

Amending Strata Bylaws

All strata corporations must have bylaws. These bylaws can be amended: changed, created or deleted.

The Standard Bylaws are a set of bylaws established by the Province. Section 120 of the *Strata Property Act* states: "The bylaws of the strata corporation are the Standard Bylaws except to the extent that different bylaws are filed in the land title office."

There are two ways a strata's bylaws (or a section's bylaws) may differ from the Standard Bylaws:

1. Different bylaws can be filed by the owner developer with the Land Title Office.
2. The strata corporation, or section, may amend (change, create or delete) bylaws through a 3/4 vote of the owners and file the amendments in the Land Title Office.

Timing and Voting

Prior to the second annual general meeting (AGM), a *unanimous* vote is required for strata lot owners to change bylaws for the following:

- 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

It is different for non-residential sections. Non-residential sections may change bylaws prior to the second annual general meeting (AGM) by a resolution passed by a 3/4 vote (or some other voting threshold set out in a bylaw) at a special general meeting.

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 annual general meeting.

At the second annual general meeting or any subsequent general meeting, wholly residential strata corporations or sections may change their bylaws with a resolution passed by a 3/4 vote.

Mixed use strata corporations who are not divided into sections may change their bylaws with a resolution passed by a 3/4 vote of the residential *and* a separate 3/4 vote of the nonresidential strata lots (or as otherwise provided in the bylaws of the nonresidential strata) at either the second annual [general meeting](#) or any subsequent general meeting.

Steps to Amend Bylaws

The following steps should be taken by the strata corporation or section to amend (create, change or delete) 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 the proposed changes to an existing bylaw
- during the general meeting, changes may be made to the proposed wording of the resolution if the changes do not substantially change the resolution and are approved by a 3/4 vote before the vote on the resolution
- bylaw changes must be approved by the appropriate voting thresholds
- the strata corporation must inform owners and tenants as soon as feasible after the bylaw change is approved

A 3/4 vote can be reconsidered under certain circumstances. If a resolution (such as a bylaw) requiring a 3/4 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 3/4 vote passed by persons holding less than 50% of the votes must 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.

Filing Bylaws at the Land Title Office

To officially amend (create, change or delete) bylaws, the strata corporation or section must file the change on a "*Form I: Amendment to Bylaws*" at the Land Title Office. New and changed bylaws do not take effect until they are filed at the Land Title Office with the exception of [pet bylaws](#).

Those strata corporations that have more than 7 strata lots must electronically file some forms, which includes bylaws, bylaw amendments and the "*Form I: Amendment to Bylaws*". The electronic filing can only be done by a subscriber who is authorized to file forms and amendments with the Land Title Registry. Subscribers include lawyers, notaries, and land surveyors.

Once bylaw amendments are received by the Land Title Office, amended bylaws are recorded in the general index. No amended bylaws are deleted from the general index including bylaws that have been subsequently amended, replaced or no longer apply. Over the course of time, a large number of bylaws may be recorded on the general index.

The Land Title Office does not review the documents that are filed. As a result, care should be taken when submitting documents to ensure all amendments have been filed. Likewise, just because a bylaw has been accepted for filing does not necessarily mean that it is enforceable.

Scope of Bylaws

The *Strata Property Act* allows a strata corporation broad scope to amend, delete, or add to the Standard Bylaws or to substitute a whole new set of bylaws.

Bylaws usually include provisions to deal with:

- the governance of the strata corporation (or section)
- the use, repair and maintenance of strata lots and common property
- alterations to strata lots and common property

However bylaws cannot contravene existing law. A bylaw or rule is not enforceable to the extent that it:

- contravenes the *Strata Property Act*, Strata Property regulations, Human Rights Code, or any other enactment or law
- destroys or modifies an easement created under section 69 of the *Strata Property 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

However, bylaws that 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 “open houses” are permitted.

The *Strata Property Act* sets out two provisions that must be provided in the bylaws:

- The number of persons on strata council is determined by the bylaws (*Strata Property Act*, 29 (1)) and
- A strata corporation must set out in the bylaws the maximum amount it may fine an owner or a tenant for each contravention of a rule or bylaw (*Strata Property Act*, 132 (1)). 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 rule or bylaw 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.

The *Strata Property Act* and Strata Property regulation specifically identify that strata corporations can create bylaws in certain areas as listed below:

- allowing additional classes of persons to be council members (Section 28(2)) - for example, a spouse or family member of an owner
- providing that no person can stand for or be on council if a lien can be imposed against their strata lot (Section 28(3))
- determining the number of council members (Section 29(1))
- paying (remuneration) council members (Section 34(b))
- providing that a power or duty of the strata corporation that would otherwise be exercised or performed by the council cannot be exercised or performed by the council (Section 4)
- providing for attendance at an annual or special general meeting by telephone or any other method (Section 49(1))
- restricting voting at a general meeting (except for unanimous votes) if the strata corporation can register a lien against the strata lot (Section 53(2))
- changing the responsibility for the repair and maintenance of limited common property (Section 72(2))
- requiring the strata corporation to take responsibility for the repair and maintenance of specified portions of a strata lot(s) (Section 72(3))
- acquiring or disposing of personal property (Section 82(3)), for example, selling a snow blower owned by the strata corporation
- changing the amount of unapproved expenditures that may be made from the operating fund by the strata council (Section 98(2))
- setting out a schedule for the payment of strata fees (Section 107)
- set out the rate of interest on the late payment of strata fees or special levies provided that the rate does not exceed the maximum amount set out in the regulations (107 and 108)
- governing activities relating to the sale of a strata lot (Section 122)
- establishing a *voluntary* dispute resolution process (Section 124)
- allowing nonresidential strata lots to change bylaws other than by a 3/4 vote (Section 128(1))
- changing the maximum fines for contravention of bylaws and rules (Section 132)
- restricting rentals through a [rental restriction bylaw](#) (Section 141) if permitted by the "*Form J: the Rental Disclosure Statement*"
- designating an insurance trustee (Section 156)
- eliminating the need for a 3/4 vote to authorize a small claims court proceeding to collect money owing to the strata corporation (Section 171(4))
- to create and enforce section bylaws and rules for matters that pertain solely to the section (Section 194 (2)(f) and Section 197 (1)(2)(3)(3.1)(4))
- identifying [types of strata lots](#) for the purpose of allocating contributions to the operating fund that 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)

Some Best Practices

As a best practice, many strata corporations (or sections) will periodically review their bylaws with a lawyer and, under the lawyer's guidance, file a consolidated set of bylaws to make them readable and user friendly. Take care not to mistakenly repeal bylaws for e.g. any rental or age restriction bylaws.

If filing an amendment in the Land Title Office that repeals existing bylaws and adopts a new consolidated set of bylaws, state this in the material that accompanies the bylaws which is filed in the Land Title Office. That way someone searching the records knows that they do not have to search the earlier filings. This can be done by filing the appropriately drafted resolution along with the amended bylaws. Filing the resolution also helps to provide context on what the intention was for changing the bylaws and what the correct bylaws are.

To make governance easier, the minutes of any general meeting adopting a bylaw should include the wording of the resolution voted upon and the outcome of any vote (including votes by residential and nonresidential lots).

Often it is not clear from bylaws filed in the Land Title Office what happened to a previous bylaw and whether it still applies. The amending bylaw or its related resolutions should make it clear what is happening. If a new bylaw is filed with the intention to replace the old bylaw but it does not expressly state that, both bylaws may continue to exist or have some overlap, causing confusion and uncertainty.

If the strata corporation (or section) is deleting one of its existing bylaws, the resolution removing the bylaw should expressly state that the applicable bylaw has been intentionally repealed and it should be filed in the Land Title Office.

It is advisable to have a consistent yet flexible numbering system for bylaws. This makes it easy to understand where future amendments and additions fit into the existing overall bylaws. If new bylaws are simply added to the end of the existing bylaws it makes it difficult for users to understand the bylaws. It is very helpful to have a numbering system that allows new bylaws to be inserted in an appropriate location without having to renumber all of the other bylaws. Many strata corporations follow the numbering system used for the Standard Bylaws.

Strata associations recommend that strata corporations (or sections) work with a knowledgeable strata lawyer when working on bylaws.

"Grandfathering"

The *Strata Property Act* contains specific provisions that delay the application of pet, age and rental restriction bylaws in some circumstances and may result in "grandfathering".

- a [bylaw that restricts pets](#) does not apply to a pet living with an owner, tenant or occupant *at the time the bylaw is passed* and that continues to live there after the bylaw is passed
- a bylaw that restricts the age of a 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
- if a [rental restriction bylaw](#) is passed, any owner with a rented strata lot subject to the new bylaw has time to adjust. The *Strata Property Act* contains a delayed application provision with respect to those strata lots affected by rental restriction bylaws and a rental restriction bylaw would not apply to these strata lots until the later of:
 - one year after a tenant who is occupying the strata lot at the time the bylaw is passed

ceases to occupy it as a tenant or
- one year after the bylaw is passed

Creating or Changing Rules

Rules are different from bylaws. Rules can govern the use, safety and condition of the common property and common assets. However, **rules may not govern the use of strata lots, this can only be accomplished through a bylaw.** For example, specifying the type of window coverings in a strata lot would be a bylaw not a rule. However either a bylaw or a rule could prohibit smoking on common property. If a rule conflicts with a bylaw, the bylaw will prevail.

A strata council can create a rule without consulting owners and it applies to owners, tenants and visitors until the next AGM (annual general meeting) or SGM (special general meeting). At that time, the rule must be ratified by a majority vote at the AGM or it ceases to have effect. Once ratified, a rule will continue without the need for further ratification until repealed or altered.

When making rules the strata council 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

Section Bylaws and Rules

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

The executive of a section may make rules governing the use, safety and condition of land and other property acquired in the name of or on behalf of the section and for limited common property designated for the exclusive use of all the strata lots in the section.

Fines For Contravention of Bylaws and Rules

The *Strata Property Act* requires that the strata corporation (or section) 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 out 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 restriction bylaws)
- \$500 for each contravention of a rental restriction bylaw

- \$50 for each contravention of a rule

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

References

[Strata Property Act](#): Sections 119-128, 132, 143, 197

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