

**RESOLUTION  
OF  
EAST BAY CONDOMINIUM ASSOCIATION, INC.  
PROHIBITING SMOKING IN COMMON AREAS**

**SUBJECT:** A resolution for East Bay Condominium Association, Inc. (the "Association") prohibiting smoking in or on the General and Limited Common Element Common Areas located within the Project.

**PURPOSE:** The purpose of this resolution is to provide notice of the Board of Directors' (the "Board") adoption of rules that prohibit smoking within any General Common Element area or on the Limited Common Element decks and patios on the Property.

**AUTHORITY:** The Colorado Clean Indoor Air Act ("CCIAA"). Summit County Board of County Commissioners Ordinance No. 15, dated November 4, 2003, Prohibiting Smoking in Public Places in Unincorporated Summit County, Colorado. The Colorado Common Interest Ownership Act ("CCIOA"), the Colorado Revised Nonprofit Corporation Act ("CRNCA"), the Declaration of Covenants, Conditions, and Restrictions of East Bay Condominiums recorded with the Summit County, Colorado, Clerk and Recorder on May 31, 2001 at Reception No. 653750 (the "Declaration"), the Bylaws, which together with the Articles of Incorporation, Policies, Rules and Regulations are referenced as the "Association Documents".

- The legislature declared in the CCIAA that it is in the best interests of the people of this state to protect nonsmokers from involuntary exposure to tobacco and marijuana smoke in most indoor areas open to the public, and imposes the following restrictions: "in order to reduce the levels of exposure to environmental tobacco and marijuana smoke, smoking shall not be permitted and no person shall smoke in any indoor area, including, but not limited to: public meeting places; elevators; restrooms, lobbies, hallways, and other common areas in public and private buildings, condominiums, and other multiple-unit residential facilities...". C.R.S. § 25-14-204.
- CCIOA states that the association, without specific authorization in the declaration, may regulate the use of common elements, after notice and an opportunity to be heard, levy reasonable fines for violations of the declaration, bylaws, and rules and regulations of the association, and exercise any other powers necessary and proper for the governance and operation of the association. C.R.S. § 38-33.3-302.
- The Board may act in all instances on behalf of the Association. C.R.S. § 38-33.3-303.
- The Association Documents state that the purpose of the Association, in part, is to take any action that it deems necessary to protect the interests and general welfare of the Owners and their guests, and to regulate and manage the Project with the goal of enhancing and protecting its value. Owners are entitled to use and enjoyment of their Units free of nuisance.

**EFFECTIVE:** Upon Approval

**RESOLUTION:** The Board hereby adopts the following policy and procedure subject to:

- Definitions: Unless otherwise defined, initially capitalized or terms defined in the Declaration shall have the same meaning herein.
- Compliance with Law. The provisions of this Resolution comply with the provisions of the Declaration and the law of the State of Colorado governing the Association.
- Deviations. The Board may deviate from any provision of this Resolution if in its sole discretion such deviation is reasonable under the circumstances.
- Amendment. The Board may amend the following policies from time to time.

**SMOKING BAN**

**1. Purpose of Smoking Ban** It is in the best interest of the Association to limit exposure to environmental tobacco and marijuana smoke within the Property and to reduce the levels of exposure of Owners and family members, guests, tenants, employees, contractors and agents, to environmental tobacco and marijuana smoke. Restricting levels of exposure to smoke will not only preserve and improve the health, comfort, and environment of those persons, but will also protect the value of the Property. Exposure to environmental tobacco and marijuana smoke can increase the Association's, or an Owner's, maintenance costs for sealing and repainting walls and cabinets, replacing carpets, and cleaning the ventilation system. It can also decrease a Unit's resale value, and the overall value of the Property. The Association employs a property management company to clean, maintain and repair the Common Areas. Pursuant to CCIAA, the Association could incur liability for an Employee's involuntary exposure to environmental tobacco and marijuana smoke within the Property even if it drifts from an Owner's Unit. Additionally, an Owner could face trespass or nuisance claims based on drifting smoke from their Unit to another. The Association, or an Owner, could also incur liability for the smoke related health issues of nonsmoking Owners pursuant to the Fair Housing Act. Air filters, exhaust fans, or sealing crevices do not block drifting smoke effectively. Prohibiting smoking altogether is the only sure way to avoid unwanted exposure to this toxic substance

**2. Common Area Smoking Restrictions.** Smoking is prohibited within the General and Limited Common Elements as follows:


**a. *General Common Elements.*** Smoking is prohibited in or on all General Common Elements including but not limited to parking areas, storage areas, entryways, lobbies, hallways, stairwells, lawn areas, laundry room, clubhouse, hot tub and sauna area.

**b. *Limited Common Elements.*** Smoking is prohibited in or on all Limited Common Elements including but not limited to patios, decks and balconies.

**3. Condominium Unit Voluntary Smoking Restrictions.** The Association recommends that smoking be voluntarily prohibited in the Units by each Owner. Smoking in a Unit which reduces the air quality in another Unit or in the Common Elements may be a nuisance as prohibited by the Declaration and result in complaints and sanctions under the Association Documents.

**4. Violation.** Complaints regarding the violation of the restrictions in paragraphs 2 and 3 above shall be made pursuant to the Covenant and Rule Enforcement Policy. In addition to any assessments, fines or penalties that may be levied pursuant to the Association Documents, an Owner who violates the restrictions in paragraphs 2 and 3 above may be fined \$200.00 for the first violation, \$300.00 for the second violation, and \$500.00 for each additional violation. Each day of a continuing violation shall be deemed a separate violation.

The undersigned officer of East Bay Condominium Association, Inc. hereby certifies that the foregoing Resolution is true and correct as adopted by the Board of Directors.

 8-22-2014  
Date  
By: FRED SKILLE<sup>2nd</sup> President