



LAWS AND LEGAL ISSUES FOR CONDOMINIUM CORPORATIONS

Non-Smoking Declarations and By-Laws

The Registrar of Condominiums for Nova Scotia announced in 2013 that condominium developers are permitted to designate their corporations as 100% smoke-free, including the units, if they so choose. Such designation would need to be appropriately covered in the Declaration and By-laws at the time of registration.

To make an existing condominium corporation 100% smoke free requires an amendment to the existing Declaration and By-laws with the required number of votes as specified in the [Condominium Act](#). The specified information required for such changes must then be submitted to the Registrar for approval and DOES NOT COME INTO FORCE until approved by the Registrar.

It is important for any condominium corporation considering such a change to understand that even with a smoke-free designation, there is nothing to prohibit people who smoke from buying into a smoke-free building. If you are successful in having your building designated as 100% smoke-free, the Board of the day must be prepared to enforce the declaration and by-laws and deal with offenders.

Regardless which option is chosen, the declaration and bylaws must comply with the *Condominium Act and Regulations*.

Provincial Smoke-Free Legislation

In most jurisdictions across Canada, including Nova Scotia, smoking is banned in all indoor public places and workplaces, including restaurants and bars. While there are no provincial laws that regulate smoking in private residences, the provincial [Smoke-Free Places Act](#) bans smoking in the common elements of multi-unit dwellings including condominiums. These elements include corridors, lobbies, stairwells, elevators, escalators, eating areas, fitness rooms and rest rooms of multi-unit condominiums.

Legislation Enforcement

The Condominium Corporation is responsible for enforcing the smoking ban in common areas of multi-unit condominium developments under the *Smoke-free Places Act*.

Provincial Condominium Legislation

In Nova Scotia, the *Condominium Act* governs condominium corporations. The following content was taken from [The Condominium Glossary](#), Access Nova Scotia.

A "declarant," usually the developer, submits a number of documents, including a "declaration" and "description" of the property to the provincial Registrar of Condominiums. When these documents are accepted for registration, a legal entity called a condominium corporation is created.

The declaration is like a constitution of the condominium corporation. It is a legal document that is used to create a condominium. It defines the units and common elements and specifies the interest each owner has in the common elements. The declaration also provides the procedure for making decisions about repairs and maintenance. A declaration amendment requires the consent of owners who own at least eighty percent of the common elements.

By-laws are rules that state how the condominium will be run, how the property will be maintained, and how the common elements will be used. Bylaws are made, and can be changed, by consent of owners who own at least sixty per cent of the common elements.

Common elements include the property remaining after the boundaries of the units have been defined. They are owned in common with all other unit owners and are for their mutual use and enjoyment, e.g., hallways, elevators, mechanical equipment, lawn, swimming pool, etc.

A condominium unit is the part of a condominium property that is to be individually owned and occupied. Its precise boundaries are set out in the declaration and description.

Each condominium corporation is managed by a board of directors who are unit owners and who are elected by the owners. In general, the board is responsible for the upkeep and maintenance of the building(s) and other business matters, usually by supervising the actions of a property manager.