

**SAMPLE BYLAW AMENDMENT WITH
UNITS GRANDFATHERED**

SPACE ABOVE INTENTIONALLY LEFT BLANK

**BYLAW AMENDMENT
PHASED-IMPLEMENTATION OF SMOKE FREE RULE**

The undersigned members of the Board of Trustees (the “Board”) of the _____ [Name of Condominium] Condominium Association (the “Association”) under the Master Deed dated _____ [Date Master Deed Signed] and recorded with the _____ [Name of Registry] Registry of Deeds in Book _____, Page _____, and the Declaration of Trust dated _____ [Date Declaration of Trust Signed] and recorded with the _____ [Name of Registry] Registry of Deeds in Book _____, Page _____, the organization of unit owners of the _____ [Name of Condominium] Condominium (the “Condominium), do hereby adopt the following administrative resolution as an amendment to the Association’s rules and regulations pursuant to the bylaws.

WHEREAS, the Board is empowered to oversee the administration and operation of the Condominium in accordance with the terms and provisions of its constituent documents; WHEREAS, the Unit Owners are entitled to exclusive possession of their respective Units pursuant to M.G.L. c. 183A, §4 and also have the responsibility to properly maintain and repair their respective Units pursuant to the terms and provision of the Condominium’s constituent documents; WHEREAS, secondhand tobacco smoke contains no less than 60 of which are known or probable human carcinogens, and is itself classified as a “Class A” carcinogen by the United States Environmental Protection Agency; WHEREAS, exposure to secondhand smoke substantially increases the risk in non-smokers of lung cancer, cardiovascular disease and other acute and chronic health conditions; WHEREAS, secondhand smoke is known to drift through common walls and ventilation systems and contaminate air in common areas and individual units; WHEREAS, a vote by the current unit owners of the Condominium on the language of this bylaw was duly administered; WHEREAS, by said vote, a sufficient percentage of the unit owners, pursuant to the Condominium’s constituent documents, approved this bylaw amendment, NOW, THEREFORE, BE IT RESOLVED, that the following rule and procedure shall be applicable:

Effective immediately, smoking shall be prohibited everywhere on the property of the Condominium including, but not limited to, individual units, indoor and outdoor exclusive use areas, and indoor and outdoor common areas. No owner shall smoke, or permit smoking by any occupant, agent, tenant, invitee, guest, friend, or family member anywhere on the property. Smoking shall include the inhaling, exhaling, breathing, carrying, or possession of any lighted cigarette, cigar, pipe, other product containing any amount of tobacco, or other similar heated, smoldering or lit product.

Notwithstanding the said prohibition against smoking, the Board may designate (or remove from designation) an outdoor area for smoking, provided the smoking area(s) shall not cause secondhand smoke to drift into indoor common areas, exclusive use areas or individual units.

Notwithstanding the said prohibition against smoking, smoking shall be allowed in the following units (collectively the “Grandfathered Units”) but only until such time as the unit is conveyed or transferred. Grandfathered units occupied by tenants shall become no smoking upon the expiration of the current lease term, but in no event longer than one (1) year from the effective date hereof.

Owner-Occupied Grandfathered Units

Unit #	Current Unit Owner

Renter-Occupied Grandfathered Units

Unit #	Current Unit Owner	Lease Expiration Date

This Amendment shall not amend, alter or otherwise affect the existing rule prohibiting Unit owners from causing nuisances. It is acknowledged hereby, that subsequent to the recording of this Amendment, drifting secondhand smoke might rise to the level of constituting a nuisance.

SO RESOLVED.

EXECUTED as a sealed instrument this _____ day of _____ 20____.

, Trustee

, Trustee

, Trustee

, Trustee

COMMONWEALTH OF MASSACHUSETTS

_____, ss _____, 20____

The personally appeared the above-named _____,
_____, _____, _____, identified to
me by evidencing their driver's licenses, Trustees as aforesaid, and acknowledged the
foregoing to be his free act and deed, before me.

Notary Public
My Commission Expires: