



Instruction Guide 13

How to Create or Amend Bylaws and Rules

Important Notice: This Instruction Guide has been prepared by the Superintendent of Real Estate to provide information about the *Strata Property Act* (the "Act"). This is only a guide to certain parts of the Act and Regulations. Please consult the Act and Regulations to determine the complete and precise requirements of the Act and Regulations. In addition, please remember when reviewing statements about the Standard Bylaws that they may not apply until January 1, 2002, and even when they do apply, they may have been amended or removed if the strata corporation has filed bylaw amendments in the Land Title Office. Please check all filed bylaw amendments to determine whether and how the Standard Bylaws may have been amended.

October, 2000.

1. The Purpose of Bylaws

Bylaws provide for the administration of the strata corporation and for the control, management, maintenance and use and enjoyment of the strata lots, common property and common assets of the strata corporation.

Every strata corporation must have bylaws.

2. The Purpose of Rules

Rules can be created to govern the use, safety and condition of the common property and common assets.

Rules may not govern the use of strata lots, as this can be accomplished only through a bylaw.

3. **The Standard Bylaws**

A strata corporation **created after July 1, 2000** will initially have the Standard Bylaws contained in the Act unless they have been amended by the Owner Developer at the time the strata plan was filed.

4. **Section Bylaws**

The strata corporation's bylaws apply to a section unless they have been amended by the section. However, the bylaws may only be amended by a separate section if the bylaw amendment relates solely to the section.

A section may create bylaws that are particular to that section.

5. **Amending Bylaws Prior to the First Annual General Meeting ("First AGM")**

To amend bylaws prior to the First AGM a resolution passed by a unanimous vote at a special general meeting is required for:

- bare land strata corporations;
- entirely residential strata corporations;
- mixed-use strata corporations that have not separated the residential and non-residential strata lots into separate sections; and
- residential sections.

To amend bylaws prior to the First AGM, a resolution passed by a $\frac{3}{4}$ vote (or some other voting threshold set out in a bylaw) at a special general meeting is required for:

- non-residential strata corporations; and
- non-residential sections.

[Note: A non-residential strata corporation or section may pass a bylaw that requires a vote of other than $\frac{3}{4}$ for bylaw amendments.]

[Exception: A bylaw that allows other classes of persons to be council members can only be passed at an annual or special general meeting held after the First AGM.]

6. **Amending Bylaws After the First AGM**

Bylaws are amended at or after the First AGM as follows:

- wholly residential strata corporations or sections amend their bylaws with a resolution passed by a $\frac{3}{4}$ vote at either the First AGM or any subsequent general meeting;
- wholly non-residential strata corporations or non-residential sections amend their bylaws with a resolution passed by a $\frac{3}{4}$ vote (or some other voting threshold set out in the strata corporation bylaws) at either the First AGM or any subsequent general meeting;
- mixed use strata corporations amend their strata corporation bylaws with:
 - a resolution passed by a $\frac{3}{4}$ vote of all residential strata lots at either the First AGM or any subsequent general meeting; and
 - a resolution passed by a $\frac{3}{4}$ vote (or some other voting threshold set out in a bylaw) of all non-residential strata lots at either the First AGM or any subsequent general meeting.

7. **Unenforceable Bylaws and Rules**

A bylaw or rule is not enforceable to the extent that it:

- contravenes the Act, Regulations, Human Rights Code, or any other enactment or law;
- destroys or modifies an easement created under section 69 of the Act; or
- prohibits or restricts the right of an owner of a strata lot to freely sell, lease, mortgage or otherwise dispose of the strata lot or an interest in the strata lot.

[Note: Bylaws that prohibit or restrict rentals, restrict the age of occupants or that reasonably govern activities relating to the sale of a strata lot including the location of signs, times for showing common property and the holding of open houses are permitted.]

8. **Fines for Contravention of Bylaws or Rules**

The Act requires that the strata corporation set out in its bylaws the maximum amount it may fine an owner or tenant for each contravention of a bylaw or rule.

The bylaws may:

- set different maximum amounts of fines for different bylaws and rules; and

- set out the frequency at which fines may be imposed for continuing contravention.

The maximum amount of a fine that a strata corporation may set out in its bylaws for a breach of a bylaw or rule is:

- \$200 for each contravention of a bylaw (other than breaches of rental restrictions);
- \$500 for each contravention of a rental restriction bylaw; or
- \$50 for each contravention of a rule.

The maximum frequency for the imposition of a fine for a continuing contravention of a bylaw or rule is every seven days.

9. **Types of Bylaws Noted in the Act**

Certain sections of the Act (which are set out in brackets) specifically note that strata corporations may wish to consider creating the following bylaws:

- providing that a power or duty of the strata corporation which would otherwise be exercised or performed by the council cannot be exercised or performed by the council (4);
- allowing additional classes of persons to be council members (28(2));
- providing that no person can stand for or be on council if a lien can be imposed against their strata lot (28(3));
- determining the number of council members (29(1));
- providing for remuneration for council members (34(b));
- providing for attendance at an annual or special general meeting by telephone or any other method (49(1));
- restricting voting (except for unanimous votes) if the strata corporation can register a lien against the strata lot (53(2));
- changing the responsibility for the repair and maintenance of limited common property (72(2));
- requiring the strata corporation to take responsibility for the repair and maintenance of specified portions of a strata lot(s) (72(3));
- acquiring or disposing of personal property (82(3));
- changing the amount of unapproved expenditures which may be made from the operating fund (98(2));

- setting out a schedule for the payment of strata fees and the rate of interest on late payment of strata fees provided that the rate does not exceed the maximum amount set out in the Regulations (107);
- governing activities relating to the sale of a strata lot (122);
- establishing a voluntary dispute resolution process (124);
- allowing non residential strata lots to amend bylaws other than by a $\frac{3}{4}$ vote (128(1));
- changing the maximum fines for contravention of bylaws and rules (132);
- restricting rentals (141);
- designating an insurance trustee (156);
- eliminating the need for a $\frac{3}{4}$ vote to authorize a small claims court proceeding to collect money owing to the strata corporation (171(4));
- identifying types of strata lots for the purpose of allocating contributions to the operating fund which relate to and benefit types of strata lots (Regulation 6.4); and
- setting out the user fees for the use of common property (Regulation 6.9).

10. **Procedure to Create or Amend Bylaws**

The following steps should be taken by the strata corporation or section to create or amend bylaws:

- the strata corporation or section must give at least two weeks' written notice of an annual or special general meeting unless the meeting has been waived. The notice must include the proposed wording of the new bylaw or amendment to an existing bylaw;
- during the meeting amendments may be made to the proposed wording of the resolution if the amendments do not substantially change the resolution and are approved by $\frac{3}{4}$ vote before the vote on the resolution;
- bylaw amendments must be approved by the voting thresholds explained in section 5 "Amending Bylaws After the First AGM";
- new and amended bylaws must be filed in the form "Amendment to Bylaws" (Form I) at the Land Title Office within sixty days of being approved. New and amended bylaws do not take effect until they are filed at the Land Title Office; and
- the strata corporation must inform owners and tenants as soon as "feasible" after the bylaw amendment is approved.

11. **Reconsideration of a ¾ Vote**

If a resolution requiring a ¾ vote was passed at a general meeting by persons holding less than 50% of the votes in the strata corporation, then the strata council cannot implement the resolution for one week unless such action is needed to ensure safety or prevent significant loss.

Any ¾ vote passed by persons holding less than 50% of the votes can be retaken, if within one week of the general meeting, persons holding 25% of the strata corporation's votes demand a special general meeting to reconsider the resolution.

For example:

- a strata corporation has persons who hold **120** votes;
- in order to conduct business and vote on resolutions at a general meeting, the strata corporation would need persons who hold **40** or more of those votes to constitute a quorum of voters;
- if there were persons holding **44** or more votes at the general meeting, the strata corporation could conduct business and vote on resolutions, as this number is greater than the quorum;
- a resolution needing to be passed by a ¾ vote would need **33** out of the **44** votes to pass;
- however, **33** votes are less than **60**, which is **50%** of the total number of **120** votes; so
- the vote must be retaken if within one week of the general meeting, persons holding **30** or more votes demand a special general meeting to reconsider the resolution.

Reconsidering a Resolution Passed by a ¾ Vote

Total No. of Votes in the Strata Corp.	50% of the Strata Corp's Votes	No. of Votes Present In Person or By Proxy	No. of Votes In Favor of the Resolution	¾ Vote passed? 33/44 = 75 %	Did Persons Voting in Favor Hold Less Than 50% of Strata Corp's Votes 33 < 60 Votes
120	60	44	33	Yes	Wait one Week

12. **Grandfathering**

The Act contains specific provisions that delay the effectiveness of pet, age and rental restriction bylaws.

- a bylaw that prohibits pets does not apply to a pet living with an owner, tenant or occupant at the time the bylaw is passed and which continues to live there after the bylaw is passed;
- a bylaw that restricts the age of person who may reside in a strata lot does not apply to a person who resides in the strata lot at the time the bylaw is passed and who continues to reside there after the bylaw is passed; and
- a bylaw that restricts rentals does not apply to a strata lot until one year after the bylaw is passed or one year after the tenant occupying the strata lot at the time the bylaw is passed, ceases to occupy it (whichever is later).

13. **Transition Provisions For Bylaws**

The Standard Bylaws (with the possible exception of Standard Bylaw 1, which requires strata fees to be paid on the first day of each month) do not apply to a strata corporation created under the Condominium Act until January 1, 2002.

[For more information on how the Standard Bylaws apply to strata corporations created prior to July 1, 2000, see Instruction Guide 1 “How to Prepare for July 1, 2000”].

14. **Procedure to Create Rules**

When making rules the strata corporation must:

- set out all rules in a written document that can be photocopied; and
- inform owners and tenants of any new rules as soon as “feasible”.

If a rule conflicts with a bylaw, the bylaw will prevail.

For rules made after July 1, 2000, the rule must be ratified by a majority vote at a general meeting, otherwise it ceases to have effect at the first AGM held after the rule was made.

15. **Transition Provision for Condominium Act Rules or Regulations**

A rule or regulation made under the Condominium Act is deemed:

- to be a rule under the Act;
- to have been provided to owners for their information; and
- to have been ratified at an annual general meeting.

Condominium Act rules or regulations that conflict with the Strata Property Act (Parts 1 – 17) and regulations continue to have effect until January 1, 2002.

References:

Sections of the Act: 28, 45, 50, 51, 119-128, 132, 143, 197

Sections of the Regulations: 17.10, 17.11

Standard Bylaws: 1