



# HighPoint

PROPERTY MANAGEMENT CORPORATION

The Ontario government gave royal assent to two new acts on December 3, 2015 as part of its commitment to update the Condominium Act, 1998 – **the PROTECTING CONDOMINIUM OWNERS ACT, 2015 (the “PCOA”)** and **the CONDOMINIUM MANAGEMENT SERVICES ACT, 2015 (the “CMSA”)**.

The PCOA updates the Condominium Act, 1998 with numerous changes and the CMSA regulates the services and licensing of property managers, setting up education requirements, and establishing a Condominium Authority of Ontario (the “CAO”) and related Tribunal (the “CAT”) to adjudicate complaints and disciplinary actions. Many of these proposed changes, as well as the CAO and CAT have come into force as of November 1, 2017. A Condominium Management Regulatory Authority of Ontario has also been established (the “CMRAO”) which will act as an administrative authority and oversee the licensing and regulation of condominium managers and condominium management firms.

The implementation of all of the proposed changes will be accomplished in phases and will only be applicable when provisions are declared to have come into force, some of which provisions have been established in 2017, and others will be declared or proclaimed in 2018. Many of the details of the changes will be contained in the regulations some of which have now started to be released.

Here are some of the important dates – **November 1, 2017** – phase 1 changes to the Condominium Act and the licensing provisions of the CMRAO are declared in force, **December 31, 2017** – all condominiums must be registered with the CAO and pay fees covering the period September 1, 2017 to March 31, 2018, **January 29, 2018 (subsequently delayed until March 1, 2018)** – all property managers and property management providers must be licensed with the CMRAO, and **February 1, 2018** – more of the changes to the Condominium Act are to come into force, as well as regulations are to continue to be released. Additional changes have been released that will come into force on May 1, 2018 (new forms, etc.)

The first phase of the new provisions deals with condo board governance under the following headings – communication (from the corporation), qualifications (training and disclosure requirements), meetings (notice procedures) and records (retention, access, procedures). The condo legal experts had predicted that the changes will be onerous on property managers and boards alike, and will impose a heavy burden of additional reports and filings as well as fees – turns out those experts were spot on. There are numerous mandatory forms that must now be utilized and a number of those forms have been released as of November 1, 2017. Forms to be utilized by owners can be viewed and accessed on our website.

The following are examples of the provisions included in the first phase of the changes -

### **Communication –**

- Periodic information certificates (**PIC**) will be required to be sent to owners a minimum of twice yearly – first quarter and third quarter – these certificates will contain a large amount of information about the condo, the Board, insurance coverage, the budget, the reserve fund, legal matters and disclosure items.
- Information certificate updates (**ICU**) will be sent to owners triggered by certain events – change in address for service, change in directors on the Board, change of property manager, insurance policy changes, etc.
- New owner information certificate (**NOIC**) must be sent to all new owners containing information on the most recent PIC and ICU that have been sent out.
- If a Corporation wishes to simply post the information certificates on the website, they will have to send a Notice of Online Posting of Information Certificate to all owners.
- Small corporations of less than 25 units can be exempted from the requirement to send out the information certificates if 80% of the owners agree in each fiscal year.
- A new form has been created which documents an owner's agreement to receive notices electronically, and notwithstanding that many owners have already consented, we have been advised to obtain new consents on the form that has been created under the regulations.

### **Qualification –**

- Corporations will have to file an annual information return and pay a fee each year, which will add to the overall budget and the monthly fee payable by each owner. The established fee amounts to \$12/year/unit – a 100-unit condo would therefore pay \$1,200/year annually.
- Directors will be required to receive training and comply with disclosure requirements along with Board candidates. Training is required within 6 months of election or appointment to the Board and can be conducted on-line (no charge) or in a classroom setting at a cost to the corporation.
- The Condominium Authority of Ontario will keep various records and administer the training and all aspects of the new process generally.

### **Meetings –**

- Corporations and property managers will have to send more notices surrounding meetings – for example a preliminary notice will have to be sent to all owners before the actual notice of an owner's meeting. The preliminary notice of meeting of owners will provide advance notice and provide for an owner sending information back to the corporation or property manager regarding items they wish to be included in the upcoming meeting, following which the actual notice of meeting must be sent out.
- The preliminary notices have specific items of information that are mandatory for inclusion – purpose of meeting, board candidates, auditor appointments or removal, proposed changes to the common areas and the estimated costs, would be examples of subjects to be included in the preliminary notice, along with the invitation to submit items the owner wishes to be included in the agenda of the upcoming owners' meeting – using a mandatory form, of course. Both the preliminary notice and the notice of meeting itself have to be issued on mandatory forms.
- Minimum quorum requirements are established – 25% for first and second meetings, then 15%.
- A new mandatory proxy form has been prepared and Boards will now be able to hold meetings by teleconference, without a specific by-law to authorize such meetings.

## **Records –**

- There are many provisions dealing with the retention of, and access to, records. Record retention can also be inspected under the new provisions.
- There are two types of records – core records and non-core records.
- A standard form is required to request records – an owner can access records by hard copy, electronically, or physical inspection.
- Certain records and information will be restricted from access – ballots, proxies, and private information relating to individual owners or units.
- Restrictions on the cost of providing the records information are included in the provisions.

## **Other Changes –**

- Condominium managers will be required to have a written contract for the provision of condominium management services – includes disclosures, insurance coverage information, etc.
- All condominium managers and condominium management firms must now be licensed and subject to specific education requirements. A number of exemptions exist for those involved in the process of condominium management – lawyers, engineers, insurance brokers, trades, office assistants. An important exemption is made for a director or officer who is elected or appointed, unless actually providing condominium management services to the corporation.
- A very detailed code of ethics has also been created and released as of January 15, 2018.
- There are a large number of mandatory forms associated with the changes – currently 41 forms – preliminary notices & notice of meetings, information certificates, proxies, requests for records, condominium returns, many of which have been mentioned above, while others will follow and have not been released as of this date.
- Condominiums will be required to submit numerous returns under the new provisions – an initial return, a return at turnover, and an annual return – all as prescribed by the regulations and to be submitted to the Condominium Registrar.
- Developers will be required to provide a “Condominium Guide” and a disclosure statement to the Corporation and the owners.
- Budgets will be required to be provided to the owners at least 30 days prior to the implementation date and will have to be distributed in prescribed form.
- Substantial changes to common elements remains at a 66 2/3% approval requirement from the owners before changes can be proceeded with.
- Many other details and regulations will follow and be released later in the process.

**Further Updates –** Contact Nicole Horton at HighPoint Property Management Corporation.

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*For further details, please see the attached release from the Province of Ontario.*

*April 9, 2018*



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## New Condo Act Forms now Available on the Ontario Government Website

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The Ministry of Government and Consumer Services has posted new forms under the General Regulation (O. Reg. 48/01) made under the Condominium Act, 1998, to the Ontario government website.

You can find the new forms, here: [https://www.ontario.ca/search/land-registration?sort=desc&field\\_forms\\_act\\_tid=condominium](https://www.ontario.ca/search/land-registration?sort=desc&field_forms_act_tid=condominium).

Amendments to the General Regulation under the Condominium Act come into force on November 1, 2017. The amendments primarily address new requirements relating to condo corporation governance.

The approved amendments refer to 15 new forms, which are intended to help standardize and facilitate, among other things, communications between condo boards and owners. Most of the new forms are mandatory. Corporations and

owners will be required to use the mandatory forms under the amended regulations once they come into force on November 1, 2017.

Ontario is also implementing other new protections for condo communities, which will take effect November 1, 2017. Changes are focused on improving how condominiums are governed and strengthening the transparency and accountability of condo boards. You can view the changes to the Condominium Act, 1998 and the regulations under the Act taking effect November 1, 2017, here: <https://www.ontario.ca/laws/statute/98c19>.

For more information, please visit the Condominium Authority of Ontario (CAO) website here: [www.condoauthorityofontario.ca](http://www.condoauthorityofontario.ca).

**Below is a list of the new forms, with links to access the forms and a brief description of each.**

**If you have trouble viewing the forms in your browser, try a different browser or download the forms to your computer to view them in Adobe Reader.**

1. [Periodic Information Certificate](#)

The Periodic Information Certificate (PIC) contains information for owners about the condominium corporation's board, finances, insurance, reserve fund, legal proceedings, and other matters about the corporation.

2. [Information Certificate Update](#)

The Information Certificate Update (ICU) contains updated information for owners about the corporation, and is triggered by certain events.

3. [New Owner Information Certificate](#)

The New Owner Information Certificate (NOIC) contains information for new owners regarding the most recent Periodic Information Certificate and Information Certificate Update.

#### 4. [Notice of Online Posting of Information Certificate](#)

The Notice of Online Posting must be sent to owners by the corporation if the corporation chooses to distribute an information certificate (the Periodic Information Certificate, Information Certificate Update, or New Owner Information Certificate) through a website. It informs owners that a new information certificate is available online, and how they can access it.

#### 5. [Preliminary Notice of Meeting of Owners](#)

The Preliminary Notice of Meeting provides advance notice, before the notice of meeting is sent to owners for most owners' meetings.

#### 6. [Notice of Meeting of Owners](#)

The Notice of Meeting of Owners provides notice of an owners' meeting, and contains information about the upcoming meeting.

#### 7. [Notice of Meeting of Owners under s. 34 \(5\) of the Condominium Act](#)

The Notice of Meeting under s. 34 (5) of the Condominium Act must be used by owners who wish to call a meeting to fill a vacancy on the board under s. 34(5) of the Condominium Act. Under that provision and the accompanying regulations, in certain circumstances an owner can call a meeting to fill vacancies on the board.

#### 8. [Submission to Include Material in the Notice of Meeting of Owners](#)

The Submission to Include Material in the Notice of Meeting of Owners is used by owners to make a submission to the board to include material in an upcoming Notice of Meeting.

#### 9. [Request for Records](#)

This form must be used by owners, mortgagees, purchasers or their agents to request records from a corporation.

#### 10. [Board's Response to Request for Records](#)

This form must be used by boards to respond to requests for records from owners, mortgagees, purchasers, or their agents.

#### 11. [Waiver by Requester of Records](#)

This form must be used by the requester and the corporation if they wish to agree to an alternative to some of the requirements, under the Condominium Act and accompanying regulations, associated with a request for records.

#### 12. [Proxy Form](#)

This is a mandatory form that must be used by owners or mortgagees if they want to be represented at a meeting of owners by proxy, including for the purposes of voting on any matters at the meeting.

#### 13. [Notice Relating to Record of Owners](#)

This form may be used by new owners to provide the corporation with the notice required by s. 46.1(2) of the Condominium Act and the accompanying regulations. The form may also be used by owners at any time to notify the corporation of an owner's name, the identity of the owner's unit, and the owner's address for service.

#### 14. [Notice Relating to Record of Mortgagees](#)

This form may be used by mortgagees to provide the corporation with the notice described in s. 46.1(3)(c) of the Condominium Act and the accompanying regulations.

#### 15. [Agreement to Receive Notices Electronically](#)

This form can be used by owners or mortgagees to agree to receive notices from the corporation electronically.