

Cannabis and residential tenancies

As a **landlord or tenant**, it's important to understand the laws and regulations that apply to growing and consuming cannabis in rental units. Tenants and landlords should also discuss potential issues together and put what they agree to in writing. They can do this by either amending an existing tenancy agreement or including rules on cannabis in any new tenancy agreement.

Cannabis legislation

Federal and territorial laws, as well as municipal bylaws, work together to regulate how cannabis is grown, sold and used in Yukon. Yukon's territorial legislation is the *Cannabis Control and Regulation Act*. It regulates the personal cultivation, possession, consumption, retail and distribution of cannabis in Yukon.

The Residential Landlord and Tenant Act

When it comes to renting and cannabis, the *Residential Landlord and Tenant Act* still plays the primary role in regulating the landlord and tenant relationship through tenancy agreements.

If a landlord and tenant cannot reach agreement on an issue, either party can apply for dispute resolution with the Residential Tenancies Office.

The Act allows landlords to restrict activities that can affect their property, their enjoyment of their property or interfere with neighboring tenants. This includes restricting activities related to cannabis. The Act is also clear that when restricting these activities, landlords must respect tenants' right to not be interfered with.

Consuming cannabis in rental units

Tenancy agreements under the *Residential Landlord*

and *Tenant Act* can set **reasonable rules** including whether to allow, prohibit, or limit tenants consuming cannabis within rental properties. Consuming cannabis includes smoking, vaping, ingesting, or use in any form. Landlords and tenants should also know the following.

- A tenant can legally consume cannabis in a rental unit if a landlord has not specifically restricted a form of its consumption.
- Tenancy agreements that include "no smoking" rules will include smoking and vaping of cannabis unless the landlord and tenant agree otherwise in writing.
- Residents are not allowed to consume cannabis in any common interior areas (eg. hallways, stairwells) of any multi-unit residential building.

Growing cannabis in rental units

The *Cannabis Control and Regulation Act* allows households to grow up to four cannabis plants. However, tenancy agreements under the *Residential Landlord and Tenant Act* allow a landlord to restrict or limit tenants growing cannabis on the property.

If a tenancy agreement doesn't specifically address growing cannabis, the law allows tenants to grow up to four plants in their unit, unless:

- a tenant's growing cannabis is causing unreasonable disturbance to other residents or damage to the property;
- there is a specific law or bylaw prohibiting growth on the property.

Tenants who grow cannabis plants in their rental units must follow any terms set out in their tenancy agreements, as well as the *Cannabis Control and Regulation Act* and regulations.



It is important to remember that it is four plants **per household**, not per person. For example, the law does not allow two adults living in the same home to grow eight plants.

Mobile home tenancies

The following applies to the use and growth of cannabis and mobile home tenancies.

- A mobile home owner who rents a mobile home pad is allowed to consume and grow cannabis within his or her mobile home in compliance with the *Cannabis Control and Regulation Act*.
- However, as with other tenancies governed by the *Residential Landlord and Tenant Act*, a mobile home pad owner (landlord) can restrict or limit cannabis growth and consumption on mobile home pad areas that lie outside the mobile home itself.
- A mobile home pad owner cannot unreasonably restrict the rights of mobile home owners to consume or grow within the mobile homes they own.
- Mobile home owners who rent their homes to tenants may restrict or limit growing and consuming cannabis, just as other landlords may.

Tenancies in condominiums

A condominium corporation has the authority to make condo policies and bylaws restricting the consumption and growth of cannabis under the *Condominium Act*.

Condo owners should clearly include corporation declarations and bylaws in tenancy agreements. These must be clearly communicated to the tenant to be enforceable.

Condominium owners are only covered by the Residential Landlord and Tenant Act if they are renting their condo unit. For more information, condo owners should consult with their respective condominium boards or legal counsel.

A condo owner who rents a unit to tenants may restrict or limit growing and consuming cannabis within the unit, as would any other landlord.

Rental property safety and other residents

Even if a landlord allows tenants to grow or consume in a rental unit, tenants must do so in a safe and responsible way.

If a landlord becomes concerned that cannabis-related activities are jeopardizing the safety of the property, or interfering with the rights of other tenants, the landlord should raise the issue with the tenant. If the issue persists, a landlord can potentially issue notice to a tenant to end the tenancy.

For example, if a tenant has modified ventilation or an electrical system without the landlord's consent, smoked in a restricted area or otherwise violated the tenancy agreement with respect to cannabis, a landlord could potentially issue a notice to end the tenancy.

Landlords and tenants should maintain clear communication throughout tenancies on all issues, including cannabis. This will help ensure expectations are clear and any potential issues are resolved before disputes arise.

RESIDENTIAL TENANCIES OFFICE

1-800-661-0408 local 5944 / (867)-667-5944

rto@gov.yk.ca 307 Black Street, 1st Floor, Whitehorse, Yukon

