



**Policy Name:** Non-Smoking

**Policy Number:** SH-010-2017

**Administrative Approval Date:**

**Council Approval Date:** 2017-11-20

**Most Recent Amendment Date:** 2020-11-10

**Effective Date:** 2018-01-01

**By-law reference:** N/A

**Supersedes:** 2017-11-20

**1. Policy:**

Due to the health risk of exposure to second hand smoke, increased risk of fire and increased maintenance costs:

- 1.1** No tenant, occupant, guest, business invitee, or visitor shall smoke cigarettes, cigars or any similar product whose use generates smoke within the building. This prohibition includes all residential units within the building, all balconies and patios, enclosed common areas, as well as outside within nine metres of doorways, operable windows and air intakes.
- 1.2** The Smoke-Free Ontario Act, 2006 prohibits smoking in common areas of multi-residential buildings including foyers, elevators, stairwells, laundry rooms, corridors, etc.
- 1.3** The Smoke Free Policy will come into effect for all District Municipality of Muskoka Community Housing and Affordable Housing buildings (the District) beginning January 1, 2018. All new District owned buildings built after 2018 will be designated as smoke-free buildings

**2. Purpose:**

The purpose of this policy is to outline the restrictions on smoking in District owned social housing units.

**3. Definitions:**

- a) **Business Invitee** - shall include but is not limited to any contractor, agent, household worker, or other person hired by the housing provider, tenant or occupant to provide a service or product to the housing provider, tenant or occupant.
- b) **Guest** - a person who stays with a tenant for a limited time not exceeding 14 days within a 30 day period and whose principal residence is elsewhere.

- c) **Occupant** - a person who has been authorized by the District to reside in a housing unit but who is not a party to the Tenancy Agreement and does not have occupancy rights when the tenancy is terminated.
- d) **Smoking** - shall include inhaling and exhaling of any tobacco or marijuana, and similar product whose use generates smoke or vapour, including the use of e-cigarettes.
- e) **Tenant** - a person who pays rent in return for the right to occupy a housing unit and who has entered into a tenancy agreement with the District or other housing provider for same.
- f) **Visitor** - a person who spends time with or stays with a household for a short period of time and not normally overnight. A visitor has a principle residence elsewhere.

#### 4. Administration:

##### 4.1 Existing Tenants

- i. Tenants with leases signed prior to January 1, 2018 will continue to be bound by the terms of their existing leases, which do not prohibit smoking in the rented premises. These tenants are “grandfathered” and exempt from the policy until the end of their tenancies in their current unit. Existing tenants will have the option of signing new leases containing no smoking clauses.

##### 4.2 New Tenants

- i. Tenants who enter into leases after January 1, 2018 will not be permitted to smoke in the rental unit. Smoking will not be permitted on apartment balconies and / or patios. For tenants in townhouse units, smoking is prohibited in front and back yards. In outdoor common areas, tenants are permitted to smoke a minimum of nine metres or more away from entrances, exits, windows or vents.

##### 4.3 Transferred Tenants

- i. Tenants with leases prior to January 1, 2018 and who are transferred to another unit for eligibility and or other legislative reasons (e.g. over housed), will continue to maintain their “grandfathered” status in their new unit until the end of their tenancy. Any existing tenant requesting an internal transfer after January 1, 2018 will not retain their “grandfathered” status to smoke in their new unit.

**4.4 Exemption:**

- i. Traditional use of tobacco by aboriginal tenants will be permitted when used for traditional/cultural or spiritual purposes.
- ii. The Smoke Free Policy does not prohibit the smoking of marijuana for medicinal use for those who are suffering from grave and debilitating illnesses who must smoke their prescription and are not able to exit the building. The general use of medicinal marijuana to treat or control symptoms of a disability is protected by the Ontario Human Rights Code.
- iii. Tenants who are physically able will still be required to leave the building if smoking marijuana is the manner by which they consume their prescription. In situations where tenants are physically unable to leave their unit to smoke medicinal marijuana, an exemption to the policy may be granted. Tenants who fall under this exemption must have a medical document authorizing the use of cannabis for medical purposes under the Access to Cannabis for Medical Purposes Regulations according to Health Canada.
- iv. District staff will ask tenants who use medical marijuana for a proper medical document including the tenant's full name and date of birth, a daily quantity of dried marijuana to be used by the patient: grams / day, a period of use (not exceeding one year), and the health care practitioner's details, including their license number and signature.

**4.5 Enforcement;**

- i. District staff will respond to formal complaints received from tenants. Tenants who wish to complain about an individual or household that is violating the Smoke-Free Policy must submit their complaint in writing to the District. The name of the person who is submitting the complaint must be included in the letter; the complaint cannot be made anonymously.
- ii. Eviction is a means of last resort for non-compliance. Staff will work with tenants to assist them in understanding and complying with the no smoking policy and will direct tenants to smoking cessation supports and coping programs.

**Related Form #:** SH-910-2017 Smoking Compliance Form

**Related Policies/Procedures:** N/A

**Reference: (approval and amendment details, legal references)**

- Report CS-6-2017-5
- Report CS-9-2017-7
- Resolution R27/2017-CS