

Ministry of Health



## **Smoke-Free Ontario Act, 2017**

# How the Act Affects: Residential Care Facilities

### **The Basics**

The *Smoke-Free Ontario Act, 2017* prohibits the smoking of tobacco, the use of electronic cigarettes (e-cigarettes) to vape any substance, and the smoking of cannabis (medical and recreational) in enclosed workplaces and enclosed public places, as well as other designated places in Ontario, to protect workers and the public from second-hand smoke and vapour.

Smoking refers to the smoking or holding of lighted tobacco or cannabis (medical or recreational).

Vaping refers to inhaling or exhaling vapour from an electronic cigarette or holding an activated electronic cigarette, whether or not the vapour contains nicotine.

### **Residential Care Facilities**

Smoking and vaping is not permitted in residential care facilities (e.g., long-term care homes). They are considered to be enclosed workplaces.

In addition, smoking and vaping is not permitted in the area within a nine metre radius surrounding any entrance or exit of long-term care homes and psychiatric facilities.

## General Responsibilities of Proprietors and Employers

Every proprietor and employer of a residential care facility must:

- Give notice to staff, residents and visitors that smoking is prohibited in the enclosed workplace.
- Post “No Smoking” and “No Vaping” signs, or a dual “No Smoking and No Vaping” signs at entrances, exits and washrooms of the smoke- and vape-free area, in appropriate locations and in sufficient numbers, to ensure that staff, residents and visitors are aware that smoking and vaping is not allowed.
- Ensure that no ashtrays or similar items remain in the smoke- and vape-free area.
- Ensure that employees, residents and visitors do not smoke or vape in the smoke- and vape-free area.
- Ensure that someone who refuses to comply with Ontario's smoking laws does not remain in the smoke- and vape-free area.

## Controlled Areas

While smoking and vaping is prohibited in enclosed workplaces, operators of long-term care homes, retirement homes that provide care in addition to accommodation, provincially-funded supportive housing residences (e.g., homes for special care, or community homes for opportunity), designated veterans' facilities, and designated psychiatric facilities may open and operate an indoor controlled area so that residents may smoke or vape.

Designated veterans' facilities are the Parkwood Hospital site of St. Joseph's Health Care London or the Kilgour wing (K wing) and the George Hees wing (L wing) of the Sunnybrook Health Sciences Centre.

Designated psychiatric facilities are psychiatric facilities under the *Mental Health Act* that were formally designated under the *Mental Hospitals Act*.

Proprietors or employers of the facilities described above may choose to construct and operate a controlled area for their residents. There are specific structural, ventilation and maintenance requirements for controlled areas that can be found in the *Smoke-Free Ontario Act, 2017* (SFOA, 2017) and its regulation.

## **Use of Tobacco for Traditional Indigenous Cultural or Spiritual Purposes**

The restrictions on smoking tobacco or holding lit tobacco in the SFOA, 2017 do not apply to:

- An Indigenous person who smokes tobacco or holds lit tobacco for traditional Indigenous cultural or spiritual purposes.
- A non-Indigenous person who smokes tobacco or holds lit tobacco, if the activity is carried out with an Indigenous person for traditional Indigenous cultural or spiritual purposes.

In addition, the proprietor of a long-term care home, psychiatric facility, home for special care or community home for opportunity must, at the request of an Indigenous resident, set aside an indoor area in the facility for the use of tobacco for traditional Indigenous cultural or spiritual purposes.

## **Proprietor and Employer Obligations for Controlled Areas**

Any facility with a controlled area must ensure that:

- It is registered with the Ministry of Health and Long-Term Care.
- It complies with the SFOA, 2017 and its regulation.
- Only residents can smoke or vape in the controlled area. (Guests may accompany residents, but they are not allowed to smoke or vape in the room).
- Residents of the facility who want to smoke or vape in the controlled area must, in the opinion of the proprietor or employer, be able to smoke or vape independently and without employee assistance.

- Employees are not required to enter the controlled area.
- Required signs are posted outside the controlled area:
  - A copy of the sign entitled "Controlled Areas in Certain Residential Facilities" accessible through a website of the Government of Ontario.
  - A sign indicating the maximum number of people allowed in the controlled area.

## Outdoor Smoking Shelters

A proprietor or employer of a residential care facility may choose to accommodate residents and employees who smoke or vape by providing a smoking and vaping shelter outdoors. The shelter must have no more than two walls and a roof, and comply with other applicable restrictions in the SFOA, 2017 or its regulation. For example, in the case of a long-term care home, the shelter cannot be located within 9m of any entrance or exit of the home. In the case of a psychiatric facility, the shelter cannot be located on the grounds of the facility.

## Enforcement

Local public health units will carry out inspections and respond to complaints regarding smoking and vaping laws in residential care facilities.

## Penalties

An individual who violates the prohibition on smoking or vaping in the smoke-free and vape-free areas of a residential care facility may be charged with an offence, and on conviction could be subject to a maximum fine of \$1,000 (for a first offence) or \$5,000 (for any subsequent offence).

An employer or proprietor that fails to fulfill their responsibility under the law may be charged with an offence and if convicted, could face a maximum fine:

### Signage responsibilities

- For individuals: \$2,000 (for a first offence); \$5,000 (for a second offence); \$10,000 (for a third offence); \$50,000 (four or more offences)
- For corporations: \$5,000 (for a first offence); \$10,000 (for a second offence); \$25,000 (for a third offence); \$75,000 (four or more offences)

### Other responsibilities

- For individuals: \$1,000 (for a first offence); \$5,000 (two or more offences).
- For corporations: \$100,000 (for a first offence); \$300,000 (two or more offences).

This fact sheet is intended as a quick reference only and should not be considered to be legal advice. For more information, please contact your local Public Health Unit.

You may also obtain information by calling toll-free:

- **INFOline** 1-866-532-3161
- **TTY** 1-800-387-5559

Hours of operation: Monday to Friday, 8:30 a.m. - 5:00 p.m. (Eastern Standard Time)

For specific information on smoking and vaping laws in residential care facilities, contact your local Public Health Unit. To find the public health unit serving your region, please visit their website at:

<http://www.health.gov.on.ca/en/common/system/services/phu/locations.aspx>.

For more information on the *Smoke-Free Ontario Act, 2017*, please visit the Ontario Ministry of Health website: [ontario.ca/smokefree](http://ontario.ca/smokefree).