

**Notice of Rules**  
**Smoking, Cannabis & Drugs Rules**  
**Metropolitan Toronto Condominium Corporation No. 570**  
**(the "Corporation")**

**TO ALL UNIT OWNERS**

**Notice**

This is notice to all unit owners that the board of directors of the Corporation has passed the Smoking, Cannabis & Drugs Rules attached hereto as **Schedule "A"** at a meeting of directors held on the 13<sup>TH</sup> day of September, 2018, after due consideration of various implications.

**Purpose of Rule**

The attached Smoking, Cannabis & Drugs Rules are intended to protect owners, tenants and residents of units, as well as their families, guests, visitors, invitees, employees and agents (referred to as "**Occupants**") from the nuisance and negative consequences of smoke infiltration and other such disturbances and will help make our home a pleasant, safe and congenial environment. Specifically, the Rules ban the smoking and cultivating of cannabis in units and on the common elements. The Rules also "sunset" tobacco smoking in units by allowing current owners and occupants to register as grandfathered occupants within 30 days of after the Rules coming into force, but otherwise ban tobacco smoking in units and on the common elements.

**Statutory Criteria**

Section 58(1) of the *Condominium Act, 1998* (the "**Act**") provides that the board may make, amend or repeal rules respecting the use of the common elements and units to promote the safety, security or welfare of the owners and of the property and assets of the Corporation, or to prevent unreasonable interference with the use and enjoyment of the common elements, the units or the assets of the Corporation. In accordance with s. 58(6)(d) of the Act, a copy of s. 58 of the Act is attached hereto as **Schedule "B"**. The Corporation has confirmed that these Smoking, Cannabis & Drugs Rules are reasonable and consistent with the provisions set out in the declaration and by-laws of the Corporation. The Corporation's lawyer has confirmed that these Smoking, Cannabis & Drugs Rules are reasonable and consistent with relevant legislation and case law.

**Right to Requisition a Meeting**

Owners have the right to requisition a meeting of owners pursuant to s. 46 of the *Condominium Act, 1998* to discuss whether or not to approve the Smoking, Cannabis & Drugs Rules. If the owners of at least 15% of the units, who are entitled to vote, deliver to the President or Secretary of the Corporation a proper requisition in accordance with all of the criteria of s. 46 of the Act within 30 days of the date of this Notice of Rules, the Smoking, Cannabis & Drugs Rules are not effective until the earlier of the time at which quorum is not present at the first attempt to hold the meeting, and the time at which a quorum is present at the first attempt to hold the meeting and the owners do not vote against the Smoking, Cannabis & Drugs Rules at the meeting. In accordance with s. 58(6) (d) of the Act, a copy of s. 46 is attached hereto as **Schedule "C"**.


**Effective Date of Rule**

The Smoking, Cannabis & Drugs Rules shall become effective 31 days from the date hereof if the board does not receive a requisition within 30 days from the date hereof for an owners' meeting to discuss the Smoking, Cannabis & Drugs Rules.

We hope you agree the attached Smoking, Cannabis & Drugs Rules are in the best interests of your condominium corporation.

DATED this 13th day of September, 2018

On behalf of the directors of Metropolitan Toronto Condominium Corporation No. 570,

  
.....  
Vice President

## Schedule "A"

### METROPOLITAN TORONTO CONDOMINIUM CORPORATION NO. 570

#### (the "Corporation")

The Corporation's existing Rules are hereby amended by adding the following Smoking, Cannabis & Drugs Rules, which shall supersede any existing Rules which conflict with the subject matter herein:

#### SMOKING, CANNABIS & DRUGS RULES

1. No person shall use, light, smoke or activate any cigarette, e-cigarette, cigar, legal or illegal drug, pipe or other device producing smoke, fumes, odour or vapour (collectively, the "Smoking Implements") in any interior or exterior common elements or exclusive use common elements forming part of the Corporation's buildings, amenities or structures, including, without limitation, any lobby, elevator, stairwell, hallway, amenity room, common facilities, parking garage, rooftop, balcony, patio or other common element area (collectively, the "Common Elements"), except in an outdoor "smoking area" which may be designated by the board from time to time in its sole and absolute discretion.
2. No person shall light, smoke or activate any Smoking Implements within a 9 metre (29.5 feet) radius surrounding the Corporation's buildings, amenities or structures.
3. No person shall dispose of any butts or by-products of any Smoking Implements on or under any part of the Common Elements or in any garbage bins or containers other than those designated for such purpose from time-to-time by the board in its sole and absolute discretion. All Smoking Implements, and any butts or by-products, shall be completely extinguished before disposal so as to pose no risk of smoke or fire. No person shall drop or throw from any window, balcony, terrace or patio any Smoking Implements or butts or by-products.
4. No person shall use, light, smoke or activate any Smoking Implements in any unit or on its related exclusive use common elements for the purposes of tobacco consumption unless the exception in s. 6 applies.
5. No person shall use, light, smoke or activate any Smoking Implements in any unit or on its related exclusive use common elements for the purposes of cannabis consumption.
6. The prohibition in s. 4 is not enforceable against any "Occupant" (which, for the purposes of these Rules, includes any residing owner, or tenant or resident thereof, but excludes any temporary guests or visitors) who occupies a unit in the Corporation owned by an existing owner on or before the date these Rules come into force and where such owner delivers to the Corporation's board written notice within thirty (30) days of the date these Rules come into force that such owner intends to continue smoking tobacco in their unit and/or to allow their existing tenant(s) and resident(s) to continue smoking tobacco therein (the "Grandfathered Occupants" and "Grandfathered Unit").
7. Grandfathered Occupants shall not create or permit the creation or continuation of any nuisance from smoking which, in the opinion of the board or manager, may or does unduly disturb the comfort or quiet enjoyment of the property by others.
8. A residing owner who is a Grandfathered Occupant will be grandfathered under s. 6 for so long as they own the Grandfathered Unit. Tenants and residents who are Grandfathered Occupants will be grandfathered under s. 6 for so long as they reside in the Grandfathered Unit. If an owner who is a Grandfathered Occupant sells their Grandfathered Unit, any subsequent Occupant of such unit who is not already a Grandfathered Occupant of such unit will not be grandfathered.

9. If another person registers a valid smoke/odour complaint pertaining to smoke/odour penetration into their unit emanating from another unit (including any related exclusive use common elements), the Corporation may require the owner of the unit from which the smoke/odour is emanating (the “**Offending Owner**”) to retain a qualified smoke/odour transmission expert or contractor to conduct appropriate inspections and tests and to report the results to the Corporation for the purpose of eliminating the smoke/odour nuisance, at the Offending Owner’s sole expense. Additionally, or in the alternative, the board, in its sole and absolute discretion, may revoke the grandfathering/exemption status of any Grandfathered Occupants in the Offending Owner’s unit.
10. Where a qualified smoke/odour transmission expert or contractor issues a report pursuant to s. 9, the Offending Owner shall, at their own expense, undertake all rectifications and repairs recommended in the report to eliminate the smoke/odour nuisance within thirty (30) days after receiving the report, failing which, the Corporation shall arrange to make such rectifications and repairs at its discretion and at the Offending Owner’s sole expense. Without limiting the generality of the foregoing, such rectifications and repairs may include the Offending Owner installing, at their own cost, adequate ventilation in their unit or the Common Elements, if necessary, to stop the smoke/odour penetration, in which case, the Offending Owner shall enter into an alteration agreement with the Corporation.
11. The Corporation may collect any expenditures under s. 9 and 10 in the same manner as common expenses.
12. No person shall consume, give, sell or distribute to any other person any restricted drug, illegal substance, cannabis or excessive alcohol so as to cause an undue nuisance or disturbance to the detriment of any other person in the Corporation’s building.
13. No person shall operate or permit a grow-op inside a unit or upon the Common Elements or produce, cultivate, grow, tend or harvest any cannabis or any illegal drug, plant or substance in a unit or upon the Common Elements.
14. The prohibition in s. 4 hereof is not enforceable against any residing owner, tenant or resident of a residential unit (but excluding any temporary guest or visitor) who is a registered patient legally entitled to consume cannabis pursuant to a doctor’s prescription based on a medical need, provided that such individual shall provide evidence as may be requested by the board or manager from time to time, demonstrating:
  - i. that the person has a disability that necessitates the use of medical cannabis;
  - ii. that the cannabis is prescribed legally by a medical doctor, with the person possessing a valid prescription not more than one (1) year old;
  - iii. that the person possesses a government-issued medical cannabis certification or card; and
  - iv. that the person is in full compliance with all requirements with respect to the following legislated and regulated sources, as may be amended from time to time, including, without restriction, the *Smoke-Free Ontario Act*; *Cannabis Act*; *Access to Cannabis for Medical Purposes Regulations*; *Controlled Drugs and Substances Act*; *Criminal Code*, and any other relevant federal, provincial and municipal laws, regulations, by-laws and ordinances, including, without limitation, those affecting zoning, electric safety and fire safety; edicts or orders of any applicable public authority or judge; all relevant inspection and remediation requirements; and the criteria set out in these No Smoking/Cannabis Rules.

## Schedule "B"

### Rules

58 (1) The board may make, amend or repeal rules under this section respecting the use of the units, the common elements or the assets, if any, of the corporation to,

- (a) promote the safety, security or welfare of the owners and of the property and the assets, if any, of the corporation; or
- (b) prevent unreasonable interference with the use and enjoyment of the units, the common elements or the assets, if any, of the corporation. 2015, c. 28, Sched. 1, s. 54 (1).

### Rules to be reasonable

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

### Same, proposed rules

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

### Inconsistent provisions

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

### Amendment by owners

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

### Notice of rule

(6) Upon making, amending or repealing a rule, the board shall give a notice of it to the owners that includes,

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

### When rule effective

(7) Subject to subsection (8), a rule is not effective until the following time:

1. If the board receives a requisition for a meeting of owners under section 46 within 30 days after the board has given notice of the rule to the owners, the earlier of,
  - i. the time at which a quorum is not present at the first attempt to hold the meeting, and
  - ii. the time at which a quorum is present at the first attempt to hold the meeting and the owners do not vote against the rule at the meeting.

2. If the board does not receive a requisition for a meeting of owners under section 46 within the 30 days after the board has given notice of the rule to the owners, the day after that 30th day. 2015, c. 28, Sched. 1, s. 54 (3).

**Same**

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

**Same, proposed rule**

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

**Compliance**

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

## Schedule "C"

### Requisition for meeting

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

### Form of requisition

(2) The requisition shall,

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

### Same, removal of directors

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

### Duty of board

(4) Upon receiving a requisition mentioned in subsection (1), the board shall,

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

### Non-compliance

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

### Reimbursement of cost

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