



2017 ONPHA Conference and Trade Show

Shaping
OUR
Future

501

Breathing easier: Smoke-free non-profit housing

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Learning goals

1. Learn the benefits of a smoke-free policy.
2. Understand the basic legal framework for creating and implementing a smoke-free policy.
3. Gain an understanding of how to implement the policy.
4. Learn where to get more resources and information.



Agenda

- Welcome and Introductions
- Smoking and Multi-unit Housing
- Why a Smoke-free Policy?
- Implementing a policy
- Communications
- Legal Issues



Welcome and Introductions



www.smokefreehousingon.ca



Iler Campbell LLP

www.ilercampbell.com



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How many are considering a
smoke-free policy?



How many have a policy in-place?



How many are not convinced
it is a good idea?



Tobacco Overview

Expectation of cleaner air much higher today

- Public places
- Workplaces
- Many homes



Tobacco Overview

- In the general population about 4/5 people do not smoke

8/10 Non-Smokers



Tobacco Overview

- In the lowest income (under \$10 000/ Year) grouping it is about 7/10 are non-smokers

7/10 Non-
Smokers



Tobacco Overview

- Severe asthma attacks
- Respiratory infections
- Ear infections
- Sudden Infant Death Syndrome (SIDS)
- Heart disease
- Lung cancer



No safe level of exposure

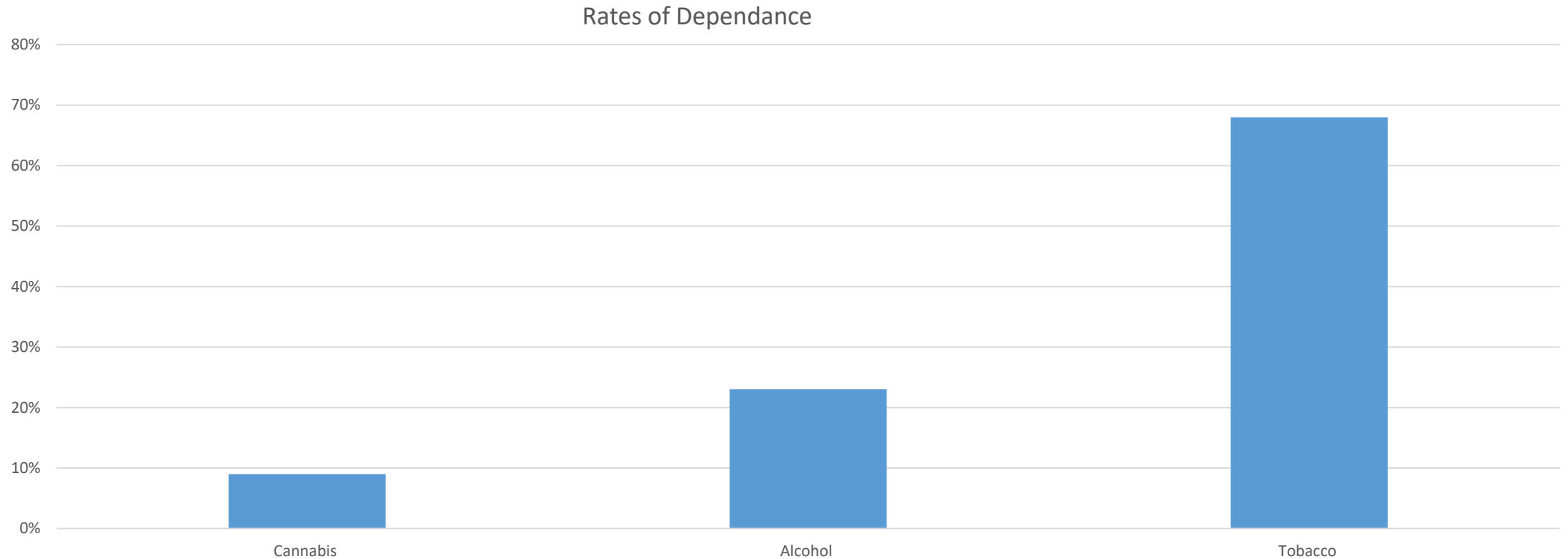


Cannabis Overview

- Rates of use (**last 12 months**)
- 12% of Canadians
- 15% of Men
- 10% of Women
-
- 28% using a vapourizer



Cannabis Overview



Cannabis Overview

- Second-hand Smoke effects
- Common to mix with tobacco (1/3)
- Many of the same chemicals as tobacco
- Risks greater for those with respiratory illness
- Risk of “contact high” low.
- More research needed



Smoking and Multi-Unit Housing



Affected by second hand exposure from outside their unit in Ontario.



Smoking and Multi-Unit Housing

Exposure lengthy in home environments



Smoking and Multi-Unit Housing

How does the smoke travel?



Smoking and Multi-Unit Housing

How does the smoke travel? Stack Effect

<https://youtu.be/-JfP2DXqep0>



Smoking in Multi-Unit Housing



What about vents and fans?



Smoking in Multi-Unit Housing



What about other repairs?



Smoking in Multi-Unit Housing



American Society of Heating, Refrigerating and
Air-Conditioning Engineers

“the only means of effectively
eliminating health risk
associated with indoor
exposure is to ban smoking
activity.”



What is a Smoke-Free Policy?

Above and beyond what is required by Ontario law.



What is a Smoke-Free Policy?

Ontario
law
covers
indoor
common
spaces
such as:

- Hallways
- Laundry rooms
- Stairwells
- Garages



What is a Smoke-Free Policy?

A lease clause that prohibits smoking in other areas



What is a Smoke-Free Policy?

Units



What is a Smoke-Free Policy?

Balconies



What is a Smoke-Free Policy?

Entrances



What is a Smoke-Free Policy?

Grounds



What is a Smoke-Free Policy?

Policy
does
not:

- Prohibit smokers from renting
- Automatically evict current residents who smoke
- Force residents to quit smoking



What is a Smoke-Free Policy?



Smoking



Not the Smoker



What is a Smoke-Free Policy?

Who will it affect?

- Residents
- Staff
- Contractors
- Pets?



Why a Smoke-Free Policy?

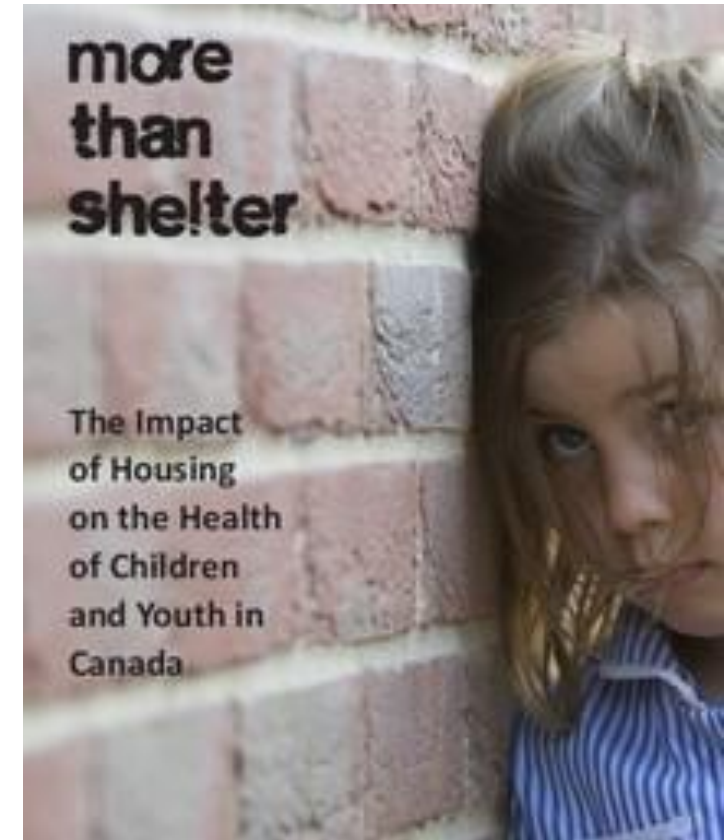
Support for policy in Waterloo Region Housing

Year	Smokers	Non-Smokers
2013	29.4 %	88.2 %
2011 (Pre-policy)	26.0 %	86.7 %



Why a Smoke-Free Policy?

- Shelter is a prerequisite for health
- If the shelter is poisonous, it cannot fulfill that role



Canadian Child and Youth Health and Housing Network

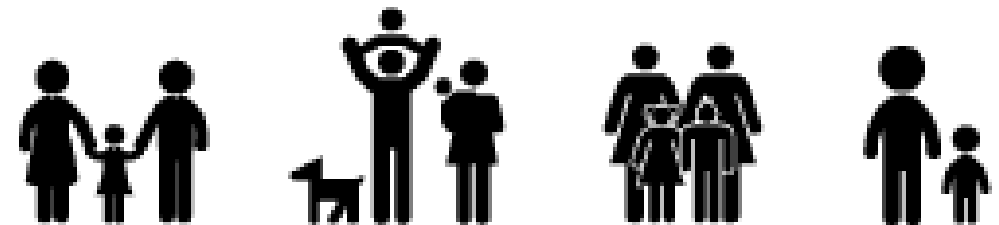


Why a Smoke-Free Policy?

Lower income people exposed to SHS have fewer housing options.

Number of households on waiting lists in: **2015**

171,360



Why Smoke-Free Policy?

Cigarettes, pipes, and cigars ranked as the **#1 ignition source** for residential fire fatalities.



Why a Smoke-Free Policy?

- Smoke residue (tar) on walls, ceilings, appliances
- More cleaning, painting and maintenance required



Why a Smoke-Free Policy?

Property premium credit for
smoke-free on group
insurance program is 5 %



Communications

- Improve air quality
- Reduce fire risk
- Lower operating cost

These are the problems and smoke-free is a solution



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Communications

- For people who want to quit, consider providing some information
- Remind them smokers are not being evicted



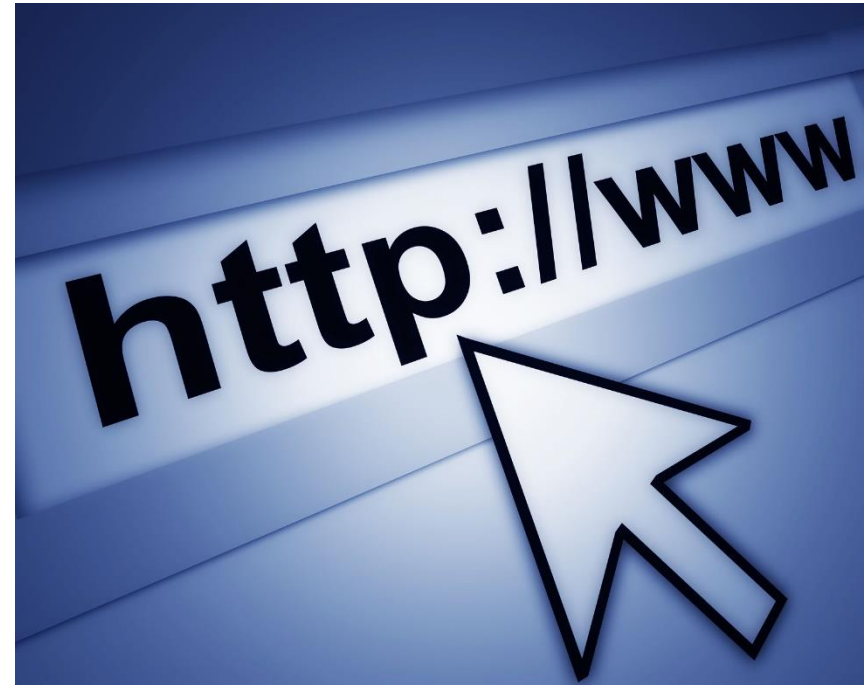
Communications

Social Media



Communications

Website










Communications

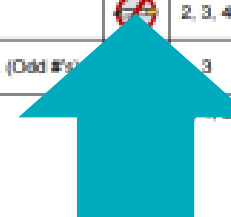
- Application
- Mention and describe policy
- Ask for initials
- Be clear about transition issues (Grandfathering)

BUILDING SELECTION FORM

WATERLOO REGION

CAMBRIDGE

<input checked="" type="checkbox"/>	Building	Street Address	Smoke-free Units	Bedroom Sizes	Total # of Units	Provider Type	Household Type	Building Type	Unit Size
CENTRAL									
<input type="checkbox"/>	Anglerock Drive	75 Anglerock Dr.		2, 3, 4	66	M	FAM	TH	2, 3
<input type="checkbox"/>	Gail Street	86, 88-94, 96 Gail St.		3, 4, 5	9	WR	FAM	SD/TH	
<input type="checkbox"/>	Max Saltzman Co-op	930 Elgin St.N.		2, 3, 4	109	CO	FAM	TH	3, 4
<input type="checkbox"/>	Rouse Avenue	99-142 Rouse Ave.		3, 4	31	WR	FAM	SD/TH	3, 4
<input type="checkbox"/>	Sekura Street	196-216 Sekura St.		3	14	WR	FAM	SD	
<input type="checkbox"/>	Wolfe Property Site +	60 Mullin Cres.		2, 3, 4	65	M	FAM	TH	2
EAST									
<input type="checkbox"/>	Allison Avenue	Allison Ave. – select units		3, 4	10	WR	FAM	SD	
<input type="checkbox"/>	Arthur White Manor *	60 Chalmers St.		1	63	WR	60+	AP	
<input type="checkbox"/>	Highland Homes Co-op +(TH)	5 Galt Ave.		2, 3, 4	62	CO	All	TH	2
<input type="checkbox"/>	Highland Homes Co-op +(AP)	5 Galt Ave.		1, 3	12	CO	All	AP	
<input type="checkbox"/>	Lumsden Crescent	2-52 Lumsden Cres. (Even #'s)		3, 4	26	WR	FAM	SD	
<input type="checkbox"/>	Magor Drive	55 Magor Dr.		2, 3, 4	31	WR	FAM	TH	
<input type="checkbox"/>	Radford Avenue	7-39 Radford Ave. (Odd #'s)		3	16	WR	FAM	SD	
<input type="checkbox"/>	Millcreek Terrace *	284 Clyde Rd			36	NP	60+	AP	



No-smoking Sign



Communications

Lease agreement

- Include explanation of the policy
- Again, include transition issues



Communications

Signage

This Building is Transitioning to Smoke-free Housing*



No smoking is allowed anywhere within the building, including units and balconies.

No smoking is allowed within 9 metres of entrances and exits.

*Some residents are being 'grandfathered'



Communications

Quitting Support



You only need one reason to quit.
We have three ways to help.

Phone Support Online Programs Text Messaging

smokers' helpline

CONNECT TO QUIT
smokershelpline.ca
1 877 513-5333

Canadian Cancer Society Société canadienne du cancer

100% FREE



Legal Issues and Implementation



Tobacco



Medical marijuana



Recreational marijuana



E-cigarettes/vaping



Tobacco in Common Areas



- Governed by the *Smoke-Free Ontario Act*
- No smoking in:
 - “enclosed public place” = is a place that is covered by a roof and to which the public has access
 - “enclosed workplace” = place that is covered by a roof, frequented by employees, and not a private dwelling
- Outdoor areas governed by leases/policies



Tobacco in Units



- *Smoke-Free Ontario Act* does not apply
- Informed by your lease and policies – what do they say about smoking?
 - Housing provider can't make unilateral changes
 - Tenants may be grandfathered in
- What if smoking becomes an issue?
 - General complaints by neighbours
 - Medical issues (ex. Asthma)
- Eviction for:
 - Substantial interference with reasonable enjoyment/interfering with the
 - Damage to the unit



Cannabis (recreational)



- Legalization in 2018
- Smoking cannabis in units will be dealt with like tobacco
 - Landlords are not required to make exceptions
 - Governed by leases and policies
 - Landlords can't make unilateral changes
 - Grandfathering
- Eviction for:
 - Substantial interference with reasonable enjoyment/interfering with the
 - Damage to the unit



Cannabis (recreational)



- Smoking in common areas – TBD
- Likely to be amendments to *Smoke-Free Ontario Act* to include cannabis smoke upon legalization
- Until then, is technically illegal
- What if there's a gap between legalization federally and provincial regulation?
 - Leases and policies



Cannabis (recreational)



- Growing
 - Individual allowed to grow up to four plants for personal use
 - Don't know yet how the province will regulate
 - Likely will be allowed in private dwellings (in units)
 - Governed by leases and policies





Medical Cannabis

- Will still exist upon legalization
- For the most part, a non-issue for housing providers
- May become an issue when being medical cannabis is administered by smoking
- Smoking in units - special considerations may apply
 - Human rights code and accommodation
 - Exception to rules may need to be made in certain circumstances
 - Fact specific





Medical Cannabis

- Medical cannabis patients have the right to use their medicine as prescribed
- General use of medical cannabis to treat and control symptoms of a disability is protected under the Human Rights Code
- Does not mean that medical cannabis patients have the right to smoke anywhere - no “right” to smoke in unit
- Exceptions may need to be made on case-by-case basis as an accommodation under the Human Rights Code to the point of “undue hardship”





Medical Cannabis

- What to do if receive complaints about medical cannabis smoke?
 - Determine where smoke is coming from
 - Ask!
 - Notice of entry
 - Document observations from common areas
 - Ask for medical document or authorization to possess
 - If assert need to smoke in-unit, request further medical information





Medical Cannabis

- Discerning medical vs recreational use
- Potentially 2 sets of documents for medical (right now)
 - “Medical Document” and “Authorization to Possess”
 - Upon legalization – TBD – likely to be simplified





OSCAR Rx	Dr. _____
	Tel: _____ Fax: _____
DOB: _____ November 24, 2016	
Health Ins.#: _____	
Cannabis 1 gram per day for 180 days. Max 17% THC. Consult took place at the clinic address listed above. I hereby certify that the information contained in this document is accurate and complete. Province of Registration: ON Email: I 180 Days Repeats: 0	
Signature: _____	
Dr. _____ Pract. No. _____	
Created by: OSCAR The open-source EMR www.oscarcanada.org	





Medical Document Authorizing the use of Cannabis for Medical Purposes under the Access to Cannabis for Medical Purposes Regulations

Help on accessing alternative formats, such as Portable Document Format (PDF), Microsoft Word and PowerPoint (PPT) files, can be obtained in the [alternate format help section](#).

For related information, please see Health Canada's [Information for Health Care Practitioners](#).

This document may be completed by the applicant's health care practitioner as defined in the Access to Cannabis for Medical Purposes Regulations (ACMPR). A health care practitioner includes medical practitioners and nurse practitioners. In order to be eligible to provide a medical document, the health care practitioner must have the applicant for the medical document under their professional treatment. Regardless of whether or not this form is used, the medical document must contain all of the required information, (see in particular s. 8 of the ACMPR).

Your health care practitioner may use this form to provide you authorization to use cannabis for medical purposes. Your health care practitioner may use a different form, but the required information as per section 8 of the ACMPR (outlined below) must be included.

Access via Health Canada licensed producers: Should you choose to access cannabis from a licensed producer, this form must be sent directly to the licensed producer of your choice. You may choose any licensed producer who is authorized to sell to registered clients. Please see the Health Canada website for a list of licensed producers. Should you wish to switch from one Health Canada licensed producer to another a new medical document will be required as licensed producers are required to keep the original medical document on file.

Access via production for own medical purposes: Should you choose to produce your own cannabis, or designate someone to produce it for you, the original of this document must be sent to Health Canada with your Registration Application Form.

Patient's Given Name and Surname:

Patient's Date of Birth (DD/MM/YYYY):

Daily quantity of dried marihuana to be used by the patient: grams / day

The period of use is day(s) or week(s) or month(s).

Note: The period of use cannot exceed one year

Health care practitioner's given name and surname:

Profession:

Health care practitioner's business address:

Canada 





Medical Cannabis

- Requests for accommodation to smoke in-unit
- STEP 1: what does the lease say?
- STEP 2: if prohibited by lease/policies, ask for medical documentation
 - Smoking in unit not the default accommodation
 - Landlord may ask for medical information setting our limitations and disability-related needs
 - Smoking as method of administering is necessary for treatment
 - Medically significant symptoms that require use in unit
- STEP 3: provide appropriate accommodation short of undue hardship – can be creative





Growing Medical Cannabis

- Authorization to grow from Health Canada
 - Requires registration with Health Canada
 - Grow at home or designate third-party to grow
 - Application form requires signed consent of “site owner”
- Governed by leases and policies
- Probably not a human rights issue for housing provider to consider



E-cigarettes and vapour



- Emerging area - variety of products and very little caselaw
- May be a significant legal difference between smoke and vapour on account of the medical evidence (or lack thereof)
- E-cigarettes and vaporizing (non-medical purposes) may be included in a smoke-free policy or clause BUT will have difficulty enforcing it at LTB
- Could be compliance tool for tobacco and recreational cannabis



E-cigarettes and vapour



- Vaporizing medical marijuana - need to be very cautious about any limitations
 - Ban might not satisfy the “rational connection” test under the Human Rights Code
 - Discuss with your lawyer if you are considering a ban



More Information

www.smokefreehousingon.ca



Thank you!

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