

Top Asked Question 6. Can my Condo go non-smoking?

Answer 6: At present we have no information as to changing legislation affects to multi-unit housing Including Condos.

If changing Bylaws

The current bylaws should be checked against the latest Condo Act changes, in this case 2014 amendments, and see which are no longer valid. Then see which of the Act amendments require you to add a new Bylaw.

CCI's interpretation is that 2/3's of **ALL** members entitled to vote is required based on our reading of the act. If you require a professional opinion, you should contact your counsel.

Section 46

Gives the corporation the ability to create a bylaw by a special resolution.

A special resolution

... is a resolution that is approved by **a majority of not less than two-thirds of the persons entitled to exercise voting powers as conferred by the Act or the bylaws of the corporation. This vote can be exercised by being present personally at a meeting, by proxy, by signing the resolution or a combination of any of the above.**

A no-smoking Bylaw:

- Does **not** prohibit people who smoke from buying or renting condos
- Does **not** force owners or renters to quit smoking
- Is **not** a federal, provincial, or municipal law.

There are lots of condominium owners who are being involuntarily exposed to their neighbours' second-hand smoke, some are under the impression that no-smoking policies are illegal or discriminatory. The good news is that no-smoking policies are legal, non-discriminatory and enforceable.

Human Rights and smoking-

- A housing provider has a duty to explore accommodation requests from tenants with any form of disability. However, given the inherent risks associated with smoking, a housing provider may have little or no obligation

to accommodate a tenant's need to smoke when to do so would amount to undue hardship, for example, by negatively affecting the health and safety of other tenants.

- This issue of smoking as a disability has been considered a number of times over the years, and Canadian courts have consistently ruled—with one exception—that addiction to nicotine is not a disability.