



[Français](#)

**Condominium Act, 1998**

**ONTARIO REGULATION 48/01**

**GENERAL**

**Consolidation Period:** From September 29, 2017 to the [e-Laws currency date](#).

Last amendment: O. Reg. 379/17.

***This is the English version of a bilingual regulation.***

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## PART I DEFINITIONS AND APPLICATION

### Definitions

#### 1. In this Regulation,

“amalgamation” means an amalgamation under Part VII of the Act and “amalgamate” has a corresponding meaning; (“fusion”, “fusionner”)

“beneficiary” means a person on whose behalf a payment described in subsection 81 (1) of the Act has been made in respect of a proposed unit or a proposed common interest in a common elements condominium corporation and includes the person’s successors and assigns; (“bénéficiaire”)

**Note: On November 1, 2017, section 1 of the Regulation is amended by adding the following definition: (See: O. Reg. 180/17, s. 1 (1); O. Reg. 379/17, s. 1)**

“board’s response” means the response that a board gives under subsection 13.3 (6) to a request for records; (“réponse du conseil”)

“comprehensive study” means a comprehensive reserve fund study that meets the requirements of this Regulation; (“étude complète”)

“Condominium Corporations Index” means the Condominium Corporations Index mentioned in subsection 3 (3) of the Act; (“Répertoire des associations condominiales”)

**Note: On November 1, 2017, section 1 of the Regulation is amended by adding the following definition: (See: O. Reg. 180/17, s. 1 (1); O. Reg. 379/17, s. 1)**

“core record” means any of the following records of a corporation:

1. A copy of the declaration, by-laws and rules of the corporation.
2. An agreement mentioned in section 113 or subsection 154 (5) of the Act entered into by or on behalf of the corporation.
3. The budget for the corporation’s current fiscal year and all amendments, if any, made to that budget.
4. The most recent financial statements that the board has approved under subsection 66 (3) of the Act.
5. The most recent auditor’s report presented to the audit committee or to the board under subsection 67 (6) of the Act.
6. The current plan proposed by the board under subsection 94 (8) of the Act for future funding of the reserve fund.
7. The records that the corporation is required to maintain under subsection 46.1 (3) or 83 (3) of the Act.
8. All periodic information certificates that the corporation, within the 12-month period before receiving a request for records or a requester’s response, sent to the owners under section 26.3 of the Act or was required by that section to send to the owners.
9. The minutes of meetings of owners or meetings of the board that were held after the day section 51 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force and within the 12-month period before the corporation receives a request for records or a requester’s response.
10. Any other record that a by-law of the corporation specifies as a core record; (“dossier essentiel”)

“deposit receipt” means a deposit receipt described in paragraph 2 of subsection 20 (2); (“récépissé de dépôt”)

“easement” means an easement, right of way, right or licence in the nature of an easement, *profit à prendre* or other incorporeal hereditament, but does not include any of those that arise by operation of law; (“servitude”)

**Note: On November 1, 2017, section 1 of the Regulation is amended by adding the following definitions: (See: O. Reg. 180/17, s. 1 (1); O. Reg. 379/17, s. 1)**

“fee payable for the request” in connection with a request for records, means the fee described in paragraph 4 of subsection 13.3 (7); (“droits payables à l’égard de la demande”)

“information certificate update” means the certificate described in subsection 11.2 (2); (“mise à jour du certificat de renseignements”)

“insurer” means the insurer under a policy; (“assureur”)

“land registrar” means the land registrar in whose registry or land titles division, as the case may be, the property is situated;  
 (“registrateur”)

**Note: On November 1, 2017, section 1 of the Regulation is amended by adding the following definition: (See: O. Reg. 180/17, s. 1 (1); O. Reg. 379/17, s. 1)**

“new owner information certificate” means the certificate described in subsection 11.3 (3); (“certificat de renseignements à l’intention du nouveau propriétaire”)

“parcel of tied land” means a parcel of land described in clause 139 (1) (a) of the Act in the case of a common elements condominium corporation and to which a common interest of an owner in the corporation attaches under clause 139 (2) (a) of the Act; (“parcelle de bien-fonds lié”)

**Note: On November 1, 2017, section 1 of the Regulation is amended by adding the following definition: (See: O. Reg. 180/17, s. 1 (1); O. Reg. 379/17, s. 1)**

“periodic information certificate” means the certificate described in clause 26.3 (a) or (b) of the Act; (“certificat de renseignements périodique”)

“phase” means the additional units and common elements in a phased condominium corporation that are created in accordance with Part XI of the Act upon the registration of an amendment to both the declaration and description; (“étape”)

“policy” means a policy described in paragraph 1 of subsection 20 (2); (“police”)

**Note: On November 1, 2017, the definition of “policy” in section 1 of the Regulation is revoked and the following substituted: (See: O. Reg. 180/17, s. 1 (2); O. Reg. 379/17, s. 1)**

“policy”, except in sections 11.1 and 13.1, means a policy described in paragraph 1 of subsection 20 (2); (“police”)

**Note: On November 1, 2017, section 1 of the Regulation is amended by adding the following definitions: (See: O. Reg. 180/17, s. 1 (3); O. Reg. 379/17, s. 1)**

“request for records” means a request to examine or obtain copies of records under subsection 55 (3) of the Act; (“demande de dossiers”)

“requester’s response” means the response described in subsection 13.3 (11) that a requester returns to a corporation. (“réponse du demandeur”)

“standard condominium corporation” means a freehold condominium corporation that is not a common elements condominium corporation or a vacant land condominium corporation; (“association condominiale ordinaire”)

“updated study based on a site inspection” means a comprehensive study that has been revised so that it is current as of the date of the revision, where the revision is based on a site inspection of the property and where the revision has been conducted in accordance with the requirements of this Regulation; (“étude à jour fondée sur une inspection sur place”)

“updated study not based on a site inspection” means a comprehensive study that has been revised so that it is current as of the date of the revision, where the revision is not based on a site inspection of the property and where the revision has been conducted in accordance with the requirements of this Regulation; (“étude à jour non fondée sur une inspection sur place”)

“warranty corporation” means the corporation designated under section 2 of the *Ontario New Home Warranties Plan Act*. (“société de garantie”) O. Reg. 48/01, s. 1; O. Reg. 383/12, s. 1.

**Note: On November 1, 2017, section 1 of the Regulation is amended by adding the following subsection: (See: O. Reg. 180/17, s. 1 (4); O. Reg. 379/17, s. 1)**

(2) In the Act and this Regulation,

“actual litigation” means a legal action involving a corporation; (“instance en cours”)

“actual or contemplated litigation” means actual litigation or contemplated litigation; (“instance en cours ou envisagée”)

“address for service” means an address that is in Ontario and that is capable of receiving prepaid mail; (“adresse aux fins de signification”)

“contemplated litigation” means any matter that might reasonably be expected to become actual litigation based on information that is within a corporation’s knowledge or control; (“instance envisagée”)

“electronic communication” and “electronic mail” mean a communication that,

(a) is transmitted in digital form or in another intangible form by electronic, magnetic or optical means or by any other means that has capabilities for transmission similar to those means,

(b) enables the recipient to view, store, retrieve and print,

(i) the contents of the communication,

(ii) the contents of any documents included in the communication, and

(iii) the contents of any links in the communication, including any links to external documents, and

(c) clearly identifies,

(i) each document mentioned in clause (b), and

(ii) each separate electronic file, if any, of which the document consists. (“communication électronique” and “courrier électronique”) O. Reg. 180/17, s. 1 (4); O. Reg. 379/17, s. 1.

**Note: On November 1, 2017, the Regulation is amended by adding the following sections: (See: O. Reg. 180/17, s. 2 (1); O. Reg. 379/17, s. 1)**

Interpretation, units in a corporation

**1.1** (1) A reference to a portion of the units in a corporation in the provisions of the Act listed in subsection (2) or the provisions of this Regulation listed in subsection (3) shall be interpreted as a reference to a portion of,

(a) the units in the corporation in respect of which the right to vote to elect a person to or to remove a person from the board is reserved as described in subsection 51 (6) of the Act, in respect of any part of the business of a meeting that is reserved for voting by owners of those units;

(b) the units in the corporation that are not described in subsection 49 (3) of the Act, if not all of the units in the corporation are those described in that subsection and clause (a) does not apply; or

(c) all of the units in the corporation, if all of the units are those described in subsection 49 (3) of the Act and clause (a) does not apply. O. Reg. 180/17, s. 2 (1); O. Reg. 379/17, s. 1.

(2) Subsection (1) applies to the following provisions of the Act:

1. Clause 11 (8) (b), as enacted by subsection 13 (2) of Schedule 1 to the *Protecting Condominium Owners Act, 2015*.
2. Clause 22 (9) (c).
3. Clause 26.1 (2) (b), as enacted by section 23 of Schedule 1 to the *Protecting Condominium Owners Act, 2015*.
4. Clause 26.2 (2) (b), as enacted by section 24 of Schedule 1 to the *Protecting Condominium Owners Act, 2015*.
5. Subsection 33 (1).
6. Clause 42 (6) (a).
7. Subsection 42 (7).
8. Subsection 42 (9).
9. Subsection 43 (1).
10. Subsection 46 (1), as it read immediately before the day section 40 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force.

**Note: On the day section 40 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, paragraph 10 of subsection 1.1 (2) of the Regulation is revoked. (See: O. Reg. 180/17, s. 2 (2))**

11. Clause 46 (1) (a), as enacted by section 40 of Schedule 1 to the *Protecting Condominium Owners Act, 2015*.
12. Subsection 50 (1), as it read immediately before the day subsection 45 (1) of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force.

**Note: On November 1, 2017, the day subsection 45 (1) of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, paragraph 12 of subsection 1.1 (2) of the Regulation is revoked. (See: O. Reg. 180/17, s. 2 (3))**

13. Subsections 50 (1), (1.1) and (1.2), as enacted by subsection 45 (1) of Schedule 1 to the *Protecting Condominium Owners Act, 2015*.
14. Subsection 51 (6), as it read immediately before the day subsection 46 (2) of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force.

**Note: On the day subsection 46 (2) of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, paragraph 14 of subsection 1.1 (2) of the Regulation is revoked. (See: O. Reg. 180/17, s. 2 (4))**

15. Subclause 51 (6) (b) (ii), as enacted by subsection 46 (2) of Schedule 1 to the *Protecting Condominium Owners Act, 2015*.

16. Clause 56 (1) (c), as re-enacted by subsection 52 (4) of Schedule 1 to the *Protecting Condominium Owners Act, 2015*.

17. Clause 56 (10) (a), as re-enacted by subsection 52 (13) of Schedule 1 to the *Protecting Condominium Owners Act, 2015*.

18. Clause 59 (3) (a).

19. Subsection 59 (5).

20. Subsection 82.1 (1), as enacted by section 74 of Schedule 1 to the *Protecting Condominium Owners Act, 2015*.

21. Subsection 97 (4), as it read immediately before the day section 88 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force.

**Note: On the day section 88 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, paragraph 21 of subsection 1.1 (2) of the Regulation is revoked. (See: O. Reg. 180/17, s. 2 (5))**

22. Subsection 97 (7), as re-enacted by section 88 of Schedule 1 to the *Protecting Condominium Owners Act, 2015*.

23. Clause 122 (1) (a).

24. Subsection 123 (7), as it read immediately before the day subsection 106 (2) of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force.

**Note: On the day subsection 106 (2) of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, paragraph 24 of subsection 1.1 (2) of the Regulation is revoked. (See: O. Reg. 180/17, s. 2 (6))**

25. Subsection 123 (7), as re-enacted by subsection 106 (2) of Schedule 1 to the *Protecting Condominium Owners Act, 2015*.

26. Subsection 124 (2).

27. Clause 145 (1) (e).

28. Subsection 152 (6).

29. Subsection 174 (5). O. Reg. 180/17, s. 2 (1); O. Reg. 379/17, s. 1.

(3) Subsection (1) applies to the following provisions of this Regulation:

1. Paragraphs 2 and 3 of subsection 6.1 (1).
2. Clause 11.4 (1) (c).
3. Sub-subclause 12.8 (1) (a) (i) (A).
4. Subclause 52 (2) (d) (i). O. Reg. 180/17, s. 2 (1); O. Reg. 379/17, s. 1.

(4) In the case of a common elements condominium corporation, the references described in clauses 138 (4) (a) to (c) of the Act apply to this Regulation and to the deemed provisions set out in subsection 6.1 (1) of this Regulation, except if otherwise specified in this Regulation. O. Reg. 180/17, s. 2 (1); O. Reg. 379/17, s. 1.

Interpretation, interest

**1.2** For the purposes of the Act and this Regulation, a person has an interest in a contract or transaction if, but not only if, the person is a party to the contract or transaction respectively. O. Reg. 180/17, s. 2 (1); O. Reg. 379/17, s. 1.

Non-application of Corporations Information Act

**2.** Despite subsection 5 (4) of the Act, the *Corporations Information Act* does not apply to any corporations. O. Reg. 48/01, s. 2.

**Note: On November 1, 2017, the day section 8 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, section 2 of the Regulation is revoked. (See: O. Reg. 180/17, s. 3)**

Standard condominium corporations

**3.** Corporations created before Part II of the Act came into force and continued as corporations under subsection 178 (1) of the Act are classified as standard condominium corporations. O. Reg. 48/01, s. 3.

## PART II DECLARATION AND DESCRIPTION

### PLACE OF REGISTRATION

Place of registration

4. A declaration and description shall not be registered unless,

- (a) the property described in Schedule A to the declaration, is situated entirely within the boundaries of one land titles division, the *Land Titles Act* applies to all the property and the declarant is the registered owner of the property with an absolute title under that Act; or
- (b) the property described in Schedule A to the declaration, is situated entirely within the boundaries of one registry division, the *Registry Act* applies to all the property and the declarant holds a certificate of title to the property issued under Part I of the *Certification of Titles Act* as it read immediately before the repeal of that Act within 10 years before the registration. O. Reg. 48/01, s. 4; O. Reg. 442/11, s. 1.

## DECLARATION

### Contents

5. (1) A declaration shall not be received for registration unless,

- (a) it is executed by the declarant;
- (b) it meets the execution requirements for registration of a transfer/deed of land under the *Land Titles Act* or the *Registry Act*, as the case may be;
- (c) the first page of the declaration contains a statement that the registration of the declaration and description will create a standard condominium corporation;
- (d) it contains schedules known as Schedules A, B, C, D, E, F and G;
- (e) the land registrar has received the description for the property and it is capable of being registered; and
- (f) the declaration complies with this Regulation and all other legal requirements. O. Reg. 48/01, s. 5 (1).

(2) Schedule A shall include,

- (a) a description of the land and interests appurtenant to the land intended to be governed by the Act, including a description of every easement, as shown on the description that, upon the registration of the declaration and description, will be appurtenant to the land or to which the land will be subject; and
  - (b) a statement signed by the solicitor registering the declaration that, in his or her opinion, based on the parcel register or abstract index and the plans and documents recorded in them,
    - (i) the legal description is correct,
    - (ii) the easements mentioned in clause (a) will exist in law upon the registration of the declaration and description, and
    - (iii) the declarant is the registered owner of the land and appurtenant interests. O. Reg. 48/01, s. 5 (2).
- (3) Schedule B shall contain the consent under clause 7 (2) (b) of the Act, in the form that the Director of Titles specifies, of every person having a registered mortgage against the land or interests appurtenant to the land, as the land and the interests are described in the description. O. Reg. 48/01, s. 5 (3); O. Reg. 442/11, s. 2 (1).
- (4) Schedule C shall,
- (a) specify the boundaries of each unit by reference to the buildings or monuments mentioned in subsections 6 (4), (5) and (6) of Ontario Regulation 49/01 (Description and Registration) made under the Act;
  - (b) fully describe the monuments mentioned in subsections 6 (4), (5) and (6) of Ontario Regulation 49/01 (Description and Registration) made under the Act and the relationship of the boundaries of the units to them;
  - (c) contain a statement signed by an Ontario land surveyor licensed under the *Surveyors Act* certifying that the written description of the monuments and boundaries of the units accurately corresponds with the diagrams of the units described in clause 8 (1) (d) of the Act and shown on the plans of survey of the description prepared in accordance with Ontario Regulation 49/01 (Description and Registration) made under the Act. O. Reg. 48/01, s. 5 (4).
- (5) Schedule D shall contain,

- (a) a statement of the proportions, expressed in percentages totalling 100 per cent, of the common interests appurtenant to the units;  
and
  - (b) a statement of the proportions, expressed in percentages totalling 100 per cent, allocated to the units, in which the owners are to contribute to the common expenses. O. Reg. 48/01, s. 5 (5).
- (6) Schedule E shall contain a statement specifying the common expenses of the corporation or may be left blank if the declarant so elects. O. Reg. 48/01, s. 5 (6).
- (7) Schedule F shall contain a specification of all parts of the common elements that are to be used by the owners of one or more designated units and not by all the owners or shall indicate that there are no such parts if that is the case. O. Reg. 48/01, s. 5 (7).
- (8) Schedule G shall contain,
- (a) a certificate, in the form that the Director of Titles specifies, of an architect certifying that all buildings on the property have been constructed in accordance with the regulations made under the Act, with respect to all or some matters listed in the paragraphs of the definition of “has been constructed” in subsection 6 (1); or
  - (b) one or more certificates of an engineer, in the form that the Director of Titles specifies, certifying that all buildings on the property have been constructed in accordance with the regulations made under the Act, with respect to all or some matters listed in the paragraphs of the definition of “has been constructed” in subsection 6 (1). O. Reg. 48/01, s. 5 (8); O. Reg. 442/11, s. 2 (2, 3).
- (9) Every matter listed in the paragraphs of the definition of “has been constructed” in subsection 6 (1) shall be certified to in the certificates described in subsection (8) that are contained in Schedule G. O. Reg. 48/01, s. 5 (9); O. Reg. 442/11, s. 2 (4).
- (10) A declaration may contain schedules in addition to the schedules that it is required to contain under this Regulation. O. Reg. 48/01, s. 5 (10).

Construction complete

6. (1) For the purposes of subsection 5 (8),

“has been constructed” means, with respect to each building on the property, constructed at least to the following state:

1. The exterior building envelope, including roofing assembly, exterior wall cladding, doors and windows, caulking and sealants, is weather resistant if required by the construction documents and has been completed in general conformity with the construction documents.
2. Floor assemblies are constructed to the sub-floor.
3. Walls and ceilings of the common elements, excluding interior structural walls and columns in a unit, are completed to the drywall (including taping and sanding), plaster or other final covering.
4. All underground garages, if any, have walls and floor assemblies in place.
5. All elevating devices, if any, as defined in Ontario Regulation 209/01 (Elevating Devices) made under the *Technical Standards and Safety Act, 2000*, are licensed under that Act if it requires a licence, except for elevating devices contained wholly in a unit and designed for use only within the unit.
6. All installations with respect to the provision of water and sewage services are in place.
7. All installations with respect to the provision of heat and ventilation are in place and heat and ventilation can be provided.
8. All installations with respect to the provision of air conditioning, if any, are in place.
9. All installations with respect to the provision of electricity are in place.
10. All indoor and outdoor swimming pools, if any, are roughed in to the extent that they are ready to receive finishes, equipment and accessories.
11. Subject to paragraphs 2 and 3, the boundaries of the units are completed to the drywall (not including taping and sanding), plaster or other final covering, and perimeter doors are in place. O. Reg. 48/01, s. 6 (1); O. Reg. 383/12, s. 2.

(2) Despite paragraph 2 of subsection (1), with respect to units intended for non-residential purposes that are not ancillary to units intended for residential purposes, the lowermost floor does not have to be in place if it is at grade. O. Reg. 48/01, s. 6 (2).

(3) Despite paragraphs 3 and 11 of subsection (1), with respect to units intended for non-residential purposes that are not ancillary to units intended for residential purposes, wall or ceiling coverings, interior perimeter doors, interior partitions or walls between units or between units and common elements do not have to be in place. O. Reg. 48/01, s. 6 (3).

**Note: On November 1, 2017, the Regulation is amended by adding the following section: (See: O. Reg. 180/17, s. 4; O. Reg. 379/17, s. 1)**

Deemed provisions in declaration

**6.1 (1)** A declaration is deemed to include the following provisions:

1. Despite anything in the declaration, as soon as reasonably possible and, in any event, by no later than the 15th day after the declarant transfers the first unit in the corporation, the declarant shall give written notice to the first board mentioned in subsection 42 (1) of the *Condominium Act, 1998* of the day that the declarant transferred that unit.
2. Despite anything in the declaration, as soon as reasonably possible and, in any event, no later than five days before the day that, according to the declarant's anticipation, is the day on which the declarant will cease to be the registered owner of the majority of the units, the declarant shall give written notice to the first board mentioned in subsection 42 (1) of the *Condominium Act, 1998* of the anticipated day.
3. Despite anything in the declaration, as soon as reasonably possible and, in any event, by no later than five days after the declarant ceases to be the registered owner of the majority of the units, the declarant shall give written notice to the first board mentioned in subsection 42 (1) of the *Condominium Act, 1998* of the day that the declarant ceased to be the registered owner of the majority of the units. O. Reg. 180/17, s. 4; O. Reg. 379/17, s. 1.

(2) No board, other than a board of the corporation described in subsection 11 (8) of the Act, may approve a proposed amendment or repeal of any of the deemed provisions set out in subsection (1). O. Reg. 180/17, s. 4; O. Reg. 379/17, s. 1.

Restrictions: amalgamation

**7. (1)** A declaration shall not be registered if,

(a) it contains provisions requiring an owner, a future owner or anyone on the owner's or future owner's behalf to consent in writing to an amalgamation; or

(b) it contains provisions relating to an amalgamation. O. Reg. 48/01, s. 7 (1).

(2) If a declaration contains a provision that is inconsistent with subsection (1), the declaration shall be deemed to contain another provision stating that the inconsistent provision is void. O. Reg. 48/01, s. 7 (2).

#### Amendments

**8.** An amendment made under section 107 of the Act to a declaration is exempt from subsection 7 (1) of the Act and clause 7 (2) (b) of the Act and is not required to contain any statements or schedules described in section 5 that are in the registered declaration and that are not being amended by the amendment. O. Reg. 48/01, s. 8.

#### DESCRIPTION

##### Contents

**9.** (1) A description shall not be received for registration unless,

(a) it complies with all legal requirements; and

(b) the land registrar has received the declaration for the property and it is capable of being registered. O. Reg. 48/01, s. 9 (1).

(2) Despite clause 8 (1) (b) of the Act, a description of a corporation shall not contain the architectural plans described in that clause if,

(a) it contains the structural plans described in that clause; and

(b) Schedule G to the declaration does not contain the certificate of an architect described in clause 5 (8) (a). O. Reg. 48/01, s. 9 (2).

(3) Despite clause 8 (1) (e) of the Act, a description of a corporation shall not contain the certificates described in that clause. O. Reg. 48/01, s. 9 (3).

(4) In addition to all other material that it is required to contain, a description shall contain a description of all easements and similar interests to which the property is subject. O. Reg. 48/01, s. 9 (4).

(5) The description of the easements and similar interests to which the property is subject and the description of the interests appurtenant to the property required by clause 8 (1) (g) of the Act shall be combined and shall be in the form that the Director of Titles specifies. O. Reg. 48/01, s. 9 (5); O. Reg. 442/11, s. 3.

#### Forms

**10.** (1) The land registrar's certificate of registration that clause 11 (1) (a) of Ontario Regulation 49/01 (Description and Registration) made under the Act requires to be on the description shall be in the form that the Director of Titles specifies. O. Reg. 48/01, s. 10 (1); O. Reg. 442/11, s. 4 (1).

(2) The surveyor's certificate that clause 11 (1) (c) of Ontario Regulation 49/01 (Description and Registration) made under the Act requires to be on the description shall be in the form that the Director of Titles specifies. O. Reg. 48/01, s. 10 (2); O. Reg. 442/11, s. 4 (2).

(3) The certificate that clause 11 (1) (e) or (f) or subsection 21 (2) of Ontario Regulation 49/01 (Description and Registration) made under the Act requires to be on the description and that is made by the declarant or, if the description is being registered to effect an amalgamation, the persons authorized to bind each of the amalgamating corporations, shall be in the form that the Director of Titles specifies. O. Reg. 48/01, s. 10 (3); O. Reg. 442/11, s. 4 (3).

(4) The surveyor's certificate that clause 11 (3) (b) of Ontario Regulation 49/01 (Description and Registration) made under the Act requires to be on the description shall be in the form that the Director of Titles specifies. O. Reg. 48/01, s. 10 (4); O. Reg. 442/11, s. 4 (4).

#### Amendments

11. All persons are exempt from subsections 9 (2) and (3) of the Act when applying to register an amendment to the description made under section 109 or 110 of the Act. O. Reg. 48/01, s. 11.

### PART III CORPORATION

**Note: On November 1, 2017, the day section 25 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, Part III of the Regulation is amended by adding the following sections: (See: O. Reg. 180/17, s. 5 (2))**

#### INFORMATION CERTIFICATES

##### Periodic information certificate

**11.1** (1) In addition to the material specified in clause 26.3 (a) of the Act, a periodic information certificate of a corporation shall contain,

(a) the name and address for service of,

(i) the condominium management provider or the condominium manager, if any, with whom the corporation has entered into an agreement to receive condominium management services, and

(ii) any other person responsible for the management of the property;

(b) a statement of the information required to determine all methods that subclause 13.3 (4) (a) (ii) or clause 13.3 (4) (d) authorizes for the delivery of material to the corporation;

(c) a statement of the method of electronic communication that the corporation will use for the purposes of clause 13.4 (1) (a), subclause 13.5 (1) (a) (i), clause 13.6 (1) (a) or subclause 13.7 (1) (a) (i);

(d) a statement identifying any person who is a director of the corporation in office, or who has ceased to be a director of the corporation but has continued to so act, if the person,

(i) is a party to any legal action to which the corporation is a party,

(ii) was a party to any legal action described in subclause (i) that resulted in a judgment that is against the corporation or the person and that is outstanding,

(iii) has contributions to the common expenses payable for any units that the person owns in the corporation, if the contributions are in arrears for 60 days or more, or

(iv) has not completed the prescribed training within the prescribed time under clause 29 (2) (e) of the Act;

(e) a statement of the number of units for which the corporation has received notice under section 83 of the Act that the unit was leased during the current fiscal year;

(f) a statement of the financial implications that are described in subsections (2) and (3) for the judgments and legal actions mentioned in clause 76 (1) (h) of the Act;

(g) if an insurance policy obtained and maintained by the corporation in accordance with the Act contains a deductible clause that limits the amount payable by the insurer, a statement that,

(i) describes any such deductible clause, including the portion of a loss that would be excluded from coverage,

(ii) clearly identifies, for any such deductible clause, the maximum amount that is to be added to the common expenses payable for an owner's unit under subsection 105 (2) of the Act or as a result of a by-law passed under clause 56 (1) (i) of the Act, and

(iii) warns owners of their liability as described in subclause (ii);

(h) a statement clearly identifying any insurance that the corporation has not obtained and maintained at any time during the current fiscal year if,

(i) the insurance is described in section 39, 99 or 102 of the Act, or

(ii) the corporation otherwise had or has a legal obligation to obtain and maintain the insurance;

(i) a copy of the statements and information provided to the board during the current fiscal year in accordance with the disclosure obligation described in section 11.10;

(j) a statement whether the corporation has passed a by-law under clause 56 (1) (h) of the Act and, if so, a statement identifying the number of the by-law;

- (k) a copy of the corporation's budget for the current fiscal year and a copy of all amendments, if any, made to that budget;
- (l) a statement whether the corporation's budget for the current fiscal year may result in a surplus or deficit and the amount of the projected surplus or deficit;
- (m) a statement setting out,
  - (i) the balance in the reserve fund,
  - (ii) the balance in the reserve fund at the beginning of the current fiscal year,
  - (iii) the amount of the annual contribution to be made to the reserve fund in the current fiscal year, calculated in accordance with the budget of the corporation for the current fiscal year,
  - (iv) the amount of the anticipated expenditures to be made from the reserve fund in the current fiscal year, calculated in accordance with the budget of the corporation for the current fiscal year, and
  - (v) the current plans, if any, to increase the reserve fund under a plan proposed by the board under subsection 94 (8) of the Act, for future funding of the reserve fund;
- (n) a statement of the status of any outstanding claims that have been made by the corporation for payment out of the guarantee fund under section 14 of the *Ontario New Home Warranties Plan Act*;
- (o) a statement whether the corporation has contravened or failed to comply with subsection 1.30 (6) of the Act or any provision of Part II.1 of the Act during the current fiscal year and, if so, a statement of the contravention or failure to comply;
- (p) for the purpose of subsection 134.1 (9) of the Act, a copy of any order described in that subsection that has been made against the corporation or a director or officer of the corporation under section 134.1 of the Act if there is no possibility of it being replaced under subsection 134.1 (5) of the Act, unless the order was contained in a periodic information certificate that the corporation has previously sent to the owners in accordance with the Act and this Regulation; and
- (q) all other information relating to the corporation that a by-law of the corporation requires be included in the certificate. O. Reg. 180/17, s. 5 (2).

(2) The following financial implications are required under clause (1) (f) in respect of judgments:

1. Whether the judgment requires the corporation to pay damages, compensation or costs and, if so, the amount of the damages, compensation or costs.
2. Whether an insurer under an insurance policy of the corporation has informed the corporation whether any portion of the damages, compensation or costs mentioned in paragraph 1 is covered by the policy.
3. If an insurer under an insurance policy of the corporation has informed the corporation, as described in paragraph 2, whether the insurer has informed the corporation that the damages, compensation or costs mentioned in paragraph 1, or any portion of them, are or is covered by the policy.
4. If an insurer under an insurance policy of the corporation has informed the corporation, as described in paragraphs 2 and 3, the amount of the coverage according to the information provided by the insurer.
5. Whether the corporation has made a claim under an insurance policy of the corporation in respect of the damages, compensation or costs mentioned in paragraph 1. O. Reg. 180/17, s. 5 (2).

(3) The following financial implications are required under clause (1) (f) in respect of legal actions:

1. The total amount of the damages, compensation or costs claimed by or against the corporation in the action.
2. Whether an insurer under an insurance policy of the corporation has informed the corporation whether any portion of the damages, compensation or costs mentioned in paragraph 1 is covered by the policy.
3. If an insurer under an insurance policy of the corporation has informed the corporation, as described in paragraph 2, whether the insurer has informed the corporation that the damages, compensation or costs mentioned in paragraph 1, or any portion of them, are or is covered by the policy.
4. If an insurer under an insurance policy of the corporation has informed the corporation, as described in paragraphs 2 and 3, the amount of the coverage according to the information provided by the insurer.
5. Whether the corporation has made any claims under the policy mentioned in paragraph 2 in respect of the damages, compensation or costs mentioned in that paragraph.
6. Whether an insurer under an insurance policy of the corporation has informed the corporation whether any portion of the legal costs and expenses incurred by the corporation in connection with the action is covered by the policy.

7. If an insurer under an insurance policy of the corporation has informed the corporation, as described in paragraph 6, whether the insurer has informed the corporation that the legal costs and expenses incurred by the corporation in connection with the action, or any portion of them, are or is covered by the policy.

8. If an insurer under an insurance policy of the corporation has informed the corporation, as described in paragraphs 6 and 7, the amount of the coverage according to the information provided by the insurer.

9. Whether the corporation has made any claims under the policy mentioned in paragraph 6 in respect of the legal costs and expenses incurred by the corporation in connection with the action. O. Reg. 180/17, s. 5 (2).

(4) For the purpose of clause 26.3 (a) of the Act, the following time periods are prescribed as the time periods at which a corporation shall send a periodic information certificate to the owners, instead of at least once every three months:

1. Within 60 days after the last day of the first quarter of the corporation's current fiscal year if this section is in force on that last day.

2. Within 60 days after the last day of the third quarter of the corporation's current fiscal year if this section is in force on that last day.

3. The additional time periods, if any, that are set out in a by-law of the corporation passed on or after the day this section comes into force. O. Reg. 180/17, s. 5 (2).

(5) For the purpose of subsection (4), if the current fiscal year of a corporation is a period of less than 12 months, the current fiscal year shall be deemed to have commenced on the day that is one year before the end of the current fiscal year. O. Reg. 180/17, s. 5 (2).

(6) The material that a periodic information certificate is required to contain shall be current as of the following dates:

1. If the certificate is sent to the owners at the time period described in paragraph 1 or 2 of subsection (4), the last day of the quarter described in the applicable paragraph.

2. If the certificate is sent to the owners at the time period described in paragraph 3 of subsection (4), the day set out in the by-law. O. Reg. 180/17, s. 5 (2).

(7) A periodic information certificate shall be in English or French and shall be in the form that the Minister responsible for the administration of section 26.3 of the Act specifies. O. Reg. 180/17, s. 5 (2).

(8) A corporation that sends a periodic information certificate to the owners in accordance with this section shall be deemed to have complied with section 105.1 of the Act. O. Reg. 180/17, s. 5 (2).

#### Information certificate update

**11.2** (1) An information certificate update is a class of certificate mentioned in clause 26.3 (b) of the Act. O. Reg. 180/17, s. 5 (2).

(2) An information certificate update shall contain,

(a) a statement whether there has been any change in any of the following, and if so, information about the change:

(i) the address for service of the corporation,

(ii) the address for service of the directors or officers of the corporation,

(iii) the directors or officers of the corporation,

(iv) the name and address for service of the condominium management provider or the condominium manager, if any, with whom the corporation has entered into an agreement to receive condominium management services,

(v) the information required to determine all methods that subclause 13.3 (4) (a) (ii) or clause 13.3 (4) (d) authorizes for the delivery of material to the corporation,

(vi) the method of electronic communication that the corporation will use for the purposes of clause 13.4 (1) (a), subclause 13.5 (1) (a) (i), clause 13.6 (1) (a) or subclause 13.7 (1) (a) (i), or

(vii) the deductible clause or the amount described in clause 11.1 (1) (g);

(b) a statement whether any insurance that is described in clause 11.1 (1) (h) and that the corporation obtained and maintained has been terminated and, if so, information about the termination;

(c) if a vacancy has arisen in the board and there are not enough directors remaining in office to constitute a quorum, a statement of that fact and,

(i) a specification of the number of vacancies in the board, and

(ii) a request that each individual who intends to be a candidate for election to the board notify the board in writing, within five days after the corporation, including any remaining directors acting on behalf of the corporation, gives the update, of the individual's intention, name and address; and

(d) all other information relating to the corporation that a by-law of the corporation requires be included in the update. O. Reg. 180/17, s. 5 (2).

(3) For the purpose of clause 26.3 (b) of the Act, the following time periods are prescribed as the time periods at which a corporation shall send an information certificate update to the owners:

1. If there has been any change in a matter described in subclauses (2) (a) (i) to (vi), within 30 days of the change.

2. If there has been any change in a matter described in subclause (2) (a) (vii), within 30 days of the day when the change first came to the knowledge of the corporation.

3. If the update deals with a termination described in clause (2) (b), as soon as reasonably possible after the day when the termination first came to the knowledge of the corporation and, in any event, no later than 30 days after that day.

4. If the update deals with a matter described in clause (2) (c), within 5 days of losing the quorum mentioned in that clause.

5. If the update deals with the information mentioned in clause (2) (d), within the time period set out in the by-law mentioned in that clause. O. Reg. 180/17, s. 5 (2).

(4) An information certificate update shall be in English or French and shall be in the form that the Minister responsible for the administration of section 26.3 of the Act specifies. O. Reg. 180/17, s. 5 (2).

(5) A corporation that sends an information certificate update to the owners in accordance with this section shall be deemed to have complied with section 105.1 of the Act. O. Reg. 180/17, s. 5 (2).

#### New owner information certificate

**11.3** (1) A new owner information certificate is a class of certificate mentioned in clause 26.3 (b) of the Act. O. Reg. 180/17, s. 5 (2).

(2) Despite clause 26.3 (b) of the Act, a corporation shall send a new owner information certificate only to each owner who is described in subsection 46.1 (2) of the Act and who has complied with that subsection. O. Reg. 180/17, s. 5 (2).

(3) A new owner information certificate shall contain,

(a) a copy of the most recent periodic information certificate, if any, that the corporation sent to the owners or was required to send to the owners under section 11.1, unless the corporation has previously sent that periodic information certificate to the owner described in subsection (2);

(b) a copy of the information certificate updates, if any, that the corporation sent to the owners or was required to send to the owners under section 11.2 after the periodic information certificate described in clause (a), but not any of those information certificate updates that the corporation has previously sent to the owner described in subsection (2); and

(c) all other information relating to the corporation that a by-law of the corporation requires be included in the certificate. O. Reg. 180/17, s. 5 (2).

(4) A corporation shall send a new owner information certificate to each owner described in subsection (2) within 30 days after the owner has complied with subsection 46.1 (2) of the Act. O. Reg. 180/17, s. 5 (2).

(5) For greater certainty, a corporation is not required to send a new owner information certificate to any owner if the certificate is not required to contain anything under subsection (3). O. Reg. 180/17, s. 5 (2).

(6) A new owner information certificate shall be in English or French and shall be in the form that the Minister responsible for the administration of section 26.3 of the Act specifies. O. Reg. 180/17, s. 5 (2).

Exception: no information certificates to send

**11.4** (1) A corporation shall not send a periodic information certificate to owners under section 11.1, an information certificate update to owners under section 11.2 or a new owner information certificate to owners under section 11.3 in a fiscal year if,

(a) a turn-over meeting has been held for the corporation under section 43 of the Act;

(b) a new board has been elected under subsection 152 (6) of the Act, in the case of a phased condominium corporation, and a turn-over meeting for the corporation has been held under section 43 of the Act after that election; and

(c) the owners of at least 80 per cent of the units consent in writing to dispense with the requirements of the applicable section 11.1, 11.2 or 11.3 until the next fiscal year of the corporation. O. Reg. 180/17, s. 5 (2).

(2) Subsection (1) applies only in respect of a periodic information certificate, an information certificate update or a new owner information certificate that the corporation is required to send to owners under section 11.1, 11.2 or 11.3, as the case may be, after the consent described in clause (1) (d) is obtained and for the remainder of the fiscal year in which the consent is obtained. O. Reg. 180/17, s. 5 (2).

(3) An owner is not entitled to consent under clause (1) (d) if any contributions to the common expenses payable for the owner's unit are in arrears for 30 days or more. O. Reg. 180/17, s. 5 (2).

(4) An owner who, under subsection (3), is not entitled to consent may consent after the corporation receives payment of the arrears with respect to the owner's unit. O. Reg. 180/17, s. 5 (2).

#### Delivery of information certificates

**11.5** (1) In addition to section 54 of the Act, a periodic information certificate, an information certificate update or a new owner information certificate that a corporation sends to the owners is sufficiently served if,

(a) the corporation posts it on a website and sends a notice of the posting that complies with subsection (2) of this section to the owners in accordance with section 54 of the Act;

(b) the posting meets the requirements specified in clauses (b) and (c) of the definition of "electronic communication" and "electronic mail" in subsection 1 (2) of this Regulation; and

(c) the posting can be accessed by electronic means in the manner set out in the statement described in clause (2) (c) and for at least 30 days following the day on which the corporation complies with clauses (a) and (b) of this subsection. O. Reg. 180/17, s. 5 (2).

(2) The notice of the posting shall,

(a) be in English or French and in the form that the Minister responsible for the administration of section 26.3 of the Act specifies;

(b) identify whether the posted certificate is a periodic information certificate, an information certificate update or a new owner information certificate;

(c) state how the posting can be accessed by electronic means; and

(d) state that if an owner wishes to obtain a copy of the posted certificate in paper form, the owner can do so by making a request under subsection 55 (3) of the Act. O. Reg. 180/17, s. 5 (2).

**Note: On November 1, 2017, the day section 51 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, section 11.5 of the Regulation is amended by adding the following subsection: (See: O. Reg. 180/17, s. 5 (3))**

(3) The provisions of sections 13.3 to 13.11 that apply to a core record apply to a request described in clause (2) (d). O. Reg. 180/17, s. 5 (3).

**Note: On November 1, 2017, the day section 27 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, Part III of the Regulation is amended by adding the following sections: (See: O. Reg. 180/17, s. 6)**

## DIRECTORS AND OFFICERS

### Disclosure obligations

**11.6** (1) For the purpose of clause 29 (1) (f) of the Act, a person shall provide the following statements and information in accordance with this section:

1. If the person mentioned in that clause is a party to any legal action to which the corporation is a party, a statement of that fact and a brief general description of the action.
2. If the spouse, child or parent of the person, or the child or parent of the spouse of the person, is a party to any legal action to which the corporation is a party, a statement of that fact, the name of the spouse, child or parent and a brief general description of the action.
3. If an occupier of a unit that the person or the person's spouse owns or that the person occupies with the occupier is a party to any legal action to which the corporation is a party, a statement of that fact, the name of the occupier and a brief general description of the action.
4. If the person has been convicted of an offence under the Act or under the regulations within the preceding 10 years, a statement of that fact and a brief general description of the offence.

5. Subject to subsection (3), if the person has, directly or indirectly, an interest in a contract or transaction to which the corporation is a party, in a capacity other than as a purchaser, mortgagee, owner or occupier of a unit, a statement of that fact and a statement of the nature and extent of the interest.
6. Subject to subsection (3), if the person has, directly or indirectly, an interest in a contract or transaction to which the declarant or declarant affiliate is a party, in a capacity other than as a purchaser, mortgagee, owner or occupier of a unit, a statement of that fact and a statement of the nature and extent of the interest.
7. If the person is an owner in the corporation and if the contributions to the common expenses payable for the person's unit are in arrears for 60 days or more, a statement of that fact.
8. If the person is not an owner of a unit in the corporation, a statement of that fact.
9. If the person is not an occupier of a unit in the corporation, a statement of that fact.
10. All other information that a by-law of the corporation requires the person to disclose. O. Reg. 180/17, s. 6.

(2) In paragraphs 2 and 3 of subsection (1),

“spouse” means,

(a) a spouse as defined in section 1 of the *Family Law Act*, or

(b) either of two persons who live together in a conjugal relationship outside marriage. O. Reg. 180/17, s. 6.

(3) Paragraphs 5 and 6 of subsection (1) do not apply to a contract or transaction unless both it and the person's interest in it are material. O. Reg. 180/17, s. 6.

(4) The statements and information that subsection (1) requires the person to provide shall be current as of the time the person provides them. O. Reg. 180/17, s. 6.

(5) If the person provides notice to the board as described in subsection 28 (2) of the Act or subclause 11.2 (2) (c) (ii) of this Regulation with respect to a meeting of owners described in subsection (6), the person shall provide the statements and information required by subsection (1) to the board in writing at the time of providing the notice. O. Reg. 180/17, s. 6.

(6) The meeting of owners mentioned in subsection (5) or (7) is a meeting that is held 40 days or more after the day section 27 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force and for which a notice of meeting has not already been sent before that day. O. Reg. 180/17, s. 6.

(7) If the person does not provide notice to the board as described in subsection 28 (2) of the Act or subclause 11.2 (2) (c) (ii) of this Regulation but is a candidate in the election of one or more directors at a meeting of owners described in subsection (6), the person shall provide the statements and information required by subsection (1) to the corporation at the meeting. O. Reg. 180/17, s. 6.

(8) For the purpose of subsection (7), the person shall provide the statements and information,

(a) orally or in writing if the person is present at the meeting; or

(b) in writing if the person is not present at the meeting. O. Reg. 180/17, s. 6.

(9) If the person is a person appointed to the board as described in subsection 34 (2) of the Act, the person shall provide the statements and information required by subsection (1) of this section to the board,

(a) at any time before being so appointed, unless the corporation has passed a by-law described in clause (b); or

(b) within such other period of time that is set out in a by-law of the corporation and that is before the appointment. O. Reg. 180/17, s. 6.

(10) The person shall provide the statements and information,

(a) orally or in writing if the person provides them at a time at the meeting when the person is appointed to the board that is before the appointment; or

(b) in writing if,

(i) the person provides the statements and information before the meeting at which the person is appointed to the board,  
or

(ii) a by-law of the corporation requires the person to provide the statements and information in writing. O. Reg. 180/17, s. 6.

(11) If this section requires a person to provide the statements and information required by subsection (1) in writing, the signature of the person shall be included in the statements and shall accompany the information. O. Reg. 180/17, s. 6.

## Training courses required

**11.7** (1) For the purpose of clause 29 (2) (e) of the Act, the prescribed training consists of the training courses that the following person or body designates:

1. The board of the condominium authority, if the authority is responsible for the administration of this section.
2. The Minister, if there is no condominium authority responsible for the administration of this section. O. Reg. 180/17, s. 6.

(2) The person or body that is authorized to designate the training courses may designate organizations that are authorized to provide the courses. O. Reg. 180/17, s. 6.

(3) If the board of the condominium authority is authorized to designate the training courses, the authority shall publish a description of the courses and the organizations, if any, that are authorized to provide them,

- (a) on its website and in any other way described in its administrative agreement; and
- (b) in any other format that the condominium authority considers advisable. O. Reg. 180/17, s. 6.

(4) For the purpose of clause 29 (2) (e) of the Act, a person shall complete the training courses within six months of the earlier of the day that the person is elected or appointed to the board, unless the person,

- (a) is no longer a director on the last day of those six months; or
- (b) has previously completed the courses,
  - (i) within seven years before that applicable day,
  - (ii) on or after the day this section comes into force, and
  - (iii) in accordance with this section as it read at the time the person completed the courses. O. Reg. 180/17, s. 6.

## Records of training courses

**11.8** (1) If the condominium authority or the Minister has designated an organization to provide a training course required under section 11.7 and a person completes such a course in accordance with that section, the authority or the Minister, as the case may be, shall ensure that the organization provides written evidence of completion to the person and to the authority or the Minister, as the case may be. O. Reg. 180/17, s. 6.

(2) The evidence of completion shall identify the name of the person and the date that the person completed the course. O. Reg. 180/17, s. 6.

(3) Within 15 days after receiving the evidence of completion, the person shall forward to each corporation in respect of which the person was a director at the time the person completed the course,

(a) a notice identifying each such corporation;

(b) the evidence of completion; and

(c) written evidence of the costs, charges or expenses, if any, that the person incurred and paid for directly, and in respect of which the person has not been indemnified by a corporation. O. Reg. 180/17, s. 6.

(4) Within 30 days of receiving the material described in subsection (3), the corporation shall indemnify the person and the person's heirs, executors, administrators and estate trustees for all costs, charges and expenses that the person incurred and paid for directly in completing the course, except to the extent that another corporation indemnifies the person for those costs, charges and expenses. O. Reg. 180/17, s. 6.

(5) The condominium authority or the Minister that designated the training courses required under section 11.7 shall,

(a) keep adequate records relating to each person who has completed the courses in accordance with that section, including a record of,

(i) the name of the person,

(ii) the name of each corporation in respect of which the person was a director at the time the person completed the courses, and

(iii) the date that the person completed the courses;

(b) retain the records mentioned in clause (a) for an adequate period of time; and

(c) upon reasonable notice and at all reasonable times and subject to section 1.29 of the Act, permit a corporation described in subclause (a) (ii), a corporation in respect of which the person is a director at the time of forwarding the material described in subsection (3) or a person authorized by any such corporation to examine or obtain copies of the records mentioned in clause (a) that relate to the person described in that clause. O. Reg. 180/17, s. 6.

## Exemption from disclosure obligations and training courses

**11.9** (1) A director appointed or elected to a board before the day section 27 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force is exempt from clauses 29 (1) (f) and 29 (2) (e) of the Act but ceases to be so exempt if the person is elected or appointed to the board at or after a turn-over meeting held under section 43 of the Act on or after that day. O. Reg. 180/17, s. 6.

(2) A director appointed or elected to the first board under section 42 of the Act is exempt from clauses 29 (1) (f) and 29 (2) (e) of the Act but ceases to be so exempt if the person is elected or appointed to the board at or after a turn-over meeting held under section 43 of the Act on or after the day section 27 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force. O. Reg. 180/17, s. 6.

(3) If the condominium authority is responsible for the administration of section 11.7 of this Regulation, clause 29 (2) (e) of the Act, as enacted by section 27 of Schedule 1 to the *Protecting Condominium Owners Act, 2015*, does not apply to any director who was elected or appointed to a board on or after the day that clause comes into force but before the earlier of,

(a) the date that the board of the condominium authority publishes on its website, in accordance with subsection 11.7 (3) of this Regulation, a description of the courses and the organizations, if any, that are authorized to provide them; and

(b) one year from the day that clause 29 (2) (e) comes into force. O. Reg. 180/17, s. 6.

## Disqualification of directors

**11.10** (1) For the purpose of clause 29 (2) (f) of the Act, the following are the prescribed disclosure obligations for a director appointed or elected to the first board under section 42 of the Act:

1. If the director has been convicted of an offence under the Act or the regulations within the preceding 10 years, a statement of that fact.

2. All other disclosure obligations set out in a by-law of the corporation passed on or after the day subsection 52 (2) of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force. O. Reg. 180/17, s. 6.

(2) For the purpose of clause 29 (2) (f) of the Act, the following are the prescribed disclosure obligations for a director appointed or elected to a board, other than the first board:

1. If the spouse, child or parent of the director or if the child or parent of the spouse of the director is a party to any legal action to which the corporation is a party, a statement of that fact, the name of the spouse, child or parent and a brief general description of the action, unless the director has already provided that statement and information in accordance with section 11.6.
2. If an occupier of a unit that the director or the director's spouse owns, or that the director occupies with the occupier, is a party to any legal action to which the corporation is a party, a statement of that fact, the name of the occupier and a brief general description of the action, unless the director has already provided that statement and information in accordance with section 11.6.
3. If the director has been convicted of an offence under the Act or the regulations within the preceding 10 years, a statement of that fact and a brief general description of the offence, unless the director has already provided that statement and information in accordance with section 11.6.
4. If the director has, directly or indirectly, an interest in a contract or transaction to which the corporation is a party or in a proposed contract or transaction to which the corporation will be a party, in a capacity other than as a director or officer of the corporation or as a purchaser, mortgagee, owner or occupier of a unit, a statement of that fact and a statement of the nature and extent of the interest, unless, as at the applicable time of disclosure under clause (10) (c) or (11) (c), as the case may be, the director has already provided those statements in accordance with section 11.6.
5. If the director has, directly or indirectly, an interest in a contract or transaction to which the declarant or a declarant affiliate is a party, in a capacity other than as a director or officer of the corporation or as a purchaser, mortgagee, owner or occupier of a unit, a statement of that fact and a statement of the nature and extent of the interest.
6. All other disclosure obligations set out in a by-law of the corporation passed on or after the day subsection 52 (2) of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force. O. Reg. 180/17, s. 6.

(3) In paragraphs 1 and 2 of subsection (2),

“spouse” means,

(a) a spouse as defined in section 1 of the *Family Law Act*, or

(b) either of two persons who live together in a conjugal relationship outside marriage. O. Reg. 180/17, s. 6.

(4) Paragraphs 4 and 5 of subsection (2) do not apply to a contract or transaction or a proposed contract or transaction unless both it and the director's interest in it are material. O. Reg. 180/17, s. 6.

(5) The statements and information that subsections (1) and (2) require a director to disclose shall be current as of the time the director provides them. O. Reg. 180/17, s. 6.

(6) The director shall provide the required statements and information to the board in writing. O. Reg. 180/17, s. 6.

(7) The signature of the director shall be included in any written statement made by the director and shall accompany any written information provided by the director. O. Reg. 180/17, s. 6.

(8) A director who is appointed or elected to the first board under section 42 of the Act before the day section 27 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force shall make,

(a) a disclosure described in paragraph 1 of subsection (1),

(i) within 30 days of that day, if the day of the conviction is before that day, or

(ii) within 30 days of the day of the conviction, if the latter day is on or after the day that section 27 comes into force; and

(b) a disclosure described in paragraph 2 of subsection (1) within the time period, if any, set out in the by-law. O. Reg. 180/17, s. 6.

(9) A director who is appointed or elected to the first board under section 42 of the Act on or after the day section 27 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force shall make,

(a) a disclosure described in paragraph 1 of subsection (1),

(i) within 30 days of the director's appointment or election to the first board, if the day of the conviction is before the day the director is appointed or elected to the first board, or

(ii) within 30 days of the conviction, if the day of the conviction is on or after the day the director is appointed or elected to the first board; and

(b) a disclosure described in paragraph 2 of subsection (1) within the time period, if any, set out in the by-law. O. Reg. 180/17, s. 6.

(10) A director who is appointed or elected to a board, other than the first board, before the day section 27 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force shall make,

(a) a disclosure described in paragraph 1 or 2 of subsection (2),

(i) if the director becomes aware of the information described in the applicable paragraph before that day, by the earlier of the 30th day after that day and the day of the first meeting of the directors held after that day, or

(ii) if the director becomes aware of the information described in the applicable paragraph on or after that day, by the earlier of the 30th day after the day the director becomes so aware and the day of the first meeting of the directors held after the day the director becomes so aware;

(b) a disclosure described in paragraph 3 of subsection (2),

(i) within 30 days of that day, if the day of the conviction is before that day, or

(ii) within 30 days of the day of the conviction, if the latter day is on or after that day;

(c) a disclosure described in paragraph 4 of subsection (2),

(i) subject to subclause (ii), at the earliest of,

(A) the meeting of the directors at which the contract or transaction or the proposed contract or transaction is first considered, if the director is, as of the date of the meeting, interested in the contract or transaction or the proposed contract or transaction,

(B) if the director is not, as of the date of the meeting mentioned in sub-subclause (A), interested in the contract or transaction or the proposed contract or transaction, at the first meeting of the directors held after the director becomes so interested,

(C) if the director becomes interested in the contract or transaction after it is entered into, at the first meeting of the directors held after the director becomes so interested, and

(D) if the contract or transaction or the proposed contract or transaction is one that in the ordinary course of the corporation's business would not require approval by the directors or owners, at the first meeting of the directors held after the director becomes aware of the contract or transaction or the proposed contract or transaction, or

(ii) if any of the meetings described in subclause (i) are held before the day section 27 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, by the earlier of,

(A) the 30th day after the day that section comes into force, and

(B) the first meeting of the directors held on or after the day that section comes into force;

(d) a disclosure described in paragraph 5 of subsection (2),

(i) if the director becomes interested in the contract or transaction before that day, by the earlier of the 30th day after that day and the day on which the first meeting of the directors is held after that day, and

(ii) if the director becomes interested in the contract or transaction on or after that day, by the earlier of the 30th day after the day the director becomes so interested and the day on which the first meeting of the directors is held after the director becomes so interested; and

(e) a disclosure described in paragraph 6 of subsection (2) within the time period, if any, set out in the by-law. O. Reg. 180/17, s. 6.

(11) A director who is appointed or elected to a board, other than the first board, on or after the day section 27 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force shall make,

(a) a disclosure described in paragraph 1 or 2 of subsection (2),

(i) within 30 days of the director's appointment or election to the board, if the director becomes aware of the information described in the applicable paragraph before the day the director is appointed or elected to the board, or

(ii) within 30 days of the day the director becomes aware of the information described in the applicable paragraph, if the director becomes aware of the information described in the applicable paragraph on or after the day the director is appointed or elected to the board;

(b) a disclosure described in paragraph 3 of subsection (2),

(i) within 30 days of the director's appointment or election to the board, if the day of the conviction is before the day the director is appointed or elected to the board, or

(ii) within 30 days of the conviction, if the day of the conviction is on or after the day the director is appointed or elected to the board;

(c) a disclosure described in paragraph 4 of subsection (2) at the first of the following meetings of the directors that are held on or after the day the director is appointed or elected to the board, other than the first board:

(i) the meeting of the directors at which the contract or transaction or the proposed contract or transaction is first considered, if the director is, as of the date of the meeting, interested in the contract or transaction or the proposed contract or transaction,

(ii) if the director is not, as of the date of the meeting mentioned in subclause (i), interested in the contract or transaction or the proposed contract or transaction, at the first meeting of the directors held after the director becomes so interested,

(iii) if the director becomes interested in the contract or transaction after it is entered into, at the first meeting of the directors held after the director becomes so interested, and

(iv) if the contract or transaction or the proposed contract or transaction is one that in the ordinary course of the corporation's business would not require approval by the directors or owners, at the first meeting of the directors held after the director becomes aware of the contract or transaction or the proposed contract or transaction;

(d) a disclosure described in paragraph 5 of subsection (2),

(i) within 30 days of the director's appointment or election to the board, if the director becomes interested in the contract or transaction before the day the director is appointed or elected to the board, or

(ii) within 30 days of the day the director becomes interested in the contract or transaction, if the day the director becomes so interested is on or after the day the director is appointed or elected to the board; and

(e) a disclosure described in paragraph 6 of subsection (2) within the time period, if any, set out in the by-law. O. Reg. 180/17, s. 6.

(12) A disclosure obligation set out in this section does not apply to a person who ceases to be a director on or before the last day of the time at which this section requires the person to make the disclosure. O. Reg. 180/17, s. 6.

**Note: On November 1, 2017, the day subsection 31 (2) of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, Part III of the Regulation is amended by adding the following section: (See: O. Reg. 180/17, s. 7)**

Calling a meeting to fill a vacancy on the board

**11.11** (1) An owner may call a meeting under subsection 34 (5) of the Act if,

(a) either of the following conditions is met:

(i) no directors remain on the board, or

(ii) the number of directors remaining on the board ceases to be sufficient for a quorum and the remaining directors do not call a meeting described in subsection 34 (4) of the Act within 15 days after the board loses quorum; and

(b) the owner has not received a notice of meeting that another owner has called in accordance with subsection 34 (5) of the Act.  
O. Reg. 180/17, s. 7.

(2) The notice of a meeting called under subsection (1) shall be in English or French and shall be in the form that the Minister responsible for the administration of subsection 34 (5) of the Act specifies and shall include,

(a) a statement of the quorum for the transaction of business at the meeting;

(b) a statement of who may count towards the quorum mentioned in clause (a);

(c) a statement of the manner in which an owner may be present at the meeting and may vote at the meeting in accordance with section 52 of the Act;

(d) a statement of the number of persons of which the board consists;

(e) a statement of the number of positions on the board for election at the meeting;

(f) a statement of the number of positions, if any, described in subclause (e) for which voting is reserved as described in subsection 51 (6) of the Act;

(g) a statement of the term of each director who is to be elected at the meeting; and

(h) a copy of the text of subsection 29 (1) of the Act and section 11.6 of this Regulation. O. Reg. 180/17, s. 7.

(3) The owner who calls a meeting under subsection (1) may serve the notice on each other owner by,

(a) delivering it to that owner personally;

(b) sending it by prepaid mail addressed to that owner at the address for service that appears in the record that the corporation maintains under section 46.1 of the Act and of which the owner obtains a copy under subsection 55 (3) of the Act; or

(c) delivering it at that owner's unit or at the mail box for the unit unless the owner serving the notice has, at least 20 days before the day of the meeting, received a written request from the other owner that the notice not be given in this manner. O. Reg. 180/17, s. 7.

(4) A meeting called under subsection (1) shall not be held if more than 30 days have passed since the day that the owner calls it. O. Reg. 180/17, s. 7.

**Note: On November 1, 2017, the day section 32 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, Part III of the Regulation is amended by adding the following section: (See: O. Reg. 180/17, s. 8)**

Meeting of directors by electronic means

**11.12** (1) This section applies to a meeting of directors only if the meeting is called on or after the day section 32 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force. O. Reg. 180/17, s. 8.

(2) The other form of communication system that is prescribed for the purpose of subsection 35 (5) of the Act is any system that is transmitted in digital form or in other intangible form by electronic, magnetic or optical means or by any other means that has capabilities for transmission similar to those means. O. Reg. 180/17, s. 8.

(3) For the purpose of subsection 35 (5) of the Act, a meeting of directors must be held by a communication system that allows the directors to communicate concurrently. O. Reg. 180/17, s. 8.

**Note: On November 1, 2017, the day section 38 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, the Regulation is amended by adding the following heading before section 12: (See: O. Reg. 180/17, s. 9)**

## PERFORMANCE AUDIT

Performance audit

**12.** (1) In subsection (2),

“telecommunications” means the emission, transmission or reception of any combination of signs, signals, writing, images, sound, data, alphanumeric characters or intelligence of any nature by wire, cable, radio or an optical, electromagnetic or any similar technical system. O. Reg. 48/01, s. 12 (1).

(2) For the purpose of clause 44 (5) (a) of the Act, the person who conducts the performance audit shall inspect the elevating devices, as defined in Ontario Regulation 209/01 (Elevating Devices) made under the *Technical Standards and Safety Act, 2000*, if any, of the buildings on the property and the telecommunications systems, if any, that service the buildings. O. Reg. 48/01, s. 12 (2); O. Reg. 383/12, s. 2.

(3) For the purpose of clause 44 (5) (b) of the Act, the person who conducts the performance audit shall inspect the sprinkler systems, if any, and the outside parking areas, if any. O. Reg. 48/01, s. 12 (3).

(4) In addition to the material specified in subsection 44 (8) of the Act, the written report mentioned in that subsection shall also include a copy of the current declaration and description registered in respect of the corporation, including all amendments to that declaration and description. O. Reg. 48/01, s. 12 (4).

**Note: On November 1, 2017, the day section 38 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, the Regulation is amended by adding the following section: (See: O. Reg. 180/17, s. 10)**

## OWNERS

### Material for meetings

**12.1** (1) For the purpose of subsection 45 (5) of the Act, the prescribed material consists of,

(a) all material that a by-law of the corporation requires;

(b) if the meeting is an annual general meeting held on or after the day that subsection comes into force,

(i) the most recent periodic information certificate, if any, that the corporation sent to the owners or was required to send to the owners under section 11.1, and

(ii) the information certificate updates, if any, that the corporation sent to the owners or was required to send to the owners under section 11.2 after the periodic information certificate described in subclause (i); and

(c) if the meeting is a meeting held on or after the day that subsection comes into force to elect one or more directors, the statements and information that a person provides in writing under subsection 11.6 (5) or (7) or orally under subsection 11.6 (7). O. Reg. 180/17, s. 10.

(2) For the purpose of subsection 45 (5) of the Act, the prescribed manner by which the board shall place the required material before a meeting of owners shall be,

(a) making one or more copies of the materials described in clause (1) (b) available in paper form for examination at the meeting;

(b) adding an oral presentation of the statements and information described in clause (1) (c) to the business to be presented at the meeting; or

(c) any other manner set out in a by-law of the corporation. O. Reg. 180/17, s. 10.

**Note: On November 1, 2017, the day subsection 39 (1) of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, the Regulation is amended by adding the following section: (See: O. Reg. 180/17, s. 11 (1))**

Preliminary notice of meeting of owners

**12.2** (1) The date mentioned in clause 45.1 (1) (a) or (b) of the Act or clause (2) (h) of this section shall be,

(a) at least 15 days after the board gives the preliminary notice; and

(b) at least one day before the board gives the notice calling the meeting of owners described in subsection 45.1 (1) of the Act. O. Reg. 180/17, s. 11 (1).

(2) In addition to the material specified in subsection 45.1 (1) of the Act, a preliminary notice with respect to a meeting of owners shall contain,

(a) a statement of the purpose of the notice, including a statement that the board is required to send out subsequently a notice calling the meeting of owners with information about the meeting;

(b) a statement of the purpose of the meeting, which shall include,

(i) a statement of the nature of the business to be presented at the meeting if an owner has made a requisition for the meeting under section 46 of the Act, and

(ii) a statement of the purpose of any proposed changes to the declaration, description, by-laws, rules or agreements that are to be discussed at the meeting;

(c) a statement of the projected date of the meeting;

(d) a statement specifying the date mentioned in clause 45.1 (1) (a) or (b) of the Act;

(e) a statement that, subject to subsection 12.8 (1), the board is not required to include in the notice calling the meeting any material mentioned in clause 45.1 (1) (b) or (c) of the Act;

(f) a statement that an individual may notify the board under clause 45.1 (1) (a) of the Act and an owner may provide material to the board under clause 45.1 (1) (b) of the Act by the method, if any, set out in a resolution of the board described in clause 13.3 (4) (d) or by another method that is specified in the notice in accordance with subsection (3) of this section;

(g) if the meeting is to elect one or more directors,

(i) a statement of the number of persons of which the board consists,

(ii) a statement of the number of positions on the board for election at the meeting,

(iii) a statement of the number of positions, if any, described in subclause (ii) for which voting is reserved as described in subsection 51 (6) of the Act,

(iv) a statement of the term of each director who is to be elected at the meeting, and

(v) a copy of the text of subsection 29 (1) of the Act and section 11.6 of this Regulation;

(h) if the nature of the business to be presented at the meeting includes the removal or appointment of an auditor, a statement that each owner, who intends to propose a candidate for the appointment of an auditor at the meeting, may notify the board in writing, by a date that is specified in the notice, of the name and address of the person the owner intends to so propose;

(i) if the meeting is a meeting that has been requisitioned in accordance with section 46 of the Act for the purpose of considering an addition, alteration or improvement to the common elements, a change in the assets of the corporation or a change in a service that the corporation provides to the owners under subsection 97 (3) of the Act,

(i) a statement that describes the proposed addition, alteration, improvement or change, and

(ii) a statement of the estimated cost of the proposed addition, alteration, improvement or change indicating the manner in which the corporation proposes to pay the cost;

**Note: On the day section 88 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, clause 12.2 (2) (i) of the Regulation is revoked and the following substituted: (See: O. Reg. 180/17, s. 11 (2))**

(i) if the meeting is a meeting that has been requisitioned in accordance with section 46 of the Act for the purpose of considering a modification under subsection 97 (6) of the Act,

(i) a statement that describes the proposed modification, and

(ii) a statement of the estimated cost of the proposed modification indicating the manner in which the corporation proposes to pay the cost;

(j) if the meeting is a meeting described in subsection 120 (2) of the Act,

(i) a copy of the certificate described in clause 120 (3) (c) of the Act, but not including the documents described in clauses 76 (1) (f), (g), (i) and (p) of the Act, and

(ii) a statement of the municipal address of each amalgamating corporation if it differs from the mailing address of the corporation; and

(k) all other materials set out in a by-law of the corporation. O. Reg. 180/17, s. 11 (1).

(3) For the purpose of clause (2) (f), a preliminary notice with respect to a meeting of owners shall specify one or more of the following methods, in addition to specifying the method, if any, set out in a resolution of the board described in clause 13.3 (4) (d):

1. Sending the notice or material to any address, described in clause 7 (2) (e) or section 108 of the Act, for or of the corporation.

2. Any other manner set out in a by-law of the corporation.

3. Any other method described in subsection 13.3 (4). O. Reg. 180/17, s. 11 (1).

(4) The preliminary notice shall be in English or French and shall be in the form that the Minister responsible for the administration of subsection 45.1 (1) of the Act specifies. O. Reg. 180/17, s. 11 (1).

(5) Section 45.1 of the Act does not apply if the board or an owner sends out a notice to call a meeting of owners and the purpose of the meeting is solely to fill a vacancy in the board under subsection 34 (4) or (5) of the Act. O. Reg. 180/17, s. 11 (1).

(6) This section does not apply to a notice calling a meeting of owners unless the meeting is held 40 days or more after the day section 45.1 of the Act comes into force and the board has not sent any notice with respect to the meeting before that day. O. Reg. 180/17, s. 11 (1).

**Note: On November 1, 2017, the day section 41 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, the Regulation is amended by adding the following sections: (See: O. Reg. 180/17, s. 12)**

#### Identification of owner's unit

**12.3** (1) For the purposes of subsection 46.1 (2) and clause 46.1 (3) (a) of the Act and subject to subsection (3) of this section, the owner's unit shall be identified by,

(a) one of the following statements, together with the additional statement described in subsection (2):

(i) a statement of the unit number, together with the number or letter of the level of the unit, as described in clauses 45 (1) (a) and (b) of Ontario Regulation 49/01 (Description and Registration) made under the Act, or

(ii) if the unit is not described in subsection 49 (3) of the Act, a statement of the unit number that is part of the full address of the unit;

(b) if the unit is not described in subsection 49 (3) of the Act, a statement of the full address of the unit, including, where applicable, the street number, street name, street direction, unit number, rural route number, town or city, and postal code; or

(c) a statement of the unit's property identifier described in clause 45 (1) (e) of Ontario Regulation 49/01 (Description and Registration) made under the Act. O. Reg. 180/17, s. 12.

(2) For the purpose of clause (1) (a), the additional statement is a statement that describes or identifies the condominium plan, property or corporation of which the unit forms part and that is,

(a) a statement of the identification of the condominium plan specified in subsection 27 (2) of Ontario Regulation 49/01 (Description and Registration) made under the Act;

(b) a statement of any address, described in clause 7 (2) (e) or section 108 of the Act, for or of the corporation;

(c) a statement of the name assigned to the corporation under subsection 27 (3) of Ontario Regulation 49/01 (Description and Registration) made under the Act; or

(d) any other statement that clearly identifies the condominium plan, property or corporation described in clause (a), (b) or (c). O. Reg. 180/17, s. 12.

(3) For the purpose of subsection 46.1 (2) of the Act, the declarant who is the first owner of each unit in a corporation immediately following the registration of the declaration and description shall identify each unit by,

(a) a statement of the unit number, together with the number or letter of the level of the unit, as described in clauses 45 (1) (a) and (b) of Ontario Regulation 49/01 (Description and Registration) made under the Act;

(b) if the unit is not described in subsection 49 (3) of the Act, a statement of the full address of the unit, including, where applicable, the street number, street name, street direction, unit number, rural route number, town or city, and postal code;

(c) a statement of the unit's property identifier described in clause 45 (1) (e) of Ontario Regulation 49/01 (Description and Registration) made under the Act; and

(d) a statement that describes or identifies the condominium plan, property and corporation of which the unit forms part and that consists of,

(i) a statement of the identification of the condominium plan specified in subsection 27 (2) of Ontario Regulation 49/01 (Description and Registration) made under the Act,

(ii) a statement of the address, described in clause 7 (2) (e) or section 108 of the Act, for or of the corporation, and

(iii) a statement of the name assigned to the corporation under subsection 27 (3) of Ontario Regulation 49/01 (Description and Registration) made under the Act. O. Reg. 180/17, s. 12.

(4) Subsections 46.1 (2) and (3) of the Act and subsections (1), (2) and (3) of this section do not apply to an owner who became an owner before the day section 46.1 of the Act comes into force if,

(a) the corporation has a record described in subsection 47 (2) of the Act, as it read immediately before the day section 42 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, with respect to the owner; and

(b) the record mentioned in clause (a) contains the information required by this section. O. Reg. 180/17, s. 12.

(5) For the purposes of subsection 46.1 (2) and clause 46.1 (3) (a) of the Act and subject to subsection (6) of this section, the owner's common interest in a common elements condominium corporation shall be identified by,

(a) a statement that identifies the owner's parcel of tied land to which the common interest of the owner attaches under clause 139 (2) (a) of the Act and that consists of,

(i) a statement of the legal description of the parcel of tied land,

(ii) a statement of the property identifier, if any, assigned under section 141 of the *Land Titles Act* to the parcel of tied land, or

(iii) a statement of the full address of the parcel of tied land, including, where applicable, the street number, street name, street direction, unit number, rural route number, town or city, and postal code; and

(b) a statement that describes or identifies the condominium plan, property or corporation of which the common interest forms part and that consists of,

(i) a statement of the identification of the condominium plan specified in subsection 27 (2) of Ontario Regulation 49/01 (Description and Registration) made under the Act,

(ii) a statement of any address, described in clause 7 (2) (e) or section 108 of the Act, for or of the corporation,

(iii) a statement of the name assigned to the corporation under subsection 27 (3) of Ontario Regulation 49/01 (Description and Registration) made under the Act, or

(iv) any other statement that clearly identifies the condominium plan, property or corporation described in subclause (i), (ii) or (iii). O. Reg. 180/17, s. 12.

(6) For the purpose of subsection 46.1 (2) of the Act, the declarant who is the first owner of each common interest in a common elements condominium corporation immediately following the registration of the declaration and description shall identify each common interest by,

(a) a statement that identifies the owner's parcel of tied land to which the common interest of the owner attaches under clause 139 (2) (a) of the Act and that consists of,

(i) a statement of the legal description of the parcel of tied land,

(ii) a statement of the property identifier, if any, assigned under section 141 of the *Land Titles Act* to the parcel of tied land, and

(iii) a statement of the full address of the parcel of tied land, including, where applicable, the street number, street name, street direction, unit number, rural route number, town or city, and postal code; and

(b) a statement that describes or identifies the condominium plan, property or corporation of which the common interest forms part and that consists of,

(i) a statement of the identification of the condominium plan specified in subsection 27 (2) of Ontario Regulation 49/01 (Description and Registration) made under the Act,

(ii) a statement of any address, described in clause 7 (2) (e) or section 108 of the Act, for or of the corporation, and

(iii) a statement of the name assigned to the corporation under subsection 27 (3) of Ontario Regulation 49/01 (Description and Registration) made under the Act. O. Reg. 180/17, s. 12.

(7) The information and statements described in subsection 46.1 (2), clause 46.1 (3) (a) of the Act or subsection (1), (2) or (5) of this section may be in English or French and may be in the form that the Minister responsible for the administration of subsection 46.1 (2) of the Act specifies. O. Reg. 180/17, s. 12.

#### Owner's address for service

**12.4** If an owner became an owner in a corporation before the day section 46.1 of the Act comes into force and the corporation has a record described in subsection 47 (2) of the Act, as it read immediately before the day section 42 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, with respect to the owner, then, for the purpose of clause 46.1 (3) (b) of the Act, on the day section 46.1 of the Act comes into force, the record of the corporation required by that section shall be deemed to contain an address for service for the owner, which is,

(a) the address of the owner's unit, if the corporation is not a common elements condominium corporation, if the address meets the requirement of the definition of "address for service" in subsection 1 (2) of this Regulation and if there is no other address for the owner in the record described in that subsection 47 (2) of the Act;

(b) the address of the owner's parcel of tied land to which the common interest of the owner attaches under clause 139 (2) (a) of the Act, if the corporation is a common elements condominium corporation, if the address meets the requirement of the definition of "address for service" in subsection 1 (2) of this Regulation and if there is no other address for the owner in the record described in that subsection 47 (2) of the Act; or

(c) the address of the owner in the record described in that subsection 47 (2) of the Act, if the address meets the requirement of the definition of “address for service” in subsection 1 (2) of this Regulation. O. Reg. 180/17, s. 12.

#### Identification of unit subject to a mortgage

**12.5** (1) For the purpose of subclause 46.1 (3) (c) (i) of the Act, the unit that is the subject of a mortgage shall be identified by,

(a) one of the following statements, together with the additional statement described in subsection (2):

(i) a statement of the unit number, together with the number or letter of the level of the unit, as described in clauses 45 (1) (a) and (b) of Ontario Regulation 49/01 (Description and Registration) made under the Act, or

(ii) if the unit is not described in subsection 49 (3) of the Act, a statement of the unit number that is part of the full address of the unit;

(b) if the unit is not described in subsection 49 (3) of the Act, a statement of the full address of the unit, including, where applicable, the street number, street name, street direction, unit number, rural route number, town or city, and postal code; or

(c) a statement of the unit’s property identifier described in clause 45 (1) (e) of Ontario Regulation 49/01 (Description and Registration) made under the Act. O. Reg. 180/17, s. 12.

(2) For the purpose of clause (1) (a), the additional statement is a statement that describes or identifies the condominium plan, property or corporation of which the unit forms part and that is,

(a) a statement of the identification of the condominium plan specified in subsection 27 (2) of Ontario Regulation 49/01 (Description and Registration) made under the Act;

(b) a statement of any address, described in clause 7 (2) (e) or section 108 of the Act, for or of the corporation; or

(c) a statement of the name assigned to the corporation under subsection 27 (3) of Ontario Regulation 49/01 (Description and Registration) made under the Act. O. Reg. 180/17, s. 12.

(3) For the purpose of subclause 46.1 (3) (c) (i) of the Act, the common interest that, under clause 139 (2) (a) of the Act, attaches to an owner’s parcel of tied land and that is the subject of a mortgage shall be identified by,

(a) a statement that identifies the parcel of tied land and that consists of,

(i) a statement of the legal description of the parcel of tied land,

(ii) a statement of the property identifier, if any, assigned under section 141 of the *Land Titles Act* to the parcel of tied land, or

(iii) a statement of the full address of the parcel of tied land, including, where applicable, the street number, street name, street direction, unit number, rural route number, town or city, and postal code; and

(b) a statement that describes or identifies the condominium plan, property or corporation of which the common interest forms part and that consists of,

(i) a statement of the identification of the condominium plan specified in subsection 27 (2) of Ontario Regulation 49/01 (Description and Registration) made under the Act,

(ii) a statement of any address, described in clause 7 (2) (e) or section 108 of the Act, for or of the corporation, or

(iii) a statement of the name assigned to the corporation under subsection 27 (3) of Ontario Regulation 49/01 (Description and Registration) made under the Act. O. Reg. 180/17, s. 12.

(4) The information and statements described in clause 46.1 (3) (c) of the Act or subsection (1), (2) or (3) of this section may be in English or French and may be in the form that the Minister responsible for the administration of clause 46.1 (3) (c) of the Act specifies. O. Reg. 180/17, s. 12.

(5) Clause 46.1 (3) (c) of the Act and subsections (1), (2) and (3) of this section do not apply to a mortgagee who became the mortgagee of a unit before the day section 46.1 of the Act comes into force if the corporation has a record described in subsection 47 (2) of the Act, as it read immediately before the day section 42 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, that contains the information and statements described in clause 46.1 (3) (c) of the Act or subsection (1), (2) or (3) of this section. O. Reg. 180/17, s. 12.

#### Mortgagee's address for service

**12.6** If a mortgagee became a mortgagee of a unit in a corporation before the day section 46.1 of the Act comes into force and the corporation has a record described in subsection 47 (2) of the Act, as it read immediately before the day section 42 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, with respect to the mortgagee, then, for the purpose of clause 46.1 (3) (c) of the Act, on the day section 46.1 of the Act comes into force, the record of the corporation required by that section shall be deemed to contain an address for service for the mortgagee, which is the address of the mortgagee in the record described in that

subsection 47 (2) of the Act, if the address meets the requirement of the definition of “address for service” in subsection 1 (2) of this Regulation. O. Reg. 180/17, s. 12.

**Note: On November 1, 2017, the day section 42 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, the Regulation is amended by adding the following sections: (See: O. Reg. 180/17, s. 13 (1))**

#### Means of service of notices

**12.7 (1)** For the purpose of clause 47 (6) (a) of the Act, an agreement described in clause 47 (4) (c) of the Act with respect to an owner or an agreement described in clause 47 (5) (c) of the Act with respect to a mortgagee shall be,

(a) contained in one or more communications between the corporation and the owner or mortgagee, as the case may be, that set out,

(i) the name of the owner described in clause 46.1 (3) (a) of the Act or the name of the mortgagee described in clause 46.1 (3) (c) of the Act, as the case may be,

(ii) a statement of a method of electronic communication that the board has, by resolution, decided the corporation may use for the purposes of the Act and this Regulation, and

(iii) a statement indicating that the owner or mortgagee, as the case may be, agrees that the owner or mortgagee is sufficiently served, as described in section 54 of the Act, by the method of electronic communication described in subclause (ii); or

(b) in English or French and in the form that the Minister responsible for the administration of clause 47 (6) (a) of the Act specifies. O. Reg. 180/17, s. 13 (1).

(2) An agreement described in clause 47 (4) (c) of the Act with respect to an owner may be in a form authorized by clause 47 (6) (b) of the Act if,

(a) the method of electronic communication that the agreement authorizes the corporation to use for the purposes of the Act and this Regulation is one that the board has, by resolution, decided the corporation may so use; and

(b) the written communication of the agreement that the owner makes to the corporation under clause 46.1 (3) (d) of the Act contains a statement indicating,

(i) the name of the owner described in clause 46.1 (3) (a) of the Act, and

(ii) that the owner is sufficiently served, as described in section 54 of the Act, by the method of electronic communication described in clause (a) of this subsection. O. Reg. 180/17, s. 13 (1).

(3) An agreement described in clause 47 (5) (c) of the Act with respect to a mortgagee may be in a form authorized by clause 47 (6) (b) of the Act if,

(a) the method of electronic communication that the agreement authorizes the corporation to use for the purposes of the Act and this Regulation is one that the board has, by resolution, decided the corporation may so use; and

(b) the written communication of the agreement that the mortgagee makes to the corporation under clause 46.1 (3) (e) of the Act contains a statement indicating,

(i) the name of the mortgagee described in clause 46.1 (3) (c) of the Act, and

(ii) that the mortgagee is sufficiently served, as described in section 54 of the Act, by the method of electronic communication described in clause (a) of this subsection. O. Reg. 180/17, s. 13 (1).

(4) For the purposes of clause 47 (4) (d) of the Act and clause 11.11 (3) (c) of this Regulation, a notice is sufficiently delivered if it is,

(a) sent by prepaid mail to an address for the unit or the mail box for the unit that is capable of receiving prepaid mail;

(b) sent by courier delivery to an address for the unit or the mail box for the unit that is capable of receiving courier delivery; or

(c) deposited in the mail box for the unit. O. Reg. 180/17, s. 13 (1).

#### Notice of meeting of owners

**12.8** (1) The prescribed material that subclause 47 (7) (b) (iii) of the Act requires be included in a notice of meeting of owners is,

(a) the material, if any, contained in a submission made to the board, any record of the corporation contained or described in the submission or any addition to the business to be presented at the meeting described in the submission, if,

(i) the submission is made by those owners who, at the time the board receives the submission,

(A) own at least 15 per cent of the units, and

(B) appear in the record of the corporation required by section 46.1 of the Act or are required by that section to appear in that record,

(ii) the submission is in English or French and in the form that the Minister responsible for the administration of clause 45.1 (1) (b) of the Act specifies,

(iii) the submission is made to the board by the date described in subsection 12.2 (1) and using the method allowed by clause 12.2 (2) (f), and

(iv) if the submission requests that an addition be made to the business to be presented at the meeting, the addition is not contrary to the Act or this Regulation;

(b) a statement of the quorum for the transaction of business at the meeting;

(c) a statement of who may count towards the quorum mentioned in clause (b);

(d) a statement of the manner in which an owner may be present at the meeting and may vote at the meeting in accordance with section 52 of the Act;

(e) if the meeting is to elect one or more directors,

(i) a statement of the number of persons of which the board consists,

(ii) a statement of the number of positions on the board for election at the meeting,

(iii) a statement of the number of positions, if any, described in subclause (ii) for which voting is reserved as described in subsection 51 (6) of the Act,

(iv) a statement of the term of each director who is to be elected at the meeting,

(v) the name and address of each individual who, for the purpose of subclause 11.2 (2) (c) (ii), has provided notice to the board in accordance with that subclause,

(vi) a copy of the statements and information provided to the board in accordance with subsection 11.6 (5), and

(vii) a copy of the text of subsection 29 (1) of the Act and section 11.6 of this Regulation;

(f) if the nature of the business to be presented at the meeting includes the removal or appointment of an auditor, a statement of the name and address of each person described in clause 12.2 (2) (h), in respect of whom the board has received notice in accordance with that clause;

(g) if the meeting is a meeting that has been requisitioned in accordance with section 46 of the Act for the purpose of considering an addition, alteration or improvement to the common elements, a change in the assets of the corporation or a change in a service that the corporation provides to the owners under subsection 97 (3) of the Act,

(i) a statement that describes the proposed addition, alteration, improvement or change, and

(ii) a statement of the estimated cost of the proposed addition, alteration, improvement or change indicating the manner in which the corporation proposes to pay the cost; and

**Note: On the day section 88 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, clause 12.8 (1) (g) of the Regulation is revoked and the following substituted: (See: O. Reg. 180/17, s. 13 (2))**

(g) if the meeting is a meeting that has been requisitioned in accordance with section 46 of the Act for the purpose of considering a modification under subsection 97 (6) of the Act,

(i) a statement that describes the proposed modification, and

(ii) a statement of the estimated cost of the proposed modification indicating the manner in which the corporation proposes to pay the cost; and

(h) all other materials set out in a by-law of the corporation. O. Reg. 180/17, s. 13 (1).

(2) A notice of meeting of owners shall be in English or French and shall be in the form that the Minister responsible for the administration of subsection 47 (7) of the Act specifies. O. Reg. 180/17, s. 13 (1).

(3) Section 47 of the Act does not apply if an owner sends out a notice to call a meeting of owners and the purpose of the meeting is solely to fill a vacancy in the board under subsection 34 (5) of the Act. O. Reg. 180/17, s. 13 (1).

(4) This section does not apply to a notice calling a meeting of owners unless the meeting is held 40 days or more after the day section 47 of the Act, as re-enacted by section 42 of Schedule 1 to the *Protecting Condominium Owners Act, 2015*, comes into force and the board has not sent any notice with respect to the meeting before that day. O. Reg. 180/17, s. 13 (1).

**Note: On November 1, 2017, the day subsection 45 (1) of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, the Regulation is amended by adding the following section: (See: O. Reg. 180/17, s. 14)**

#### Quorum

**12.9** (1) Subject to subsection (2), the other prescribed meetings for the purposes of subsections 50 (1) and (1.1) of the Act are,

(a) any meeting to elect one or more directors that is not a meeting mentioned in section 43 or subsection 45 (2) of the Act; and

(b) any meeting to appoint an auditor that is not a meeting mentioned in section 43 or subsection 45 (2) of the Act. O. Reg. 180/17, s. 14.

(2) Subsection (1) does not apply to any part of the business of a meeting that concerns the removal of a director or the removal of an auditor. O. Reg. 180/17, s. 14.

(3) This section does not apply to a meeting of owners unless the meeting is held 40 days or more after the day subsections 50 (1) and (1.1) of the Act, as re-enacted by subsection 45 (1) of Schedule 1 to the *Protecting Condominium Owners Act, 2015*, come into force and the board has not sent any notice with respect to the meeting before that day. O. Reg. 180/17, s. 14.

**Note: On November 1, 2017, the day subsection 48 (1) of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, the Regulation is amended by adding the following section: (See: O. Reg. 180/17, s. 15)**

#### Method of voting

**12.10** In subsection 52 (2) of the Act,

“recorded vote” means a recorded vote described in clause 52 (1) (b) of the Act. O. Reg. 180/17, s. 15.

#### Proxies

**13.** An instrument appointing a proxy to vote at a meeting of owners may be in the form that the Minister responsible for the administration of section 52 of the Act specifies. O. Reg. 442/11, s. 5.

**Note: On November 1, 2017, the day subsection 48 (1) of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, section 13 of the Regulation is amended by striking out “may” and substituting “shall”. (See: O. Reg. 180/17, s. 16)**

**Note: On November 1, 2017, the day section 51 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, the Regulation is amended by adding the following sections: (See: O. Reg. 180/17, s. 17 (1))**

## RECORDS

### Records

**13.1** (1) The following records of a corporation are prescribed for the purpose of paragraph 11 of subsection 55 (1) of the Act:

1. A copy of the status certificates that the corporation has issued under section 76 of the Act.
2. A record of the statements and information provided to the board or the corporation under sections 11.6 and 11.10 of this Regulation for the purposes of clauses 29 (1) (f) and 29 (2) (f) of the Act.
3. All material and records provided to or obtained by the corporation under section 11.8.
4. Records that relate to employees of the corporation and that the corporation creates or receives.
5. Records that relate to actual or contemplated litigation and that the corporation creates or receives.
6. Records that relate to claims under an insurance policy in relation to the corporation and that the corporation creates or receives, including insurance investigations involving the corporation.
7. Records that relate to specific units or owners and that the corporation creates or receives.
8. A copy of all existing and expired warranties and guarantees that the corporation receives and that relate to the property or to any real or personal property that the corporation owns or that is the subject of an agreement mentioned in section 113 or subsection 154 (5) of the Act entered into by or on behalf of the corporation.
9. All reports and opinions of an architect, engineer, or other person whose profession lends credibility to the report or opinion, that the corporation receives and that relate to physical features of the property or of any real or personal property that the corporation owns or that is the subject of an agreement mentioned in section 113 or subsection 154 (5) of the Act entered into by or on behalf of the corporation.

10. All drawings and plans that the corporation receives and that relate to physical features of the property or of any real or personal property that the corporation owns or that is the subject of an agreement mentioned in section 113 or subsection 154 (5) of the Act entered into by or on behalf of the corporation.
11. All reports and opinions of an appraiser that the corporation receives and that relate to the property or to any real or personal property that the corporation owns or that is the subject of an agreement mentioned in section 113 or subsection 154 (5) of the Act entered into by or on behalf of the corporation.
12. Records that relate to a right, title, interest, encumbrance or demand of any kind affecting land in relation to the corporation, but not including the interest of an owner in the owner's unit or common interest, and that the corporation creates or receives.
13. Records that relate to an addition, alteration or improvement to the common elements, a change in the assets of the corporation or a change in a service that the corporation provides to the owners under section 97 or 98 of the Act and that the corporation creates or receives.

**Note: On the day section 88 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, paragraph 13 of subsection 13.1 (1) of the Regulation is revoked and the following substituted: (See: O. Reg. 180/17, s. 17 (2))**

13. Records that relate to a modification under section 97 or 98 of the Act and that the corporation creates or receives.
14. All instruments appointing a proxy for a meeting of owners that are delivered to the corporation before the meeting if required or permitted by the by-laws.
15. A record of all recorded votes described in subclause 52 (1) (b) (iii) of the Act for a meeting of owners that are submitted at the meeting.
16. A copy of all agreements mentioned in paragraph 8 of subsection 55 (1) of the Act that have expired.
17. A copy of all insurance policies that the corporation has obtained and maintains.
18. A copy of all insurance policies that the corporation has obtained and that have expired.
19. A copy of all redacted versions of a record described in subsection 55 (1) of the Act or any of paragraphs 1 to 18 of this subsection. O. Reg. 180/17, s. 17 (1).

(2) Subject to subsections (3) and (4), the corporation shall retain the records described in subsection 55 (1) of the Act and subsection (1) of this section for the following periods of time:

1. For a record described in paragraph 1, 3.1 or 9 of subsection 55 (1) of the Act, at least seven years from the end of the last fiscal period to which the record relates.
2. For a record described in paragraph 2, 3 or 4 to 8 of subsection 55 (1) of the Act or paragraph 10 of subsection (1) of this section, at all times.
3. For a record described in paragraph 10 of subsection 55 (1) of the Act, at least 90 days following the date of the meeting mentioned in that paragraph, unless the corporation receives written notice of actual or contemplated litigation relating to the record during the 90 days or such longer time period that the corporation retains the record.
4. For a record described in paragraph 3 in respect of which the corporation has received the written notice described in that paragraph, the period of time ending on the latest of,
  - i. the last day of the 90 days mentioned in that paragraph,
  - ii. the date of the final order of a court, an arbitrator or an administrative tribunal in respect of any actual litigation mentioned in that paragraph,
  - iii. if the order mentioned in subparagraph ii specifically requires the corporation to retain the record for a time period, the last day of that time period,
  - iv. the day the corporation enters into a settlement agreement in respect of any actual litigation mentioned in that paragraph,
  - v. if the agreement mentioned in subparagraph iv specifically requires the corporation to retain the record for a time period, the last day of that time period, and
  - vi. the last day of the six-month period following delivery of written notice of contemplated litigation mentioned in that paragraph if the corporation does not receive written notice of actual litigation in respect of that contemplated litigation within that time period.
5. For a status certificate described in paragraph 1 of subsection (1), at least seven years from the date the certificate is issued.

6. For a record described in paragraph 2 of subsection (1), at least seven years from the date the record is provided to the board or the corporation as described in that paragraph.
7. For a record described in paragraph 3 of subsection (1), at least seven years from the date the record is provided to or obtained by the corporation as described in that paragraph.
8. For a record described in paragraph 4, 7, 12 or 13 of subsection (1), at least seven years from the date the corporation creates or receives the record as described in the applicable paragraph.
9. For a record relating to actual litigation that is described in paragraph 5 of subsection (1),
  - i. at least seven years from the date the litigation concluded, if the litigation has concluded, or
  - ii. at all times, if the litigation has not concluded.
10. For a record described in paragraph 6 of subsection (1), at all times, subject to paragraph 11 of this subsection.
11. For a record relating to a claim, including insurance investigations, that is described in paragraph 6 of subsection (1) and that has concluded, at least seven years from the date the claim concluded.
12. For a record relating to an existing warranty or guarantee described in paragraph 8 of subsection (1), at all times.
13. For a record relating to an expired warranty or guarantee described in paragraph 8 of subsection (1), at least seven years from the date the warranty or guarantee expired.
14. For a record described in paragraph 9 or 11 of subsection (1), at least seven years from the date the corporation receives the record as described in the applicable paragraph.
15. For a record described in paragraph 14 of subsection (1), at least 90 days following the date the record is delivered as described in that paragraph, unless the corporation receives written notice of actual or contemplated litigation relating to the record during the 90 days or such longer time period that the corporation retains the record.
16. For a record described in paragraph 15 in respect of which the corporation has received the written notice described in that paragraph, the period of time ending on the latest of,
  - i. the last day of the 90 days mentioned in that paragraph,

ii. the date of the final order of a court, an arbitrator or an administrative tribunal in respect of any actual litigation mentioned in that paragraph,

iii. if the order mentioned in subparagraph ii specifically requires the corporation to retain the record for a time period, the last day of that time period,

iv. the day the corporation enters into a settlement agreement in respect of any actual litigation mentioned in that paragraph,

v. if the agreement mentioned in subparagraph iv specifically requires the corporation to retain the record for a time period, the last day of that time period, and

vi. the last day of the six-month period following delivery of written notice of contemplated litigation mentioned in that paragraph if the corporation does not receive written notice of actual litigation in respect of that contemplated litigation within that time period.

17. For a record described in paragraph 15 of subsection (1), for at least 90 days following the date of the meeting mentioned in that paragraph, unless the corporation receives written notice of actual or contemplated litigation relating to the record during the 90 days or such longer time period that the corporation retains the record.

18. For a record described in paragraph 17 in respect of which the corporation has received the written notice described in that paragraph, the period of time ending on the latest of,

i. the last day of the 90 days mentioned in that paragraph,

ii. the date of the final order of a court, an arbitrator or an administrative tribunal in respect of any actual litigation mentioned in that paragraph,

iii. if the order mentioned in subparagraph ii specifically requires the corporation to retain the record for a time period, the last day of that time period,

iv. the day the corporation enters into a settlement agreement in respect of any actual litigation mentioned in that paragraph,

v. if the agreement mentioned in subparagraph iv specifically requires the corporation to retain the record for a time period, the last day of that time period, and

vi. the last day of the six-month period following delivery of written notice of contemplated litigation mentioned in that paragraph if the corporation does not receive written notice of actual litigation in respect of that contemplated litigation within that time period.

19. For an agreement described in paragraph 16 of subsection (1), at least seven years from the day the agreement expires.

20. For a policy described in paragraph 17 of subsection (1), at all times.

21. For a policy described in paragraph 18 subsection (1), at least seven years from the day the policy expires.

22. For a redacted version of a record described in paragraph 19 of subsection (1) of this section, at least the same period of time that applies to the corresponding record listed under subsection 55 (1) of the Act or subsection (1) of this section in respect of which a redacted version has been created.

23. For a record in respect of which a retention period is not specified in subsection 55 (2) of the Act or this subsection, the period of time that the board determines is necessary for the corporation to perform its objects and duties or to exercise its powers. O. Reg. 180/17, s. 17 (1).

(3) If the corporation receives a request for records from an owner, a purchaser or a mortgagee of a unit or an agent of one of them duly authorized in writing to examine or obtain copies of a record under that subsection and if the corporation receives the request during the period of time that the corporation retains the record or is required to retain it under subsection 55 (2) of the Act or subsection (2) of this section, the corporation shall retain the record for the period of time ending on the latest of,

(a) the last day of the period of time that the corporation is required to retain the record under subsection 55 (2) of the Act or subsection (2) of this section;

(b) the last day of the six-month period following delivery of the request if the corporation does not receive written notice of actual litigation in respect of a dispute with the corporation regarding compliance with subsection 55 (3) of the Act in respect of the record;

(c) the date of the final order of a court, an arbitrator or an administrative tribunal in respect of any actual litigation mentioned in clause (b);

(d) if the order mentioned in clause (c) specifically requires the corporation to retain the record for a time period, the last day of that time period;

(e) the day the corporation enters into a settlement agreement in respect of any actual litigation mentioned in clause (b); and

(f) if the agreement mentioned in clause (e) specifically requires the corporation to retain the record for a time period, the last day of that time period. O. Reg. 180/17, s. 17 (1).

(4) If the corporation receives a request to obtain copies of a record from a condominium management provider or a condominium manager described in subsection 55 (2.2) of the Act pursuant to subsection 13.12 (2) of this Regulation and if the corporation receives the request during the period of time that the corporation retains the record or is required to retain it under subsection 55 (2) of the Act or subsection (2) of this section, the corporation shall retain the record for the period of time ending on the latest of the following times, subject to the agreement described in subsection 55 (2.2) of the Act:

1. The last day of the period of time that the corporation is required to retain the record under subsection 55 (2) of the Act or subsection (2) of this section.
2. The last day of the six-month period following delivery of the request if the corporation does not receive written notice of actual litigation in respect of a dispute with the corporation regarding compliance with subsection 55 (2.2) of the Act in respect of the record.
3. The date of the final order of a court, an arbitrator or an administrative tribunal in respect of any actual litigation mentioned in paragraph 2.
4. If the order mentioned in paragraph 3 specifically requires the corporation to retain the record for a time period, the last day of that time period.
5. The day the corporation enters into a settlement agreement in respect of any actual litigation mentioned in paragraph 2.
6. If the agreement mentioned in paragraph 5 specifically requires the corporation to retain the record for a time period, the last day of that time period. O. Reg. 180/17, s. 17 (1).

(5) If a corporation is required, under subsection 55 (2) of the Act or subsection (2) of this section, to retain a record for two or more periods of time, the corporation shall retain the record for the longer or longest of those periods. O. Reg. 180/17, s. 17 (1).

(6) In addition to the requirements under subsection 55 (2) of the Act and subsection (2) of this section, the corporation shall satisfy the requirements of any Act or regulation under it in respect of the retention of records by the corporation. O. Reg. 180/17, s. 17 (1).

(7) Section 137 of the Act, as it read immediately before the day section 121 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, applies to a contravention of subsection 55 (1) of the Act that took place before that day. O. Reg. 180/17, s. 17 (1).

(8) Section 137 of the Act, as re-enacted by section 121 of Schedule 1 to the *Protecting Condominium Owners Act, 2015*, applies to a contravention of subsection 55 (1) of the Act that takes place on or after the day that section 121 comes into force. O. Reg. 180/17, s. 17 (1).

#### Method of retention of records

**13.2 (1)** For the purpose of subsection 55 (2.1) of the Act, a corporation shall keep its records that are in paper form,

(a) on any part of the property that the board determines is appropriate for the storage of records; or

(b) at a location that is not part of the property and that the board determines is,

(i) a location that enables the corporation to carry out its duties under section 55 of the Act and this Regulation with respect to records,

(ii) an appropriate location for the storage of records, and

(iii) any place of business in Ontario of the condominium management provider or the condominium manager, if any, with whom the corporation has entered into an agreement to receive condominium management services or any location that is reasonably close to the property. O. Reg. 180/17, s. 17 (1).

(2) For the purpose of subsection 55 (2.1) of the Act, a corporation shall keep its records that are in electronic form by entering or recording them by a system of electronic data processing or by any other information storage device, where the system or device,

(a) is capable of reproducing any required information from the records in an accurate and intelligible form within a time that is reasonable and that complies with the requirements of section 55 of the Act and this Regulation with respect to records;

(b) includes a password or other reasonable methods of protecting against unauthorized access; and

(c) automatically backs up files and allows the recovery of backed-up files or otherwise provides reasonable protection against loss of, damage to and inaccessibility of information. O. Reg. 180/17, s. 17 (1).

#### Examination of records

**13.3** (1) The right to examine or obtain a copy of a record under subsection 55 (3) of the Act does not apply unless,

(a) an owner, a purchaser or a mortgagee of a unit requests to examine or obtain the copy and the request is solely related to that person's interests as an owner, a purchaser or a mortgagee of a unit, as the case may be, having regard to the purposes of the Act; or

(b) a duly authorized agent of an owner, a purchaser or a mortgagee of a unit requests to examine or obtain the copy and the request is solely related to the interests of that owner, purchaser or mortgagee of a unit, as the case may be, having regard to the purposes of the Act. O. Reg. 180/17, s. 17 (1).

(2) Despite subsection (1), a person entitled to examine or obtain copies of records under subsection 55 (3) of the Act is not required to provide the corporation with a statement of the purpose of the request. O. Reg. 180/17, s. 17 (1).

(3) A request to examine or obtain copies of records under subsection 55 (3) of the Act shall be in English or French and shall be in the form that the Minister responsible for the administration of that subsection specifies. O. Reg. 180/17, s. 17 (1).

(4) The request for records and any other communication between the requester and the corporation in respect of the request must be delivered to the corporation and is sufficiently delivered if it is,

(a) sent by prepaid mail to,

(i) the address for service of,

(A) the corporation,

(B) the condominium management provider or the condominium manager, if any, with whom the corporation has an agreement to receive condominium management services, or

(C) any other person responsible for the management of the property, or

(ii) an address that the board has, by resolution, decided is an address for receiving delivery of the request;

(b) sent by courier delivery to an address described in clause (a) that is capable of receiving courier delivery;

(c) deposited in the mail box for an address described in clause (a); or

(d) sent by facsimile transmission, electronic mail or any other method of electronic communication if the board has, by resolution, decided that it is a method for receiving delivery of the request. O. Reg. 180/17, s. 17 (1).

(5) If a corporation keeps a record in electronic form, the board shall, by resolution, determine the method of electronic communication that it will use for the purposes of clause 13.4 (1) (a), subclause 13.5 (1) (a) (i), clause 13.6 (1) (a) or subclause 13.7 (1) (a) (i). O. Reg. 180/17, s. 17 (1).

(6) When the corporation receives a request for records in accordance with this section, the board shall determine whether the corporation will allow the requester to examine or obtain a copy of the record that the requester has requested and shall respond to the requester within 30 days in English or French, using the form that the Minister responsible for the administration of subsection 55 (3) of the Act specifies. O. Reg. 180/17, s. 17 (1).

(7) The board's response shall set out an index of the records that the requester has requested and the following with respect to each such record:

1. A description of the record.
2. An indication whether or not it is a core record.
3. A statement of the determination that the board has made under subsection (6).
4. If the board has determined that the corporation will allow the requester to examine or obtain a copy of the record, the fee, if any, that the corporation will charge for allowing the requester to examine or obtain a copy of the record.
5. If the board has determined that the corporation will not allow the requester to examine or obtain a copy of the record, a written statement of the board's reason for its determination and an indication on which provision, if any, of section 55 of the Act or this Regulation the board bases its reason.
6. The location where the corporation will make available a copy of the record for the requester to examine in person or for the requester to obtain by attending in person, which shall be one of the locations described in subsection 13.2 (1). O. Reg. 180/17, s. 17 (1).

(8) The fee payable for the request shall be calculated in accordance with the manner set out in the board's response, subject to the following conditions:

1. The fee shall be a reasonable estimate of the amount required to reimburse the corporation for the actual labour and delivery costs that the corporation incurs for making the record requested available for examination or for delivering a copy of the record, which costs shall include the printing and photocopying charges established under paragraph 3 and the actual labour costs that the corporation incurs during the examination.

2. The fee shall be reasonable.

3. The board shall establish a charge of no more than 20 cents per page for printing or photocopying.

4. If the request is to examine or obtain a copy of a core record, the corporation shall not charge any fee for the request if it delivers the copy to the requester in electronic form.

5. If the request is to examine a copy of a core record, the corporation shall not charge any fee for the request if it makes a copy of the record available for examination in paper form, other than a fee for the actual labour costs that the corporation incurs during the examination and the printing and photocopying charges established under paragraph 3.

6. If the request is to obtain a copy of a core record, the corporation shall not charge,

i. any fee for the request if it delivers the copy to the requester in paper form and if the request for records provides that the requester wishes to obtain the copy in electronic form, or

ii. any fee for the request, other than the printing and photocopying charges established under paragraph 3, if it delivers the copy to the requester in paper form and if the request for records does not provide that the requester wishes to obtain the copy in electronic form. O. Reg. 180/17, s. 17 (1).

(9) Subject to subsection (8), the fee payable for the request may vary depending on the following factors:

1. Whether the record requested is a core record.

2. Whether the corporation keeps the record requested in electronic or paper form.

3. Whether the request is to examine a copy of the record requested or to obtain a copy of it.

4. Whether the corporation is required to redact the record requested to remove any part that it has determined that it will not allow the requester to examine or of which it will not allow the requester to obtain a copy.

5. The time that the board estimates spending on responding to the request. O. Reg. 180/17, s. 17 (1).

(10) The board shall deliver its response to the requester at the address for service or alternative method of communication given in the request for records. O. Reg. 180/17, s. 17 (1).

(11) If the board's response states that the board has determined that the corporation will allow the requester to examine or obtain a copy of the record that the requester has requested and if the requester wishes to continue with the request, the requester shall complete the response, using the applicable portions of the form described in subsection 13.3 (6), and return it to the corporation indicating the record requested, together with payment of the fee payable for the request, if any. O. Reg. 180/17, s. 17 (1).

#### Allowing examination of a core record

**13.4** (1) If the request for records provides that the requester wishes to examine a core record, if the board determines under subsection 13.3 (6) that the corporation will allow the requester to examine the record and that it is a core record and if the corporation keeps the record in electronic form, the corporation shall, within the time period that subsection requires the board to deliver its response, deliver a copy of the record in electronic form to the requester,

(a) by electronic communication if the requester so agrees in the request; or

(b) in any manner that the corporation and the requester agree to in writing before that time period expires. O. Reg. 180/17, s. 17 (1).

(2) If the request for records provides that the requester wishes to examine a core record, if subsection 13.3 (11) applies to the requester and the requester has complied with it, if the corporation keeps the record in electronic form and if the requester does not agree as described in clause (1) (a) or (b), the corporation shall, within seven days of receiving the requester's response and payment of the fee payable for the request, make available a copy of the record in paper form for the requester to examine in person at a location set out in the board's response in accordance with paragraph 6 of subsection 13.3 (7) or at any other location that the corporation and the requester agree to in writing before the seven days expire. O. Reg. 180/17, s. 17 (1).

(3) If the request for records provides that the requester wishes to examine a core record, if subsection 13.3 (11) applies to the requester and the requester has complied with it and if the corporation does not keep the record in electronic form, the corporation shall, within seven days of receiving the requester's response and payment of the fee payable for the request, make available a copy of the record in paper form for the requester to examine in person at a location set out in the board's response in accordance with paragraph 6 of subsection 13.3 (7) or at any other location that the corporation and the requester agree to in writing before the seven days expire. O. Reg. 180/17, s. 17 (1).

#### Allowing examination of a non-core record

**13.5** (1) If the request for records provides that the requester wishes to examine a record that is not a core record, if subsection 13.3 (11) applies to the requester and the requester has complied with it and if the corporation keeps the record in electronic form, the corporation shall, within 30 days of receiving the requester's response and payment of the fee payable for the request,

(a) deliver a copy of the record in electronic form to the requester,

(i) by electronic communication if the requester so agrees in the request, or

(ii) in any manner that the corporation and the requester agree to in writing before the expiry of the time period that subsection 13.3 (6) requires the board to deliver the board's response; or

(b) make available a copy of the record in paper form for the requester to examine in person at a location set out in the board's response in accordance with paragraph 6 of subsection 13.3 (7) or at any other location that the corporation and the requester agree to in writing before the 30 days expire, if the requester does not agree as described in clause (a). O. Reg. 180/17, s. 17 (1).

(2) If the request for records provides that the requester wishes to examine a record that is not a core record, if subsection 13.3 (11) applies to the requester and the requester has complied with it and if the corporation does not keep the record in electronic form, the corporation shall, within 30 days of receiving the requester's response and payment of the fee payable for the request, make available a copy of the record in paper form for the requester to examine in person at a location set out in the board's response in accordance with paragraph 6 of subsection 13.3 (7) or at any other location that the corporation and the requester agree to in writing before the 30 days described in subsection (1) expire. O. Reg. 180/17, s. 17 (1).

#### Delivering a copy of a core record

**13.6** (1) If the request for records provides that the requester wishes to obtain a copy of a core record, if the board determines under subsection 13.3 (6) that it will allow the requester to obtain the copy and that the record is a core record and if the corporation keeps the record in electronic form, the corporation shall, within the time period that subsection requires the board to deliver the board's response, deliver a copy of the record in electronic form to the requester,

(a) by electronic communication if the requester so agrees in the request; or

(b) in any manner that the corporation and the requester agree to in writing before that time period expires. O. Reg. 180/17, s. 17 (1).

(2) If the request for records provides that the requester wishes to obtain a copy of a core record, if subsection 13.3 (11) applies to the requester and the requester has complied with it, if the corporation keeps the record in electronic form and if the requester does not agree as described in clause (1) (a) or (b), the corporation shall deliver a copy of the record in paper form to the requester in accordance with subsection (5) within seven days of receiving the requester's response and payment of the fee payable for the request. O. Reg. 180/17, s. 17 (1).

(3) If the request for records provides that the requester wishes to obtain a copy of a core record in electronic form, if the board determines under subsection 13.3 (6) that it will allow the requester to obtain the copy and that the record is a core record and if the corporation does not keep the record in electronic form, the corporation shall deliver a copy of the record in paper form to the requester in accordance with subsection (5) within the time period that subsection 13.3 (6) requires the board to deliver its response. O. Reg. 180/17, s. 17 (1).

(4) If the request for records provides that the requester wishes to obtain a copy of a core record, but not in electronic form, if subsection 13.3 (11) applies to the requester and the requester has complied with it and if the corporation does not keep the record in electronic form, the corporation shall deliver a copy of the record in paper form to the requester in accordance with subsection (5) within seven days of receiving the requester's response and payment of the fee payable for the request. O. Reg. 180/17, s. 17 (1).

(5) If subsection (2), (3) or (4) requires the corporation to deliver a copy of a record in paper form to a requester, the corporation shall,

(a) if the requester is an owner or mortgagee of a unit, deliver the copy in accordance with subsection 47 (4) or (5) of the Act, as the case may be, or in any other manner that the corporation and the requester agree to in writing before the end of the time period for making the delivery;

(b) if the requester is a purchaser of a unit, send the copy to the purchaser's address for service by prepaid mail or courier delivery or in any other manner that the corporation and the requester agree to in writing before the end of the time period for making the delivery;

(c) if the requester is an agent of an owner, mortgagee or purchaser, send the copy to the agent's address for service by prepaid mail or courier delivery or in any other manner that the corporation and the requester agree to in writing before the end of the time period for making the delivery, unless the request for records or the requester's response requests that the record be given directly to,

(i) the owner or mortgagee, as the case may be, in accordance with clause (a), or

(ii) the purchaser in accordance with clause (b); or

(d) make the copy available for the requester to obtain by attending in person at a location set out in the board's response in accordance with paragraph 6 of subsection 13.3 (7) or at any other location that the corporation and the requester agree to in writing before the end of the time period for making the delivery. O. Reg. 180/17, s. 17 (1).

#### Delivering a copy of a non-core record

**13.7 (1)** If the request for records provides that the requester wishes to obtain a copy of a record that is not a core record, if subsection 13.3 (11) applies to the requester and the requester complies with it and if the corporation keeps the record in electronic form, the corporation shall, within 30 days of receiving the requester's response and the fee payable for the request,

(a) deliver a copy of the record in electronic form to the requester,

(i) by electronic communication if the requester so agrees in the request, or

(ii) in any manner that the corporation and the requester agree to in writing before the expiry of the time period that subsection 13.3 (6) requires the board to deliver the board's response; or

(b) deliver a copy of the record in paper form to the requester in the manner described in any of clauses 13.6 (5) (a) to (d), if the requester does not agree as described in clause (a) of this subsection. O. Reg. 180/17, s. 17 (1).

(2) If the request for records or the requester's response provides that the requester wishes to obtain a copy of a record that is not a core record, if subsection 13.3 (11) applies to the requester and the requester has complied with it and if the corporation does not keep the record in electronic form, the corporation shall deliver a copy of the record in paper form to the requester in the manner described in any of clauses 13.6 (5) (a) to (d) within 30 days of receiving the requester's response and payment of the fee payable for the request. O. Reg. 180/17, s. 17 (1).

#### Accompanying statements

**13.8** (1) Each copy of a record that the corporation makes available for examination or delivers under any of sections 13.4 to 13.7 shall be accompanied by,

(a) a separate written document that is addressed to the requester and that clearly identifies the record that is being made available or delivered, as the case may be;

(b) if the board has determined that the corporation will redact the record to remove any part that the board has determined that the corporation will not allow the requester to examine or of which it will not allow the requester to obtain a copy, a written statement of the board's reason for its determination and an indication on which provision of section 55 of the Act or this Regulation the board bases its reason;

(c) a separate written document that is addressed to the requester and that indicates,

(i) the actual cost that the corporation has incurred for making the copy available or for delivering it, as the case may be, subject to the limits that subsections 13.3 (8) and (9) place on the fee payable for the request, and

(ii) the difference, if any, between the actual cost described in subclause (i) and the fee that the requester paid for the request; and

(d) if the actual cost described in subclause (c) (i) is less than the fee that the requester paid for the request, payment from the corporation to the requester of the amount of the difference. O. Reg. 180/17, s. 17 (1).

(2) If the actual cost described in subclause (1) (c) (i) is more than the fee that the requester paid for the request, the requester shall pay to the corporation within 30 days after the corporation complies with subsection (1) the least of,

(a) the amount of the difference;

(b) 10 per cent of the fee payable for the request; and

(c) 10 per cent of the fee that the requester paid for the request. O. Reg. 180/17, s. 17 (1).

(3) If clauses (1) (a), (b) and (c) apply to the same request, the information that the separate written documents described in those clauses is required to contain may be contained in a single written document. O. Reg. 180/17, s. 17 (1).

Waiver of right to object

**13.9** (1) If a person makes a request for records and the requester provides a written statement to the corporation that the requester and the authorized officers of the corporation have signed and that clearly acknowledges that the corporation will allow the requester to examine or obtain a copy of the record, as the case may be, as the requester requests, then,

(a) subject to subsection (4), the requester shall be deemed to have waived the right to object to any failure of the corporation to comply with subsections 55 (3) to (6) of the Act and sections 13.3 to 13.8 of this Regulation in responding to the request; and

(b) the corporation shall comply with its requirements set out in the written statement, subject to the requirements of the Act and this Regulation. O. Reg. 180/17, s. 17 (1).

(2) If the requester described in subsection (1) is an agent of an owner, mortgagee or purchaser, then, subject to subsection (4), the owner, purchaser or mortgagee, as the case may be, shall be deemed to have waived the right to object to any failure of the corporation to comply with subsections 55 (3) to (6) of the Act and sections 13.3 to 13.8 of this Regulation in responding to the request. O. Reg. 180/17, s. 17 (1).

(3) The written statement described in subsection (1) may be in English or French and shall be in the form that the Minister responsible for the administration of subsection 55 (3) of the Act specifies. O. Reg. 180/17, s. 17 (1).

(4) If a person makes a request for records and the board determines that the corporation will not allow the requester to examine or obtain a copy of the record that the requester has requested or that the corporation will redact the record to remove any part of it, the requester or, if the requester is an agent of an owner, mortgagee or purchaser, the owner, purchaser or mortgagee, as the case may be, shall be deemed to have reserved the right to object to the determination of the board and the right to pursue any remedies with respect to that determination, unless the requester provides a written statement to the corporation that is signed by the requester and that clearly waives that right. O. Reg. 180/17, s. 17 (1).

(5) A corporation that contravenes clause (1) (b) shall be deemed to have failed to comply with subsection 55 (3) of the Act and the deemed waiver described in clause (1) (a) or subsection (2) does not apply to the corporation's contravention of clause (1) (b). O. Reg. 180/17, s. 17 (1).

#### Abandonment of request

**13.10** (1) A request for records shall be deemed to be abandoned and it shall then have no force and effect if, within 60 days of receiving the board's response, the requester does not,

(a) in accordance with subsection 13.3 (11), return the requester's response to the corporation and pay the fee payable for the request;

(b) apply, in accordance with Part I.2 of the Act, to the Condominium Authority Tribunal established under that Part for resolution of the request as a matter in dispute, if the Tribunal has been established under that Part and the application may be made under that Part; or

(c) commence an action described in subsection 55 (9) of the Act with respect to the request, if the Condominium Authority Tribunal has not been established. O. Reg. 180/17, s. 17 (1).

(2) The request shall be deemed to be abandoned and it shall then have no force and effect if, within six months of the requester delivering the request for records to the corporation, the requester does not,

(a) apply, in accordance with Part I.2 of the Act, to the Condominium Authority Tribunal established under that Part for resolution of the request as a matter in dispute, if the Tribunal has been established under that Part and the application may be made under that Part; or

(b) commence an action described in subsection 55 (9) of the Act with respect to the request, if the Condominium Authority Tribunal has not been established. O. Reg. 180/17, s. 17 (1).

#### Interpretation for s. 55 of the Act and exceptions

**13.11** (1) For the purpose of clause 55 (4) (c) of the Act,

“records relating to specific units or owners” does not include records relating to persons in their capacity as directors or officers of a corporation. O. Reg. 180/17, s. 17 (1).

(2) The following are prescribed records for the purpose of clause 55 (4) (d) of the Act:

1. A record of the method of electronic communication set out in an agreement described in clause 47 (4) (c) or (5) (c) of the Act.

2. A report or opinion from a lawyer or licensed paralegal to a corporation with respect to specific units in the corporation or owners, purchasers or mortgagees of a unit in the corporation.

3. Records that contain communications for the purpose of obtaining the report or opinion described in paragraph 2 or that are in respect of the report or opinion.

4. Any portion of a ballot or proxy form that identifies specific units in a corporation or owners in a corporation, unless a by-law of the corporation provides otherwise. O. Reg. 180/17, s. 17 (1).

(3) A corporation may disclose a record described in paragraph 1 of subsection (2) if the owner or mortgagee, as the case may be, in respect of whom the record relates has provided written consent to the corporation to allow a copy of the record to be made available for examination or for delivery by the corporation for the purpose of section 55 of the Act. O. Reg. 180/17, s. 17 (1).

(4) A corporation may disclose a record described in paragraph 2 or 3 of subsection (2) but, subject to subsection (5), shall not disclose any portion of the record that identifies specific units or owners in the corporation. O. Reg. 180/17, s. 17 (1).

(5) Subsection (4) does not prevent a corporation from disclosing,

(a) any portion of a record that is a record relating to a specific unit to an owner, a purchaser or a mortgagee of the unit or an agent of one of them who makes a request for a record under subsection 55 (3) of the Act;

(b) any portion of a record that is a record relating to a specific owner to the owner or an agent of the owner who makes a request for a record under subsection 55 (3) of the Act; or

(c) any portion of a record that is a record relating to persons in their capacity as directors or officers of the corporation. O. Reg. 180/17, s. 17 (1).

(6) The sum mentioned in subsection 55 (8) of the Act shall not exceed \$5,000. O. Reg. 180/17, s. 17 (1).

(7) Subsections 55 (8) to (11) of the Act do not apply to a request for records if the request is made before the day subsection 51 (9) of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force. O. Reg. 180/17, s. 17 (1).

**Note: On November 1, 2017, the day subsection 80 (8) of Schedule 2 to the *Protecting Condominium Owners Act, 2015* comes into force, the Regulation is amended by adding the following section: (See: O. Reg. 180/17, s. 18 (1))**

Providing records to condominium management provider or condominium manager

**13.12** (1) A corporation described in subsection 55 (2.2) of the Act shall, subject to the requirements and conditions, if any, set out in the agreement described in that subsection, provide a copy of any of its records that the condominium management provider or condominium manager reasonably requires if,

(a) the provider or manager is entitled to the record under the agreement; and

(b) the provider or the manager does not require the record in order to comply with the *Condominium Management Services Act, 2015* or the regulations made under it. O. Reg. 180/17, s. 18 (1).

(2) If a condominium management provider or condominium manager described in subsection 55 (2.2) of the Act reasonably requires a copy of any of the records of the corporation in order to comply with the *Condominium Management Services Act, 2015* or the regulations made under it, the corporation shall provide a copy of the record in accordance with the following requirements and conditions, subject to the requirements and conditions, if any, set out in the agreement described in that subsection:

1. The provider or manager or an agent of one of them duly authorized in writing must deliver a written request to the corporation that contains,

i. the address for service of the requester,

ii. a specification of the copy of the record requested,

iii. a statement that the provider or manager, as the case may be, requires the copy of the record in order to comply with the *Condominium Management Services Act, 2015* or the regulations made under it, as well as a brief statement of the specific purpose of the request, and

iv. a statement indicating whether the request is for delivery of the copy of the record in electronic form or in paper form.

2. The request is sufficiently delivered to the corporation if it is,

i. sent by prepaid mail or by courier to the address for service of the corporation, or

ii. deposited in the mail box for the address described in subparagraph i.

3. Any other communication between the requester and the corporation in respect of the request, including any delivery of records by the corporation to the requester may be made,

i. in accordance with subparagraph 1 i if it is a communication from the corporation to the requester,

ii. in accordance with paragraph 2 if it is a communication from the requester to the corporation, or

iii. by facsimile transmission, electronic mail, any other method of electronic communication or in any other manner, if the requester and the corporation agree in writing to that method of communication.

4. When the corporation receives a request in accordance with this subsection, the board shall determine whether the corporation will disclose to the requester the records that the requester has requested and shall deliver a written response to the requester that sets out an index of each record that the requester has requested and the following with respect to each such record:

i. A description of the record.

ii. An estimate of the cost to the corporation, calculated on the basis of the factors described in paragraph 5, to provide the copy of the record.

iii. If the board has determined that the corporation will not disclose the record, a written statement of the board's reason for its determination and an indication on which provision, if any, of section 55 of the Act or this Regulation the board bases its reason.

5. The manner of calculating the cost estimate described in subparagraph 4 ii can vary depending on the following factors:

i. Whether the corporation is required to redact the record to remove any part that the board has determined that the corporation will not disclose to the requester.

ii. The time that the board estimates spending on responding to the request.

6. If the board's response described in paragraph 4 does not state that the board has determined that the corporation will not disclose to the requester the records that the requester has requested and if the requester wishes to continue with the request, the requester shall return the response to the corporation indicating the records requested, together with payment of the cost estimate described in subparagraph 4 ii.

7. The corporation shall deliver a copy of the records to the requester within a reasonable time after the corporation receives the response and payment of the cost estimate described in subparagraph 4 ii.

8. If the corporation does not possess a record that a requester has requested under this subsection, the corporation shall, within a reasonable time, provide that information in writing to the requester, along with information regarding which other person, if any, is in possession of the record if that information is within the corporation's knowledge.

9. Each copy of a record that the corporation provides under this subsection shall be accompanied by,

i. a separate written document that is addressed to the requester and that clearly identifies the record that is being provided,

ii. if the board has determined that the corporation will redact the record to remove any part that the board has determined that the corporation will not disclose to the requester, a written statement of the board's reason for its determination and an indication on which provision of section 55 of the Act or this Regulation the board bases its reason,

iii. a separate written document that is addressed to the requester and that indicates,

A. the actual cost incurred by the corporation, in accordance with this subsection, to provide the record, and

B. the difference, if any, between the actual cost described in sub-subparagraph A and the payment that the corporation has received under paragraph 6 in respect of the record, and

iv. if the actual cost described in sub-subparagraph A of subparagraph iii is less than the payment that the corporation has received under paragraph 6 in respect of the record, payment from the corporation to the requester for the amount of the difference.

10. If the actual cost described in sub-subparagraph A of subparagraph 9 iii is more than the payment that the corporation has received under paragraph 6 in respect of the record, the requester shall pay to the corporation within a reasonable time after the corporation complies with paragraph 9 the least of,

i. the amount of the difference,

ii. 10 per cent of the cost estimate described in subparagraph 4 ii in respect of the request, and

iii. 10 per cent of the payment that the corporation has received under paragraph 6 in respect of the record.

11. If the requester provides a written statement to the corporation that is signed by the requester and the authorized officers of the corporation and that clearly acknowledges that the corporation will, in accordance with paragraph 7, deliver a copy of the record to the requester as the requester requests, then,

i. subject to paragraph 13, the requester shall be deemed to have waived the right to object to any failure of the corporation to comply with this subsection in responding to the request, and

ii. the corporation shall comply with its requirements set out in the written statement, subject to the requirements of the Act and this Regulation.

12. If the requester described in paragraph 11 is an agent of a condominium management provider or condominium manager, then, subject to paragraph 13, the provider or manager, as the case may be, shall be deemed to have waived the right to object to any failure of the corporation to comply with this subsection in responding to the request.

13. If the board determines that the corporation will not disclose to a requester a copy of the record that the requester has requested or that the corporation will redact the record to remove any part of it, the requester or, if the requester is an agent of a condominium management provider or condominium manager, the provider or manager, as the case may be, shall be deemed to have reserved the right to object to the determination of the board and the right to pursue any remedies with respect to that determination, unless the requester provides a written statement to the corporation that is signed by the requester and clearly waives that right.

14. A request shall be deemed to be abandoned and it shall then have no force and effect if, within 60 days of receiving the written response described in paragraph 4 in respect of the request, the requester does not,

i. in accordance with paragraph 6, return the response to the corporation and make the payment required by that paragraph, or

ii. submit the request as a matter in dispute to one or both of mediation and arbitration for resolution.

15. The request shall be deemed to be abandoned and it shall then have no force and effect if, within six months of the requester delivering the written request described in paragraph 1 in respect of the request to the corporation, the requester does not submit the request as a matter in dispute to one or both of mediation and arbitration for resolution. O. Reg. 180/17, s. 18 (1).

(3) This section and the right of a condominium management provider or condominium manager who no longer has an agreement described in subsection 55 (2.2) of the Act with a corporation and the right of an agent of one of them duly authorized in writing to receive a copy of a record of the corporation under that subsection do not apply to,

(a) records relating to employees of the corporation, except for contracts of employment between any of the employees and the corporation;

(b) records relating to actual or contemplated litigation or insurance investigations involving the corporation;

(c) records relating to specific units or owners;

(d) a report or opinion from a lawyer or licensed paralegal to the corporation with respect to,

(i) an agreement described in that subsection, or

(ii) the provision of condominium management services by the provider or manager to the corporation;

(e) records that contain communications for the purpose of obtaining the report or opinion described in clause (d) or that are in respect of the report or opinion; and

(f) records relating to other condominium management providers or condominium managers. O. Reg. 180/17, s. 18 (1).

(4) Despite subsection (3), a corporation may disclose a record described in clauses (3) (b), (d), (e) and (f) but shall not disclose a record described in clauses (3) (a) and (c). O. Reg. 180/17, s. 18 (1).

(5) The condominium management provider, condominium manager, agent of any of them as applicable, and the corporation shall be deemed to have agreed in writing to submit a disagreement between the parties with respect to subsection 55 (2.2) of the Act or subsection (2) of this section to mediation and arbitration in accordance with clauses 132 (1) (a) and (b) of the Act respectively, as those clauses read immediately before the day subsection 114 (2) of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force. O. Reg. 180/17, s. 18 (1).

**Note: On November 1, 2017, the day subsection 80 (16) of Schedule 2 to the *Protecting Condominium Owners Act, 2015* comes into force, subsection 13.12 (5) of the Regulation is revoked. (See: O. Reg. 180/17, s. 18 (2))**

## BY-LAWS

**Note: On November 1, 2017, the day subsection 52 (10) of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, section 14 of the Regulation is amended by adding the following subsection: (See: O. Reg. 180/17, s. 19 (2))**

### By-laws

(0.1) For the purpose of clause 56 (1) (q) of the Act, the other prescribed purposes are,

(a) to specify a record for the purpose of paragraph 10 of the definition of “core record” in section 1;

(b) to govern information to be included in a periodic information certificate, an information certificate update or a new owner information certificate in addition to the information required by sections 11.1, 11.2 or 11.3 respectively;

(c) to specify a time period for the purposes of paragraph 3 of subsection 11.1 (4) of this Regulation and clause 26.3 (a) of the Act;

- (d) to specify a time period for the purposes of paragraph 5 of subsection 11.2 (3) of this Regulation and clause 26.3 (b) of the Act;
- (e) to specify information that a person is required to disclose for the purposes of paragraph 10 of subsection 11.6 (1) of this Regulation and clause 29 (1) (f) of the Act;
- (f) to specify a time period for the purposes of clause 11.6 (9) (b) of this Regulation and clause 29 (1) (f) of the Act;
- (g) to require, for the purpose of subclause 11.6 (10) (b) (ii), that a person who is required by subsection 11.6 (1) to provide statements and information must provide them in writing;
- (h) to specify information that a person is required to disclose for the purposes of paragraph 2 of subsection 11.10 (1) of this Regulation and clause 29 (2) (f) of the Act;
- (i) to specify information that a person is required to disclose for the purposes of paragraph 6 of subsection 11.10 (2) of this Regulation and clause 29 (2) (f) of the Act;
- (j) to specify a time period for the purposes of clauses 11.10 (8) (b), (9) (b), (10) (e) and (11) (e) of this Regulation and clause 29 (2) (f) of the Act;
- (k) to specify, for the purposes of clause 12.1 (1) (a) of this Regulation and subsection 45 (5) of the Act, material that the board shall place before a meeting of owners;
- (l) to specify, for the purposes of subsection 12.1 (2) of this Regulation and subsection 45 (5) of the Act, the manner by which the board shall place the required material before a meeting of owners;
- (m) to specify, for the purpose of paragraph 2 of subsection 12.2 (3) of this Regulation, the method by an individual may notify the board under clause 45.1 (1) (a) of the Act and the method by which an owner may provide material to the board under clause 45.1 (1) (b) of the Act;
- (n) to specify materials to be included in a preliminary notice with respect to a meeting of owners for the purposes of clause 12.2 (2) (k) and clause 45.1 (1) (c) of the Act;
- (o) to specify materials to be included in a notice of meeting of owners for the purposes of clause 12.8 (1) (h) of this Regulation and subclause 47 (7) (b) (iii) of the Act;
- (p) to govern the manner in which an owner or a mortgagee may be present at a meeting of owners or represented by proxy;

(q) to specify the method of electronic communication that the board may, by resolution, decide the corporation may use for the purposes of the Act and this Regulation; and

(r) to specify, for the purpose of paragraph 4 of subsection 13.11 (2) of this Regulation, what portion of a ballot or proxy form described in that subsection does not constitute a prescribed record for the purpose of clause 55 (4) (d) of the Act. O. Reg. 180/17, s. 19 (2).

#### By-laws

**14.** The certificate of the officer of a corporation mentioned in subsection 38 (1) of Ontario Regulation 49/01 (Description and Registration) made under the Act in respect of a by-law shall be in the form that the Director of Titles specifies. O. Reg. 48/01, s. 14; O. Reg. 442/11, s. 6.

**Note: On November 1, 2017, the day subsection 52 (13) of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, section 14 of the Regulation is amended by adding the following subsection: (See: O. Reg. 180/17, s. 19 (3))**

(2) The other number of owners that is prescribed for the purpose of clause 56 (10) (a) of the Act is the majority of owners present or represented by proxy at a meeting of owners to which that clause applies if the by-law is described in,

(a) subclause 52 (1) (b) (iii) of the Act;

(b) paragraph 12 of subsection 55 (1) of the Act;

(c) paragraph 3 of subsection 55 (2) of the Act; or

(d) subsection 14 (0.1) of this Regulation. O. Reg. 180/17, s. 19 (3).

**Note: On November 1, 2017, the day subsection 48 (1) of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, the Regulation is amended by adding the following section: (See: O. Reg. 180/17, s. 20)**

#### Deemed provision of by-law

**14.1 (1)** A by-law is deemed to include the following provision:

1. Despite anything in the declaration or a by-law and subject to subsection 52 (4) of the *Condominium Act, 1998*, when a person casts a vote in a manner described in clause 52 (1) (b) of that Act,

i. nothing shall require the person or the unit in respect of which the person casts the vote to be identified with the choice the person expressed by casting the vote; and

ii. the person shall have the option of casting the vote in a manner that does not identify the person or the unit in respect of which the person casts the vote with the choice the person expressed by casting the vote. O. Reg. 180/17, s. 20.

(2) In the case of a common elements condominium corporation, a reference to a unit in paragraph 1 of subsection (1) shall be deemed to be a reference to a common interest in the corporation and to the parcel of tied land, to which the common interest attaches under clause 139 (2) (a) of the Act. O. Reg. 180/17, s. 20.

(3) No board, other than a board of the corporation described in subsection 11 (8) of the Act, may amend or repeal the deemed provision set out in subsection (1). O. Reg. 180/17, s. 20.

**15. REVOKED:** O. Reg. 180/17, s. 21.

## FINANCIAL STATEMENTS

### Financial statements

**16. (1)** A corporation shall have its financial statements prepared in the manner and in accordance with the accounting principles specified in the Handbook of the Canadian Institute of Chartered Accountants. O. Reg. 48/01, s. 16 (1).

(2) The auditor's report mentioned in subsection 67 (1) of the Act shall be prepared in the manner and in accordance with the auditing standards specified in the Handbook of the Canadian Institute of Chartered Accountants. O. Reg. 48/01, s. 16 (2).

(3) In addition to the material specified in subsection 66 (2) of the Act, the financial statements shall also include,

(a) a comparison between,

(i) the amount of contributions to the reserve fund that the corporation has collected, and

(ii) the amount that, according to the board's plan for funding of the reserve fund under subsection 94 (8) of the Act, the corporation was required to collect as contributions to the reserve fund; and

(b) a comparison between,

(i) the amount of expenditures from the reserve fund that the corporation has made, and

(ii) the amount of proposed expenditures that, according to the board's plan for funding of the reserve fund under subsection 94 (8) of the Act, the corporation was to have made from the reserve fund. O. Reg. 48/01, s. 16 (3).

(4) If a director makes a disclosure of an interest in a contract or transaction under section 40 of the Act and the corporation has entered into the contract or transaction, whether before or after the disclosure, the financial statements shall also include a brief description of the nature of the contract or transaction, the amount of money involved in it and the nature and extent of the director's interest in it.

O. Reg. 48/01, s. 16 (4).

(5) If an officer makes a disclosure of an interest in a contract or transaction under section 41 of the Act and the corporation has entered into the contract or transaction, whether before or after the disclosure, the financial statements shall also include a brief description of the nature of the contract or transaction, the amount of money involved in it and the nature and extent of the officer's interest in it.

O. Reg. 48/01, s. 16 (5).

### PART III.1 SALE AND LEASE OF UNITS

#### Disclosure statement

**17.** (1) In addition to the material specified in subsection 72 (3) of the Act, a disclosure statement mentioned in that subsection shall include,

(a) a copy of sections 73 and 74 of the Act;

(b) a statement that, under subsection 82 (8) of the Act, the declarant is entitled to retain the excess of all interest earned on money held in trust over the interest that it is required to pay to the purchaser under section 82 of the Act;

- (c) a statement whether a part of the common elements may be used for commercial or other purposes not ancillary to residential purposes;
  - (d) if there is no by-law or proposed by-law of the corporation establishing what constitutes a standard unit, a copy of the schedule that the declarant intends to deliver to the board under clause 43 (5) (h) of the Act;
  - (e) a statement,
    - (i) indicating whether visitors must pay for parking and what the anticipated costs are,
    - (ii) indicating whether there is visitor parking on the property, and
    - (iii) if there is no visitor parking on the property, indicating whether visitor parking is available elsewhere and if so, describing where;
  - (f) an identification of the major assets and property that the declarant has indicated that it may provide, even though it is not required to do so;
  - (g) an indication of the units and assets that the corporation is required to purchase, the services that it is required to acquire and the agreements and leases that it is required to enter into with the declarant or a subsidiary body corporate, holding body corporate or affiliated body corporate of the declarant; and
  - (h) with respect to land that is owned by the declarant, or by a subsidiary body corporate, holding body corporate or affiliated body corporate of the declarant, and that is adjacent to the land described in the description, a statement indicating,
    - (i) the current use of the land,
    - (ii) the representations, if any, that the declarant has made respecting the future use of the land, and
    - (iii) a summary of the applications, if any, respecting the use of the land that have been submitted to an approval authority.
- O. Reg. 48/01, s. 17 (1).

(2) In subsection (1),

“affiliated body corporate” means a body corporate that is deemed to be affiliated with another body corporate under subsection 1 (4) of the *Business Corporations Act*; (“personne morale membre du même groupe”)

“body corporate” means a body corporate with or without share capital; (“personne morale”)

“holding body corporate” means a body corporate that is deemed to be the holding body of another body corporate under subsection 1 (3) of the *Business Corporations Act*; (“personne morale mere”)

“subsidiary body corporate” means a body corporate that is deemed to be a subsidiary of another body corporate under subsection 1 (2) of the *Business Corporations Act*. (“filiale”) O. Reg. 48/01, s. 17 (2).

(3) The table of contents in the disclosure statement mentioned in subsection 72 (4) of the Act shall be in English or French and shall be in the form that is entitled “Disclosure Statement, Table of Contents” in English or “Sommaire de l’état de divulgation” in French, as the case may be, and dated September 1, 2011, as it appears on the Government of Ontario website. O. Reg. 180/17, s. 23 (2).

#### Status certificate

**18.** (1) A status certificate shall be in English or French and shall be in the form that is entitled “Status Certificate” in English or “Certificat d’information” in French, as the case may be, and dated September 1, 2011, as it appears on the Government of Ontario website. O. Reg. 180/17, s. 24.

(2) The fee that a corporation may charge for providing a status certificate, including all material that is required to be included in it, shall not exceed \$100, inclusive of all applicable taxes. O. Reg. 48/01, s. 18 (2).

#### Sale of units

**19.** (1) The prescribed rate of interest for the purpose of paragraph 1 of subsection 80 (4) of the Act shall be the rate of interest that the Bank of Canada has most recently reported as the chartered bank administered interest rate for a conventional one year mortgage as of the first of the month in which the purchaser assumes interim occupancy of a proposed unit or is required to do so under the agreement of purchase and sale. O. Reg. 48/01, s. 19 (1).

(2) In subsection (3),

“bank rate” means the bank rate established by the Bank of Canada as the minimum rate at which the Bank of Canada makes short-term advances to members of the Canadian Payments Association. O. Reg. 48/01, s. 19 (2).

(3) The prescribed rate of interest for the purpose of subsections 73 (3), 74 (9) and 82 (1), (5) and (7) of the Act shall be,

(a) for the period from April 1 to September 30 of each year, 2 per cent per annum below the bank rate at the end of March 31 of that year; and

(b) for the period from October 1 of each year to March 31 in the following year, 2 per cent per annum below the bank rate at the end of September 30 immediately before that October. O. Reg. 48/01, s. 19 (3).

#### Trustees and security

**20.** (1) The following classes are prescribed as trustees for the purpose of subsection 81 (1) of the Act:

1. Persons, other than the declarant’s solicitor, who are entitled to practise law in Ontario as solicitors.
2. A partnership, other than the declarant’s solicitor, of persons who are entitled to practise law in Ontario as solicitors.
3. Escrow agents for deposits with respect to a project who have entered into a deposit trust agreement with the declarant and either the warranty corporation or an insurer to govern money to be held in trust under section 81 of the Act with respect to the project. O. Reg. 48/01, s. 20 (1).

(2) The following classes are prescribed as security for the purpose of clause 81 (7) (b) of the Act:

1. Policies that insure against the loss of payments described in subsection 81 (1) of the Act and the interest payable by the declarant on the payments, that meet the requirements of section 21 and that are in effect.
2. Deposit receipts executed by the warranty corporation that provide for compensation to a beneficiary in accordance with section 22, that meet the requirements of that section and that are in effect. O. Reg. 48/01, s. 20 (2).

#### Insurance policies

**21.** (1) A policy shall take effect when it has been executed by or on behalf of the insurer and the declarant and when it has been delivered to the trustee or the declarant's solicitor holding the money for which the policy is being provided as security. O. Reg. 48/01, s. 21 (1).

(2) The trustee or the declarant's solicitor, as the case may be, shall hold the policy in trust for the beneficiary until the insurer is no longer liable under it in accordance with subsection (8). O. Reg. 48/01, s. 21 (2).

(3) The declarant shall pay the premiums in respect of a policy and shall not directly or indirectly transfer the cost of the premiums to the beneficiary. O. Reg. 48/01, s. 21 (3).

(4) The obligations of the insurer to the beneficiary under a policy shall not be affected by,

(a) failure of the declarant to pay any premiums owing under the policy;

(b) failure of the declarant to notify the insurer of the receipt of payments described in subsection 81 (1) of the Act; or

(c) breach of any term or condition of the policy. O. Reg. 48/01, s. 21 (4).

(5) Upon request, the trustee or the declarant's solicitor, as the case may be, shall deliver the policy to the beneficiary so that the beneficiary can make a claim under it. O. Reg. 48/01, s. 21 (5).

(6) Immediately upon receiving written notice of a claim by the beneficiary under a policy, the insurer shall provide the beneficiary with forms upon which to make proof of loss. O. Reg. 48/01, s. 21 (6).

(7) An insurer that receives written notice of a claim under subsection (6) shall pay the beneficiary within 60 days after the right of the beneficiary to payment under the policy has been established. O. Reg. 48/01, s. 21 (7).

(8) An insurer shall remain liable under a policy until,

- (a) the declarant delivers to the beneficiary a deed in registerable form to the unit, in respect of which the beneficiary or a person on the beneficiary's behalf has made a payment described in subsection 81 (1) of the Act;
- (b) the declarant pays the beneficiary all money paid under subsection 81 (1) of the Act and interest on it payable by the declarant under the Act;
- (c) the insurer pays the beneficiary the amount of the loss;
- (d) the beneficiary acknowledges in writing that,
  - (i) the beneficiary is not entitled to the payments made by or on behalf of the beneficiary under subsection 81 (1) of the Act in respect of a proposed unit in the corporation and the interest payable on the payments by the declarant, and
  - (ii) the insurer is no longer liable under the policy; or
- (e) a court of competent jurisdiction has made a final determination that the beneficiary is not entitled to the payments made by or on behalf of the beneficiary under subsection 81 (1) of the Act in respect of a proposed unit in the corporation and the interest payable on the payments by the declarant. O. Reg. 48/01, s. 21 (8).

(9) An insurer who is required to make a payment under a policy shall pay interest to the beneficiary to the date of payment of the loss at the rate prescribed under subsection 19 (3). O. Reg. 48/01, s. 21 (9).

(10) A provision in a policy that derogates in any manner from any right or benefit that this section confers on a beneficiary is void to the extent that it derogates from the right or benefit. O. Reg. 48/01, s. 21 (10).

#### Deposit receipts

**22.** (1) A deposit receipt shall take effect when it has been executed by the beneficiary and by or on behalf of the warranty corporation and the declarant and when it has been delivered to the trustee or the declarant's solicitor, as the case may be, holding the money for which the deposit receipt is being provided as security. O. Reg. 48/01, s. 22 (1).

(2) A deposit receipt shall contain a statement that payments described in clause 81 (1) (a) or (c) of the Act are not covered by a deposit receipt and that they must be held in trust in accordance with section 81 of the Act. O. Reg. 48/01, s. 22 (2).

(3) A deposit receipt shall not constitute prescribed security for the purposes of paragraph 2 of subsection 20 (2) unless, by the terms of the deposit receipt, the amount of compensation that the warranty corporation is liable to pay to a beneficiary under it is,

(a) if the amount of the payments described in clause 81 (1) (b) of the Act made by or on behalf of the beneficiary is \$20,000 or less, the amount so paid; or

(b) if the amount of the payments described in clause 81 (1) (b) of the Act made by or on behalf of the beneficiary is more than \$20,000, \$20,000 or such greater amount that may be provided under the deposit receipt. O. Reg. 48/01, s. 22 (3).

(4) A deposit receipt that establishes a limit on the liability of the warranty corporation shall not constitute prescribed security for the purposes of paragraph 2 of subsection 20 (2) unless it contains a statement that whatever amount is paid by or on behalf of the beneficiary to the declarant in excess of the limit is subject to section 81 of the Act. O. Reg. 48/01, s. 22 (4).

(5) The beneficiary is not liable for the payment to an insurer of any premium payable in respect of a policy of insurance that the warranty corporation takes out to insure its obligation to pay under a deposit receipt. O. Reg. 48/01, s. 22 (5).

(6) The declarant shall not directly or indirectly charge the beneficiary for any costs relating to the deposit receipt. O. Reg. 48/01, s. 22 (6).

(7) The obligations of the warranty corporation to the beneficiary under a deposit receipt shall not be affected by,

(a) failure of the declarant to comply with any term or condition of the declarant's agreement with the warranty corporation;

(b) failure of the declarant to notify the warranty corporation or its insurer or insurers of the receipt of payments described in clause 81 (1) (b) of the Act;

(c) failure of the warranty corporation to notify its insurer or insurers of the receipt of payments described in clause 81 (1) (b) of the Act;

(d) breach of any term or condition of the deposit receipt; or

(e) breach by the beneficiary or the declarant of any term or condition of a policy of insurance that the warranty corporation takes out to insure its obligation to pay under a deposit receipt. O. Reg. 48/01, s. 22 (7).

(8) Immediately upon receiving written notice of a claim by the beneficiary under a deposit receipt, the warranty corporation shall provide the beneficiary with forms upon which to make proof of loss. O. Reg. 48/01, s. 22 (8).

(9) If the warranty corporation receives written notice of a claim under subsection (8), it shall pay the beneficiary within 60 days after the right of the beneficiary to payment under the deposit receipt has been established. O. Reg. 48/01, s. 22 (9).

(10) The warranty corporation shall remain liable under a deposit receipt until,

(a) the declarant delivers to the beneficiary a deed in registerable form to the unit in respect of which the beneficiary or a person on the beneficiary's behalf has made a payment described in clause 81 (1) (b) of the Act;

(b) the declarant pays the beneficiary all money paid under clause 81 (1) (b) of the Act and interest on it payable by the declarant under the Act;

(c) the warranty corporation pays to the beneficiary the amount of the loss to the extent of the warranty corporation's liability under the deposit receipt;

(d) the beneficiary acknowledges in writing that,

(i) the beneficiary is not entitled to the payments made by or on behalf of the beneficiary under subsection 81 (1) of the Act in respect of a proposed unit in the corporation and the interest payable on the payments by the declarant, and

(ii) the insurer is no longer liable under the policy; or

(e) a court of competent jurisdiction has made a final determination that the beneficiary is not entitled to the payments made by or on behalf of the beneficiary under subsection 81 (1) of the Act in respect of a proposed unit in the corporation and the interest payable on the payments by the declarant. O. Reg. 48/01, s. 22 (10).

(11) If the warranty corporation is required to make a payment under a deposit receipt, it shall pay interest to the beneficiary to the date of payment of the loss at the rate prescribed under subsection 19 (3). O. Reg. 48/01, s. 22 (11).

(12) A provision in a deposit receipt that derogates in any manner from any right or benefit that this section confers on a beneficiary is void to the extent that it derogates from the right or benefit. O. Reg. 48/01, s. 22 (12).

#### Lease of units

**23.** For the purpose of section 83 of the Act,

“lease” includes a sublease or assignment of lease. O. Reg. 48/01, s. 23.

### PART IV OPERATION

#### GENERAL

#### Notice of lien

**24.** The notice that subsection 85 (4) of the Act requires the corporation to give to the owner for a lien mentioned in that subsection shall be in the form that the Minister responsible for the administration of that subsection specifies. O. Reg. 48/01, s. 24; O. Reg. 442/11, s. 9.

#### Changes to common elements

**25.** (1) In addition to the matters specified in clause 98 (1) (b) of the Act, the agreement described in that clause shall specify who will have the ownership of the proposed addition, alteration or improvement to the common elements under subsection 98 (2) of the Act. O. Reg. 48/01, s. 25 (1).

(2) For the purpose of clause 98 (2) (e) of the Act, the board must be satisfied that the proposed addition, alteration or improvement to the common elements under subsection 98 (2) of the Act will not contravene the by-laws or rules of the corporation and will not have an adverse effect on the rest of the common elements. O. Reg. 48/01, s. 25 (2).

**26.** REVOKED: O. Reg. 180/17, s. 26.

## RESERVE FUND STUDIES

### Definition

**27.** In sections 28 to 33,

“component inventory” means an inventory, in a reserve fund study of a corporation, of each item of the common elements and assets of the corporation that requires, or is expected to require within at least 30 years of the date of the study, major repair or replacement where the cost of replacement is not less than \$500. O. Reg. 48/01, s. 27; O. Reg. 383/12, s. 3; O. Reg. 180/17, s. 27 (2).

### Classes

**28.** The following classes of reserve fund studies are established:

1. Comprehensive study.
2. Updated study based on a site inspection.
3. Updated study not based on a site inspection. O. Reg. 48/01, s. 28.

### Contents of studies

**29.** (1) A reserve fund study shall consist of a physical analysis and a financial analysis. O. Reg. 48/01, s. 29 (1).

(2) The physical analysis shall consist of,

- (a) the component inventory of the corporation; and
- (b) an assessment of each item in the component inventory that states its actual or estimated year of acquisition, its present or estimated age, its normal expected life, its remaining life expectancy, the estimated year for its major repair or replacement, its estimated cost of major repair or replacement as of the date of the study, the percentage of that cost of major repair or replacement to be covered by the reserve fund and the adjusted cost resulting from the application of that percentage. O. Reg. 48/01, s. 29 (2).

(3) The financial analysis shall consist of,

(a) a description of the financial status of the reserve fund as of the date of the study; and

(b) a recommended funding plan projected over a period of at least 30 consecutive years, beginning with the current fiscal year of the corporation, that shows the minimum balance of the reserve fund during the period and, for each projected year,

(i) the estimated cost of major repair or replacement of the common elements and assets of the corporation based on current costs for the year in which the study is conducted,

(ii) the estimated cost of major repair or replacement of the common elements and assets of the corporation at the estimated time of the repair or replacement based on an assumed annual inflation rate,

(iii) the annual inflation rate described in subclause (ii),

(iv) the estimated opening balance of the reserve fund,

(v) the recommended amount of contributions to the reserve fund, determined on a cash flow basis, that are required to offset adequately the expected cost in the year of the expected major repair or replacement of each item in the component inventory,

(vi) the estimated interest that will be earned on the reserve fund based on an assumed annual interest rate,

(vii) the annual interest rate described in subclause (vi),

(viii) the total of the amounts described in subclauses (v) and (vi),

(ix) the increase, if any, expressed as a percentage, in the recommended amount of contributions to the reserve fund over the recommended amount of contributions for the immediately preceding year, and

(x) the estimated closing balance of the reserve fund. O. Reg. 48/01, s. 29 (3).

(4) In preparing or updating the component inventory of the corporation, the person conducting the study shall review,

(a) the declaration and description;

- (b) if any, the current by-laws or proposed by-laws of the corporation establishing what constitutes a standard unit; and
- (c) if there is no by-law described in clause (b), a copy of the schedule that the declarant intends to deliver or has delivered to the board under clause 43 (5) (h) of the Act. O. Reg. 48/01, s. 29 (4).

(5) In preparing or updating the financial analysis described in subsection (3), the person conducting the study shall review,

- (a) the most recent audited financial statements of the corporation or, if section 60 of the Act does not require the corporation to appoint auditors, the most recent financial statements of the corporation;
- (b) all reciprocal cost sharing agreements, if any, of the corporation;
- (c) the most recent reserve fund study of the corporation; and
- (d) the most recent notice, if any, of future funding of the reserve fund sent to the owners under clause 94 (9) (a) of the Act. O. Reg. 48/01, s. 29 (5); O. Reg. 180/17, s. 28.

#### Method of conducting studies

**30.** (1) The person conducting a reserve fund study shall sign it. O. Reg. 48/01, s. 30 (1).

(2) A comprehensive study or an updated study based on a site inspection shall be based on,

- (a) a visual site inspection of the property, including a visual inspection of each item in the component inventory where practicable;
- (b) all other inspections of each item in the component inventory that the person conducting the study considers appropriate or necessary;
- (c) a verification of records of the corporation; and
- (d) interviews with those of the corporation's directors, officers, employees and agents that the person conducting the study considers appropriate. O. Reg. 48/01, s. 30 (2).

(3) As part of preparing the assessment described in clause 29 (2) (b) in a comprehensive study or updating the assessment in an updated study based on a site inspection, the person conducting the study shall review,

- (a) all existing warranties, guarantees and service contracts for each item in the component inventory;
- (b) the as-built architectural, structural, engineering, mechanical, electrical and plumbing plans for the property that are in the custody or under the control of the corporation;
- (c) the as-built specifications for the buildings that are in the custody or under the control of the corporation;
- (d) the plans for underground site services, site grading, drainage and landscaping, and television, radio or other communications services for the property that are in the custody or under the control of the corporation;
- (e) the repair and maintenance records and schedules in the custody or under the control of the corporation; and
- (f) all other records of the corporation that the person conducting the study requires in order to prepare the assessment. O. Reg. 48/01, s. 30 (3).

(4) An updated study not based on a site inspection shall be based on a verification of records of the corporation and interviews with those of its directors, officers, employees and agents that the person conducting the study considers appropriate. O. Reg. 48/01, s. 30 (4).

(5) In addition to the material that a reserve fund study is required to contain, the study may contain all further information and analysis that the person conducting the study or the board considers appropriate or necessary. O. Reg. 48/01, s. 30 (5).

#### Time for studies

**31.** (1) A corporation created before the day section 94 of the Act comes into force shall conduct a comprehensive study within three years of that day except if,

- (a) on that day it has a comprehensive study that meets the requirements of this Regulation; and
- (b) it conducts an updated study based on a site inspection within three years of that day. O. Reg. 48/01, s. 31 (1).

(2) The reserve fund study that subsection 94 (4) of the Act requires a corporation created on or after the day section 94 of the Act comes into force to conduct within the year following the registration of the declaration and description shall be a comprehensive study. O. Reg. 48/01, s. 31 (2).

(3) A corporation shall conduct a reserve fund study within three years of completing the reserve fund study that it is required to conduct under subsection (1) or (2), as the case may be, and after that, within every three years after completing the immediately preceding reserve fund study. O. Reg. 48/01, s. 31 (3).

(4) A reserve fund study that a corporation is required to conduct under subsection (3) shall be,

(a) a comprehensive study;

(b) an updated study not based on a site inspection, if the immediately preceding reserve fund study for the corporation was a comprehensive study or an updated study based on a site inspection; or

(c) an updated study based on a site inspection, if the immediately preceding reserve fund study for the corporation was an updated study not based on a site inspection. O. Reg. 48/01, s. 31 (4).

#### Person conducting studies

**32.** (1) Subject to subsection (2), the following classes are prescribed as persons who may conduct a reserve fund study:

1. Members of the Appraisal Institute of Canada holding the designation of Accredited Appraiser Canadian Institute.
2. Persons who hold a certificate of practice within the meaning of the *Architects Act*.
3. Members of the Ontario Association of Certified Engineering Technicians and Technologists who are registered as certified engineering technologists under the *Ontario Association of Certified Engineering Technicians and Technologists Act, 1998*.
4. Members of the Real Estate Institute of Canada holding the designation of certified reserve planner.
5. Persons who hold a certificate of authorization within the meaning of the *Professional Engineers Act*.
6. Graduates of Ryerson University with a Bachelor of Technology (Architectural Science) — Building Science Option or Architecture Option.
7. Members of the Canadian Institute of Quantity Surveyors holding the designation of professional quantity surveyor.

8. Members of the Association of Architectural Technologists of Ontario holding the designation of architectural technologist, architecte-technologue or registered building technologist under the *Association of Architectural Technologists of Ontario Act, 1996*. O. Reg. 48/01, s. 32 (1); O. Reg. 383/12, s. 4 (1).

(2) A person who conducts a reserve fund study shall not,

(a) be a director, officer or property manager of the corporation;

(b) directly or indirectly, have an interest in,

(i) a contract or transaction to which a director or officer of the corporation is a party in a capacity other than as a director or officer of the corporation, or

(ii) a proposed contract or transaction to which a director or officer of the corporation will be a party in a capacity other than as a director or officer of the corporation;

(c) be the spouse or child of a director or officer of the corporation or the child of the spouse of a director or officer of the corporation;

(d) be an owner as defined in the Act in relation to the corporation; or

(e) be a person who lives on the property managed by the corporation under section 17 of the Act. O. Reg. 48/01, s. 32 (2); O. Reg. 300/05, s. 1 (1); O. Reg. 180/17, s. 29.

(3) In subsection (2),

“spouse” means,

(a) a spouse as defined in section 1 of the *Family Law Act*, or

(b) either of two persons who live together in a conjugal relationship outside marriage. O. Reg. 48/01, s. 32 (3); O. Reg. 300/05, s. 1 (2, 3).

(4) A person who conducts a reserve fund study shall be insured under a policy of liability insurance that includes,

- (a) coverage for liability for errors, omissions and negligent acts arising out of conducting or not conducting a reserve fund study, subject to the exclusions, conditions and terms that are consistent with normal insurance industry practice;
- (b) a policy limit for each single claim of not less than \$1 million per occurrence;
- (c) an aggregate policy limit in the amount of not less than \$2 million per year for all claims in the year or an automatic policy reinstatement feature; and
- (d) a maximum deductible amount of \$3,500 per occurrence. O. Reg. 48/01, s. 32 (4); O. Reg. 383/12, s. 4 (2).

(5) A person who conducts a reserve fund study shall ensure that the policy of liability insurance is valid at the time the reserve fund study is completed and is kept valid for a period of at least three years after that time. O. Reg. 48/01, s. 32 (5).

(6) Upon request, the person shall provide to the corporation a certificate of the policy of liability insurance. O. Reg. 48/01, s. 32 (6).

#### Plan for future funding

**33.** (1) Except in the case of a corporation to which subsection (2) applies, the prescribed period of time for the purpose of subsection 94 (8) of the Act shall be the fiscal year of the corporation following the fiscal year in which the reserve fund study is completed. O. Reg. 48/01, s. 33 (1).

(2) In the case of all reserve fund studies that a corporation created before the day section 94 of the Act comes into force is required to conduct after that date under subsection 31 (1) and within 15 years after the date of the first reserve fund study that it is required to conduct after that coming into force date, the prescribed period of time for the purpose of subsection 94 (8) of the Act shall be 15 years from the date of that first reserve fund study. O. Reg. 48/01, s. 33 (2); O. Reg. 21/10, s. 1.

(3) The notice that the board is required to send under subsection 94 (9) of the Act shall be in English or French and shall be in the form that is entitled “Notice of Future Funding of the Reserve Fund” in English or “Avis concernant le financement futur du fonds de réserve” in French, as the case may be, and dated September 1, 2011, as the form appears on the Government of Ontario website. O. Reg. 180/17, s. 30.

PART V  
AMALGAMATION

Conditions for amalgamation

**34.** (1) No corporations may amalgamate unless,

- (a) they are standard condominium corporations;
- (b) in respect of each of the amalgamating corporations that is a phased condominium corporation, all phases have been completed or more than 10 years have passed since the registration of the declaration and description that created the corporation;
- (c) in respect of each of the amalgamating corporations, a turn-over meeting has been held under section 43 of the Act, or a predecessor of it, and, to the best of the knowledge of the board, the declarant has delivered to the board everything that section, or a predecessor of it, required the declarant to deliver;
- (d) each of the amalgamating corporations has conducted, in accordance with sections 27 to 33, a comprehensive reserve fund study or an updated study based on a site inspection within the year before the board gives the owners the notice of meeting described in subsection 120 (3) of the Act; and
- (e) each of the amalgamating corporations has entered into an interim agreement with each other dealing with the conduct of the affairs of each of the corporations from the day that the board of the first corporation to give the notice of meeting described in subsection 120 (3) of the Act has given that notice, until the corporations amalgamate or until their boards determine that the amalgamation will not proceed. O. Reg. 48/01, s. 34 (1); O. Reg. 180/17, s. 31.

(2) The agreement mentioned in clause (1) (e) shall deal with matters including expenditures from the reserve fund, borrowing of funds, making, amending or repealing by-laws, entering into new contracts, initiation of any legal proceedings, any substantial addition, alteration, or improvement to the common elements, any substantial change in the assets of the corporation, and any substantial change in a service that the corporation provides to the owners. O. Reg. 48/01, s. 34 (2).

(3) The agreement mentioned in clause (1) (e) shall not contravene the regulations made under the Act or the declaration, by-laws or rules of each of the amalgamating corporations. O. Reg. 48/01, s. 34 (3).

(4) In addition to the requirements of subsection 120 (3) of the Act, the notice of meeting described in that subsection shall include,

- (a) a copy of the comprehensive reserve fund study or the updated study based on a site inspection that the corporation is required to conduct under clause (1) (d);
- (b) a copy of the interim agreement described in clause (1) (e);
- (c) an estimate of the costs of carrying out the proposed amalgamation for each of the amalgamating corporations; and
- (d) one of the following statements:
  - 1. A statement describing the provisions of the proposed declaration, description, by-laws and rules that, in the opinion of the board giving the notice, differ significantly from those contained in the declaration, description, by-laws and rules of the amalgamating corporation.
  - 2. A statement that there are no provisions in the proposed declaration, description, by-laws and rules that, in the opinion of the board giving the notice, differ significantly from those contained in the declaration, description, by-laws and rules of the amalgamating corporation. O. Reg. 48/01, s. 34 (4).

(5) The consent in writing mentioned in clause 120 (1) (b) of the Act,

- (a) must not be executed before the meeting held in accordance with subsections 120 (2) and (3) of the Act; and
- (b) must be executed by,
  - (i) if the owner is an individual, the owner,
  - (ii) if the owner is a corporation, the persons authorized to bind the corporation, or
  - (iii) if a mortgagee is entitled to execute the consent in the place of the owner under section 48 of the Act, the individual mortgagee or, if the mortgagee is a corporation, the persons authorized to bind the corporation. O. Reg. 48/01, s. 34 (5).

#### Place of registration

**35.** (1) Section 4 does not apply to a declaration and description that are being registered to effect an amalgamation. O. Reg. 48/01, s. 35 (1).

(2) A declaration and description that are being registered to effect an amalgamation shall not be registered unless,

(a) the property described in the description is situated entirely within the boundaries of one land titles division and the *Land Titles Act* applies to all the property; or

(b) the property described in the description is situated entirely within the boundaries of one registry division and the *Registry Act* applies to all the property. O. Reg. 48/01, s. 35 (2).

#### Declaration

**36.** (1) This section applies to a declaration only if it is being registered to effect an amalgamation. O. Reg. 48/01, s. 36 (1).

(2) Subsection 7 (1) of the Act and clause 5 (1) (a) of this Regulation, do not apply to a declaration. O. Reg. 48/01, s. 36 (2).

(3) In addition to the requirements of subsection 5 (1), a declaration shall not be received for registration unless,

(a) it is executed by the officers of each amalgamating corporation who are duly authorized to sign on behalf of the corporation; and

(b) the property consists only of the property of each of the amalgamating corporations and there is no change in the boundaries of the units of each of the amalgamating corporations. O. Reg. 48/01, s. 36 (3).

(4) A declaration shall not be received for registration if the amalgamated corporation would be a phased condominium corporation.

O. Reg. 48/01, s. 36 (4).

(5) Despite clause 5 (2) (b), the statement of the solicitor contained in Schedule A to the declaration and described in that clause shall not contain the statement described in subclause 5 (2) (b) (iii) but, if there are easements that will merge and no longer exist in law upon the registration of the declaration and description, the statement of the solicitor shall set out a legal description of the easements and the most recent registered instrument number in which they are fully described and shall contain a statement that the easements will merge and no longer exist in law upon the registration of the declaration and description. O. Reg. 48/01, s. 36 (5).

(6) Clause 7 (2) (b) of the Act does not apply to a declaration and despite clause 5 (1) (d), a declaration shall not contain a Schedule B. O. Reg. 48/01, s. 36 (6).

(7) In addition to the requirements of subsection 5 (4), Schedule C to the declaration shall contain,

(a) a list indicating all units in the amalgamating corporations and what units they will become in the amalgamated corporation; and

(b) a list indicating all units in the amalgamated corporation and what units they were in the amalgamating corporations. O. Reg. 48/01, s. 36 (7).

(8) In addition to the requirements of clause 5 (4) (c), the statement of an Ontario land surveyor contained in Schedule C to the declaration and described in that clause shall certify that the lists described in clauses (7) (a) and (b) are accurate and complete. O. Reg. 48/01, s. 36 (8).

(9) Subsection 5 (6) does not apply to a declaration. O. Reg. 48/01, s. 36 (9).

(10) Schedule E to the declaration shall contain a statement specifying the common expenses of the amalgamated corporation or may be left blank if the amalgamating corporations so elect. O. Reg. 48/01, s. 36 (10).

(11) Despite clause 5 (1) (d), a declaration shall not contain a Schedule G. O. Reg. 48/01, s. 36 (11).

(12) In addition to the requirements of subsection 7 (2) of the Act, a declaration shall include,

(a) a statement by the persons authorized to bind each of the amalgamating corporations that their corporation has complied with section 120 of the Act and the regulations made under the Act; and

(b) a statement by the persons authorized to bind each of the amalgamating corporations that is a phased condominium corporation, that all phases have been completed or more than 10 years have passed since the registration of the declaration and description that created the amalgamating corporation. O. Reg. 48/01, s. 36 (12).

(13) Clause 7 (1) (b) does not apply to a declaration. O. Reg. 48/01, s. 36 (13).

#### Description

**37.** Clauses 8 (1) (b) and (e) of the Act do not apply to a description effecting an amalgamation. O. Reg. 48/01, s. 37.

#### Reserve fund studies

**38.** (1) Section 31 and subsections 33 (1) and (2) do not apply to an amalgamated corporation. O. Reg. 48/01, s. 38 (1).

(2) An amalgamated corporation shall conduct a comprehensive reserve fund study within three years of the date that any of the amalgamating corporations completes the latest reserve fund study that it is required to conduct before the amalgamation. O. Reg. 48/01, s. 38 (2).

(3) An amalgamated corporation shall conduct a reserve fund study within three years of completing the reserve fund study that it is required to conduct under subsection (2) and, after that, within every three years after completing the immediately preceding reserve fund study. O. Reg. 48/01, s. 38 (3).

(4) A reserve fund study that an amalgamated corporation is required to conduct under subsection (3) shall be,

(a) a comprehensive study;

(b) an updated study not based on a site inspection, if the immediately preceding reserve fund study for the corporation was a comprehensive study or an updated study based on a site inspection; or

(c) an updated study based on a site inspection, if the immediately preceding reserve fund study for the corporation was an updated study not based on a site inspection. O. Reg. 48/01, s. 38 (4).

(5) Except in the case of a corporation to which subsection (6) applies, the prescribed period of time for the purpose of subsection 94 (8) of the Act shall be the fiscal year of the corporation following the fiscal year in which the reserve fund study is completed. O. Reg. 48/01, s. 38 (5).

(6) In the case of all reserve fund studies that an amalgamated corporation, of which all the amalgamating corporations were created before the day section 94 of the Act comes into force, is required to conduct within 10 years after the date of the earliest reserve fund study that any of the amalgamating corporations was required to conduct under subsection 31 (1), the prescribed period of time for the purpose of subsection 94 (8) of the Act shall be 10 years from the date of the earliest reserve fund study that any of the amalgamating corporations was required to conduct under subsection 31 (1). O. Reg. 48/01, s. 38 (6); O. Reg. 383/12, s. 5.

#### PART V.1 TERMINATION

##### Termination

**38.1** Sections 122 and 123 of the Act do not apply to a corporation if the total of the proportions, expressed in percentages, of the common interests, as specified in the registered declaration, is not equal to 100 per cent. O. Reg. 180/17, s. 32.

#### PART VI COMMON ELEMENTS CONDOMINIUM CORPORATIONS

##### Place of registration

**39.** In addition to the requirements of section 4, a declaration and description for a common elements condominium corporation shall not be registered unless,

- (a) if the *Land Titles Act* applies to the property described in the description, all the parcels of tied land are situated entirely within the boundaries of the land titles division within which the property is situated and the owner of the freehold estate in each of the parcels is the registered owner of the parcel with an absolute title under that Act; or

(b) if the *Registry Act* applies to the property described in the description, all the parcels of tied land are situated entirely within the boundaries of the registry division within which the property is situated and the owner of the freehold estate in each of the parcels holds a certificate of title to the parcel issued under Part I of the *Certification of Titles Act* as it read immediately before the repeal of that Act within 10 years before the registration. O. Reg. 48/01, s. 39; O. Reg. 442/11, s. 11.

#### Capacity to convey parcels under Planning Act

**39.1** In addition to the requirements of section 4, a declaration and description for a common elements condominium corporation shall not be registered unless, at the time of registration, each parcel of tied land would be capable of being individually conveyed, or otherwise dealt with, without contravening section 50 of the *Planning Act*. O. Reg. 59/02, s. 1.

#### Declaration

**40.** (1) In addition to the requirements of subsection 5 (1), a declaration for a common elements condominium corporation shall not be received for registration unless,

(a) the first page of the declaration contains,

(i) a statement that the registration of the declaration and description will create a common elements condominium corporation, and

(ii) a statement that a parcel of tied land may not be divided into two or more parcels unless an amendment is registered to the declaration that takes into account the division of the parcel of tied land; and

(b) it contains schedules known as Schedules H, I and J. O. Reg. 48/01, s. 40 (1).

(2) Despite clause 5 (1) (c), the first page of a declaration for a common elements condominium corporation shall not contain the statement described in that clause. O. Reg. 48/01, s. 40 (2).

(3) In addition to the requirements of subsection 5 (3), Schedule B to the declaration for a common elements condominium corporation shall contain a consent in the form that the Director of Titles specifies of every person having a registered mortgage against a parcel of tied land. O. Reg. 48/01, s. 40 (3); O. Reg. 442/11, s. 12 (1).

(4) Despite clause 5 (1) (d), a declaration for a common elements condominium corporation shall not contain a Schedule C. O. Reg. 48/01, s. 40 (4).

(5) Subsection 5 (5) does not apply to a declaration for a common elements condominium corporation. O. Reg. 48/01, s. 40 (5).

(6) Schedule D to the declaration for a common elements condominium corporation shall contain,

(a) a statement that the common elements are intended for the use and enjoyment of the owners for the purpose of clause 140 (a) of the Act;

(b) a legal description of the parcels of tied land for the purpose of clause 140 (b) of the Act;

(c) a statement of the proportions, expressed in percentages totalling 100 per cent, of the common interest that will attach to each parcel of tied land; and

(d) a statement of the proportions, expressed in percentages totalling 100 per cent, allocated to the parcels of tied land, in which the owners are to contribute to the common expenses. O. Reg. 48/01, s. 40 (6).

(7) Subsection 5 (7) does not apply to a declaration for a common elements condominium corporation. O. Reg. 48/01, s. 40 (7).

(8) Schedule F to the declaration for a common elements condominium corporation shall contain a specification of all parts of the common elements that are to be used by the owners of one or more designated common interests and not by all the owners or shall indicate that there are no such parts if that is the case. O. Reg. 48/01, s. 40 (8).

(9) Despite clause 5 (1) (d), a declaration for a common elements condominium corporation shall not contain a Schedule G if the declaration and description show that there are no buildings, structures, facilities or services included in the common elements. O. Reg. 48/01, s. 40 (9).

(10) Subsections 5 (8) and (9) and section 6 do not apply to a declaration for a common elements condominium corporation. O. Reg. 48/01, s. 40 (10).

(11) Schedule G to the declaration for a common elements condominium corporation shall contain,

(a) a certificate, in the form that the Director of Titles specifies, of an architect certifying that,

- (i) all buildings and structures that the declaration and description show are included in the common elements have been completed and installed in accordance with the regulations made under the Act, with respect to all or some matters listed in the paragraphs of the definition of “has been completed and installed” in section 41, and
- (ii) some or all of the facilities and services that the declaration and description show are included in the common elements have been installed and provided in accordance with the definition of “has been installed and provided” in section 41; or

(b) one or more certificates of an engineer, in the form that the Director of Titles specifies, certifying that,

- (i) all buildings and structures that the declaration and description show are included in the common elements have been completed and installed in accordance with the regulations made under the Act, with respect to some matters listed in the paragraphs of the definition of “has been completed and installed” in section 41, and
- (ii) some or all of the facilities and services that the declaration and description show are included in the common elements have been installed and provided in accordance with the definition of “has been installed and provided” in section 41.

O. Reg. 48/01, s. 40 (11); O. Reg. 442/11, s. 12 (2).

(12) In a declaration for a common elements condominium corporation,

(a) every matter listed in the paragraphs of the definition of “has been completed and installed” in section 41 shall be certified to in the certificates described in subsection (11) that are contained in Schedule G; and

(b) the certificates described in subsection (11) that are contained in Schedule G shall certify that all facilities and services that the declaration and description show are included in the common elements have been installed and provided in accordance with the definition of “has been installed and provided” in section 41. O. Reg. 48/01, s. 40 (12); O. Reg. 442/11, s. 12 (3).

(13) If the declaration and description for a common elements condominium corporation show that there are no buildings or structures included in the common elements, the certificates described in subsection (11) that are contained in the declaration shall not contain the certification described in subclauses (11) (a) (i) and (b) (i) and clause (12) (a) does not apply to the declaration. O. Reg. 48/01, s. 40 (13); O. Reg. 442/11, s. 12 (4).

(14) If the declaration and description for a common elements condominium corporation show that there are no facilities or services included in the common elements, the certificates described in subsection (11) that are contained in the declaration shall not contain the certification described in subclauses (11) (a) (ii) and (b) (ii) and clause (12) (b) does not apply to the declaration. O. Reg. 48/01, s. 40 (14); O. Reg. 442/11, s. 12 (4).

(15) Schedule H shall contain,

(a) a list, in individual items numbered consecutively beginning with the number “1”, of all buildings, structures, facilities and services that are included in the common elements; and

(b) a brief description of each item sufficient to identify it. O. Reg. 48/01, s. 40 (15).

(16) The list shall show each of the items identified under one of the following headings as appropriate:

1. Buildings and structures.

2. Facilities and services. O. Reg. 48/01, s. 40 (16).

(17) Schedule I shall be the certificate that is described in clause 139 (1) (b) of the Act, that is in the form required by subsection 43 (1) of Ontario Regulation 49/01 (Description and Registration) made under the Act and that is signed by each of the owners of a common interest in the corporation. O. Reg. 48/01, s. 40 (17).

(18) Schedule J shall be the notice that is described in clause 139 (2) (b) of the Act and that is in the form required by subsection 43 (2) of Ontario Regulation 49/01 (Description and Registration) made under the Act. O. Reg. 48/01, s. 40 (18).

## Construction complete

**41.** For the purposes of subsections 40 (11) and 56 (7),

“has been completed and installed” means, with respect to each building and structure that the declaration and description show are included in the common elements, constructed at least to the following state:

1. The exterior building envelope, including roofing assembly, exterior wall cladding, doors and windows, caulking and sealants, is weather resistant if required by the construction documents and has been completed in general conformity with the construction documents.
2. Floor assemblies are constructed and completed to the final covering.
3. Walls and ceilings are completed to the drywall (including taping and sanding), plaster or other final covering.
4. All underground garages, if any, have walls and floor assemblies in place.
5. All elevating devices, if any, as defined in Ontario Regulation 209/01 (Elevating Devices) made under the *Technical Standards and Safety Act, 2000*, are licensed under that Act if it requires a licence.
6. All installations with respect to the provision of water and sewage services, if any, are in place and operable.
7. All installations with respect to the provision of heat and ventilation, if any, are in place and heat and ventilation can be provided.
8. All installations with respect to the provision of air conditioning, if any, are in place and operable.
9. All installations with respect to the provision of electricity, if any, are in place and operable.
10. All indoor and outdoor swimming pools, if any, are completed and operable; (“a été achevé et mis en place”)

“has been installed and provided” means, with respect to the facilities and services that the declaration and description show are included in the common elements, installed and provided in accordance with the requirements of the municipalities in which the land is situated or the requirements of the Minister of Municipal Affairs and Housing, if the land is not situated in a municipality. (“a été mis en place et fourni”) O. Reg. 48/01, s. 41; O. Reg. 383/12, s. 6.

## Parcels of tied land

**42.** (1) A declarant is exempt from clause 139 (2) (b) of the Act. O. Reg. 48/01, s. 42 (1).

(2) Subsection 139 (3) of the Act does not apply to a common elements condominium corporation. O. Reg. 48/01, s. 42 (2).

(3) A parcel of tied land set out in Schedule D to the declaration may not be divided into two or more parcels of tied land unless an amendment is registered to the declaration that takes into account the division of the parcel of tied land. O. Reg. 48/01, s. 42 (3).

#### Description

**43.** (1) Subsection 9 (2) does not apply to a description for a common elements condominium corporation. O. Reg. 48/01, s. 43 (1).

(2) Despite clause 8 (1) (b) of the Act, a description for a common elements condominium corporation shall not contain the architectural plans described in that clause if,

(a) it contains the structural plans described in that clause and, in accordance with subsection 40 (11), Schedule G to the declaration does not contain the certificate of an architect mentioned in that subsection; or

(b) the declaration and description for the corporation show that there are no buildings, structures, facilities or services included in the common elements. O. Reg. 48/01, s. 43 (2).

**Note: On November 1, 2017, the day section 42 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, the Regulation is amended by adding the following section: (See: O. Reg. 180/17, s. 33)**

#### Service of notice to owners

**43.1** In the case of a common elements condominium corporation, references to a unit in clause 47 (4) (d) of the Act and in clause 11.11 (3) (c) and subsection 12.7 (4) of this Regulation shall be deemed to be references to the parcel of tied land to which the common interest of the owner attaches under clause 139 (2) (a) of the Act. O. Reg. 180/17, s. 33.

#### Provisions for owner-occupied units

**44.** Subsections 28 (3), 46 (3) and 51 (5) to (8) of the Act do not apply to a common interest in a common elements condominium corporation. O. Reg. 48/01, s. 44.

## Security

**45.** (1) Subsection 20 (2) and section 22 do not apply to a common elements condominium corporation. O. Reg. 48/01, s. 45 (1).

(2) The following class is prescribed as security for the purpose of clause 81 (7) (b) of the Act: policies that insure against the loss of payments described in subsection 81 (1) of the Act and the interest payable by the declarant on the payments, that meet the requirements of section 21 and that are in effect. O. Reg. 48/01, s. 45 (2).

## Insurance policies

**46.** (1) Subsections 21 (2) and (8) do not apply to a common elements condominium corporation. O. Reg. 48/01, s. 46 (1).

(2) In the case of a common elements condominium corporation, the trustee or the declarant's solicitor, as the case may be, shall hold the policy in trust for the beneficiary until the insurer is no longer liable under it in accordance with subsection (3). O. Reg. 48/01, s. 46 (2).

(3) In the case of a common elements condominium corporation, an insurer shall remain liable under a policy until,

- (a) the declarant delivers to the beneficiary a deed in registerable form to the common interest in the corporation, in respect of which the beneficiary or a person on the beneficiary's behalf has made a payment described in subsection 81 (1) of the Act;
- (b) the declarant pays the beneficiary all money paid under subsection 81 (1) of the Act and interest on it payable by the declarant under the Act;
- (c) the insurer pays the beneficiary the amount of the loss;
- (d) the common interest, in respect of which the beneficiary or a person on the beneficiary's behalf has made a payment described in subsection 81 (1) of the Act, has attached to the beneficiary's parcel of tied land;
- (e) the beneficiary acknowledges in writing that,

- (i) the beneficiary is not entitled to the payments made by or on behalf of the beneficiary under subsection 81 (1) of the Act in respect of a proposed common interest in the corporation and the interest payable on the payments by the declarant, and
  - (ii) the insurer is no longer liable under the policy; or
- (f) a court of competent jurisdiction has made a final determination that the beneficiary is not entitled to the payments made by or on behalf of the beneficiary under subsection 81 (1) of the Act in respect of a proposed common interest in the corporation and the interest payable on the payments by the declarant. O. Reg. 48/01, s. 46 (3).

## PART VII PHASED CONDOMINIUM CORPORATIONS

### Definition

**47.** In this Part,

“servient lands” means the land owned by the declarant that is not included in the property upon the registration of the declaration and description, or the most recent amendments to the declaration and description, but that will be included in the property after the declarant has created all phases that it is entitled to create in the corporation, including the buildings and structures on the land.  
O. Reg. 48/01, s. 47.

### Place of registration

**48.** (1) Section 4 does not apply to a phased condominium corporation. O. Reg. 48/01, s. 48 (1).

(2) A declaration and description for a phased condominium corporation shall not be registered unless,

- (a) the property and the servient lands, as the property and those lands are described in Schedule A to the declaration, are situated entirely within the boundaries of one land titles division, the *Land Titles Act* applies to all the property and, if any, the servient lands and the declarant is the registered owner of the property and, if any, the servient lands, with an absolute title under that Act;
- or

(b) the property and the servient lands, as the property and those lands are described in Schedule A to the declaration, are situated entirely within the boundaries of one registry division, the *Registry Act* applies to all the property and, if any, the servient lands and the declarant holds a certificate of title to the property and, if any, the servient lands, issued under Part I of the *Certification of Titles Act* as it read immediately before the repeal of that Act within 10 years before the registration. O. Reg. 48/01, s. 48 (2); O. Reg. 442/11, s. 13.

#### Declaration

**49.** (1) Despite clause 5 (1) (c), the first page of a declaration for a phased condominium corporation shall not contain the statement described in that clause. O. Reg. 48/01, s. 49 (1).

(2) In addition to the requirements of subsection 5 (1), a declaration for a phased condominium corporation shall not be received for registration unless the first page of the declaration contains a statement that the registration of the declaration and description will create a standard condominium corporation that is a phased condominium corporation. O. Reg. 48/01, s. 49 (2).

(3) In addition to the requirements of clause 5 (2) (b), the statement of a solicitor contained in Schedule A to the declaration for a phased condominium corporation and described in that clause shall set out a legal description of the lands that will be the servient lands and shall contain a statement that the legal description is a legal description of the servient lands. O. Reg. 48/01, s. 49 (3).

(4) In addition to the requirements of subsection 5 (3), Schedule B to the declaration for a phased condominium corporation shall contain the consent, in the form that the Director of Titles specifies, of every person having a registered mortgage against the servient lands. O. Reg. 48/01, s. 49 (4); O. Reg. 442/11, s. 14.

#### Description

**50.** Despite clause 145 (1) (d) of the Act, a description of a phased condominium corporation shall not contain the legal description of the lands that will be the servient lands. O. Reg. 48/01, s. 50.

#### Restrictions on creating phases

**51.** Amendments to a declaration and description creating a phase shall not be registered unless,

- (a) the corporation is a standard condominium corporation;
- (b) the declaration contains the statement described in subsection 49 (2);
- (c) Schedule A to the declaration contains the legal description of the lands that will be the servient lands;
- (d) the phase contains at least one unit;
- (e) the units and common elements included in the phase are not part of an existing building on the property;
- (f) more than 60 days have passed since the registration of the declaration and description that created the corporation or the registration of the latest amendments to the declaration and description creating a phase, whichever is the later;
- (g) there is no outstanding application to the Superior Court of Justice for an injunction under subsection 149 (2) of the Act and the Superior Court has not issued an injunction to prevent the registration of the amendments creating the phase;
- (h) the amendments are registered no later than 10 years after the registration of the declaration and description that created the corporation; and
- (i) the amendments comply with all other legal requirements. O. Reg. 48/01, s. 51.

**Amendment to declaration for phase**

**52.** (1) Except as provided in this section, sections 5 and 6 do not apply to an amendment to a declaration creating a phase. O. Reg. 48/01, s. 52 (1).

(2) An amendment to a declaration creating a phase shall not be received for registration unless,

- (a) it is executed by the declarant;
- (b) it meets the execution requirements for registration of a transfer/deed of land under the *Land Titles Act* or the *Registry Act*, as the case may be;

- (c) it contains a statement that at least 60 days have passed since the declarant delivered to the corporation the documents described in clauses 149 (1) (a), (b) and (c) of the Act;
  - (d) it contains a statement setting out the date on which the board was elected at a meeting of owners and stating that,
    - (i) the meeting was held at a time when the declarant did not own the majority of the units,
    - (ii) more than 60 days have passed since the registration of the declaration and description that created the corporation or the registration of the latest amendments to the declaration and description creating a phase, whichever is the later, and
    - (iii) there is no outstanding application to the Superior Court of Justice for an injunction under subsection 149 (2) of the Act and the Superior Court has not issued an injunction to prevent the registration of the amendments creating the phase;
  - (e) it replaces Schedule A to the declaration with Schedule A described in subsection (3);
  - (f) it amends Schedule B to the declaration to include the consent, in the form that the Director of Titles specifies, of every person having a registered mortgage against the land included in the phase or interests appurtenant to the land, as the land and the interests are described in the amendment to the description required for creating the phase;
  - (g) it amends Schedule C to the declaration to include, with respect to the land included in the phase, the material that subsection 5 (4) requires;
  - (h) it replaces Schedule D to the declaration with Schedule D described in subsection (4);
  - (i) it amends Schedule F to the declaration to include,
    - (i) a specification of all parts of the common elements contained in the phase that are to be used by the owners of one or more designated units and not by all the owners, or
    - (ii) a statement that there are no parts described in subclause (i), if that is the case;
  - (j) it amends Schedule G to the declaration to include the material described in subsection (5); and
  - (k) it contains a schedule known as Schedule K. O. Reg. 48/01, s. 52 (2); O. Reg. 442/11, s. 15.
- (3) Schedule A to the amendment to the declaration shall contain,

- (a) the description of the property that was included in Schedule A to the declaration, as originally registered, except for the easements that will merge and no longer exist in law upon the registration of the amendment to the declaration and that are described in the Schedule as required by subclause (e) (i), and the description shall be identified as “FIRSTLY” or “PREMIÈREMENT”;
- (b) the descriptions, in order of their registration, of all phases that have already been created, as described in amendments to Schedule A to the declaration, except for the easements that will merge and no longer exist in law upon the registration of the amendment to the declaration and that are described in the Schedule as required by subclause (e) (i), and the descriptions shall be identified consecutively starting with “SECONDLY” or “DEUXIÈMEMENT”;
- (c) a legal description, identified with the next consecutive ordinal number, of the land included in the phase and interests appurtenant to the land intended to be governed by the Act, including a description of every easement, as shown on the amendment to the description that, upon the registration of the amendments to the declaration and description, will be appurtenant to the phase or to which the phase will be subject;
- (d) a statement signed by the solicitor registering the amendment to the declaration that sets out a legal description of the lands that will be the servient lands, if any, and that states that, in his or her opinion, based on the parcel register or abstract index and the plans and documents recorded in them,
  - (i) the legal description mentioned in clause (c) is correct,
  - (ii) the easements mentioned in clause (c) will exist in law upon the registration of the amendment to the declaration and description creating the phase,
  - (iii) the legal description of the lands that will be the servient lands is set out in the solicitor’s statement, and
  - (iv) the declarant is the registered owner of the land included in the phase and interests appurtenant to the land; and
- (e) if there are easements that will merge and no longer exist in law upon the registration of the amendment to the declaration, a statement signed by the solicitor registering the amendment to the declaration that,
  - (i) sets out a legal description of the easements and the most recent registered instrument number in which they are fully described, and

(ii) states that, in his or her opinion, based on the parcel register or abstract index and the plans and documents recorded in them, the easements will merge and no longer exist in law upon the registration of the amendment to the declaration.

O. Reg. 48/01, s. 52 (3).

(4) Schedule D to the amendment to the declaration shall contain,

(a) a statement of the proportions, expressed in percentages totalling 100 per cent, of the common interests appurtenant to the units in the corporation after the creation of the phase; and

(b) a statement of the proportions, expressed in percentages totalling 100 per cent, allocated to the units in the corporation, in which the owners after the creation of the phase are to contribute to the common expenses. O. Reg. 48/01, s. 52 (4).

(5) The material to be added to Schedule G to the declaration is,

(a) the certificates, with respect to the land included in the phase, that subsections 5 (8) and (9) and section 6 require; and

(b) a statement from any of the municipalities in which the land included in the phase is situated, or from the Minister of Municipal Affairs and Housing if the land is not situated in a municipality, that,

(i) all facilities and services have been installed or provided as the person making the statement determines are necessary to ensure the independent operation of the corporation if no subsequent phases are created, or

(ii) a bond or other security has been posted that is sufficient to ensure the independent operation of the corporation if no subsequent phases are created. O. Reg. 48/01, s. 52 (5).

(6) The statement described in clause (5) (b) shall be signed by a person authorized to bind the municipality or the Minister making the statement. O. Reg. 48/01, s. 52 (6).

(7) For the purposes of clause 146 (11) (a) of the Act, the facilities and services covered by the bond or the security mentioned in that clause have been installed or provided when there are no facilities and services remaining to be installed or provided that the person making the statement described in clause (5) (b) determines are necessary to ensure the independent operation of the corporation if no subsequent phases are created. O. Reg. 48/01, s. 52 (7).

(8) Schedule K to the amendment to the declaration shall contain,

(a) a statement of all conditions that the approval authority, in approving or exempting under section 9 of the Act the amendment to the description creating the phase, requires the amendment to the declaration to mention; or

(b) a statement that there are no conditions described in clause (a), if that is the case. O. Reg. 48/01, s. 52 (8).

(9) An amendment to a declaration creating a phase may also contain,

(a) an amendment to Schedule E to the declaration specifying the common expenses of the corporation, whether or not the Schedule has been previously left blank; or

(b) any other amendments to the declaration that are a result solely of creating the phase. O. Reg. 48/01, s. 52 (9).

#### Amendment to description for phase

**53.** (1) Despite clause 146 (5) (b) of the Act, an amendment to a description creating a phase shall not contain the legal description of the lands that will be the servient lands. O. Reg. 48/01, s. 53 (1).

(2) Subsections 9 (4) and (5) do not apply to an amendment to a description creating a phase. O. Reg. 48/01, s. 53 (2).

(3) In addition to all other material that it is required to contain, an amendment to a description creating a phase shall contain a description of all easements and similar interests to which the land included in the phase is subject. O. Reg. 48/01, s. 53 (3).

(4) The description of the easements and similar interests to which the land included in the phase is subject and the description of the interests appurtenant to the land required by clause 8 (1) (g) of the Act shall be combined and shall be in the form that the Director of Titles specifies. O. Reg. 48/01, s. 53 (4); O. Reg. 442/11, s. 16.

#### Forms for amendments creating phase

**54.** (1) Amendments to the declaration and description creating a phase shall be in English or French and shall be in the form that is entitled “Amendment to Declaration and Description to Create a Phase” in English or “Modification d’une déclaration et d’une description créant une étape” in French, as the case may be, and dated September 1, 2011, as it appears on the Government of Ontario website. O. Reg. 180/17, s. 34.

(2) Subsection 10 (1) does not apply to an amendment to a description creating a phase. O. Reg. 48/01, s. 54 (2).

(3) The land registrar’s certificate of registration that clause 11 (1) (a) of Ontario Regulation 49/01 (Description and Registration) made under the Act requires to be on an amendment to a description creating a phase shall be in the form that the Director of Titles specifies. O. Reg. 48/01, s. 54 (3); O. Reg. 442/11, s. 17 (2).

#### Disclosure statement

**55.** In addition to the material specified in subsection 72 (3) of the Act, a disclosure statement mentioned in that subsection for a phased condominium corporation shall include a statement that no amendments to the declaration and description creating a phase may be registered after more than 10 years after the registration of the declaration and description that created the corporation. O. Reg. 48/01, s. 55.

## PART VIII VACANT LAND CONDOMINIUM CORPORATIONS

#### Declaration

**56.** (1) In addition to the requirements of subsection 5 (1), a declaration for a vacant land condominium corporation shall not be received for registration unless,

- (a) despite clause 155 (1) (a) of the Act, none of the units are part of a building or structure and none of the units include part of a building or structure, except if a building or structure is located entirely within the boundaries of the unit;

(b) the first page of the declaration contains a statement that the registration of the declaration and description will create a vacant land condominium corporation; and

(c) it contains a schedule known as Schedule H that complies with subsections 40 (15) and (16). O. Reg. 48/01, s. 56 (1).

(2) Despite clause 5 (1) (c), the first page of a declaration for a vacant land condominium corporation shall not contain the statement described in that clause. O. Reg. 48/01, s. 56 (2).

(3) Subsection 5 (4) does not apply to a declaration for a vacant land condominium corporation. O. Reg. 48/01, s. 56 (3).

(4) Schedule C to the declaration for a vacant land condominium corporation shall contain a statement signed by an Ontario land surveyor licensed under the *Surveyors Act* certifying that the boundaries of the units are controlled by the monuments illustrated on the plan of survey described in clause 157 (1) (a) of the Act. O. Reg. 48/01, s. 56 (4).

(5) Despite clause 5 (1) (d), a declaration for a vacant land condominium corporation shall not contain a Schedule G if the declaration and description show that there are no buildings, structures, facilities or services included in the common elements. O. Reg. 48/01, s. 56 (5).

(6) Subsections 5 (8) and (9) and section 6 do not apply to a declaration for a vacant land condominium corporation. O. Reg. 48/01, s. 56 (6).

(7) Schedule G to the declaration for a vacant land condominium corporation shall contain the statement described in clause (8) (b) or,

(a) a certificate, in the form that the Director of Titles specifies, of an architect certifying that,

(i) all buildings and structures that the declaration and description show are included in the common elements have been completed and installed in accordance with the regulations made under the Act, with respect to all or some matters listed in the paragraphs of the definition of “has been completed and installed” in section 41, and

(ii) some or all of the facilities and services that the declaration and description show are included in the common elements have been installed and provided in accordance with the definition of “has been installed and provided” in section 41; or

(b) one or more certificates of an engineer, in the form that the Director of Titles specifies, certifying that,

(i) all buildings and structures that the declaration and description show are included in the common elements have been completed and installed in accordance with the regulations made under the Act, with respect to some matters listed in the paragraphs of the definition of “has been completed and installed” in section 41, and

(ii) some or all of the facilities and services that the declaration and description show are included in the common elements have been installed and provided in accordance with the definition of “has been installed and provided” in section 41.

O. Reg. 48/01, s. 56 (7); O. Reg. 442/11, s. 18 (1).

(8) If Schedule G to the declaration for a vacant land condominium corporation does not contain the required certificates described in clause (7) (a) or (b), it shall contain,

(a) a statement by the declarant that the certificates will be included in an amendment to the description; and

(b) a statement from any of the municipalities in which the land is situated, or the Minister of Municipal Affairs and Housing if the land is not situated in a municipality, stating that a bond or other security that is acceptable to the municipalities in which the land is situated or the Minister, as the case may be, has been posted that is sufficient to ensure that,

(i) the buildings and structures that the declaration and description show are included in the common elements will be completed and installed in accordance with the regulations made under the Act,

(ii) the facilities and services that the declaration and description show are included in the common elements will be installed and provided in accordance with the regulations made under the Act,

(iii) the items described in clause 158 (3) (b) of the Act will be included in an amendment to the description. O. Reg. 48/01, s. 56 (8).

(9) The statement described in clause (8) (b) shall be signed by a person authorized to bind the municipality or the Minister, as the case may be. O. Reg. 48/01, s. 56 (9).

(10) In a declaration for a vacant land condominium corporation,

(a) every matter listed in the paragraphs of the definition of “has been completed and installed” in section 41 shall be certified to in the certificates described in subsection (7) that are contained in Schedule G; and

(b) the certificates described in subsection (7) that are contained in Schedule G shall certify that all facilities and services that the declaration and description show are included in the common elements have been installed and provided in accordance with the definition of “has been installed and provided” in section 41. O. Reg. 48/01, s. 56 (10); O. Reg. 442/11, s. 18 (2).

(11) If the declaration and description for a vacant land condominium corporation show that there are no buildings or structures included in the common elements, the certificates described in subsection (7) that are contained in the declaration shall not contain the certification described in subclauses (7) (a) (i) and (b) (i) and clause (10) (a) does not apply to the declaration. O. Reg. 48/01, s. 56 (11); O. Reg. 442/11, s. 18 (3).

(12) If the declaration and description for a vacant land condominium corporation show that there are no facilities or services included in the common elements, the certificates described in subsection (7) that are contained in the declaration shall not contain the certification described in subclauses (7) (a) (ii) and (b) (ii) and clause (10) (b) does not apply to the declaration. O. Reg. 48/01, s. 56 (12); O. Reg. 442/11, s. 18 (3).

#### Description

**57.** (1) Subsections 9 (2), (3) and (5) do not apply to a description for a vacant land condominium corporation. O. Reg. 48/01, s. 57 (1).

(2) Despite clause 157 (1) (b) of the Act, a description for a vacant land condominium corporation shall not contain the architectural plans described in that clause if,

(a) it contains the structural plans described in that clause and, in accordance with subsection 56 (7), Schedule G to the declaration does not contain the certificate of an architect mentioned in that subsection; or

(b) the declaration and description for the corporation show that there are no buildings, structures, facilities or services included in the common elements. O. Reg. 48/01, s. 57 (2).

(3) Despite clause 157 (1) (c) of the Act, a description for a vacant land condominium corporation shall not contain the certificates described in that clause. O. Reg. 48/01, s. 57 (3); O. Reg. 383/12, s. 7.

(4) The description of the easements and similar interests to which the property is subject and the description of the interests appurtenant to the property required by clause 157 (1) (d) of the Act shall be combined and shall be in the form that the Director of Titles specifies. O. Reg. 48/01, s. 57 (4); O. Reg. 442/11, s. 19.

#### Amendment to description

**58.** (1) Despite subsection 157 (1) of the Act and clause 158 (3) (b) of the Act, an amendment described in that clause to the description for a vacant land condominium corporation shall be in the form that the Director of Titles specifies and shall not contain the material described in clauses 157 (1) (a), (c) and (d) of the Act. O. Reg. 48/01, s. 58 (1); O. Reg. 442/11, s. 20.

(2) A declarant is exempt from subsections 9 (2) and (3) of the Act when applying to register an amendment described in clause 158 (3) (b) of the Act to the description for a vacant land condominium corporation. O. Reg. 48/01, s. 58 (2).

(3) If Schedule G to the declaration for a vacant land condominium corporation is required to contain the certificates described in clause 56 (7) (a) or (b) and does not contain them, the amendment described in clause 158 (3) (b) of the Act to the description shall contain them. O. Reg. 48/01, s. 58 (3).

## PART IX LEASEHOLD CONDOMINIUM CORPORATIONS

#### Restrictions on creation

**59.** A declaration and description for a leasehold condominium corporation shall not be registered unless,

- (a) the term of the leasehold interests in the units in the corporation and their appurtenant common interests is the same as, or less than, the unexpired term of the leasehold interest affecting the property;
- (b) the owners of the leasehold interests in the units in the corporation are the owners, as tenants in common, of the leasehold estate in the property under a lease with the lessor; and
- (c) one of the following situations applies:
  - 1. The property described in the description is situated entirely within the boundaries of one land titles division, the *Land Titles Act* applies to all the property, the lessor is the registered owner of the property with an absolute title under that Act and the declarant is the registered owner of a leasehold parcel of land that consists of or includes the property.
  - 2. The property described in the description is situated entirely within the boundaries of one registry division, the *Registry Act* applies to all the property and the lessor holds a certificate of title to the property issued under Part I of the *Certification of Titles Act* as it read immediately before the repeal of that Act within 10 years before the registration. O. Reg. 48/01, s. 59; O. Reg. 442/11, s. 21.

#### Declaration

**60.** (1) In addition to the requirements of subsection 5 (1), a declaration for a leasehold condominium corporation shall not be received for registration unless,

- (a) it is executed by the lessor;
- (b) the first page of the declaration contains,
  - (i) a statement that the registration of the declaration and description will create a leasehold condominium corporation, and
  - (ii) a statement that the building and improvements to the property form part of the property;
- (c) it contains schedules known as Schedules L and M; and
- (d) it contains a statement that no person shall terminate the leasehold interest in the units and their appurtenant common interests except in accordance with the Act. O. Reg. 48/01, s. 60 (1).

(2) Despite clause 5 (1) (c), the first page of a declaration for a leasehold condominium corporation shall not contain the statement described in that clause. O. Reg. 48/01, s. 60 (2).

(3) Schedule L shall set out all provisions of the leasehold interests that affect the property, the corporation and the owners and that are binding on them, and shall include,

- (a) a statement that the provisions of the leasehold interests set out in the Schedule are binding on the property, the corporation and the owners;
- (b) a statement of the term of the leasehold interests of the owners;
- (c) a schedule setting out the amount of rent for the property payable by the corporation on behalf of the owners to the lessor and the times at which the rent is payable for at least the first five years immediately following the registration of the declaration and description; and
- (d) a formula to determine the amount of rent for the property payable by the corporation on behalf of the owners to the lessor and the times at which the rent is payable during the remainder of the term of the owners' leasehold interests following the time for which the schedule described in clause (c) states the amount of rent payable. O. Reg. 48/01, s. 60 (3).

(4) Schedule M shall contain a statement signed by the solicitor registering the declaration that, in his or her opinion, based on the parcel register or abstract index and the plans and documents recorded in them,

- (a) the lessor is the registered owner of the freehold estate in the land and appurtenant interests;
- (b) the declarant is the registered owner of the leasehold estate in the land and appurtenant interests; and
- (c) the lease of the declarant in the land and appurtenant interests is a valid and subsisting lease for a term, for which the statement specifies the length. O. Reg. 48/01, s. 60 (4).

#### Amendment to declaration

**61.** The amendment that subsection 174 (8) of the Act requires a leasehold condominium corporation to register to the declaration shall be in the form that the Director of Titles specifies. O. Reg. 48/01, s. 61; O. Reg. 442/11, s. 22.

## Forms

**62.** The following shall be in the form that the Minister responsible for the administration of section 174 of the Act specifies:

1. The notice that clause 174 (1) (a) of the Act requires the lessor to give a leasehold condominium corporation if the lessor intends to renew all the leasehold interests.
2. The notice that clause 174 (1) (b) of the Act requires the lessor to give a leasehold condominium corporation if the lessor intends to not renew all the leasehold interests.
3. The notice that subsection 174 (4) of the Act requires the corporation to send to the owners.
4. The notice that subsection 174 (6) of the Act requires the corporation to send to the lessor. O. Reg. 442/11, s. 23.

## PART X TRANSITIONAL

**63.** REVOKED: O. Reg. 48/01, s. 63 (2).

**Note: On November 1, 2017, the day subsection 19 (5) of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, the Regulation is amended by adding the following section: (See: O. Reg. 180/17, s. 35)**

### Termination of telecommunications agreement

**63.** Subsections 22 (9.1) and (9.2) of the Act do not apply to a consent given to the termination of an agreement if the board has approved the termination by a resolution made under clause 22 (9) (b) of the Act before the day those subsections come into force. O. Reg. 180/17, s. 35.

### Disclosure and sale of units

**64.** If, on or before the day sections 44, 72 to 75 and 78 to 82 of the Act come into force, the declarant with respect to a corporation has entered into one or more agreements of purchase and sale for a unit or proposed unit in the corporation,

- (a) sections 12, 17 and 19 to 22 do not apply; and

(b) sections 34 to 37 of Regulation 96 of the Revised Regulations of Ontario, 1990 (General) made under the *Condominium Act*, being chapter C.26 of the Revised Statutes of Ontario, 1990, as those sections existed immediately before the revocation of that Regulation, continue to apply. O. Reg. 48/01, s. 64; O. Reg. 383/12, s. 8.

**65.** OMITTED (REVOKES OTHER REGULATIONS). O. Reg. 48/01, s. 65.

**Note: On November 1, 2017, the day subsection 26 (1) of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, section 65 of the Regulation is revoked and the following substituted: (See: O. Reg. 180/17, s. 36)**

Notice of candidates for board

**65.** Subsection 28 (2) of the Act, as re-enacted by subsection 26 (1) of Schedule 1 to the *Protecting Condominium Owners Act, 2015*, does not apply to a notice of meeting unless the meeting is held 40 days or more after the day that subsection 28 (2) comes into force and no notice of the meeting has been sent to the owners before that date. O. Reg. 180/17, s. 36.

**66.** OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS REGULATION). O. Reg. 48/01, s. 66.

**Note: On November 1, 2017, the day section 32 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, section 66 of the Regulation is revoked and the following substituted: (See: O. Reg. 180/17, s. 37)**

Meeting of directors held by teleconference

**66.** Subsection 35 (5) of the Act, as re-enacted by section 32 of Schedule 1 to the *Protecting Condominium Owners Act, 2015*, applies to a meeting of directors that is called in accordance with section 35 of the Act on or after the day that subsection 35 (5) comes into force. O. Reg. 180/17, s. 37.

**Note: On November 1, 2017, the day section 42 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, the Regulation is amended by adding the following section: This amendment applies only if section 40 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force on or after November 1, 2017, the day section 42 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force. (See: O. Reg. 180/17, s. 38 (1, 2))**

Requisition for meeting of owners

**67.** (1) The reference in subsection 46 (1) of the Act to a record maintained by the corporation under subsection 47 (2) of the Act shall be read as a reference to a record of the corporation required by section 46.1 of the Act. O. Reg. 180/17, s. 38 (2).

(2) In the case of a meeting of owners requisitioned under section 46 of the Act, the reference to 20 days in clause 47 (1) (c) of the Act shall be read as a reference to 15 days. O. Reg. 180/17, s. 38 (2).

**Note: On the day section 40 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, section 67 of the Regulation is revoked. This amendment applies only if section 40 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force on or after November 1, 2017, the day section 42 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force. (See: O. Reg. 180/17, s. 38 (1, 3))**

**Note: On November 1, 2017, the day subsection 52 (13) of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, the Regulation is amended by adding the following section: (See: O. Reg. 180/17, s. 39)**

When by-law effective

**68.** Clause 56 (10) (a) of the Act, as re-enacted by subsection 52 (13) of Schedule 1 to the *Protecting Condominium Owners Act, 2015*, does not apply to a vote in favour of confirming the by-law unless the vote is taken at a meeting held 40 days or more after the day that clause comes into force and no notice of the meeting has been sent to the owners before that date. O. Reg. 180/17, s. 39.

**Note: On November 1, 2017, the day subsections 54 (2) and (3) of Schedule 1 to the *Protecting Condominium Owners Act, 2015* come into force, the Regulation is amended by adding the following section: (See: O. Reg. 180/17, s. 40)**

Rules

**69.** (1) Clause 58 (6) (d) of the Act does not apply to a notice of a rule unless the notice is given to the owners on or after the day that clause comes into force. O. Reg. 180/17, s. 40.

(2) Subsection 58 (7) of the Act, as re-enacted by subsection 54 (3) of Schedule 1 to the *Protecting Condominium Owners Act, 2015*, does not apply to a rule unless a notice of the rule is given to the owners on or after the day that subsection 58 (7) comes into force. O. Reg. 180/17, s. 40.

**Note: On November 1, 2017, the day section 56 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, the Regulation is amended by adding the following section: (See: O. Reg. 180/17, s. 41)**

Loss of owner's right to consent to dispense with audit

**70.** Subsections 60 (6) and (7) of the Act do not apply to a consent that is described in clause 60 (5) (c) of the Act and given in respect of the first annual general meeting of a corporation if any part of the meeting is held before the day those subsections come into force. O. Reg. 180/17, s. 41.

**Note: On the day subsection 59 (3) of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, the Regulation is amended by adding the following section: (See: O. Reg. 180/17, s. 42)**

#### Financial statements

**71.** Clauses 66 (2) (a), (b) and (c) of the Act, as re-enacted by subsection 59 (3) of Schedule 1 to the *Protecting Condominium Owners Act, 2015*, do not apply to financial statements unless the board approves them under subsection 66 (3) of the Act on or after the day those clauses come into force. O. Reg. 180/17, s. 42.

**Note: On the day section 60 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, the Regulation is amended by adding the following section: (See: O. Reg. 180/17, s. 43)**

#### Auditor's report

**72.** Subsections 67 (3) and (4) of the Act, as re-enacted by section 60 of Schedule 1 to the *Protecting Condominium Owners Act, 2015*, do not apply to an auditor's report unless the auditor presents it under subsection 67 (6) of the Act on or after the day those subsections come into force. O. Reg. 180/17, s. 43.

**Note: On the day section 70 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, the Regulation is amended by adding the following section: (See: O. Reg. 180/17, s. 44)**

#### Duty to register declaration and description

**73.** Subsections 79 (1) and (2) of the Act, as re-enacted by section 70 of Schedule 1 to the *Protecting Condominium Owners Act, 2015*, do not apply unless the declarant or a person acting on behalf of or for the benefit of the declarant has entered into the agreement of purchase and sale mentioned in that subsection 79 (1) on or after the day those subsections come into force. O. Reg. 180/17, s. 44.

**Note: On the day section 73 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, the Regulation is amended by adding the following section: (See: O. Reg. 180/17, s. 45)**

#### Interest on money paid on account of purchase price

**74.** Subsections 82 (1) and (3), clause 82 (4) (b) and subsection 82 (6) of the Act, as amended by section 73 of Schedule 1 to the *Protecting Condominium Owners Act, 2015*, does not apply to any money unless, on or after that section 73 comes into force, a person pays the money on account of the purchase price of a proposed unit or the declarant credits the money to the purchase price of a proposed unit. O. Reg. 180/17, s. 45.

**Note: On November 1, 2017, the day subsection 93 (4) of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, the Regulation is amended by adding the following section: (See: O. Reg. 180/17, s. 46)**

Owners' consent to amendments to the declaration and description

**75.** Subsections 107 (4.1) and (4.2) of the Act do not apply to a consent that an owner gives to a resolution described in clause 107 (2) (a) of the Act before the day those subsections come into force. O. Reg. 180/17, s. 46.

**Note: On November 1, 2017, the day subsection 104 (2) of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, the Regulation is amended by adding the following section: (See: O. Reg. 180/17, s. 47)**

Owners' consent to amalgamation

**76.** Subsections 120 (3.1) and (3.2) of the Act do not apply to a consent that an owner gives under clause 120 (1) (b) of the Act in respect of a meeting if any part of the meeting is held on or before the day those subsections come into force. O. Reg. 180/17, s. 47.

**Note: On November 1, 2017, the day subsection 107 (3) of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, the Regulation is amended by adding the following section: (See: O. Reg. 180/17, s. 48)**

Owners' consent to termination

**77.** Subsection 124 (2.1) and (2.2) of the Act do not apply to a consent that an owner gives under clause 124 (2) (a) of the Act in respect of a vote if any part of the meeting, at which the vote is to be held, is held on or before the day those subsections come into force. O. Reg. 180/17, s. 48.

FORMS 1-26 REVOKED: O. REG. 442/11, S. 24.

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