

SAMPLE NO-SMOKING POLICY

For a housing co-operative bylaw

1. Smoking prohibition: Due to the irritation and known health risks of exposure to second-hand tobacco smoke, increased risk of fire and increased maintenance and cleaning costs, all forms of smoking are prohibited on the housing co-operative property, including:

- a. Inside all co-operative housing units;
- b. On private use patios and balconies; and
- c. On the property.

provided that

- d. Smoking is permitted in the following areas only:

(i.e. outdoor designated smoking area located outside and 9 metres from the west door of the building)

- e. The headings do not form part of the applicable bylaw and are inserted for convenience only.

2. Definition of smoking: “Smoking” shall include the inhaling, exhaling, burning or carrying of lighted tobacco.
3. Definition of business invitee: The term “business invitee” shall include but is not limited to any contractor, tradesperson, agent, household worker, or other person hired by the tenant or resident to provide a service or product.
4. Uniform application of policy: This bylaw takes effect upon approval by the board of directors and at least two-thirds of the co-operative membership, and applies to all people, including but not limited to members, occupants, guests, visitors and business invitees.

OR

Grandfathering: This bylaw takes effect upon approval by the board of directors and at least two-thirds of the co-operative membership, and applies to all people, including but not limited to members, occupants, guests, visitors and business invitees, provided that the bylaw does not apply to any member or occupant residing in a unit in the building at the time the bylaw is approved by the board of directors, and who continues in full-time residence in the housing co-operative after the bylaw takes effect (or specify length of time of the grandfathering period).

5. (Delete if grandfathering provisions do not apply.) Articles of incorporation, bylaws and other legislation still apply: Notwithstanding grandfathering, members and occupants who qualify for the exemption from the no-smoking policy as described in section 4 above must still comply with all applicable legislation and are still subject to the bylaws of the co-operative, including but not limited to those about causing a nuisance or hazard to another person and unreasonably interfering with the rights of another person to use and enjoy the property or another unit.

6. Human rights and reasonable accommodation: The board of directors shall make reasonable accommodation, pursuant to sections 2 (1), 11 (1) (a) and 17 (1) and (2) of the Ontario *Human Rights Code* and the whole of the *Code* for a member or occupant who has proven by medical evidence that he or she is physically and/or mentally disabled and is unable to control his or her addiction to nicotine. Whether the member or occupant has proven the disability will be determined in the sole and absolute discretion of the board of directors, acting reasonably. The accommodation will be made based on all of the circumstances and may include but is not limited to:
 - a. Allowing smoking in one or more designated areas of the outdoor property (if applicable); and/or
 - b. Paying for one or more treatment programs to assist with the cessation of smoking, including but not limited to paying for nicotine replacement therapy; and/or
 - c. The willingness of the member or occupant to install and maintain smoke extraction equipment in any unit as recommended by the board.
7. Time limit for reasonable accommodation: Reasonable accommodation granted pursuant to section 6 of the policy may be for a fixed period of time at which time the member or occupant is free to re-apply to the board of directors for further reasonable accommodation to be made.
8. Other accommodation: In addition to accommodation made under section 6 of the policy, reasonable accommodation will be made by the board of directors if a member proves that to prohibit smoking would result in other discrimination prohibited by the Ontario *Human Rights Code*. The board of directors, in its sole discretion, will determine whether or not the member has proven that the prohibition of smoking would be discriminatory pursuant to the Ontario *Human Rights Code*.
9. Traditional or cultural smoking activities: The board of directors may make reasonable accommodation in the case where a member or occupant intends to use tobacco in relation to a traditional aboriginal cultural activity, or smoking is intended to be done by a prescribed group for a prescribed purpose. In making the accommodation the board of directors will only do so in writing and may prescribe in writing when the permission is granted for, the duration of the permission and where smoking will be permitted.
10. Smoking prohibited in enclosed common areas: Pursuant to the *Smoke-Free Ontario Act*, and despite anything contained in this bylaw, smoking is not permitted in enclosed common areas of this housing co-operative, including but not limited to hallways, elevators, the parking garage, the exercise room, electrical and mechanical rooms, etc.