

Stoa Co-operative Home Inc.

**A BY-LAW TO PROTECT HEALTH,
SAFETY AND WELFARE AT THE CO-OP BY
DESIGNATING THE CO-OP AS
SMOKE-FREE**

By-law No. [2]

SMOKE-FREE BY-LAW

MODEL FOR ONTARIO CO-OPS

Use with the Guide to the Smoke-Free By-law for co-ops.

Passed by the Board of Directors on *January 16th, 2023*

Confirmed by the members on *February 13th, 2023*

Article 1: About this By-Law

1.1 Purpose of this By-law

This By-law states rules and procedures to protect the health, safety, and welfare of members, their households, co-op staff and visitors by designating the co-op to be smoke-free.

1.2 Priority of this By-law

This By-law governs over the Occupancy By-law. The Human Rights By-law governs over this By-law if the co-op has a Human Rights By-law.

1.3 Special Meanings

(a) Smoking

Smoking includes carrying, inhaling or exhaling lit tobacco, cannabis, vaping or other products that generate smoke. It also includes having those things while they are lit whether or not they are being carried, inhaled or exhaled.

(b) Traditional Indigenous uses

Smoking does not include using tobacco for traditional Indigenous cultural and spiritual purposes (excluding recreational use).

Article 2: Smoke-Free

2.1 Prohibition

Co-op members/residents that move in past the approval of this By-Law must not smoke in their units. Smoking is prohibited in common areas including, hallways, garbage rooms, stairwells, underground parking garage and any service rooms. Smoking outside you must be 9 meters from any point of entry.

2.2 Acts of Others

Members must make sure that no member of their household or anyone permitted on co-op property by the co-op member or another member of their household smokes in a unit or on co-op property.

2.4 Staff and Visitors

The board of directors will arrange for staff and visitors to follow the same rules for smoking that apply to members.

2.5 Growing Cannabis Prohibited

Growing cannabis is prohibited in units and other parts of co-op property.

Article 3: Designated Smoking Areas

3.1 Designated Smoking Areas

(a) Board motion

The board of directors may pass a motion to designate one or more specific outdoor areas of the co-op as a “Designated Smoking Area”. The board should make sure that all Designated Smoking Areas are

- at least 9 meters away from building entrances
- at least 9 meters away from balconies, windows, play areas, members’ yards and gardens
- away from garbage bins and garden supply storage areas
- accessible to users of mobility assistance devices.

(b) Closer Designated Smoking Areas

If necessary, the board may decide that Designated Smoking Areas may be closer than 9 meters from building entrances balconies, windows and play areas. The board will consider the interests of the members who will be most affected by the location.

(c) Clean-up

The board will arrange for receptacles to dispose of used smoking materials in or near Designated Smoking Areas. Users of those Areas are responsible for using the receptacles.

3.2 Use of Designated Smoking Areas

Despite Article 2 (Smoke-Free), smoking is permitted within Designated Smoking Areas if the co-op has any.

Article 4: Damage Caused by Smoking

4.1 Accountability

Current members who have been grand fathered in and allowed to smoke in their units will be held responsible for the costs associated for repairing the nicotine damage within the unit upon vacancy (including but not limited to painting, cleaning and replacement where necessary). Members must contain the nicotine smoke within their units so it does not enter another member unit.

Article 5: Application of By-law

5.1 Grounds for Eviction

Breaking of any provision of this By-law can be grounds for eviction under the Occupancy By-law.

5.2 Exceptions

The board of directors may make special exceptions to this By-law on a case-by-case basis for members who have to smoke cannabis for medical reasons, human rights reasons or for other special circumstances. The board can ask for medical verification that shows that the only or best way cannabis works for the member is by smoking it. Any exception has to be stated in a motion of the board recorded in the confidential minutes. The motion should state any limits to the length of the exception, location, timing and anything else. The member who receives the exception should sign a copy of the motion or an Agreement to confirm the decision.

5.3 Limits of the By-law

The By-law only relates to smoking at the co-op. It does not require members to stop smoking. It does not prohibit smokers from becoming members of the Co-op.

5.4 Starting Date for this By-law

This By-law will go into effect on the date when it is confirmed by the membership.

PASSED by the Board of Directors and sealed with the corporate seal of the Co-operative this 16th day of January, 2023.

President

Corporate Secretary

CONFIRMED in accordance with the requirements of the by-laws of the corporation and the Act at a general meeting of the members of the Co-operative duly called and held on the 13th day of February, 2023.

President

Corporate Secretary

Guide to the Smoke-Free By-law for Co-ops

Passing the Smoke-Free By-law

Like other co-op by-laws, the Smoke-Free By-law can only be implemented if approved by the membership, and its success is dependent on whether the membership finds the by-law's associated rules to be fair, justifiable and able to be implemented.

When exploring the idea of a smoke-free co-op environment, it is important that the board consult and educate its members on the proposed by-law.

During the consultation process:

1. Use plain language when communicating
2. Frame your message:
 - a. improve air quality
 - b. reduce fire risk
 - c. lower operating cost
 - d. protect health
3. Keep the focus on the community not the individuals
4. Pacify worries of smokers:
 - a. the by-law will not force members to quit smoking
 - b. it will not restrict smokers from becoming members

Growing Cannabis

Growing a limited amount of cannabis (four plants per household) is not illegal. Cultivating cannabis, however, can damage a building. It can burden the electricity system, cause mould, send vapours through an air handling system and might affect your insurance premiums. Given the potential negative effects of cannabis cultivation, co-ops should probably consider prohibiting it.

Legacy approach

In some situations, a co-op that cannot foster member support for a Smoke-Free By-law, or who want to phase in a non-smoking behaviour will exempt current smokers.

The legacy approach acknowledges current members who are smokers and allows those households to smoke in their units.

Difficulties of exempting legacy units include:

1. The perception of differing member entitlements – current vs. new residents – which goes against the principle of no two-tier membership system within a housing co-op.
2. The by-law would no longer address the issue of second-hand smoke.
3. Complications arising when smoking members are required to transfer to another unit.

Legacy amendment

If your Co-op chooses to phase in a legacy Smoke-Free By-law, please amend the above Model By-law and replace section 4.2 with the following:

4.2 Exemptions

(a) Exceptions

The board of directors may make special exceptions to this By-law on a case-by-case basis for members who have to smoke cannabis for medical reasons, human rights reasons or for other special circumstances. Any exception has to be stated in a motion of the board recorded in the confidential minutes. The motion should state any limits to the length of the exception, location, timing and anything else. The member who receives the exception should sign a copy of the motion or an Agreement to confirm the decision.

(b) Legacy Status

Co-op members and members of their households who smoke tobacco when this By-law is confirmed can apply for “legacy” status.

Include one of the 3 following alternative paragraphs:

Alternative 1 (only in units):

Despite Article 2 (Smoke-Free), persons with legacy status can smoke tobacco, but only in their units.

Alternative 2 (in units, yards or balconies):

Despite Article 2 (Smoke-Free), persons with legacy status can smoke tobacco, but only in their units or on the balcony of their apartment unit or in the back yard of their townhouse unit.

Alternative 3 (only in yards or balconies):

Despite Article 2 (Smoke-Free), persons with legacy status can smoke tobacco, but only on the balcony of their apartment unit or in the back yard of their townhouse unit.

Legacy status does not include guest or visitors.

(i) Registering for legacy status

Any existing member can register for legacy status by filling out a form to be provided by the co-op and delivered to the co-op office within five days of receipt.

(ii) Only existing members

Legacy status is only available to existing members and their households. No one else can have legacy status.

(iii) Consideration for others

Persons with legacy status must have consideration for their neighbours and do their best to avoid exposing them to second-hand smoke. The board will consider complaints about abuses and may cancel a member's legacy status after a board meeting where the member is given an opportunity to be heard.

(iv) Internal move procedure for exempted households

A current in-suite smoking-free exemption is non-transferable to a new unit unless the member household is required to move as a result of government legislation.