

# THE ENCLAVE CONDOMINIUM ASSOCIATION

## Smoking Resolution

The Board of Directors, after much research, discussion and debate, and after conducting and reviewing the results of a survey of our Owners, adopts the following Resolution as amendments and additions to the Enclave Condominium Association Rules and Regulations (the “Rules and Regulations,” as set forth in the Rules and Regulations of the Enclave Condominium Association).

**Background:** Because (1) smoking is a fire risk, and is detrimental to the health not only of those who smoke but of non-smokers as well, (2) the physical construction of the Enclave Condominium Association does not provide adequate impermeable smoke barriers between Units or between Units and Common Elements to isolate smoke within Units of smokers, (3) a great majority of the Owners responding to a survey support a smoke-free living environment to the extent feasible, (4) the Board of Directors believes that implementing a non-smoking policy for the Condominium, as set forth in these Resolutions, will not lead to a reduction in value of the Units, and (5) the Board of Directors wishes to move toward a smoke-free building while maintaining a balance among the interests of the Condominium, the smoking Owners, and the non-smokers in the building.

**THEREFORE**, it is:

**RESOLVED**, that due to the increased risk of fire and the known adverse health effects of second-hand smoke, the following Rules and Regulation is adopted:

### SMOKING

A. Effective December 1, 2016, smoking is prohibited in any and every area of the Enclave Condominium Association property, including Common Elements (including without limitation the parking garage, entranceways, lobbies, elevators, hallways, service areas, basement, fire tower stairs, pool areas, outdoor sun deck, gym, Management Office, meeting rooms, club rooms, spa, saunas, Café, storage areas, bathrooms, roofs, Porte Cochère, and loading areas), Limited Common Elements, Units, balconies and other public or private areas, whether enclosed or outdoors, the foregoing to apply to all Owners, tenants, guests, employees, staff, invitees and service, repair, and delivery persons, as more fully set forth below.

B. All leases for rental of a Unit, whether a new lease, a renewal, or an extension or amendment, entered into or approved or otherwise becoming effective after December 1, 2016, shall incorporate language reflecting that the Enclave Condominium Association prohibits smoking in all Units and balconies, and the Approved Lease Addendum for each such lease shall contain a paragraph substantially setting forth the above prohibition, without exception in any case.

C. As an exception to the non-smoking policy set forth in Section A above, because current Owners who occupy their Units (and every prospective Owner who has executed an Agreement of Sale prior to December 1, 2016 for a Unit in which that Owner will live after closing) may reasonably expect to be permitted to smoke in such Units, in accordance with their expectations at the time they purchased their Units, then, for so long as any such Owner remains in occupancy of his/her Unit, such Unit may be

a “smoking Unit” (“Smoking Unit”), and the foregoing prohibition on smoking shall not apply to smoking within such Unit. In furtherance of this, Management shall prepare and maintain a schedule of Smoking Units (and, to the extent it deems advisable, a schedule of non-smoking Units), and make the schedule(s) available for inspection by other Owners, tenants, and prospective Owners and tenants. As any such Smoking Unit is sold, transferred, rented to a third party, or owned or occupied by anyone other than the current Owner, the Unit shall be removed from the schedule of Smoking Units, and the Unit shall thereafter become and remain a non-smoking Unit, subject to the prohibition on smoking set forth in Section A above.

D. Current tenants (and any prospective tenant who has executed a lease for a Unit prior to December 1, 2016) may smoke in that unit until such time as said tenants no longer reside in that unit. Such unit shall thereafter become and remain a non-smoking Unit.

E. Any resident who is disturbed by smoke emanating from a Smoking Unit may file a complaint with Management and, after an ADR hearing, if requested, Management may require the Owner of such Smoking Unit, at the expense of the Owner of such Smoking Unit, to install an effective air pressure system, install an air filtration system, and/or take other reasonably practical measures (as available from time to time) to reduce the incidence of smoke migrating from the Smoking Unit.

F. Any violation of this non-smoking policy shall be a violation of the Rules and Regulations, punishable by warnings, fines, required remedial action, and/or other actions by the Board of Directors as set forth in the Rules and Regulations of the Enclave Condominium Association, as amended from time to time.

In furtherance and implementation of the foregoing, it is further

**RESOLVED, that:**

A. Management is directed to implement the foregoing policy by instituting and enforcing such forms, lists, deadlines, interpretations and remedial actions for violations as Management may, subject to the Board of Directors’ approval, deem necessary or appropriate from time to time.

B. This non-smoking policy shall take effect on December 1, 2016.

C. The Board of Directors may provide an abbreviated explanation of this enactment in the Rules and Regulations of the Enclave Condominium Association, but the full version shall be available upon request.