

Advantage Townhome Management

1310 Highway 96 East, Suite 214, White Bear Lake, MN 55110

July 31, 2023

MN Cannabis Use Laws and HOAs

Members,

The SHORT VERSION:

Smoking, vaping, and any use of cannabis in a way that is a nuisance, is prohibited anywhere on or within Association Property, including inside individual Units.

The LONG VERSION:

MN Legislature recently passed a bill called the Cannabis Finance and Policy Bill (HF100). For reference, you may find the current version of that law here:

<https://www.revisor.mn.gov/laws/2023/0/Session+Law/Chapter/63/>

There are some specific portions that are important to understand as it relates to ownership or occupancy in Homeowner Associations, such as yours.

The first important section to recognize is that the new law defines that the use of cannabis in a way that is injurious to health, offensive to the senses, or interferes with the comfortable use of property is a nuisance.

Shown here under Section 74 of that bill:

Nuisance:

Any use of adult-use cannabis flower which is injurious to health, indecent or offensive to the senses, or an obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property is a nuisance.

Most Association Declarations or Bylaws contain a clause that states that Owners and Occupants are expected to utilize the Property in a manner that will not cause a nuisance or interfere with the right of enjoyment of the Property by other Owners.

Since the new MN law specifically classifies the use of cannabis in ways that are offensive to the senses, or which interfere with the comfortable use of the property by others as a “nuisance”, the use of cannabis in that way is automatically a violation of the Association’s Restrictions and is enforceable through the violation procedures of the Association.

The second important part to recognize of the new law is that it includes limitations specifically relating to use in multifamily housing.

Shown here under Section 57 of that bill:

Limitations:

*Except for the use of medical cannabis flower or medical cannabinoid products, the vaporizing or smoking of cannabis flower, cannabis products, artificially derived cannabinoids, or hemp-derived consumer products **is prohibited in a multifamily housing building, including balconies and patios appurtenant thereto.** A violation of this paragraph is punishable through a civil administrative fine in an amount of \$250.*

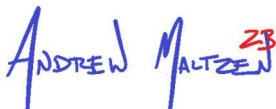
Due to the close proximity in which neighbors reside and shared party walls, **Townhomes and Condominiums are considered multifamily housing under MN law.** Therefore, smoking and vaping of cannabis products is specifically prohibited in any building within the Association by this section of the law, including on patios and balconies.

To preserve the right to enjoyment of the property by the owners, in addition to the restriction of smoking or vaping inside buildings and on patios or balconies provided by state law, the Association also specifically prohibits the smoking or vaping of cannabis products anywhere on the Property.

Please understand that the Association has an obligation and authority to enforce these restrictions. The Association may adopt specific rules or enforcement actions pursuant to this type of violation, and until it does, the Association retains the right of enforcement through any currently adopted violation measures.

If you have specific questions in relation to this Notice, please contact your Association Manager.

Thank you,



Andrew Maltzen

Advantage Townhome Management

Community Association Manager

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