

Province of British Columbia
Guide 13: How to Create or Amend Bylaws and Rules

Non residential sections may amend bylaws prior to the Second AGM by a resolution passed by a $\frac{3}{4}$ vote (or some other voting threshold set out in a bylaw) at a special general meeting.

[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 At or After the Second AGM

- wholly residential strata corporations or sections may amend their bylaws with a resolution passed by a $\frac{3}{4}$ vote at either the Second AGM or any subsequent general meeting; and
- mixed use strata corporations (that have not separated the residential and non-residential strata lots into separate sections) may amend their bylaws with a resolution passed by a $\frac{3}{4}$ vote at either the Second 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 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.

Some strata corporations can also restrict rentals; please see “*Guide 15: Rentals Permitted within a Strata Corporation*” for more information.

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:

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- \$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 noted in the 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;
- 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 (122);
- establishing a voluntary dispute resolution process (124);

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- 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 part 5 of this guide "Amending Bylaws At or After the Second AGM";
- new and amended bylaws must be filed in the form "Amendment to Bylaws" (Form I) at the Land Title Office. 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 $\frac{3}{4}$ Vote

If a resolution requiring a $\frac{3}{4}$ 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 $\frac{3}{4}$ 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.

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For example:

- a strata corporation has persons who hold a total of **120** votes;
- under the Standard Bylaws, in order to have a quorum, the strata corporation would need eligible voters holding a minimum of **40** votes ($\frac{1}{3}$ of 120 total votes) either in person or by proxy. In this example, **51** votes are present, more than the minimum of 40 votes required for a quorum.
- The resolution needs to pass by $\frac{3}{4}$ vote. The $\frac{3}{4}$ vote is determined by those who vote for or against the resolution. It is not determined by the votes present, as abstentions are not counted. At this meeting a total **44** votes were cast; either for or against the resolution; with **33** votes in favour. The resolution passed by the required $\frac{3}{4}$ vote (33 out of 44).
- However, the **33** votes in favour of the resolution are less than **50%** or **60** of the total number of **120** votes. So the strata corporation must wait one week to implement the resolution because the resolution could be overturned. A vote must be retaken, if---within one week of the general meeting---persons holding at least **30** votes (i.e. 25% of the overall 120 votes in the strata corporation) demand a special general meeting to reconsider the resolution.

Example of Reconsidering a Resolution Passed by a $\frac{3}{4}$ Vote

Total # of votes in the strata Corp.	50% of the strata corp's votes	Quorum: $\frac{1}{3}$ of total votes in the strata corporation	# of votes present in person or by proxy	# of votes for or against the resolution	# of votes In favor of the resolution	$\frac{3}{4}$ vote passed?	Did persons voting in favour hold less than 50% of strata corp's votes?
120	60	40	51	44	33	Yes, 33 out of 44 is 75 %	33 < 60 Votes Wait one Week

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12. Provisional Exemptions (sometimes referred to as “Grandfathering”)

The Act contains specific provisions that delay the application of pet, age and rental restriction bylaws in some circumstances.

- 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
- If a rental restriction bylaw is passed, any owner with a rented strata lot subject to the new bylaw has time to adjust. The 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 bylaws is passed.

Please see “*Guide 15: Rentals Permitted within a Strata Corporation*” for more information on which strata lot owners may be subject to rental restriction bylaws.

13. 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. 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.

References:

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