

## SAMPLE NO-SMOKING POLICY

### For a condominium's declaration, bylaws and/or rules

[Note: Due to the high percentage of owners who must approve an amendment to the declaration, it is anticipated that the policy will be implemented by way of a bylaw or rule. The text below should be amended accordingly. In the event the policy is to be inserted by a declarant/developer in the declaration of a new condominium building, it may also be amended accordingly.]

1. Smoking prohibition: Due to the irritation and known health risks of exposure to second-hand tobacco smoke, increased risk of fire and increased maintenance and cleaning costs, all forms of smoking are prohibited on the condominium property, including:
  - a. Inside all condominium units;
  - b. On deeded or exclusive use patios and balconies; and
  - c. On any part of the condominium that is a common element or exclusive use common elementprovided that
  - d. Smoking is permitted in the following areas only:  

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(for example, outdoor designated smoking area located outside the west door of the building, but not within \_\_\_\_ metres of the doorway.)
  - e. The headings do not form part of the applicable rules/bylaw and are inserted for convenience only.
2. Definition of smoking: "Smoking" shall include the inhaling, exhaling, burning or carrying of lighted tobacco.
3. Definition of Business Invitee. The term "business invitee" shall include but is not limited to any contractor, tradesperson, agent, household worker, or other person hired by the tenant or resident to provide a service or product.
4. Uniform application of policy: This bylaw/rule takes effect upon approval by the board or members of the condominium corporation, and applies to all persons, including but not limited to owners, tenants, invitees, business invitees, occupants and visitors.

OR

Grandfathering: This bylaw/rule takes effect upon approval by the board or members of the condominium corporation, and applies to all persons, including but not limited to owners, tenants, invitees, business invitees, tradespersons, occupants and visitors persons, provided that the bylaw/rule does not apply to any owner, tenant or occupant residing in a unit in the building at the time the bylaw/rule is approved by the condominium corporation, and who continues in full-time residence in the condominium after the bylaw/rule takes effect (or specify length of time of the grandfathering period).

5. [Delete if grandfathering provisions do not apply]: Declaration, rules, bylaws and other legislation still apply: Notwithstanding the “grandfathering” provisions in section 4 above, owners, tenants, and occupants who qualify for the exemption from the no-smoking rule/bylaw as described herein must still comply with all applicable legislation and are still subject to the declaration, rules and bylaws, including but not limited to those with respect to causing a nuisance or hazard to another person and unreasonably interfering with the rights of another person to use and enjoy the common elements, exclusive use common elements, or another unit.
6. Human rights and reasonable accommodation: The board of directors shall make reasonable accommodation, pursuant to sections 2 (1), 11 (1) (a) and 17 (1) and (2) of the Ontario *Human Rights Code* and the whole of the *Code* for an owner, tenant or occupant who has proven by medical evidence that he or she is physically and/or mentally disabled and is unable to control his or her addiction to nicotine. Whether the owner, tenant or occupant has proven the disability will be determined in the sole and absolute discretion of the board of directors, acting reasonably. The accommodation will be made based on all of the circumstances and may include but is not limited to:
  - a. Allowing smoking in one or more designated areas of the common elements (if applicable); and/or
  - b. Paying for one or more treatment programs to assist with the cessation of smoking, including but not limited to paying for nicotine replacement therapy; and/or
  - c. The willingness of the owner, tenant or occupant to install and maintain smoke extraction equipment in any unit or on the common elements, as recommended by the board.
7. Time limit for reasonable accommodation: Reasonable accommodation granted pursuant to section 6 of the policy may be for a fixed period of time at which time the owner, tenant or occupant is free to re-apply to the board of directors for further reasonable accommodation to be made.
8. Other accommodation: In addition to accommodation made under section 6 of the policy, reasonable accommodation may be made by the board of directors if an owner or occupant proves that to prohibit smoking would result in other discrimination prohibited by the Ontario *Human Rights Code*. The board of directors, in its sole discretion, will determine whether or not the resident has proven that the prohibition of smoking would be discriminatory pursuant to the Ontario *Human Rights Code*.
9. Traditional or cultural smoking activity: The board of directors may make reasonable accommodation in the case where an owner, tenant or occupant intends to use tobacco in relation to a traditional aboriginal cultural activity, or smoking is intended to be done by a prescribed group for a prescribed purpose. In making the accommodation the board of directors will only do so in writing and may prescribe in writing when the permission is granted for, the duration of the permission and where smoking will be permitted.
10. Smoking prohibited in enclosed common areas: Pursuant to the *Smoke-Free Ontario Act*, and despite anything contained in this rule/bylaw, smoking is not permitted in enclosed common areas of this condominium, including but not limited to hallways, elevators, the parking garage, the exercise room, electrical and mechanical rooms, etc.
11. Notice in the status certificates: Notice of the no-smoking rule/bylaw shall be contained within all status certificates provided by the condominium corporation.