

Secondhand Smoke

Note: Information provided by the Community Alliance of Tenants is for general educational use only. It is not a substitute for the advice of an attorney.

Unfortunately, there is nothing in Oregon's landlord-tenant law that regulates or prohibits smoking in rental housing. But here are some ideas to prevent or mitigate problems you may have:

Before you move in:

Find out what the landlord's smoking policy is. Some landlords have adopted no-smoking rules throughout their rentals. Other landlords adopt no-smoking rules for the common areas of the rental units. These rules should be listed in the rental agreement. If your landlord says there is a no-smoking rule but it's not written down, confirm the policy with the landlord in the company of a pal who doesn't live there. Verbal agreements that a landlord makes are binding.

While you are a tenant:

If there are no rules in your rental agreement about smoking, your neighbors have the right to smoke wherever they want. But talking to your neighbors might alleviate your problem. Most tenants don't realize that they are bothering their neighbors by smoking. Calmly and politely ask your neighbors if they would be willing to smoke somewhere else (outside, downstairs, at other window, on back porch, etc . . .) at certain times of the day.

If smoke is entering your place through ducts or vents, alert your landlord to the problem in writing. Landlords are obligated to supply adequate ventilation in their rental units. Again, make sure you have your repair request in writing.

Finally, living around smokers increases the chance of fire. Make sure your smoke alarm(s) work, and check your rental agreement about when to change the batteries.

If you are thinking of moving out:

If secondhand smoke is causing a medical problem that is interfering with your ability to carry out major life activities (such as sleeping or working), you may be entitled to ask for a reasonable accommodation. Reasonable accommodations allow tenants with disabilities to be able to enjoy their housing to the fullest extent possible. An example of a reasonable accommodation might be moving to a new unit without penalty to get away from the smoke. Call the Fair Housing Council or an attorney for more information about requesting a reasonable accommodation.

If you have a fixed-term tenancy (a lease) and if your landlord promised you a smoke-free environment, or if the smoke is the result of an ongoing, unresolved repair problem, you may be able to break your lease without penalty. Talk to attorney before breaking your lease.

Community alliance of tenants
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