

NOTICE OF RULE

TO: The Owners
Toronto Standard Condominium Corporation No. 1851 (the "Corporation")

FROM: Board of Directors

DATE: SEPTEMBER 14th, 2018

RE: Toronto Standard Condominium Corporation No. 1851
Smoke-Free Environment Rules

On August 21, 2018, a notice was provided to you from the Board of Directors requesting your input on banning smoking at the Corporation given the upcoming legalization of recreational cannabis consumption and cultivation on October 17, 2018. Owners were provided ten (10) days to present any concerns or questions regarding this proposed ban. As a result of this consultation period, Management received feedback from 27 unit owners, with approximately 75% of respondents supporting a full smoking ban.

As such, please find enclosed a copy of the Corporation's proposed new Rules, to supplement the existing rules of the Corporation in accordance with Section 58 of the *Condominium Act, 1998*.

The new Rules will become effective on OCTOBER 15th, 2018, unless a meeting is requisitioned in accordance with Section 46 of the *Condominium Act, 1998*.

Pursuant to the *Condominium Act, 1998* rules may only become effective at the time determined by sections 58 (7) and (8).

We enclose a copy of Sections 58 and 46 of the *Condominium Act* for your reference.

Owners who have leased their units are responsible to deliver these Smoke-Free Environment Rules to their tenant(s).

TORONTO STANDARD CONDOMINIUM CORPORATION NO. 1851
(the "Corporation")

Pursuant to Section 58 of the *Condominium Act, 1998*

Smoke-Free Environment Rules

WHEREAS:

- a) The Corporation has a duty to ensure compliance by owners and/or residents of units with the provisions and requirements of the *Condominium Act, 1998* (the "Act") and the Declaration; and
- b) The Board of Directors of the Corporation (the "Board") has the authority to pass rules governing the use and occupation of the units, consistent with the Declaration, in order to promote the safety, security and welfare of owners and of the property and the assets of the Corporation, or for the purpose of preventing unreasonable interference with the use and enjoyment of the common elements and other units;

NOW THEREFORE BE IT ENACTED AS RULES, AS FOLLOWS:

Rules A5 and J16 of the Corporation's existing Element Club Rules are hereby repealed.

1. In these Rules, "smoke" or "smoking" means to inhale, exhale, hold or otherwise have control over ignited tobacco, ignited cannabis, or any other substance or any other instrument, device or product whose use generates or creates smoke intended to be inhaled by the user.
2. Smoking is prohibited in or upon the units, common elements and exclusive use common elements, including, but not limited to, the balconies and terraces of the Corporation.
3. Notwithstanding Rule 2, any existing owner and/or tenant of a unit and their guests who smokes tobacco in their unit on the date these Rules become effective shall be permitted to continue to smoke tobacco in their unit (the "**Grandfathered Individual**") if:
 - (i) the owner or resident of the unit who smokes tobacco provides notification, in writing, to the Corporation within thirty (30) days of these Rules being effective of their intention to continue smoking or vaping tobacco in their unit;
 - (ii) the owner or resident enters into the Corporation's Tobacco Smoking Grandfathering Agreement, as provided by the Board from time to time; and
 - (iii) if the Grandfathered Individual is a tenant, the Corporation's Tobacco Smoking Grandfathering Agreement shall not be effective unless also signed by the owner of the unit in which the tenant resides.
4. The right of a Grandfathered Individual to continue smoking tobacco in their unit is personal to the Grandfathered Individual only. In the event a Grandfathered Individual ceases to smoke tobacco or moves out of their unit, the Grandfathered Individual shall cease to be considered a Grandfathered Individual and the Tobacco Smoking Grandfathering Agreement shall no longer be of any force and effect.

5. Notwithstanding Rule 2, the Corporation may grant a medical exemption to an owner or resident authorizing the smoking of cannabis in a unit (the “**Medically Exempt Individual**”) provided that such owner or resident:
 - (i) notifies the Corporation of the medical requirement for an exemption in writing;
 - (ii) provides the Corporation with medical evidence confirming the need to consume cannabis by means of smoking and/or vaping, and other such evidence that may be reasonably requested by the Corporation; and
 - (iii) signs the Corporation’s form of Cannabis Smoking Exemption Agreement, as provided by the Board from time to time.
6. The right of a Medically Exempt Individual to smoke cannabis within their unit is personal to the Medically Exempt Individual only. In the event a Medically Exempt Individual moves out of their unit or no longer requires smoking cannabis for medical purposes or ceases to smoke cannabis, the Medically Exempt Individual shall cease to be considered a Medically Exempt Individual and the Cannabis Smoking Exemption Agreement shall no longer be of any force or effect.
7. Notwithstanding Rules 4 or 6 herein, the Grandfathered Individual or Medically Exempt Individual (as applicable) shall be subject to and must comply with all applicable legislation and the Declaration, By-laws and Rules of the Corporation, including but not limited to, those with respect to causing a nuisance or hazard to another person and unreasonably interfering with the rights of another person to use and enjoy the units, common elements or exclusive use common elements.
8. Notwithstanding Rules 4 or 6 herein, no smoke or odour, including second-hand smoke, which is an annoyance, nuisance or disruption to other owners or residents or to the Corporation’s service providers, agents and/or employees, shall be permitted to be transmitted from a unit or the exclusive use common elements to any other unit or portion of the common elements, including the exclusive use common elements.
9. If the Board determines, in its sole and exclusive discretion, that any smoke or odour is being transmitted to another unit or to the common elements including any exclusive use common elements, and that such smoke or odour is an annoyance or a nuisance or disruptive, then the owner or resident of such unit shall, at their expense, take such steps as shall be necessary to abate such smoke or odour to the satisfaction of the Board. Without limiting the generality of the foregoing, these steps could include installing adequate ventilation in their unit and/or the common elements, if necessary, to stop the migration of smoke or odour and in the case of a common element alteration, the owner of the unit shall be required to enter into an alteration agreement with the Corporation. If the owner and/or resident of such unit fails to abate the smoke or odour, the Board may take such steps as it deems necessary to abate the smoke or odour and the owner of the unit shall be liable to the Corporation for all expenses incurred in abating the smoke or odour (including legal fees).
10. No one shall grow, cultivate, propagate or harvest any cannabis plants on any part of the property, including, units, common elements and exclusive use common elements.

11. No one shall permit the delivery of cannabis to a unit if such delivery is required to be handled by, or otherwise requires the involvement of, the Corporation's employees, agents and/or service providers.
12. No one shall distribute, sell, offer for sale or expose for sale cannabis on the Corporation's property.
13. Any losses, costs or damages incurred by the Corporation (including, without limitation, legal costs) by reason of a breach of the Rules by any owner and/or resident, or by the respective family members, tenants, guests, invitees, or agents of the owner, resident and/or occupant or any of the foregoing, shall be borne and paid by such owner of the unit and shall be deemed to be additional contributions towards the common expenses payable by such owner and shall be recoverable as such.

DATED in TORONTO this 12th day of SEPTEMBER, 2018

CONDOMINIUM ACT, 1998, S.O. 1998 c.19

Section 46 of the *Condominium Act, 1998*

Requisition for meeting

46 (1) A requisition for a meeting of owners may be made by those owners who at the time the board receives the requisition, own at least 15 per cent of the units, are listed in the record maintained by the corporation under subsection 47 (2) and are entitled to vote. 1998, c. 19, s. 46 (1).

Form of requisition

(2) The requisition shall,
(a) be in writing and be signed by the requisitionists;
(b) state the nature of the business to be presented at the meeting; and
(c) be delivered personally or by registered mail to the president or secretary of the board or deposited at the address for service of the corporation. 1998, c. 19, s. 46 (2).

Same, removal of directors

(3) If the nature of the business to be presented at the meeting includes the removal of one or more of the directors, the requisition shall state, for each director who is proposed to be removed, the name of the director, the reasons for the removal and whether the director occupies a position on the board that under subsection 51 (6) is reserved for voting by owners of owner-occupied units. 1998, c. 19, s. 46 (3).

Duty of board

(4) Upon receiving a requisition mentioned in subsection (1), the board shall,
(a) if the requisitionists so request in the requisition or consent in writing, add the business to be presented at the meeting to the agenda of items for the next annual general meeting; or
(b) otherwise call and hold a meeting of owners within 35 days. 1998, c. 19, s. 46 (4).

Non-compliance

(5) If the board does not comply with subsection (4), a requisitioner may call a meeting of owners which shall be held within 45 days of the day on which the meeting is called. 1998, c. 19, s. 46 (5).

Reimbursement of cost

(6) Upon request, the corporation shall reimburse a requisitioner who calls a meeting under subsection (5) for the reasonable costs incurred in calling the meeting. 1998, c. 19, s. 46 (6).

Section 58 of the *Condominium Act, 1998*

Rules

58 (1) The board may make, amend or repeal rules under this section respecting the use of the units, the common elements or the assets, if any, of the corporation to,
(a) promote the safety, security or welfare of the owners and of the property and the assets, if any, of the corporation;
or
(b) prevent unreasonable interference with the use and enjoyment of the units, the common elements or the assets, if any, of the corporation. 2015, c. 28, Sched. 1, s. 54 (1).

Rules to be reasonable

(2) The rules shall be reasonable and consistent with this Act, the declaration and the by-laws. 1998, c. 19, s. 58 (2).

Same, proposed rules

(3) Rules proposed by the declarant before the registration of a declaration and description shall be reasonable and consistent with this Act, the proposed declaration and the proposed by-laws. 1998, c. 19, s. 58 (3).

Inconsistent provisions

(4) If any provision in a rule or a proposed rule is inconsistent with the provisions of this Act, the provisions of this Act shall prevail and the rule or proposed rule, as the case may be, shall be deemed to be amended accordingly. 1998, c. 19, s. 58 (4).

Amendment by owners

(5) The owners may amend or repeal a rule at a meeting of owners duly called for that purpose. 1998, c. 19, s. 58 (5).

Notice of rule

(6) Upon making, amending or repealing a rule, the board shall give a notice of it to the owners that includes,
(a) a copy of the rule as made, amended or repealed, as the case may be;
(b) a statement of the date that the board proposes that the rule will become effective;
(c) a statement that the owners have the right to requisition a meeting under section 46 and the rule becomes effective at the time determined by subsections (7) and (8); and
(d) a copy of the text of section 46 and this section. 1998, c. 19, s. 58 (6); 2015, c. 28, Sched. 1, s. 54 (2).

When rule effective

(7) Subject to subsection (8), a rule is not effective until the following time:
1. If the board receives a requisition for a meeting of owners under section 46 within 30 days after the board has given notice of the rule to the owners, the earlier of,
i. the time at which a quorum is not present at the first attempt to hold the meeting, and
ii. the time at which a quorum is present at the first attempt to hold the meeting and the owners do not vote against the rule at the meeting.
2. If the board does not receive a requisition for a meeting of owners under section 46 within the 30 days after the board has given notice of the rule to the owners, the day after that 30th day. 2015, c. 28, Sched. 1, s. 54 (3).

Same

(8) A rule or an amendment to a rule that has substantially the same purpose or effect as a rule that the owners have previously amended or repealed within the preceding two years is not effective until the owners approve it, with or without amendment, at a meeting duly called for that purpose. 1998, c. 19, s. 58 (8).

Same, proposed rule

(9) Despite subsection (7), a rule proposed by the declarant before the registration of the declaration and description shall be effective until it is replaced or confirmed by a rule of the corporation that takes effect in accordance with subsection (7). 1998, c. 19, s. 58 (9).

Compliance

(10) All persons bound by the rules shall comply with them and the rules may be enforced in the same manner as the by-laws. 1998, c. 19, s. 58 (10).