

NORTHWEST FAIR HOUSING ALLIANCE

35 W. Main Suite 250 ♦ Spokane, WA 99201-1830 ♦ (509) 325-2665 ♦ Fax (866) 376-6308

Do I Have Rights If My Neighbor's Smoking Is Affecting My Health?

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The Fair Housing Act (FHAct) prohibits discrimination based on: **Race, Color, Religion, National Origin, Sex, Disability, and Familial Status**. These Protected classes are available in all the fifty (50) states (nationwide). The Fair Housing Act Amendments in 1988 added disability, *which include people with severe breathing problems which are exacerbated by secondhand smoke.*

Northwest Fair Housing Alliance (NWFHA) routinely receives calls from people with questions like the following:

- *Can you prohibit smoking on rental property in Washington State?*
- *I live in a no smoking property, but my neighbors are violating it. What can I do?*
- *I am exposed to secondhand smoke and it is causing me to have breathing difficulties.*
- *I feel discriminated against because I spoke to my landlord about my neighbor smoking in their unit and it coming to my home, and the landlord won't do anything. Does the law protect me?*
- *Does my landlord have to waive any penalty fee if I break the lease because of smoke?*

To answer these questions, here are some things to consider:

Washington Law Prohibits Smoking in Public Places: The Washington State “Smoking in Public Places” law¹ prohibits smoking within 25 feet of any public entrance. This law does not prohibit smoking in homes or on attached decks.

¹ RCW 70.160.011

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- **Housing Providers Can Adopt Smoke Free Policies.** Many housing providers are also banning smoking in their rental buildings or limiting it to designated smoking areas. A smoke-free building is one where smoking is not allowed anywhere inside of the building, and no one may smoke within 25 feet of any building on public or private housing grounds.²
- Most HUD subsidized public housing must be smoke-free.
- The recreational use of marijuana is legal in Washington State under certain circumstances; however, it is not permitted in public and may also be prohibited by landlords inside the dwelling.

NWFHA recommends that you review your lease for smoking regulations. If your lease does not contain a smoking policy, you can ask your housing provider for copies of any rules about smoking that they have implemented. If none exists, then tenants are free to smoke in their units.

If you are negatively affected by smoking in your housing:

If your lease does contain a no smoking policy but other tenants are not following the lease:

- Report it in writing to your landlord and request them to enforce the policy.
- **Talk to neighbors** to find out if they are also experiencing problems from smoke coming into their unit. Complaints from multiple people may be taken more seriously than from one person.
- If you are living in a multifamily building speak to your landlord or owner and ask if they can put signs up in the complex. We recommend that this request be in writing and keep a copy for your records.
- **Contact a civil attorney, like a legal aid organization.** An attorney may be able to help you ask the landlord/owner to enforce a policy of no smoking.

² <https://www.hud.gov/smokefreepublichousing>

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Reasonable Accommodations

If you or a household member has a disability that is affected adversely by unauthorized smoking you may be able to request a reasonable accommodation under the Fair Housing Act to resolve the matter.

- **Talk to your healthcare provider.** If secondhand smoke is negatively affecting your health or contributing to the illness of you or your family, get a letter from them to show as proof to your landlord or housing provider.
- Reasonable accommodations could include asking the housing provider to:
 - Enforce the no smoking policy;
 - Transfer you to a unit on another floor or building;
 - Release you from your lease.

If you believe you have experienced discrimination in housing because of familial status, contact Northwest Fair Housing Alliance at 509-325-2665 or 1-800-200-FAIR. Our services are free.

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