits for you to adopt nonsmoking policies. The **Utah Department of Health Property Manager's website** has information about the many benefits of a nonsmoking policy. The **MUH Tool Kit** is also an excellent resource.

I look forward to hearing from you,

(Your Name & Address Here)

Note -- Be sure to:

- Keep copies of all written correspondence with your landlord. Send all correspondence with a "certificate of mailing," which proves you sent the letter, and, if possible, provide a copy to your attorney.
- Document all verbal exchanges (date, time, subject, etc.).
- If secondhand smoke causes or worsens a medical condition or disability, you have the right to ask your landlord for "reasonable accommodations." For more information about the Fair Housing Act, visit the Utah Labor Commission/Fair Housing website at: <http://www.laborcommission.utah.gov>, or call directly, 801-530-6800.

Sample Complaint Letter to Your Landlord/Manager

Date _____

Dear (Landlord's Name, Manager, address, etc.)

Sentence or paragraph stating the health symptoms and who in your residence is experiencing them.

For example: I am writing to formally inform you that I [and any others] experience headaches, nausea, and dizziness as a result of noxious fumes in my apartment # __. Both of my children are currently sick, and the tobacco fumes aggravate their breathing problems and healing.

Sentence or paragraph stating how the problem has affected you.

For example: I am attaching a letter from my physician stating that secondhand smoke is harming my health.

Sentence or paragraph stating the source of the secondhand smoke.

For example: The source of the fumes is the unit located immediately below me.

Sentence or paragraph stating when the problem began.

For example: I began noticing the fumes shortly after a new resident moved into the unit directly below me in October 2020.

Sentence or paragraph stating what you've done so far to try to address the problem.

For example: I have brought this issue to the management office's attention on [date]. I was told by the office that a letter would be written to the resident and that I would receive a copy. To date, I have not received any documentation from your office regarding this situation.

Sentence or paragraph stating how the problem has denied you full use of the residence.

For example: I feel that I have done all that I can to address this issue. I have closed my vents and my windows whenever I smell the fumes. Despite this, fumes continue to permeate my living space to the extent that I've been forced to vacate my apartment when the weather and time of day permits to avoid the smoke. On cold days, I cannot use the heating system since smoke immediately enters my unit from the shared ventilation. This is clearly a reduction in my housing services.

Sentence or paragraph stating how the problem has been a breach of quiet enjoyment.

For example: I feel that the fumes permeating my apartment are "a breach of the covenant of quiet enjoyment." They are a serious intrusion and prevent me and my family from using the services promised to me, like the heating and ventilation system and even the ability to open my windows.

Sentence or paragraph stating how the problem is a warranty of habitability.

For example: My unit is not fully habitable as long as secondhand smoke, a known toxic air contaminant, is allowed to pollute the air in my unit. I am being denied full use of my apartment for which I am paying rent.

Sentence or paragraph stating how the problem has been a nuisance.

For example: Under Utah Code **§78B-6-1101**, secondhand smoke is considered a nuisance.

Sentence or paragraph stating background information on secondhand smoke.

For example: The health consequences of exposure to secondhand smoke are well documented. There are 41,000 people who die each year as a result of secondhand smoke exposure. Additionally, hundreds of thousands more suffer various other illnesses, such as asthma or bronchitis. The secondhand smoke amendments were passed by the Utah State Legislature in 1997. These amendments apply specifically to tobacco smoke that drifts into any residential unit that a person rents, leases or owns, from another residential or commercial unit.

Sentence or paragraph stating what you want; for instance, would you be willing to be moved away from the smoker at the landlord's expense, or would you want to ask that no future smokers be moved near your residence?

For example: I fully expect a response and timeline for a resolution to this situation within 10 working days. I believe that my family and my health are being harmed by the smoke and that our concerns should be reasonably accommodated. Absent that, I will obtain legal counsel to determine further recourse.

I look forward to hearing from you,

(Your Name & Address Here)

Note -- Be sure to:

- Keep copies of all written correspondence with your landlord. Send all correspondence with a “certificate of mailing,” which proves you sent the letter, and, if possible, provide a copy to your attorney.
- Document all verbal exchanges (date, time, subject, etc.).
- If secondhand smoke causes or worsens a medical condition or disability, you have the right to ask your landlord for “reasonable accommodations.” For more information about the Fair Housing Act, visit the Utah Labor Commission/Fair Housing website at: <http://www.laborcommission.utah.gov>, or call directly, 801-530-6800.

Where to Go for Help

Local Health Department	County(ies)	Phone Number
Bear River Health Department	Cache, Box Elder, Rich	435-792-6510
Central Utah Health Department	Juab, Millard, Piute, Sanpete, Sevier, Wayne	435-864-3612
Davis County Health Department	Davis	801-525-5000
Salt Lake County Health Department	Salt Lake	385-468-4100
San Juan Public Health	San Juan	435-359-0038
Southeast Utah Health Department	Carbon, Emery, Grand	435-637-3671
Southwest Utah Health Department	Beaver, Garfield, Iron, Kane, Washington	435-637-3528
Summit County Health Department	Summit	435-333-1500
Tooele County Health Department	Tooele	435-277-2300
TriCounty Health Department	Daggett, Duchesne, Uintah	435-247-1177
Utah County Health Department	Utah	801-851-7095
Wasatch County Health Department	Wasatch	435-657-3307
Weber-Morgan Health Department	Morgan, Weber	801-399-7100

For additional help and information, contact the Utah Department of Health Tobacco Prevention and Control Program at 801-538-6754, or 801-538-6260, or www.tobaccofreeutah.org.

way to quit ↗

SMOKE-FREE HOUSING