

MIAMI TOWERS CONSOLIDATED OWNERS CORPORATION RULES 2014

[Strata Plan 001378]

1 Health, safety and security

1.1 Health, safety and security of lot owners, occupiers of lots and others

- (1) A lot owner or occupier must not use the lot, or permit it to be used, so as to cause a hazard to the health, safety and security of an owner, occupier, or user of another lot.
- (2) A lot owner or occupier or their guests must not place or store objects on the balcony or balcony-walkway or on the associated balustrade in any way which creates a risk that the object could accidentally fall or be blown from the building with the potential to cause injury to any person or damage to property.

Information: Glasses, pot plants and the like placed on the balustrade of balconies and balcony-walkways are easily knocked off the balustrade or an umbrella or similar object might be blown from a balcony. Objects such as these falling from any height pose a very significant risk of injury to a person or damage to property.

1.2 Smoking on common property within the building

Smoking is not permitted on common property within the confines of the building.

Information: this rule applies not only because it is a norm that smoking is prohibited within confined to public spaces but also because cigarette smoke may trigger the fire alarm system installed for the safety of the building causing residents to evacuate the building unnecessarily. An accidental fire brigade callout attracts a significant callout fee.

1.3 Storage of flammable liquids and other dangerous substances and materials

- (1) Except with the approval in writing of the Owners Corporation, an owner or occupier of a lot must not use or store on the lot or on the common property any flammable chemical, liquid or gas or other flammable material.
- (2) This rule does not apply to—
 - (a) chemicals, liquids, gases or other material used or intended to be used for domestic purposes; or
 - (b) any chemical, liquid, gas or other material in a fuel tank of a motor vehicle or internal combustion engine.

1.4 Waste disposal

An owner or occupier of a lot must ensure that the disposal of garbage or waste does not adversely affect the health, hygiene or comfort of the occupiers or users of other lots.

Information: Particular waste disposal issues to be avoided include leaking garbage bags creating a smelly mess within lift lobbies, the lift and the building foyer and waste being dumped within common property other than in the bins provided for that purpose.

1.5 Asbestos Register and the Asbestos Management Plan

Any person engaged to undertake work which might impinge in any way upon the fabric of the building either within a lot or within common property must, prior to commencing work, read the Asbestos Register and the Asbestos Management Plan applying to the building as an aid to making their own risk assessment so that they can ensure that they maintain a safe environment for themselves, their employees and for all occupants and users of lots and common property.

Information: a copy of the Asbestos Register and Asbestos Management Plan for the building is kept within the Letterbox Access / Fire Indicator Panel Room and a copy of both documents could be obtained from the Owners Corporation Manager.

2 Management and administration

2.1 Metering of services and apportionment of costs of services

The owners of lots must each pay an equal proportion of the charges or costs associated with the delivery of services to the land which are not individually metered.

Information: water and the gas used to heat hot water are the two services delivered to Miami Towers which are not individually metered, each owner is billed for 2.78% (or one thirty-sixth) of the metered amount.

3 Common property

3.1 Use of common property

Obstruction of lawful use

- (1) An owner or occupier of a lot must not obstruct the lawful use and enjoyment of the common property by any other person entitled to use the common property.

Use as garden or store

- (2) An owner or occupier of a lot must not, without the written approval of the Owners Corporation, use any portion of the common property for his or her own purposes as garden or store.
- (3) An approval under subrule (2) may state a period for which the approval is granted.

Animals causing nuisance

- (4) If the Owners Corporation has resolved that an animal is a danger or is causing a nuisance to the common property, it must give reasonable notice of this resolution to the owner or occupier who is keeping the animal.

- (5) An owner or occupier of a lot who is keeping an animal that is the subject of a notice under subrule (4) must remove that animal.
- (6) Subrules (4) and (5) do not apply to an animal that assists a person with an impairment or disability.

Maintaining cleanliness and avoiding damage

- (7) An owner or occupier of a lot using common property must ensure that:
 - (a) common property is left in a clean and tidy condition, and
 - (b) any damage to the building and landscaped areas is avoided.

Information: *Miami Towers has a small lift, narrow stairways and low ceilings therefore, owners and tenants moving into or out of the building or tradesmen moving materials to and from the building must exercise great care to avoid damage to common property. It is important that furniture and materials used for the renovation of apartments are selected so that they can be moved within the building without damage. In particular:*

Lift doors must not be propped open, this can cause the lift to malfunction.

The carpet square stored within the foyer must be used in the lift when moving furniture or materials to and from the building.

Storage in Foyer, Lift Lobbies etc.

- (8) Shopping jeeps, prams, cycles, toys etc. must not be left or stored within the ground floor foyer or the lift lobbies and the stair wells of the building.

Real estate "For Sale" signs

- (9) An advertising sign advertising the sale of a lot must not be erected or maintained on common property without:
 - (a) the written approval of the Owners Corporation,
 - (b) payment of the prescribed fee, and
 - (c) the avoidance of damage to common property.

Signs must be removed at the request of the Owners Corporation.

Information: *an advertising sign advertising the sale of a lot must not ordinarily be greater than 180cm x 120cm in size, the fee in 2014 is \$100 per month, and this fee is subject to periodic review.*

3.2 Vehicles and parking on common property

Common Property Generally

- (1) An owner or occupier of a lot must not, unless in the case of an emergency, park or leave a motor vehicle or other vehicle or permit a motor vehicle or other vehicle—
 - (a) to be parked or left in parking spaces situated on common property which the Owners Corporation has allocated for use by other lots; or

- (b) on the common property so as to obstruct a driveway, pathway, entrance or exit to a lot; or
- (c) in any place other than a parking area situated on common property specified for that purpose by the Owners Corporation.

Circular Driveway

- (2) Except for the purpose of moving furniture or goods associated with the moving of a household to or from an apartment, no vehicle may be parked or left in the circular driveway at the entrance to the building for periods greater than 15 minutes unless with the prior approval of the Owners Corporation. Vehicles may only be parked or left in the circular driveway for the purpose of dropping off or picking up people or goods.

3.3 Alteration or damage to common property

- (1) An owner or occupier of a lot must not damage or alter the common property without the written approval of the Owners Corporation.
- (2) An owner or occupier of a lot must not damage or alter a structure that forms part of the common property without the written approval of the Owners Corporation.
- (3) In respect of existing doors or windows only an owner or person authorised by an owner may, without the separate consent of the Owners Corporation, install or replace locks and latches and other related door or window hardware.

4 Use and Development of Lots

4.1 Use of lots

Notification of any change of occupancy

- (1) An owner of a lot must advise the Owners Corporation Manager of
 - i any change in the occupancy of a lot, and
 - ii the contact telephone number and email address of any new occupant.

Information: *This information is of great assistance to Building Manager because he is regularly required to contact residents to alert them to activities on common property which may affect their use of the building, for example works on the lift.*

Use as a Dwelling

- (2) An owner or occupier of a lot must not, without the written approval of the Owners Corporation, use a lot for any use other than a dwelling as defined in the Port Phillip Planning Scheme.

Use causing harm

- (3) An owner or occupier of a lot must not use a lot for any purpose which may:

- (a) be illegal or injurious to the reputation of the Owners Corporation or lot owners or occupiers, or
- (b) cause a nuisance or hazard to any person entitled to use common property or any other lot.

Use of Car Spaces

- (4) An owner or occupier of a lot must only use an accessory unit associated with the lot in a way which would not compromise the amenity, appearance or use of common property or the use of an adjoining accessory unit. An owner or occupier of a lot must not, without the written approval of the Owners Corporation, use an accessory unit for the storage of anything other than a vehicle.

Short term tenancy

- (5) An owner or occupier of a lot must not, without the written approval of the Owners Corporation, use a lot for the purpose of a short term tenancy for fee or reward. For the purposes of this clause a short term tenancy is a tenancy of less than 22 days.

4.2 Development of Lots

Structural Alterations

- (1) An owner or occupier of a lot must not, without the written approval of the Owners Corporation alter the structure of the building. For the purposes of this clause the structure of the building includes the concrete and steel floor slabs which constitute the floor and ceilings of lots and common property, the main columns and the interior and exterior walls of lots and common property.

Information: *While it is considered likely that the concrete and steel floor slabs and the main columns cannot be safely altered, it may be possible to alter the interior walls of lots subject to a satisfactory written certification by an appropriately qualified structural engineer.*

Connections to Plumbing System

- (2) An owner or occupier of a lot must not, without the written approval of the Owners Corporation alter or make new connections or attach new appliances to the building's plumbing system.

Information: *Care needs to be exercised in implementing any changes to the plumbing systems because of the risk that poorly implemented changes can lead to leaks being caused elsewhere in the system. There are well understood techniques that can be used to avoid issues such as water hammer, it is important that these measures are implemented when required.*

Exterior Alterations to the Appearance of the Building

- (3) An owner or occupier of a lot must not, without the written approval of the Owners Corporation, make any alteration to the exterior of the building that would change the appearance of the building viewed from common

property or the public realm. For the purposes of this clause alteration includes the painting of exterior surfaces with a colour scheme different to that used by the owners corporation for the exterior of the building generally.

Location of Air-Conditioners

- (4) An owner or occupier of a lot must not install or replace an air-conditioning unit or relocate an existing air-conditioning unit so that the unit is visible from common property or the public realm.

Information: *This is not a new rule. The issue is that the installation of air conditioners so that they are visible from both the public realm and common property will seriously degrade the appearance of the building and compromise residents' enjoyment of it and the value of an owner's investment.*

Hard Flooring and Noise

- (5) Other than for bathrooms and laundries an owner or occupier of a lot must not install hard flooring likely to create a risk of the transmission of noise to a lot on the floor below without using an appropriate noise suppression layer between the hard flooring and the concrete floor slab.

Consent for Renovations

- (6) To minimise, damage or disruption to the use of common property or any impacts on the amenity of owners and residents, an owner must not undertake renovations on a lot without the prior written approval of the Owners Corporation. Once commenced the renovations must be undertaken in accordance with the conditions of approval.
- (7) An application for approval under rule 4.2 (6) must be accompanied by sufficient information to fully described the works proposed and a certificate of currency in relation to public liability insurance held by the person undertaking the works.

Information: *When does day-to-day maintenance morphs into renovation? It is always a matter of judgement, for example, if you need to replace your oven, that would be day-to-day maintenance, and you would not need permission of the Owners Corporation. On the other hand, replacing all your kitchen cupboards would be a renovation and you would require permission.*

4.3 Asbestos within lots

- (1) Prior to any work being undertaken within a lot which will affect in any way the fabric of the building an owner or occupier of a lot must inform the person undertaking the work that work should proceed on the basis that:
- i all fibrous cement sheeting used within the lot (including the fibrous cement sheeting used on the exterior of the building below the windows) contains asbestos;

- ii the main entrance door to the apartment (lot) is a fire door and contains asbestos;
- iii any lagging around piping within the building's service risers may contain asbestos; and
- iv other asbestos-containing materials may be present;

An owner or occupier must also inform the person engaged to undertake the work of their obligation to comply with Owners Corporation rule 1.5.

An owner or occupier should inform the person if in the knowledge of the owner or occupier prior asbestos removal has mitigated any of the risks within the lot referred to above (risks i to iv).

- (2) Prior to the commencement of work an owner or an occupant of a lot who engages an Asbestos License Holder to undertake Asbestos Removal Work must provide to the Owners Corporation a copy of the **Asbestos Control Plan** provided to them by the Asbestos License Holder in accordance with the provisions of the *Occupational Health and Safety Regulations 2007* – Reg 4.3.69.

Information: *the Occupational Health and Safety Regulations 2007 define asbestos removal work as meaning “the removal of asbestos that is fixed or installed in a building, structure, ship or plant so that the asbestos is no longer fixed or installed in that building, structure, ship or plant, up to the point of containment”. Regulation 4.3.45 does permit the removal of small quantities of non-friable asbestos by an unlicensed person, however, an owner or occupant considering and engaging a person for this purpose would need to ensure that they have carefully considered the associated risks. (In 2014 a useful source of information is found at www.asbestos.vic.gov.au)*

5 Behavior of persons

5.1 Behavior of owners, occupiers and invitees on common property

An owner or occupier of a lot must take all reasonable steps to ensure that guests of the owner or occupier do not behave in a manner likely to unreasonably interfere with the peaceful enjoyment of any other person entitled to use the common property.

5.2 Noise

- (1) An owner or occupier of a lot, or a guest of an owner or occupier, must not unreasonably create any noise likely to interfere with the peaceful enjoyment of any other person entitled to use the common property.
- (2) An owner or occupier of a lot must ensure that noise from devices such as radios, televisions and hi fi systems, is not audible outside the lot between the hours of 10.00pm and 7.00am the following day.

Information: *Being considerate about noise is an important part of being a good neighbour in an apartment building, issues to be aware of include the*

slamming of apartment doors, loud conversations in lift lobbies at night and televisions and the like set at high volumes.

5.3 Appearance of the property

- (1) An owner or occupier of a lot must not, without the written approval of the Owners Corporation, display any advertisement or sign upon a lot or in or upon the common property.
- (2) An owner or occupier of a lot must not hang any clothing, sheets, blankets, towels or other articles on the common property or on or from the exterior of the owner or occupiers unit in any location visible when viewed from common property or the public realm.

5.4 Drainage from balconies

An owner or occupier of a lot must not allow water (or any other liquid) other than rainwater to drain from the balcony or the balcony-walkways of the lot.

Information: *Balconies and balcony-walkways drain via small weep holes which discharge water so that it cascades down the face of the building, this water then falls onto any balconies, balcony-walkways or common property below causing distress and inconvenience to affected persons.*

The watering of pot plants and condensate from air-conditioners are examples of water sources which can cause a problem of this type.

6 Dispute resolution

- (1) The grievance procedure set out in this rule applies to disputes involving a lot owner, manager, or an occupier or the Owners Corporation.
- (2) The party making the complaint must prepare a written statement in the approved form.
- (3) If there is a grievance committee of the Owners Corporation, it must be notified of the dispute by the complainant.
- (4) If there is no grievance committee, the Owners Corporation must be notified of any dispute by the complainant, regardless of whether the Owners Corporation is an immediate party to the dispute.
- (5) The parties to the dispute must meet and discuss the matter in dispute, along with either the grievance committee or the Owners Corporation, within 14 working days after the dispute comes to the attention of all the parties.
- (6) A party to the dispute may appoint a person to act or appear on his or her behalf at the meeting.
- (7) If the dispute is not resolved, the grievance committee or Owners Corporation must notify each party of his or her right to take further action under Part 10 of the Owners Corporations Act 2006.
- (8) This process is separate from and does not limit any further action under Part 10 of the Owners Corporations Act 2006.

7 Implementation

- (1) The consent or approval of the Owners Corporation under these rules may be subject to conditions including conditions specifying the period for which the consent or approval is granted.
- (2) The conditions of consent or approval must be complied with to the satisfaction of the Owners Corporation.
- (3) In these rules italicized paragraphs commencing with the word *Information*: are not part of a rule, it is information intended to aid in the understanding of the purpose of the rule.

Schedule of Amendments to the Rules

Description of Amendment	Date of Special Resolution
All existing rules where replaced by new consolidated rules based on the Model Rules.	11 November 2014
The new consolidated rules where amended by adding sub-rules (6) and (7) to rule 4.2	12 November 2015