[Legal co-op name]

# A By-law to protect health,

# safety and Welfare at the co-op by

# DESIGNATING the co-op as

# smoke-free

By-law No. [ ]

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 \_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_

Confirmed by the members on \_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_

1. About this By-Law
	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. 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. Special Meanings
		1. ***Smoke-Free Ontario Act***

Words with special meanings or definitions in the Smoke-Free Ontario Act will have the same meaning in this By-law.

* + 1. **Smoking**

Smoking includes

• smoking or holding lighted tobacco, cannabis or other products that generate smoke

• having those things while they are lit or in use whether or not they are being carried, inhaled or exhaled.

* + 1. **Traditional Indigenous uses**

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

* + 1. **Vaping**

Vaping includes using an electronic cigarette or other vaporizing device for tobacco or cannabis to be inhaled by the user of the device,

1. Smoke-Free
	1. Prohibition

Co-op members must not smoke or vape in their units. Co-op members must not smoke or vape in common areas or other parts of co-op property.

* 1. 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 or vapes in a unit or on co-op property.

2.3 Staff and Visitors

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

2.4 Growing Cannabis Prohibited

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

1. Designated Smoking Areas
	1. Designated Smoking Areas
		1. **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 metres away from building entrances

• at least 9 metres 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.

* + 1. **Closer Designated Smoking Areas**

If necessary, the board may decide that Designated Smoking Areas may be closer than 9 metres 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.

* + 1. **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.

* 1. Use of Designated Smoking Areas

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

1. Application of By-law
	1. Grounds for Eviction

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

* 1. 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 board can ask for medical verification that shows that the only or best way cannabis works for the member is by smoking it. 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.

* 1. Limits of the By-law

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

* 1. Starting Date for this By-law

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

**PASSED** by the Board of Directors of the Co-operative on \_\_\_\_\_\_\_\_\_\_\_\_\_\_, 202\_\_.

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President Corporate Secretary

**CONFIRMED** by a two-thirds votes at a general meeting of the members of the Co-operative on \_\_\_\_\_\_\_\_\_\_\_\_\_\_, 202\_\_.

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President Corporate Secretary



**How to implement 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:
3. improve air quality
4. reduce fire risk
5. lower operating cost
6. protect health
7. Keep the focus on the community not the individuals
8. Pacify worries of smokers:
9. the by-law will not force members to quit smoking
10. it will not restrict smokers from becoming members

If your membership decides to modify any part of the model Smoke-Free By-law, then the co-op needs to have those changes verified by a lawyer with respect to compliance with other legislation and the ability to enforce those changes.

Growing cannabis

Growing a limited amount of cannabis (four plants per household) is legal. 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.

Complications from exempting legacy units include:

* 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.
* The by-law would no longer address the issue of second hand smoke.
* Complications arising when smoking members are required to transfer to another unit.
* Difficulties in legally enforcing the by-law.