SMOKING & VAPING CANNABIS IN NEW YORK STATE

Policy Options for Public Places & Multiunit Housing

Under New York State law, it is illegal to smoke or vape cannabis in public places where smoking or vaping commercial tobacco[1] is prohibited.[2]

In many communities throughout the state, however, as in the growing number of states that have legalized medical and adult use (recreational) cannabis,[3] questions continue to arise about smoking or vaping cannabis in public areas and private places such as multi-unit housing. This resource answers common questions for New York State public health practitioners, as well as business, including business and property owners, consumers, and tenants, about the possible health risks of cannabis smoke, the "right" to smoke or vape cannabis, local authority in New York State to regulate the smoking and vaping of cannabis in public places and multi-unit residences, and policy options to consider.

Overview

On March 31, 2021, New York State joined 23 other states, two territories, and the District of Columbia in passing a law legalizing the sale and adult use of cannabis.[4] Still, adult cannabis use in New York State continues to be subject to strict federal and state regulation. Under federal law, cannabis to date remains categorized as a Schedule 1 drug — that is, a drug with high potential for abuse with no currently accepted medical use in treatment in the U.S.[5] This federal status has several implications. For example, convictions for cannabis use under federal law may not only result in penalties for a conviction of a marijuana-related offense, but also prevent one from purchasing and possessing a firearm, and could affect one's eligibility for federal housing, certain visas, and federal employment and military service.[6] Although the federal prohibition continues to create complexities and uncertainty in many areas — including banking, transportation, employment, and immigration — it does not stand in the way of states' legalization of adult cannabis use.[7]

New York State law defines smoking as the burning of any matter or substance that contains tobacco, cannabis, or cannabinoid hemp.[8] State law prohibits the smoking or vaping of cannabis or cannabinoid hemp in all areas where smoking of other combustible products, such as cigars, cigarettes, pipes, and other substances that contain tobacco, is also prohibited.[9] New York's adult use cannabis smoking and vaping restrictions are enforced in the same way the state enforces its combustible tobacco restrictions.[10]

Health Impact of Cannabis Smoke

Limited research has been done on the risks of exposure to secondhand cannabis smoke, in contrast to the decades of scientific studies on secondhand tobacco smoke. Recent studies, however, have shown that emissions from burning cannabis and tobacco cigarettes contain many of the same toxins, irritants, and carcinogens.[11] Among the thirty-three known carcinogens present in cannabis smoke are acetaldehyde, arsenic, benzene, chromium, formaldehyde, isoprene, lead, mercury, nickel, and quinoline.[12]

Both tobacco and cannabis smoke contain inhalable airborne particles that can cause respiratory symptoms, such as coughing, phlegm, and wheezing and can exacerbate health problems, especially for people with respiratory conditions such as asthma, bronchitis, and chronic obstructive pulmonary disease.[13] Secondhand smoke exposure and particulate inhalation also increase the risk of coronary heart disease and stroke.[14] Moreover, heavy exposure to cannabis smoke can result in measurable concentrations of THC (the ingredient that produces cannabis's psychoactive effect) in nonusers' blood serum and urine.[15]

Exposure to cannabis smoke in an unventilated setting has caused participants to experience minor increases in heart rate and impaired cognitive performance.[16] Also, a 2016 study in rats found that secondhand exposure to cannabis smoke affected blood vessel function as much as secondhand tobacco smoke and had longer lasting effects.[17] Although this research has not yet been conducted with humans, the toxins and other substances present in cannabis smoke raise troubling questions about the impact of secondhand smoke exposure on vulnerable individuals, such as infants, children, and anyone with a serious lung condition.[18]

Reflecting concern about the health risks of cannabis smoke exposure, the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) includes cannabis smoke (as well as emissions from electronic smoking devices) in its definition of "environmental tobacco smoke."[19] ASHRAE's national air standards have long been cited by tobacco control advocates, along with the Society's position that the only way to effectively eliminate the health risks posed by indoor exposure to secondhand smoke is to prohibit smoking.

Note

Creating a smoke-free environment, including in public areas and multi-unit housing, denormalizes smoking and vaping by making it less visible and socially acceptable and could even prompt people to quit by removing their opportunity to smoke or vape.

Smoking and Vaping Cannabis in Public Places

New York State law prohibits the smoking and vaping of cannabis in all public areas where the smoking or vaping of tobacco products is prohibited, including restaurants, bars, subway stations, building lobbies, offices, and most indoor public spaces, as well as outdoor dining areas at restaurants, and school grounds.[20] New York State's Clean Indoor Air Act also prohibits cannabis smoking in public parks, recreation centers, pools, group camps, and beaches — again, anywhere the smoking or vaping of tobacco products is prohibited.[21] In addition, state law prohibits smoking or vaping cannabis in a motor vehicle, even if the vehicle is parked.[22] Because cannabis is still illegal under federal law, it is a violation of federal law for cannabis to be consumed on federal land, including national parks and national forests.[23]

Below are answers to a few frequently asked questions about regulating the smoking and vaping of cannabis in New York State **public places**.

Q: How are New York State's cannabis smoking and vaping restrictions enforced?

A: Local enforcement officers designated by the county board of health, county health district, or local health department have general authority to enforce the New York State Clean Indoor

Air Act.[24] Violations of the cannabis use law can result in a civil penalty up to $25 or up to 20 hours of community service.[25] Localities and the state's cannabis agency may adopt stricter rules to regulate cannabis smoking or vaping in public. For instance, the City of Albany prohibits the use of cannabis within 500 feet of a school and within 200 feet of a house-of-worship.[26]

Q: Are there exceptions for adult-use of cannabis in public areas?

A: New York localities have the authority to create state-licensed adult use on-site consumption areas where people can use cannabis in accordance with state law.[27] The New York Cannabis Control Board approves designated areas for the smoking and vaping of cannabis. For more information about the process of licensing and regulating New York State's cannabis consumption sites, see the New York State Office of Cannabis Management's website or contact the office.

Q: What about cannabis smoking or vaping within New York State hospitality establishments?

A: Cannabis smoking or vaping in or on the grounds of certain hotels, Airbnb rentals, or other lodgings largely depends on the policies of the individual property owner or proprietor — as long as the policies comply with state and local law. Since portions of hotels, such as lobbies, would be considered "places of employment," smoking and vaping would still be prohibited in these areas under state law. While some lodgings may permit cannabis smoking or vaping in designated outdoor smoking areas, such as balconies, many still prohibit on-site smoking or vaping of any kind.

Q: Can adults smoke or vape cannabis at festivals or other outdoor venues or events in New York State?

A: New York's Office of Cannabis Management offers cannabis event organizer licenses that allow adults to smoke or vape cannabis on-site at temporary events, such as cannabis festivals, that can last up to five consecutive days. These events have specific regulations and requirements, which can vary depending on the event and whether it is held on public or private land. Note that under state law, smoking and vaping is prohibited in "indoor arenas."[28] For the most up-to-date information on cannabis regulations and licensing requirements for New York State cannabis festivals and events, consult the New York Office of Cannabis Management.

Smoking or Vaping Cannabis in Multi-Unit Housing

Although the state of New York has legalized the adult use of cannabis, residents do not have an absolute right to smoke or vape cannabis anywhere in the state. There is no constitutional right to smoke commercial tobacco, particularly when smoking impacts others.[29] Secondhand smoke, whether from combustible or aerosolized tobacco (e.g., e-cigarettes) or cannabis or cannabis products, can seep throughout multi-unit buildings from areas where smoking or vaping occurs, via ventilation systems, plumbing, or electrical lines.[30] Secondhand smoke can easily spread throughout a multi-unit building, compromising the health of all exposed to it. According to one U.S. study, 50 percent of residents in ostensibly smoke-free multi-unit buildings still experienced smoke entering their units from adjacent units.[31]

Below are answers to frequently asked questions about regulating smoking and vaping of cannabis in New York State **multi-unit housing**.

Q: Who has legal authority under New York State law to require that a multi-unit property be smoke-free?

A: New York State's Clean Indoor Air Act prohibits smoking and vaping in most indoor common areas of multi-unit rental buildings and workplaces where employees are present.[32] Under New York State law, landlords, residential property owners, and rental companies have the legal

authority to make their entire properties smoke-free.[33] This includes prohibiting the smoking or vaping of adult use or medical cannabis in individual units and common areas.[34]

A private landlord, property owner, or rental company cannot refuse to rent to a tenant who consumes cannabis, but they can still ban the smoking or vaping of cannabis on their premises. Landlords can extend this ban to individual units through their lease agreements.[35] Note that New York State law does not prohibit smoking and vaping in apartments or other private residences, except in areas where child day care centers or health care facilities operate and are open or employees are working.[36] New York City law only prohibits smoking or vaping in indoor common areas of residential buildings with three or more units.[37] As a result, many multi-unit homes are not covered by a smoke-free policy.

Q: Do caveats apply if a resident claims that smoking or vaping cannabis is needed for medical purposes?

A: State statute states that no landlord's smoke-free policy "may be construed to limit the certified medical use of cannabis."[38] N.Y. Cannabis Law, Sec. 42(4)(a) allows a "designated party" such as a landlord to "verify the requesting patient's status as a valid certified patient" in the medical cannabis program.[39] A landlord may only prohibit the smoking or vaping of medical cannabis if it would put the landlord at risk of losing a federal benefit.[40]

Q: What are the benefits of a smoke-free multi-unit housing policy that prohibits the smoking or vaping of cannabis?

A: A multi-unit housing policy that allows the smoking and vaping of tobacco and cannabis products can result in high maintenance and turnover costs due to the need to clean, renovate, and refurbish units where heavy smoking has occurred.[41] A smoke-free policy can help property managers prevent housing complexes from deteriorating and prolong the viability of as many units as possible.

Smoking or vaping in residences also raises the risk of fires. Cigarettes have long been a leading cause of residential fire deaths, and fires caused by cigarette smoking result in over $300 million in property loss each year.[42] Limited research is available on the smoldering and burning properties of cannabis cigarettes.[43] Cannabis, however, is commonly vaped via a variety of electronic devices, which on occasion have exploded and caused injury and death, as well as fire.[44]

Finally, allowing the smoking or vaping of cannabis on the premises could generate resident complaints due to drifting smoke or aerosol and could even lead to Fair Housing Act complaints or lawsuits based, for example, on nuisance claims or breach of implied warranty of habitability.[45] In contrast, a smoke-free housing policy creates a healthier indoor environment,

reduces turnover costs, lowers the risk of litigation, decreases the likelihood of fire, and helps meet the needs and preferences of most residents.[46] Also, some property insurance companies offer a discount for buildings that have a smoke-free policy.

Q: Can tenants in apartment buildings who are registered users of medical cannabis claim they can smoke or vape medically prescribed cannabis in their units because they are disabled and entitled to rights as a protected class under the Americans with Disabilities Act? What about the claim that they are entitled to "reasonable accommodations" under the federal Fair Housing Act?[47]

A: The Fair Housing Act prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, familial status, and disability.[48] For example, the Act requires housing providers to make "reasonable accommodations"[49] in rules, policies, practices, or services when necessary to give a disabled person an equal opportunity to use and enjoy a dwelling unit or common space.[50] Under the Fair Housing Act, individuals are disabled if they have a physical or mental impairment that substantially limits one or more major life activities, have a record of such impairment, or are regarded as having an impairment.[51] Many individuals authorized to use medical cannabis would likely qualify as disabled under this definition.

The Fair Housing Act, however, states that a handicap "does not include current, illegal use of or addiction to a controlled substance"[52] as defined in the federal Controlled Substances Act.[53] Although several states have passed laws legalizing its sale and use, cannabis continues to be federally categorized as a Schedule 1 drug — that is, a drug with high potential for abuse with no currently accepted medical use in treatment in the U.S.[54] Thus, it remains a federal offense to possess or use cannabis.[55]

Because federal law supersedes state law, questions have naturally arisen about federal preemption of these state cannabis laws. In 2013, in an attempt to clarify the federal position on the enforcement of cannabis laws, the U.S. Department of Justice announced that the administration would not prosecute individuals or organizations engaged in cannabis activities that are conducted in clear compliance with state and local narcotics laws that permit and regulate these activities.[56] This continues to be the federal stance in the Trump administration. Thus, even though the Fair Housing Act requires housing providers to make reasonable accommodations for persons with disabilities, cannabis's current status as a Schedule 1 drug makes it unclear whether such a case brought under this federal civil rights law would succeed.[57]

One note: As mentioned above, secondhand smoke poses health risks — especially to vulnerable individuals — and can exacerbate existing disabilities in other tenants. Thus, permitting smoking or vaping of medical cannabis in multi-unit buildings could defeat the purpose of the ADA and the Fair Housing Act. This can be a thorny area and could present internal inconsistency within the laws that has yet to be resolved. In such situations, it is advisable to seek the advice of an attorney familiar with the laws of one's jurisdiction.

Q: What steps should landlords or multi-unit property owners in New York State take to prohibit the smoking and vaping of cannabis in their residences?

A: First, landlords and property owners should be aware of (or consult an attorney familiar with) laws regarding cannabis use in their jurisdiction. These laws vary in New York cities and counties, particularly regarding cannabis smoking or vaping in multi-unit housing. For help in determining which laws might apply, depending on housing type and other factors, please review the Center's publication *Smoke-Free Housing Guidance for Individuals in New York State*.

Next, landlords and property owners should include language regarding the smoking or vaping of cannabis in their lease or rental agreements. These provisions should clearly and explicitly specify the type of cannabis use prohibited on the property, premises covered by the policy (inside and outside), and the consequences of lease violations. For examples of provisions landlords and property owners could consider, see the Center's publications *Smoke-Free Multi-*

Unit Housing: Model Lease Addendum for New York State and *Smoke-Free Multi-Unit Housing in New York State: Equitable Enforcement Strategies*.

Q: If a landlord or owner of a market rate property grants a tenant's request to smoke or vape medical cannabis on the premises, does that mean that other residents run the risk of being exposed to cannabis smoke?

A: A "reasonable accommodation" should not result in the potential exposure of others to secondhand cannabis smoke.[58] Several methods for ingesting medical cannabis — such as extracts, tinctures, oils, edibles, pills, and cannabis inhalers — would not expose other residents to cannabis smoke or aerosol.[59] Although each individual's medical situation is different and some methods of ingesting cannabis might not have the same effect as effect as smoking or vaping cannabis, a middle ground might be reached for many cannabis users, in concert with advice from the referring physician. Note that these methods of consumption are also available for adult use cannabis.

Q: Can public housing authorities prohibit the smoking or vaping of cannabis in federally subsidized housing?

A: Yes. Secondhand smoke, whether from tobacco or cannabis products, spreads throughout multi-unit dwellings. Public and other subsidized housing owners have the same rights as owners of non-public housing to adopt smoke-free policies.[60] These smoke-free policies may include a prohibition on the smoking or vaping of medical, as well as adult use, cannabis. Moreover, the U.S. Department of Housing & Urban Development (HUD) explicitly states that if applicants for public or Section 8 housing are known users of cannabis (medical or otherwise), their applications must be denied.[61]

Also, if current residents request a reasonable accommodation to allow them to smoke or vape medical cannabis in their unit, the request must be denied, as that may set an expectation that all residents in similar situations could expect an accommodation.[62] In a memo released January 20, 2011, HUD clarified that the Public Housing Reform Act allows (but does not compel) public housing authorities to terminate assistance for existing residents if they use a controlled substance.[63]

Public housing authorities have discretion to determine those policies deemed most appropriate for their local communities, including denying assistance or terminating individual medical cannabis users, rather than entire households, for both applicants and existing residents. The U.S. Food and Drug Administration has approved for medicinal use drugs comprised of cannabis derivatives and synthetics (such as Epidiolex, Marinol, and Cesament), which are not medical cannabis or Schedule 1 drugs, and are thus allowed in public housing and voucher programs.[64]

Q: Doesn't HUD's smoke-free rule prohibit the prohibit the smoking or vaping of cannabis by residents in public housing?

A: No. HUD requires that public housing agencies prohibit the smoking of tobacco products in all indoor areas. This smoke-free requirement, which took effect July 31, 2018, applies to all public housing, but does not include all federally subsidized housing, such as dwelling units in mixed-finance buildings or privately owned dwellings financed under Section 8 of the Housing Act. The rule covers combustible tobacco products, such as cigarettes, cigars, and pipes, as well as hookahs, but does not include e-cigarettes or similar devices, or the smoking or vaping of cannabis.

Property managers can opt to apply their facility smoke-free standards to e-cigarettes and other products not covered by the HUD standard. Because cannabis is a federally prohibited substance, the use and possession of this drug is already prohibited on HUD-funded (and other federal) properties, regardless of HUD's smokefree law. Federal law preempts state law, including in those states where the use of medical or adult use cannabis is now legal.

Q: Can public housing agencies evict residents who smoke or vape medical cannabis?

A: Although it is within the discretion of public housing agencies to evict residents in these instances, enforcement methods that would not threaten housing security are definitely preferable.[65] Ironically, the same smoke-free policies that are in place to protect residents and improve their housing stability are policies that, when enforced, may put another resident's housing stability in jeopardy because of possible penalties or eviction.[66] The impact of eviction upon an individual and family can be devastating and this measure should be avoided. A structure of graduated penalties helps ensure better compliance with a smoke-free policy by providing multiple steps for enforcement and giving residents the opportunity to change their behavior before infractions rise to the level of lease termination.[67]

HUD's 2011 memo mentioned above stated that residents who revealed cannabis use on their public housing applications would be denied admission to Public Housing or Housing Choice Voucher programs, regardless of their circumstances, since cannabis is a controlled substance.[68] However, the memo also gave public housing authorities (and, most often, individual landlords) the right to use their discretion on how to enforce medical cannabis lease provisions. Housing authorities will need to conduct individual assessments of each individual request, focusing on the right of all tenants to have equal access to safe and clean air. Also, as noted earlier, not only are several FDA-approved cannabis synthetics and derivatives available, but medical cannabis users can ingest the drug in a variety of ways that do not result in secondhand smoke exposure of fellow tenants.

Q: What are some basic guidelines for multi-unit residential property owners and housing authorities who would like to prohibit or restrict the smoking or vaping of cannabis on their property?

A: Property owners and housing agencies need to clearly communicate their cannabis-related policies to all residents, housing applicants, and visitors. They can do this by updating their established occupancy standards and lease provisions, and providing handouts to tenants, prospective tenants, or visitors. Below are a few basic considerations to keep in mind when implementing any smoke-free policy.

- Clearly define smoking, vaping, and related terms in any lease and rental agreements in buildings designated as No-Smoking or Non-Smoking. If a property's smoke-free (or tobacco-free) policy covers the smoking and vaping of cannabis, be explicit about what that entails and what areas are included, e.g., indoor common areas and residential units. Other areas covered under such a policy could include outside premises, such as walkways, parking lots, balconies, porches, patios or decks of individual units, and areas near doorways, windows, and air vents.
- Explain the policy's rationale. Make sure that residents, guests, employees, and others associated with a multi-unit property understand the health risks related to smoking, vaping, and exposure to secondhand smoke and aerosol.
- Apply the smoke-free policy uniformly to all residents, guests, and employees.
- Ensure that an effective enforcement plan is in place that describes the process for handling violations.
- Prepare tenants and staff for implementation of the policy by providing, for example, announcements, educational material or presentations, staff training, and signage.

Additional Resources

For more information about New York State's cannabis-related laws and policies, and state-specific educational materials about cannabis, visit the New York State Office of Cannabis Management's website: https://cannabis.ny.gov/adult-use-information. Other helpful New York-specific resources include New York State's guide to cannabis consumption, and *Tracking Tobacco Laws: A New York State Digest* of state and federal commercial-tobacco-related (and many cannabis-related) laws and regulations.

Other general resources on cannabis regulation include the Center's policy briefs, *Toking, Smoking, & Public Health: Lessons from Tobacco Control for Marijuana Regulation* (2018) and *There is No Constitutional Right to Smoke or Toke* (2019), and several archived webinars. Also, the American Nonsmokers' Rights Foundation's website has many resources related to secondhand tobacco and cannabis smoke, including regularly updated maps of state and local laws prohibiting the smoking and vaping of cannabis.

The Public Health Law Center's web page contains several publications and resources that discuss concepts related to condominiums, apartments and other multi-unit dwellings, affordable housing, and smoke-free housing disclosure policies. Many of these materials may be relevant for those seeking to regulate the use of cannabis products, including —

- *Smoke- & Vape-free Multiunit Housing Model Ordinance for New York State*
- *Smoke-Free Multi-Unit Housing in New York State: Equitable Enforcement Strategies*
- *Smoke-free Housing Guidance for Individuals in New York State*
- *Smoke-free Multi-Unit Housing: Model Lease Addendum for New York State*
- Smoke-Free Multiunit Housing: Best Practices for Voluntary Policies (recorded webinar)

Contact us for assistance! If you're working on New York State commercial tobacco control issues and need assistance, contact the Public Health Law Center at (651) 290-7506 or phlc.nys@mitchellhamline.edu.

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Endnotes

1 The Public Health Law Center recognizes that traditional and commercial tobacco are different in the ways they are planted, grown, harvested, and used. Traditional tobacco is and has been used in sacred ways by Indigenous communities and tribes for centuries. Comparatively, commercial tobacco is manufactured with chemical additives for recreational use and profit resulting in disease and death. For more information visit: http://www.keepitsacred.itcmi.org. When the word "tobacco" is used throughout this document a commercial context is implied and intended.

2 *See* N.Y. PUB. HEALTH LAW § 1399-o, https://www.nysenate.gov/legislation/laws/PBH/1399-N and N.Y. Cannabis Law, Chap. 77, https://www.nysenate.gov/legislation/laws/CAN/77.

3 *See* Nat'l Conference of State Legislatures, *Cannabis Overview* (2024), https://www.ncsl.org/civil-and-criminal-justice/cannabis-overview.

4 The Marihuana Regulation & Taxation Act (MRTA) was signed into law on March 31, 2021 legalizing adult use cannabis (also known as marijuana, or recreational marijuana) in New York State, https://cannabis.ny.gov/marihuana-regulation-and-taxation-act-mrta.

5 U.S. Drug Enf't Admin., Drug Scheduling (2025), https://www.dea.gov/drug-information/drug-scheduling.

6 Joanna Lampe et al., *The Federal Status of Marijuana and the Policy Gap with States*, Congress.gov (2024), https://www.congress.gov/crs-product/IF12270.

7 *Id.*

8 N.Y. PUB. HEALTH LAW § 1399-N, https://www.nysenate.gov/legislation/laws/PBH/1399-N.

9 N.Y. PUB. HEALTH LAW § 13-E, https://www.nysenate.gov/legislation/laws/PBH/A13-E.

10 *See* New York Dep't of Health, *Clean Indoor Air Act*, https://www.health.ny.gov/prevention/tobacco_control/clean_indoor_air_act.

11 *See, e.g.*, Hannah Holitzki et al., *Health Effects of Exposure to Second- and ThirdHand Cannabis Smoke: A Systematic Review*, 5 CANADIAN MED. ASS'N J. OPEN E814 (2017).

12 *See* Nigar Nargis et al., *Cancer Risk and Legalization of Access to Cannabis in the USA: Overview of the Evidence*, 10 THE LANCET E160 (2025), https://www.thelancet.com/journals/lanpub/article/PIIS2468-2667(24)00223-8/fulltext.

13 *See* Am. Nonsmokers' Rights Foundation, *Secondhand Marijuana Smoke*, https://no-smoke.org/secondhand-marijuana-smoke-fact-sheet.

14 *See, e.g.*, Joaquin Barnoya & Stanton Glantz, *Cardiovascular Effects of Secondhand Smoke: Nearly as Large as Smoking*, 111 CIRCULATION 2684 (2005); Angela Malek et al., *Secondhand Smoke Exposure and Stroke: The Reasons for Geographic and Racial Differences in Stroke Study*, 49 AM J. PREVENTATIVE MED. e89 (2015).

15 Rosalie Liccardo Pacula et al., *Developing Public Health Regulations for Cannabis: Lessons from Alcohol and Tobacco*, 104 AM. J. PUB. HEALTH 1021, 1024 (2014).

16 Evan S. Herrmann et al., *Non-Smoker Exposure to Secondhand Cannabis Smoke II: Effect of Room Ventilation on the Physiological, Subjective, and Behavioral/Cognitive Effects*, 151 DRUG ALCOHOL DEPEND. 194–202 (2015), https://pubmed.ncbi.nlm.nih.gov/25957157.

17 Xiaoyin Wang et al., *One Minute of Marijuana Secondhand Smoke Exposure Substantially Impairs Vascular Endothelial Function*, 5 J. AM. HEART ASSOC. e03858 (2016), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5015303.

18 *See id.*

19 American Society of Heating, Refrigerating, and Air Conditioning Engineers, *Standards for Ventilation and Indoor Air Quality — Standards* 62.1-62.2 (2022), https://www.ashrae.org/technical-resources/bookstore/standards-62-1-62-2.

20 *See* N.Y. PUB. HEALTH LAW § 1399-O, https://www.nysenate.gov/legislation/laws/PBH/1399-O.

21 For more about this law, *see* the Public Health Law Center's *New York State's New Smoke-free Parks Law: Frequently Asked Questions* (2022), https://www.publichealthlawcenter.org/sites/default/files/resources/NY-State-Smoke-Free-Parks-Law.pdf. Local municipalities have been granted the authority to impose a $50 maximum civil penalty to individuals who violate this law.

22 *See* N.Y. Vehicle and Traffic Law § 1227 (1), https://www.nysenate.gov/legislation/laws/VAT/1227. *See also* NY's Governor's Safety Commission, *Cannabis and Driving*, https://trafficsafety.ny.gov/system/files/documents/2023/05/draft-revised-cannabis-slide-deck-v-4.0.pdf.

23 *See* U.S. Drug Enf't Admin., Drug Scheduling, *supra* note 5.

24 *See* N.Y. PUB. HEALTH LAW § 1399-T, https://www.nysenate.gov/legislation/laws/PBH/1399-T

25 *See* N.Y. Office of Cannabis Management, *What is in the Law: Penal Law*, https://cannabis.ny.gov/system/files/documents/2022/02/cannabis-management-fact-sheet-penal-law_0_0.pdf.

26 Albany, NY, *Cannabis Regulations — Albany, NY*, https://www.albanyny.gov/2230/Cannabis-Regulations.

27 N.Y. Cannabis Law § 77, https://www.nysenate.gov/legislation/laws/CAN/77.

28 N.Y. PUB. HEALTH LAW § 1399-O(1)(p).

29 *See* Public Health Law Center, *There Is No Constitutional Right to Smoke or Toke* (2019), https://www.publichealthlawcenter.org/sites/default/files/resources/No-Constitutional-Right-Smoke-Toke-2019.pdf.

30 Ctrs. for Disease Control and Prevention, About Secondhand Smoke (website), https://www.cdc.gov/tobacco/secondhand-smoke/?CDC_AAref_Val=https://www.cdc.gov/tobacco/basic_information/secondhand_smoke/going-smokefree-matters/multi-unit.

31 Andrea S. Gentzke et al., *Attitudes and Experiences with Secondhand Smoke and Smoke-Free Policies Among Subsidized and Market-Rate Multiunit Housing Residents Living in Six Diverse Communities in the USA*, 27 TOBACCO CONTROL 194, 194 (2018).

32 *See* N.Y. PUB. HEALTH LAW § 13-E, https://www.nysenate.gov/legislation/laws/PBH/A13-E.

33 *See* N.Y. PUB. HEALTH LAW 1399-R-1, https://www.nysenate.gov/legislation/laws/PBH/1399-R.

34 N.Y. CANNABIS LAW § 127, https://www.nysenate.gov/legislation/laws/CAN/127.

35 *See, e.g.*, Public Health Law Center, *Smoke-free Multi-Unit Housing: Model Lease Addendum for New York State* (2025), https://www.publichealthlawcenter.org/sites/default/files/resources/NYS-SF-MUH-Model-Lease-Addendum.pdf.

36 N.Y. PUB. HEALTH LAW § 1399-o(1)(a), https://www.nysenate.gov/legislation/laws/PBH/1399-O-1.

37 N.Y. City Code § 17-506.1, https://codelibrary.amlegal.com/codes/newyorkcity/latest/NYCadmin/0-0-0-203334.

38 N.Y. Cannabis Law § 127 (2) (b), https://www.nysenate.gov/legislation/laws/CAN/127.

39 N.Y. Cannabis Law § 42(4)(a), https://www.nysenate.gov/legislation/laws/CAN/42.

40 *See* Office of Cannabis Management, *Landlords*, https://cannabis.ny.gov/landlords.

41 *See, e.g.*, Daniel Orenstein, *Multiunit Housing and Cannabis: Good Laws Make Good Neighbors*, 49 FORDHAM URBAN LAW J. 475 (2022), https://www.researchgate.net/publication/359661678_Multiunit_Housing_and_Cannabis_Good_Laws_Make_Good_Neighbors.

42 Brian King et al., *National and State Cost Savings Associated with Prohibiting Smoking in Subsidized and Public Housing in the United States*, 11 PREV CHRONIC DISEASE 40222 (2014), https://www.cdc.gov/pcd/issues/2014/14_0222.htm.

43 *See, e.g.*, Maryanne Fakeh Campbell et al., *E-cigarette Environmental and Fire/Life Safety Risks in Schools Reported by Secondary School Teachers*, 20 BMC PUBLIC HEALTH 1215 (2020), https://bmcpublichealth.biomedcentral.com/articles/10.1186/s12889-020-09319-8.

44 *See* Alexander Kaltenborn et al., *E-cigarette Explosions: Patient Profiles, Injury Patterns, Clinical Management, and Outcome*, 37 JPRAS 43-41 (2023), https://www.jprasopen.com/article/S2352-5878(23)00016-5/fulltext; *see also* U.S. Food & Drug Admin., *Tips to Help Avoid Vape Battery Fires or Explosions*, https://www.fda.gov/tobacco-products/products-ingredients-components/tips-help-avoid-vape-battery-fires-or-explosions#:~:text=Don't%20mix%20different%20brands,batteries%20safely%20for%20air%20travel.

45 *See, e.g.*, 42 U.S.C. § 3601 et seq.

46 *See, e.g.*, Michael Ong et al., *Estimates of Smoking Related Property Costs in California Multiunit Housing*, 102 AM. J PUBLIC HEALTH 90-93 (2012), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3487653.

47 *See generally* Public Health Law Center, *Smoke-free Public Housing: Reasonable Accommodations* (2021), https://www.publichealthlawcenter.org/sites/default/files/resources/Smoke-Free-Public-Housing-Reasonable-Accommodations.pdf.

48 *Id.* Note that Title II of the Americans with Disabilities Act also ensures that individuals with disabilities have equal access to fair housing. 42 U.S.C. §§ 3604; 12102.

49 *See generally* U.S. Dep't of Housing and Urban Development, People with Disabilities web page (HUD.Gov), https://www.hud.gov/helping-americans/disabilities; *see also* U.S. Dep't of Justice & U.S. Dep't of Housing and Urban Development, *Reasonable Accommodations under the Fair Housing Act* (May 5, 2008) (Joint Statement), https://www.hud.gov/sites/documents/reasonable_modifications_mar08.pdf.

50 42 U.S.C. § 3602 (h). 33 42 U.S.C. § 3602 (h).

51 42 U.S.C. § 3602 (h); *see also* Clifford Douglas, Smoke-free Environments Law Project, *Restricting the Use of Medical Cannabis in Multi-Unit Residential Settings: Legal and Practical Considerations* 4 (2010), http://www.mismokefreeapartment.org/MManalysis.pdf.

52 42 U.S.C. § 3602 (h).

53 21 U.S.C. § 802.

54 *Id.*

55 *See* 21 U.S.C. §§ 841(a)(1); 844(a); 812(b)(1)(A)-(C).

56 U.S. Dep't of Justice, Guidance Regarding Cannabis Enforcement (Aug. 29, 2013), http://www.justice.gov/iso/opa/resources/305201382913275685746 7.pdf.

57 *See* Clifford Douglas, *supra* note 51, at 4.

58 *Id.* at 7.

59 Rachel Ann Barry et al., *Waiting for the Opportune Moment: The Tobacco Industry and Cannabis Legalization*, 92 MILBANK QUARTERLY 207, 208-9 (2014), http://bit.ly/1uUpJeb.

60 HUD Notice PIH-2012-25, May 29, 2012 ("This notice strongly encourages Public Housing Authorities (PHAs) to implement non-smoking policies in some or all of their public housing units.... PHAs are permitted and strongly encouraged to implement a non-smoking policy at their discretion, subject to state and local law.").

61 *See* Memorandum from Helen R. Kanovsky, *Medical Use of Cannabis and Reasonable Accommodation in Federal Public and Assisted Housing* 2, Jan. 20, 2011, http://www.scribd.com/doc/47657807/HUD-policy-Memo-on-Medical-Cannabis-in-Public-Housing#download. *See, e.g.*, U.S. Dep't Housing and Urban Development, *Use of Cannabis in Multifamily Assisted Properties* (2014), https://www.hud.gov/sites/documents/useofmarijinmfassistpropty.pdf.

62 *Id.*

63 *Id.* at 10-11.

64 U.S. Food & Drug Admin., *FDA Regulation of Cannabis and Cannabis-Derived Products, Including Cannabidiol (CBD)*, https://www.fda.gov/news-events/public-health-focus/fda-regulation-cannabis-and-cannabis-derived-products-including-cannabidiol-cbd.

65 *See, e.g.*, U.S. Dep't Housing and Urban Development, *Use of Cannabis in Multifamily Assisted Properties* (2014), https://www.hud.gov/sites/documents/useofmarijinmfassistpropty.pdf.

66 *See* Public Health Law Center, *Smoke-free Multi-Unit Housing: Equitable Enforcement Strategies* (2020), https://www.publichealthlawcenter.org/sites/default/files/resources/SF-MUH-Equitable-Enforcement-Strategies.pdf.

67 *Id.*

68 U.S. Dep't Housing and Urban Development, *Medical Cannabis Use in Public Housing and Housing Choice Voucher Programs* (Feb. 10, 2011), https://www.fairhousingnc.org/wp-content/uploads/2015/01/HUD-Medical-Marijuana-Use-in-Public-Housing-and-HCVP-2-10-11.pdf.