



MULTIFAITH
Housing Initiative

Policy on Smoking, Vaping or Ingesting Tobacco or Cannabis Products

Updated MAY24



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1.0 Introduction

1.1 Multifaith Housing Initiative (MHI) acknowledges that smoking, vaping or ingesting tobacco and cannabis products results in increased risk of fire, increased maintenance costs, adverse health effects of second-hand smoke, substantial interference with the “reasonable enjoyment” by other tenants of their rental units and increased risk of poisoning children, service animals and pets. MHI is also required to obey the laws and policies laid down in the provinces where its buildings are (or will be) located. This policy therefore generally prohibits these activities, except in the circumstances detailed below in which the law requires accommodation to be made.

1.2 This policy applies to all tenants, guests, staff, volunteers and service persons. Please note that tenants are responsible for the actions of their guests.

1.3 Definitions

1.3.1 The term “smoking” means inhaling, exhaling, burning or holding any lighted cigar, cigarette, cannabis (i.e.; marijuana, hashish), vaping device or any similar product whose use generates smoke.

1.3.2 The term “service person” includes, but is not limited to, any contractor, tradesperson, agent, household worker, volunteer, MHI staff or other person hired by the tenant or MHI to provide a service or product.

2.0 Smoke-free policy statements

2.1 MHI buildings in Ontario

No smoking, vaping or ingestion in rental units

2.1.1 In Ontario, the legislation governing landlords and tenants consists of the Residential Tenancies Act, 2006, as amended. Under s 241.1 of this Act, a regulation has been made to establish standard forms of rental agreements, namely Ontario Regulation 9/18 Tenancy Agreements for Tenancies of a Prescribed Class. Under s 3. 2. i. of this regulation, a certain form has been prescribed for most landlords and tenants in Ontario, namely form 2229E “Residential Tenancy Agreement (Standard Form of Lease)”. Under section 10 of this standard form, as explained by part S, it is left up to each landlord to specify in the tenancy agreement, and for each tenant to agree, whether smoking will be allowed or prohibited in a rental unit.



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2.1.2 For the reasons outlined in paragraph 1.1, it is MHI policy as the landlord that every tenancy agreement will prohibit smoking, vaping or ingesting tobacco and cannabis products in any rental unit, except when specifically permitted by an accommodation arrangement under paragraph 3.0 (in Appendix B).

No smoking or vaping in common areas

2.1.3 With regard to indoor areas of MHI buildings outside of rental units, and despite what any tenancy agreement may say, s 12(2)1 of the *Smoke-Free Ontario Act, 2017*, as amended, prohibits smoking and vaping tobacco and cannabis in any “enclosed public space” (defined as any indoor space under a roof to which the public has access) and s 12(2)5 prohibits the same in “Any indoor common area in a condominium, apartment building . . . including, without being limited to, elevators, hallways, parking garages, party or entertainment rooms, laundry facilities, lobbies and exercise areas”. However, s 19(3) says that these prohibitions do not apply if the smoking “is carried out for traditional Indigenous cultural or spiritual purposes”.

2.1.4 It is MHI policy that every tenant must (in addition to signing the tenancy agreement) acknowledge the above requirements by signing the Acknowledgement of Smoke-Free Common Areas (in Appendix A). The exception for Indigenous persons is to be governed by an accommodation arrangement under paragraph 3.0 (in Appendix B).

No ingestion in common areas

2.1.5 The *Smoke-Free Ontario Act, 2017*, does not prohibit the ingestion of edible tobacco or cannabis products. (Although s 12(1)4 forbids anyone to “Consume a prescribed product or substance, in a prescribed manner”, the consumption of edible products has not been prescribed in the regulations.)

2.1.6 Nevertheless, for the reasons set out in paragraph 1.1, it is MHI policy as the landlord that ingesting edible tobacco and cannabis products in the common areas referred to in paragraph 2.1.3 shall also be prohibited by inclusion of this in the Acknowledgement of Smoke-Free Common Areas (in Appendix A), except when specifically permitted by an accommodation arrangement under paragraph 3.0 (in Appendix B).

Duty to accommodate disabilities

2.1.7 In the *Human Rights Code* of Ontario, as amended, s 2(1) guarantees the “right to equal treatment with respect to the occupancy of accommodation, without discrimination because of . . . disability . . .”; and s 11(1)(a) adds that discrimination



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need not be direct but can be the result of other factors. Later in the Code, s 17(1) and (2) in essence require that the needs of a disabled person have to be accommodated, unless that would impose undue hardship on those looking after him or her or on others.

2.1.8 With regard to cannabis use in particular, the Ontario Human Rights Commission issued an online guidance document in 2018 entitled *Policy statement on cannabis and the Human Rights Code*, setting out the following relevant highlights:

- “Organizations may have a duty to accommodate cannabis use for a medical purpose related to a disability under Ontario’s Human Rights Code, unless it results in undue hardship based on health and safety or cost . . .”
- “Organizations may also have a duty to accommodate a person’s disability-related needs arising from cannabis addiction . . . , unless it would result in undue hardship”
- “There is no duty to accommodate recreational cannabis use under the Code”
- “Cannabis use might negatively affect other building residents, including people with chemical sensitivity disabilities.”
- “Housing providers have a legal duty to look for solutions and accommodate the disability-related needs of people who use cannabis for a medical purpose related to a disability as well as of people with disabilities affected by cannabis use, unless it would cause undue hardship.”

3.0 Reasonable accommodation for human rights and Indigenous rights

Disability

3.1 The board shall make reasonable accommodation for a tenant who has proven, by medical evidence, that he or she is physically or mentally disabled and

- 1) is unable to control his or her addiction to nicotine, or
- 2) smokes or vapes cannabis for medical purposes related to a disability.

3.2 Whether the tenant has proven the disability will be determined at the sole and absolute discretion of the board, acting reasonably and based on the best available medical opinion or other evidence.

3.3 The accommodation will be made based on all the circumstances and may include, but is not limited to:

- a. Allowing smoking or vaping in one or more designated areas of the outdoor property; or
- b. In the case of tobacco, paying for one or more treatment programs to assist with the cessation of smoking including, but not limited to, paying for nicotine replacement therapy; or



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- c. The willingness of the tenant to install and maintain smoke extraction equipment in any unit as recommended by the board.

Time limit for reasonable accommodation

3.4 Reasonable accommodation granted pursuant to paragraph 3.1 may be for a fixed period of time at which point the tenant is free to re-apply to the board for further reasonable accommodation to be made.

Other accommodation

3.5 In addition to accommodation made under paragraph 3.1, reasonable accommodation will be made by the board if a tenant proves that to prohibit smoking would result in other discrimination prohibited by the Ontario *Human Rights Code*. The board, in its sole discretion, will determine whether or not the tenant has proven that the prohibition of smoking would be discriminatory pursuant to the Ontario *Human Rights Code*.

Traditional or cultural smoking activities

3.6 The board may make reasonable accommodation in the case where a tenant intends to use tobacco in relation to a traditional aboriginal cultural activity or smoking is intended to be done by another defined group for a purpose recognized in human rights law. In making the accommodation, the board will only do so in writing and may prescribe in writing when the permission is granted for, the duration of the permission, and where the smoking will be permitted.



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Appendix A Acknowledgement of Smoke-Free Common Areas

By all tenants in a MHI building in the province of Ontario.

I, (insert name in Capital letters) _____ acknowledge that I have

- 1) signed a rental agreement and become a tenant of MHI; and
- 2) read and initialed the sections of the rental agreement that governs smoking.

I will not smoke, vape or ingest tobacco and cannabis products in my rental unit or anywhere else indoors on MHI property unless an accommodation arrangement is in effect.

I acknowledge that I am bound by this promise; that it is a fundamental condition to my status as a tenant of MHI; and that breaking it will allow MHI to take legal action to terminate the rental agreement and, if necessary, evict me from the rental unit.

Signature:

Date:

