

The Hemispheres II of Forest Hills  
M.T.C.C. #584

NOTICE OF ADDITIONAL RULES  
PURSUANT TO SECTION 58 OF THE CONDOMINIUM ACT

June 11, 2018

Dear Owners and Residents,

The Board of Directors on June 11th, 2018 approved new Rules which prohibit smoking in the building and the cultivation of marijuana plants.

The amended rules for The Hemispheres II, and this letter shall therefore; serve as Notice of the Rules. The Condominium Act (Section 58 of the Condominium Act, S.O. 1998, c.19 and S.O. 2000, c.26) provides that the Board may make Rules respecting the use and enjoyment of the common elements and of units, and to promote the safety, security and welfare of the residents and of the property.

The Rules will become effective thirty (30) days after notice of the Rules has been given to each Owner (which is hereby given with the delivery of this document) unless the Board of Directors receives a requisition in writing, made and signed by the Owners who own at least fifteen percent (15%) of the units requiring a meeting of Owners to consider the Rules (Sections 46 & 47 of the Condominium Act). In that case the new Rules become effective only upon the approval of a majority of the Owners at that meeting.

The Rules which accompany this letter are intended to provide the basis for making The Hemispheres II a pleasant, safe and enjoyable Condominium in which we can all take pride. Keep these Rules in a convenient location for future reference.

Sincerely,  
The Board of Directors of M.T.C.C. #584

## **No Cultivation of Marijuana Plants in Units of 131 Torresdale Ave. Toronto**

WHEREAS, under Section 58 of the Condominium Act, 1998, Metropolitan Toronto Condominium Corporation, No. 584, can create new rules that "promote the safety, security or welfare of owners and property; and prevent unreasonable interference with the enjoyment of the units and common elements;"

WHEREAS, marijuana or cannabis plants can create a significant odour when they are budding. Several plants grouped together have a strong odour that some find extremely unpleasant. This odour can migrate through conduits, ventilation systems, and under doors; WHEREAS, it is difficult to contain this odour within a unit, it is an unreasonable nuisance to neighbours and it interferes with other owners' enjoyment of their units; WHEREAS, the cultivation of marijuana plants requires a hot and humid environment which promotes mold growth. Insects such as spiders, mites and aphids may be present. The growing conditions exacerbate pest control. Chemical contaminations result from pesticides, heavy metals, and carbon monoxide production; WHEREAS, a significant amount of electricity is needed for the high wattage bulbs. Since the cost of electricity is shared by all owners, it is not fair that others should pay for a neighbour's plants. Poorly designed grow operations can produce fire hazards; WHEREAS, the processing of the marijuana plants involves solvent extraction. This introduces other risks such as an explosion or burns. Your insurance company will not cover most of the above problems except for damage caused indirectly by fire; WHEREAS, sellers of units where marijuana has been grown may have difficulty selling their units; and WHEREAS, an owner or resident who requires marijuana for medicinal purposes does not need to grow the plants. The medicinal marijuana user can obtain the marijuana through the mail or from dispensaries or stores in the future.

NOW, THEREFORE, BE IT RESOLVED, that the following rule shall be applicable:

**1. Prohibition of cultivation of marijuana plants:** Due to the fact that growing of marijuana plants increase the cost of utilities, the risk of fire, the insurance premiums on any policies held by the condominium, and it interferes with other owners' enjoyment of their units, the cultivation of marijuana plants is prohibited on the condominium property of M.T.C.C. #584, including:

- a. Inside all condominium units;
- b. On any part of the condominium that is a common element.
- c. The grounds surrounding the condominium building.



d. The headings do not form part of the applicable rules and are inserted for convenience only.

**2. Uniform application of policy:** This rule takes effect upon approval by the Board of the condominium corporation and applies to all persons, including but not limited to owners, tenants, occupants and visitors.

**3. 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 is a registered medical marijuana user and can prove that his/her rights are violated by the ban on growing marijuana.

An accommodation will be made based on all of the circumstances and may include but is not limited to:

- (a) The cultivation must comply with all applicable federal, provincial, and municipal regulations.
- (b) Owners, tenants, or occupants must write and advise the corporation of their cultivation within 30 days of starting a cultivation; the corporation may access the unit at any reasonable time, on reasonable notice, to observe the cultivation.
- (c) The cultivation must not cause any harm to the property of the owner, the property of other owners or the common elements of the building.
- (d) Since utility expenses are shared by all owners, the grower will pay the corporation for the excess use of water and hydro. The board of directors and management will estimate what the special assessment should be to cover the increased utility bills. Growers will pay this special assessment to the corporation on a monthly basis.
- (e) The owner, tenant or occupant must purchase, install and maintain proper ventilation equipment to extract excess humidity from the unit.
- (f) The owner, tenant, or occupant must purchase, install and maintain odour extraction equipment in his/her unit as recommended by the board.

**4. Other accommodation:** Reasonable accommodation may be made by the board of directors if an owner or occupant proves that to prohibit the growing of marijuana plants would result in 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 growing marijuana plants would be discriminatory pursuant to the Ontario *Human Rights Code*.

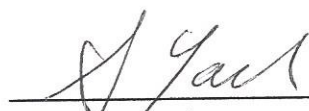
**5. Renting or leasing:** Any owner who rents or leases his/her unit or who allows someone else to reside in the unit shall disclose in writing to all persons who reside or will reside within a unit that cultivation of marijuana is prohibited at 131 Torresdale Ave. Toronto. The ban on the cultivation of marijuana will apply to existing and new leases, for either the existing tenant or for a new tenant.


**6. Sale of a Unit:** All owners are required to advise their real estate agents and prospective buyers of the ban on the cultivation of marijuana policy.

**7. Enforcement:** Violation of the ban on the cultivation of marijuana shall be enforced as are other use restrictions for the property. Enforcement may escalate from a verbal and written warning to mediation and arbitration, to court proceedings and to ultimately an eviction notice. If the condominium corporation needs to hire a lawyer to enforce this policy, the corporation may collect legal fees and costs it incurs through the use of a special assessment or lien levied against the owner.

**8. Notice in the status certificates:** Notice of the rule banning the cultivation of marijuana shall be contained within all status certificates provided by the condominium corporation.

The Board of Directors of M.T.C.C. No. 584 passed the above rule on June 11, 2018.

  
\_\_\_\_\_  
Stephen Yack  
Title: President

  
\_\_\_\_\_  
Carol Gold  
Title: Secretary



## **No Smoking Rule for M.T.T.C. #584 131 Torresdale Ave. Toronto**

WHEREAS, under Section 58 of the Condominium Act, 1998, Metropolitan Toronto Condominium Corporation, No. 584, can create new rules that “promote the safety, security or welfare of owners and property; and prevent unreasonable interference with the enjoyment of the units and common elements;”

WHEREAS, second-hand smoke and odour from tobacco and cannabis are known to migrate through common walls, conduits, ventilation systems, and under doors; and WHEREAS, it is difficult to contain second-hand smoke within a unit, it is an unreasonable nuisance to neighbours and it interferes with other owners’ enjoyment of their units.

NOW, THEREFORE, BE IT RESOLVED, that the following rule shall be applicable:

- 1. Smoking prohibition:** Due to the irritation and known health risks of exposure to second-hand tobacco and marijuana or cannabis smoke, the increased risk of fire and the increased maintenance and cleaning costs, all forms of smoking are prohibited on the condominium property of M.T.C.C. #584, including:
  - a. Inside all condominium units;
  - b. On any part of the condominium that is a common element provided that
  - c. Smoking is permitted in the following areas only: the concrete walkway and outdoor area located south-west of the building (opposite the west side parking lot) at a distance of at least 20 metres from the building. The Board of M.T.C.C. #584 may designate (or remove from designation) another smoking area provided that second-hand smoke cannot drift into indoor common areas or individual units.
  - d. The headings do not form part of the applicable rules and are inserted for convenience only.
- 2. Definition of smoking:** “Smoking” shall include the inhaling, exhaling, burning or carrying of lighted tobacco or any other lighted plant product in any manner or any form.
- 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. Grandfathering:** This rule takes effect upon approval by the Board and applies to all persons, including but not limited to owners, tenants, invitees, business invitees, tradespersons, occupants and visitors. However, this rule does not apply for a period of one (1) year to any owner, tenant or occupant residing in a unit in the building who is a tobacco smoker or a medicinal marijuana smoker at the time the rule is approved by the condominium corporation, and who continues in full-time residence in the condominium after the rule takes effect. These tobacco and medicinal marijuana smokers must provide the corporation with written notice stating their names and unit numbers within thirty days (30) of this rule coming into force.

**5. 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 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 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 (i) is a registered medical marijuana user, or (ii) 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. An accommodation will be made based on all of the circumstances and may include but is not limited to the willingness of the owner, tenant or occupant to purchase, install and maintain smoke extraction equipment in his or her unit as recommended by the board.

**7. Time limit for reasonable accommodation:** Reasonable accommodation granted pursuant to section 6 of the policy will be for a period of one (1) year 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 or other plants 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, smoking is not permitted in enclosed common areas of this condominium, including but not limited to lobbies, hallways, stairs, elevators, the parking garage, the exercise room, electrical and mechanical rooms, etc.

**11. Renting or leasing:** Any owner who rents or leases his/her unit or who allows someone else to reside in the unit shall disclose in writing to all persons who reside or will reside within a unit that smoking of any kind is prohibited at 131 Torresdale Ave. Toronto. Upon termination of a smoking tenant's lease, the smoke free policy would apply to the new lease, for either the existing tenant or for a new tenant.

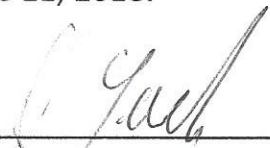
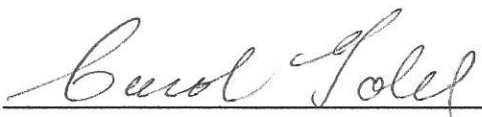
**12. Sale of a Unit:** All owners are required to advise their real estate agents and prospective buyers of the smoking prohibition policy.

**13. Enforcement:** Violation of the smoke-free policy shall be enforced as are other

use restrictions for the property. Enforcement may escalate from a verbal and written warning to mediation and arbitration, to court proceedings, and to ultimately an eviction notice. If the condominium corporation needs to hire a lawyer to enforce this policy, the corporation may collect legal fees and costs it incurs through the use of a special assessment or lien levied against the owner.

**14. Notice in the status certificates:** Notice of the no-smoking rule shall be contained within all status certificates provided by the condominium corporation.

The Board of Directors of M.T.C.C. No. 584 passed the above rule on June 11, 2018.

  
\_\_\_\_\_  
Stephen Yack  
Title: President  
\_\_\_\_\_  
Carol Gold  
Title: Secretary