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*Ottawa Carleton Standard Condominium Corporation No. 803*

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Dear Owner:

The Board of Directors has passed a new rule regarding tobacco, cannabis and marijuana at their meeting of June 14, 2018. A copy of the new rule is attached for your information and consideration. For your information the *Condominium Act 1998* states:

**Notice of Rule**

S 58 (6) upon making, amending or repealing a rule, the Board shall give 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- (a) A copy of the rule as made, amended, or repealed, as the case may be;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; and
- (c) A statement that the owners have a right to requisition a meeting under section 46 and the rule becomes effective at the time determined by subsections (7).

**When Rule Effective**

S 58 (7) Subject to subsection (8), a rule is not effective until,

- (a) the owners approve it at a meeting of owners, if the Board receives a requisition for the meeting under section 46 within 30 days after the Board has given notice of the rule to the owners, or
- (b) 30 days after the Board has given notice of the rule to the owners, if the Board does not receive a requisition for the meeting under section 46 within those 30 days.

This new Rule will come into effect 30 days from the date of this letter unless a petition is received in accordance with the above. Thank you for your attention to this matter.

Regards,

Mike Fraser, RCM, ACCI  
Per: Board of Directors

June 14, 2018

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**RULE ON REGULATING SMOKING TOBACCO, CANNABIS AND  
MARIJUANA, AND VAPING AT  
OCSCC No. 803**

Adopted pursuant to Section 58 of the *Condominium Act, 1998*

**WHEREAS** the Board of Directors of the Corporation has the authority to pass rules governing the use and occupation of units to promote the safety, security and welfare of the Owners and of the property, or to prevent unreasonable interference with the use and enjoyment of the common elements and of other units;

**WHEREAS** second hand smoke (including that which is exhaled or that emanates from idling cigarettes, cigars and pipes) may cause irritation, discomfort and nuisance to many and is also a known health hazard;

**WHEREAS** smoking increases the risk of fire as well as maintenance and cleaning costs; and

**WHEREAS** the *Smoke-Free Ontario Act* of Ontario already prohibits smoking in all common areas of the condominium;

**NOW THEREFORE** THE FOLLOWING IS ENACTED AS A RULE OF THE CORPORATION:

**NO SMOKING**

1. Except as otherwise grandfathered by this rule (as defined further below), no one shall smoke, vape or hold a lighted smoking or vaping product in any unit, on any common element, on any exclusive-use common element (including any Balcony or terrace) or anywhere on the corporation's property, whether inside or outside. This prohibition applies to anyone on the property, including owners, tenants, occupants, visitors or anyone for whom the above-noted are responsible;
2. The expressions 'smoke', 'smoking' or 'smoking product' referred to in this rule specifically include but are not limited to, the smoking, inhaling, exhaling, burning of, or holding of lighted cigarette, cigar, tobacco and tobacco product, vaping product, cannabis, marijuana and any other substance which is consumed through lighting, burning, smoking or vaping it, as well as the use of pipes, electronic cigarettes or any other lighted smoking equipment, all of which is prohibited anywhere on the Corporation's property as stated in paragraph (1) above.

**GRANDFATHERING PROVISION**

3. Notwithstanding the foregoing, this rule is subject to the following 'grandfathering provision':

4. For the duration of the grandfathering provision, the following residents and their guests shall be permitted to smoke in their unit (but not on their exclusive use balcony or terrace) subject to the following:
  - a. Grandfathering will only apply to owners, tenants, or occupants who, at the time this rule is circulated, reside in a unit at OCSCC No. 803;
  - b. To be grandfathered, the persons noted in (a) above shall register their unit as a 'grandfathered unit' by providing the corporation, in writing and within 30 days of the passing of this rule, the unit number and the full names of the legitimate residents who wish to be 'grandfathered';
  - c. The grandfathering provision will automatically cease at the first of the following events:
    - i. When the grandfathered person residing in the unit ceases to occupy the unit (e.g., the owner sells the unit; the owner's occupant leaves the unit; the tenant's lease ends);
    - ii. In any other event, on the second anniversary of the adoption of this rule.
  - d. The Board of Directors may, at its sole discretion, extend the grandfathering provision with respect to a specific unit in exceptional circumstances for any duration. In doing so, the Board will consider the specific situation of the unit requesting that the 'grandfathering' be extended and of the neighbours;
  - e. The grandfathering provision will only apply to the smoking of tobacco or vaping and will only apply to smoking or vaping inside the grandfathered unit. Stated otherwise, the grandfathering provision will not permit the resident to smoke cannabis, marijuana or any substance other than tobacco or vaping products. Moreover, the grandfathering provision will not permit anyone to smoke or vape on any of the common elements (including exclusive-use common elements) or anywhere on the property other than in the grandfathered unit;
  - f. Grandfathered residents shall ensure that all their doors and windows are closed and that they use and operate an adequate and appropriate air filtering system while smoking or vaping. They may be required to take further and additional steps to prevent the migration of smoke or odour from their unit onto common elements or onto other units, all at the cost of the unit owner, at the request of the Corporation;

- g. Notwithstanding the above, in the event that a complaint is received by the Corporation that smoke or odours are entering other units or the common elements as a result of smoking in a unit, and that the complaint is not resolved by the grandfathered resident(s) to the satisfaction of the Board of Directors at its unfettered discretion following the receipt of written notice of the complaints from the Board or Property Manager, the Board and/or Property Manager may, by written notice to the occupants of the grandfathered unit, end the grandfathering period and prohibit smoking in the unit.

### **CANNABIS/MARIJUANA**

5. In addition to the above, and notwithstanding any federal, provincial or municipal legislation or regulation permitting it, no one shall grow or cultivate any plant of cannabis or marijuana in any unit, on any common element, on any exclusive-use common element, including any balcony or terrace, or anywhere on the Corporation's property, whether inside or outside.
6. The Board of Directors, on behalf of the Corporation, may give written permission for a resident to smoke cannabis or marijuana in the resident's unit, provided the resident provides medical documentation establishing that they have a disability, as defined by the Ontario Human Rights Code, for which they require the use of medicinal cannabis or marijuana that must be consumed by smoking same. The resident must provide the Board of Directors with written evidence from a physician explaining the medical need, including why it is necessary for the resident to smoke the cannabis or marijuana (rather than ingesting it or receiving it by some other means).
7. Residents who are given permission by the Board of Directors to smoke cannabis or marijuana in their unit must take the same reasonable steps that are described in (4) (f) above to ensure that smoke does not migrate to the common elements or other units. They may be required to take further and additional steps to prevent the migration of smoke or odour from their unit onto common elements or onto other units, all at the cost of the unit owner, at the request of the Corporation.
8. Any permission to smoke cannabis or marijuana (as described above) ceases as soon as the need to do so (as described above) comes to an end.

#### Requisition for meeting

**46 (1)** Subject to subsection (2), a requisition for a meeting of owners can only be made by those owners who, at the time the board receives the requisition,

- (a) own at least 15 per cent of the units;
  - (b) appear in the record of the corporation required by section 46.1 or are required by that section to appear in that record; and
  - (c) have no contributions to the common expenses payable for their units that have been in arrears for 30 days or more.
- 2015, c. 28, Sched. 1, s. 40.

#### Meeting re director in reserved position

(2) If the nature of the business to be presented at a meeting of owners includes the removal or the election of a director who occupies a position on the board described in subsection 51 (6), a requisition made by owners for the meeting can only be made by those owners who, at the time the board receives the requisition,

- (a) own at least 15 per cent of the non-leased voting units in the corporation;
  - (b) appear in the record of the corporation required by section 46.1 or are required by that section to appear in that record; and
  - (c) have no contributions to the common expenses payable for their units that have been in arrears for 30 days or more.
- 2015, c. 28, Sched. 1, s. 40.

#### Saving

(3) If a requisition made under subsection (2) does not meet the requirements of that subsection but does meet the requirements of subsection (1), the meeting may proceed for the transaction of any business pursuant to subsection (1) but not for the removal or the election of a director as described in subsection (2). 2015, c. 28, Sched. 1, s. 40.

#### Purpose of meeting

(4) A requisition for a meeting of owners may be called for any of the following purposes:

1. An information meeting of owners being a meeting at which no vote shall be taken on any matter other than routine procedure.
2. The removal or the election of one or more of the directors.
3. Any other purpose for which this Act or the regulations permit the owners to requisition a meeting of owners. 2015, c. 28, Sched. 1, s. 40.

#### Form of requisition

(5) The requisition shall contain the prescribed information and shall be in the prescribed form. 2015, c. 28, Sched. 1, s. 40.

#### Delivery of requisition

(6) The requisition shall 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 or as is otherwise prescribed. 2015, c. 28, Sched. 1, s. 40.

#### Response of board

(7) Subject to subsection (8), upon receiving a requisition, the board shall, within 10 days or such other time period, if any, that is prescribed, respond to the requisitionists in writing, in accordance with subsection (9), stating that,

- (a) the board will call and hold a meeting of owners for the transaction of business in the requisition; or
- (b) the board will not call and hold a meeting of owners for the transaction of business in the requisition and state why, according to the board, the requisition does not comply with any or all of subsections (1) to (6). 2015, c. 28, Sched. 1, s. 40.