



## **CONDOMINIUM CORPORATIONS HOW-TO GUIDE: Strategies to address second-hand smoke with no smoke-free provision**

The following information may help you and/or the board of directors to take the necessary steps to amend your Declaration and By-laws to include smoke-free provisions and/or to mitigate second-hand smoke entering your exclusive use unit and common elements if smoking is still permitted.

### **Amending Declaration and By-laws to include smoke-free provisions**

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

This enables you and/or the board of directors to use the processes under the Condominium Act to make your entire building smoke-free, and ideally include the grounds to avoid smoke coming in through doors, windows and air intakes.

### **Steps if smoking still permitted**

#### **1. Do the Groundwork**

If you are a condominium owner suffering from second-hand smoke exposure in your home, you may want to collect information about the source, extent, frequency and impact of the problem before approaching your smoking neighbour or condominium Board of Directors. Taking an informal approach at the beginning may result in a satisfactory resolution to the problem, and may be less expensive and time consuming than initiating more formal measures.

### **Document the source and extent of the problem:**

- Identify how the smoke is entering your unit i.e. through your bedroom window; when you turn on your bathroom or kitchen fan, from the electrical outlets.
- Determine where the smoke is coming from i.e. neighbour's balcony, neighbour's inside unit, outside smoking area or some other source.
- Identify how often the smoke enters your unit on a daily or weekly basis? Do you smell the smoke all the time, at certain times of the day – list the dates, times and frequency of occurrences.
- Identify when the problem started? Did you start smelling the smoke as soon as you moved into your unit? Did you notice the smoke when a new resident moved in?

### **Document the health impacts on you and/or your family:**

- Document symptoms or illnesses caused by the smoke entering your home. Symptoms may include asthma attacks, headaches, burning and watery eyes, sore throats, bronchitis, ear infections, heart problems, to name just a few.
- Indicate if the smoke is worsening a pre-existing health problem such as asthma, allergies, heart disease, high blood pressure, fibromyalgia, or cancer.
- Indicate whether the smoke entering your home is causing anxiety or fear due to the potential or actual health impacts on you or your family members.
- Indicate if you have a newborn in the home. Babies who are exposed to second-hand smoke have a higher risk of dying from Sudden Infant Death Syndrome (SIDS).

### **Document interference with the occupancy of your unit:**

- Has the smoke significantly interfered with the use and enjoyment of your unit?
- Have parts, or all, of your unit become uninhabitable at times?
- Are you forced to stay out of certain rooms because of the smoke?
- Are you unable to open your windows or balcony door?
- Are you unable to use your balcony because of the smoke?

- Are you unable to use your fans or heating system?
- Have you been forced to leave your unit on certain days or at specific times to avoid the smoke?

### Collect supporting evidence:

- Obtain a copy of your Declaration and By-laws and highlight the content that specifies what areas of your condominium corporation are to be smoke-free.
- Obtain written proof from neighbours, friends and family concerning the amount and frequency of smoke entering your unit ...The more people who can verify your complaint, the stronger your case.
- Obtain a letter from your doctor to verify that the smoke is making you or your family members sick, or aggravating an existing condition or illness.
- Obtain information on the dangers of [second-hand smoke](#) (basic information is on this site).

### Seek Solutions:

Consider talking with your neighbour where the smoking is coming from, if you feel comfortable doing so. He or she might not realize that the smoke is a problem for you. Try to focus on solutions such as asking the neighbour to smoke outside far enough away that smoke does not drift in through open windows and doors. Seek support from other owners in the building. They might be experiencing the same problem, and may be willing to talk to the neighbour with you.

### Negotiate solutions

It is always a good idea to try to negotiate a solution before taking more formal actions. It is also important to put forward suggestions of possible solutions to solve the problem. If you haven't tried to mitigate the problem yourself, request that your condominium Board of Directors consider asking the smoking owner or tenant to stop smoking in specified areas where the smoke is entering your unit; or to only smoke in designated outside areas far enough away that the smoke does not drift in through windows or doors.

## 2. Notify the Condominium Corporation

If your efforts have failed to mitigate the problem, write a letter to your condominium corporation to request that they take action to rectify the problem. Provide them with your documented evidence of the source of the smoke, the frequency of the occurrence, its duration, the impact on your health, and the impact on the occupancy of your unit.

Include any supporting evidence such as a doctor's letter concerning the impact on your health or letters from friends and neighbours to verify your claims.

Identify what steps you have taken to resolve the problem to date.

Consider sending a group letter if there are others in the building experiencing the same problem.

Your Board of Directors may use the information you provide in a letter to the person occupying the unit where the smoke is coming from.

**Note:** Keep all records of correspondence with the Board of Directors concerning this issue. If the corporation fails to take action to address this issue, you will need evidence that they were warned that it was a significant interference, and refused to take steps to address the problem.

### 3. Last Resort Remedies

Condominium corporations have a duty to enforce the Declaration and Bylaws, including enacting by law enforcement proceedings up to and including seeking relief in Court if necessary.

If your condominium corporation refuses to act you can go through the Arbitration Process or Condominium Dispute Resolution Process. For information on the Arbitration and Condominium Dispute Resolution Process under the Condominium Act please see [Condominium Act](#).

### 4. Mitigate the Impact

#### Block or reduce the smoke:

- Seal the source of smoke if possible, such as electrical outlets, ceiling light fixtures and fans.
- Fill or patch cracks in walls, ceilings.
- Insulate the air spaces around plumbing pipes.
- Close windows and doors.
- Weather-strip doors.

More information on how to reduce second-hand exposure in multi-unit dwellings is available [here](#).

As new and existing condominium corporations include smoke-free provisions in their Declaration and By-laws, we hope they will register the smoke-free building on our online [Smoke-Free Housing Registry](#). This may help if you wish to move from a condominium development where smoking is permitted to one that is smoke-free.