

Guide 14

How to Enforce Bylaws and Rules

IMPORTANT NOTICE

This guide was prepared by the Superintendent of Real Estate and updated by the Ministry of Housing and Social Development. This guide, along with other guides in the series, provides basic information about certain parts of the British Columbia *Strata Property Act* (the "Act") and its Regulations.

Readers cannot rely on the guides for legal advice

The guides do not:

- provide a legal interpretation of provisions of the *Act* or Regulations. Please consult the *Act* and Regulations and court judgments to determine the complete and precise requirements of the legislation.
- include information about how the courts may have interpreted provisions of the *Act* or Regulations.

Readers should seek professional advice if they need to determine specific legal rights and duties which may apply in their particular situations.

The Province of British Columbia may periodically update the guides. Nevertheless, neither the Superintendent of Real Estate, nor any other authority of the Province of British Columbia, is liable for any inaccurate or incomplete information in any guide. For the convenience of readers, **updated information has been flagged in bold italic** in the guides and will remain marked this way for approximately one year from their noted revision dates.

In addition, the Standard Bylaws referred to in the guide do not necessarily apply to every strata corporation. Strata corporation bylaws can be enacted, amended or repealed by the developer or the strata corporation. Please conduct a search at the Land Title Office to obtain a copy of all filed bylaws and bylaw amendments for a specific strata corporation to determine which bylaws are applicable.

1. **Who Must Comply with Bylaws and Rules**

The following persons must comply with the bylaws and rules of a strata corporation:

- owners;
- tenants; and
- people living with or visiting owners and tenants.

2. How to Process Complaints of Alleged Bylaw and Rule Violations

The following steps should be taken by parties in dealing with complaints of alleged bylaw and rule violations:

- the aggrieved party complaining of a bylaw or rule breach by another owner or tenant must make a complaint to the strata council;
- the strata council must then give the alleged bylaw or rule offender written notice of the complaint;
- if the alleged offender is a tenant, the strata council must also give the landlord and owner written notice of the complaint;
- the strata council must decide whether to proceed with enforcement. It may give the alleged bylaw or rule offender a warning or time to comply with the bylaw or rule. If the breach is corrected, the strata council may decide not to take any further steps. Alternatively, the strata council may proceed with enforcement;
- if the strata council decides to proceed with enforcement, it must give the alleged offender a reasonable opportunity to respond to the complaint, including an opportunity to respond at a hearing, if requested. The Regulations define hearing as "an opportunity to be heard in person at a council meeting";
- if the alleged offender is a strata council member, that member must excuse himself or herself from the complaint process, unless all strata lot owners are on the strata council;
- once the alleged offender has answered or been given a reasonable opportunity to answer the complaint, the strata council must decide whether a bylaw or rule has been breached by the alleged offender;
- if the strata council decides that a bylaw or rule has been breached, it must then decide how to enforce the bylaw or rule against the offender; and
- finally, the strata council must give written notice of its decision, "as soon as feasible" to:
 - the offender or alleged offender; and
 - the landlord and owner, if the offender or alleged offender is a tenant.

[Note: the strata council may give the alleged rule or bylaw offender a warning at any time before proceeding to enforce the rule or bylaw.]

3. Enforcement Options available to the Strata Council

If after following the above steps, the strata council has determined that a breach of a bylaw or rule occurred, they may do any of the following:

- impose a fine against an owner or tenant;
 - the fine must not exceed the maximum fine amount set out in the bylaws of the strata corporations;
 - the Standard Bylaws permit a fine of up to \$50 for a breach of a bylaw, and up to \$10 for a breach of a rule;
 - the maximum fine amounts in the Standard Bylaws can be changed by bylaw amendment, but they must never exceed \$500 for a rental restriction bylaw breach, \$200 for any other bylaw breach, and \$50 for a breach of a rule; and
 - the bylaws may set out different maximum fines for breaches of different bylaws and rules.
- re-impose a fine;
 - if a bylaw or rule contravention has resulted in fining the offender, fines may be re-imposed for a continuing contravention of a bylaw or rule without going through a new complaint process; and
 - fines can be re-imposed no more frequently than set out in the bylaws.

The Standard Bylaw provide that fines can be re-imposed once every seven days. This bylaw can be amended to decrease but not increase the frequency of re-imposing fines.

- give the offender a warning;
- give the offender or landlord time to comply with the bylaw or rule that has been breached;
- restrict access to a recreational facility;
 - this restriction may be against the strata lot owner, tenant, or an occupant or visitor who has breached the bylaws or rules;
 - the bylaw or rule breached must relate to the use of the recreational facility that is restricted;
 - the restriction can only be for a reasonable period of time.
- remedy the breach and recover all reasonable costs from the offender.

4. **Unenforceable Bylaws**

Bylaws and rules are unenforceable if they:

- contravene the Act, Regulations, Human Rights Code or another enactment or law;
 - presently, under the Human Rights Code, bylaws which restrict the age of occupants are enforceable against:
 - owners; and
 - tenants if they are in a complex limited to people aged 55 years and over.
- destroy or modify an implied easement created under the Act;
- prohibit or restrict an owner from freely selling, leasing, mortgaging or otherwise disposing of his or her strata lot;
 - however, bylaws may be created to:
 - reasonably control the activities relating to the sale of a strata lot, including the placement of “For Sale” signs and open house times;
 - prohibit or limit the rental of strata lots;
 - restrict the age of persons residing in the strata lot in accordance with the *Human Rights Code*.

5. **How Strata Corporations Can Collect Fines**

Strata corporations can collect fines and other costs incurred in remedying breaches by the following methods:

- sue the owner or tenant in Court;
 - the strata corporation must give the owner or tenant and any mortgagee who has requested notice, at least two weeks’ notice demanding payment and of its intention to sue if payment is not received;
[Please refer to part 6 of this guide for an explanation of how the notice period runs.]
 - the owner or tenant may be able to pay money which is in dispute into court, or to the strata corporation to hold in trust, if a court proceeding has started; and
 - once a court order against the owner has been obtained, the strata corporation can enforce it against the owner through various collection methods permitted by law.

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- arbitrate the matter;
 - the strata corporation must give the owner or tenant and any mortgagee who has requested notice, at least two weeks' notice demanding payment and of its intention to initiate arbitration proceedings if payment is not received; [see part 6 for an explanation of how the notice period runs.]
 - the owner or tenant can pay money which is in dispute to the strata corporation to hold in trust if the arbitration proceeding has started; and
 - an arbitrator's decision may be filed in the Supreme Court if the amount awarded is over **\$25,000** or it may be filed in Small Claims Court, if the amount awarded is under **\$25,000**. On being filed, it will have the same effect and all proceedings may be taken against the owner as if it were a court order.
- refuse to produce a "Certificate of Payment" (Form F);
 - the strata council can refuse to issue a "Certificate of Payment" (Form F) to an owner or to a purchaser of an owner's strata lot, if amounts are owing to the strata corporation and arrangements to pay as set out in the Act have not been made.

6. Giving Notice and Calculating the Notice Period

The strata corporation can give notice to an owner of its intention to commence legal action or arbitration in order to collect fines and other costs incurred in remedying a breach of a bylaw in the following ways:

- if a person has provided the strata corporation with an address for receiving notices that is outside of the strata development, then notice can be delivered by:
 - personally leaving it with the person; or
 - mailing to the address provided by the person;
- if a person has not provided the strata corporation with an address for receiving notices that is outside of the strata development, then notice can be delivered by:
 - personally leaving it with the person;
 - leaving it under the door of the person's strata lot;
 - leaving it with an adult occupant of the person's strata lot;
 - mailing to the strata lot address;
 - putting into the mail box or mail slot for the strata lot;
 - faxing it to a fax number provided by the person; or
 - **emailing it to an email address provided by the person.**

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- if notice has been given by any of the above methods, except by giving it to the person, the notice is deemed to be received by the person four days after it was given.

Under the *Interpretation Act*, if the reference to time includes phrases such as “clear” days or weeks, or “at least” in reference to days or weeks, the time must be calculated by excluding the first day and the last day of the period. Another way of thinking about the days that must be excluded is to think that nothing can happen on those days. Thus, when calculating the number of days within the two week notice period for commencing court action or arbitration, the day the notice is given (Day 1 on the chart below), or is deemed to be received (Day 5 on the chart below) cannot be counted as one of the days. The court action or arbitration cannot commence on the last day of the notice period (Day 15 or Day 19 on the chart below). It can commence on any of the days following the last day of the notice period (Day 16 or Day 20 on the chart below).

Example of How the Notice Period Runs

Type of Notice	When delivery is initiated	When Notice is given	When Notice period starts to run	When the Notice period stops running	When AGM can be held
Deemed Notice: <ul style="list-style-type: none"> • Mailing to address provided by the person; • Leaving it under the strata lot door; • Leaving it with an adult in the strata lot; • Mailing it to the strata lot address; • Putting it in the strata lot’s mail box; • Faxing it to a fax number provided by the person; • <i>Emailing it to an email address provided by the person.</i> 	Day 1	Day 5, Notice is “deemed” to be received after 4 days	Day 6, the 2 week period starts on this day	Day 19, the 2 week period ends on this day	Day 20 or later
Actual Notice: <ul style="list-style-type: none"> • Actually handing it to the person. 	Day 1	Day 1	Day 2	Day 15	Day 16 or later

7. **Enforcement Against Tenants**

Under the *Strata Property Act*, there are additional requirements for enforcing bylaws and rules against tenants, which outlined below.

(Note: in addition to the *Strata Property Act*, residential strata tenancies in British Columbia are governed by the *Residential Tenancy Act* (RTA). More information on the RTA and the rights and responsibilities of tenants and landlords can be found at the Residential Tenancy Branch website here: <http://www.rto.gov.bc.ca/default.aspx>).

Under the *Strata Property Act*:

- an owner who rents his or her lot must provide the tenant with:
 - a “Notice of Tenant’s Responsibilities” (Form K), which must be signed by the tenant;
 - a copy of the bylaws;
 - a copy of the rules; and
- within two weeks of renting a strata lot to a tenant, the landlord must give the strata corporation the Form K signed by the tenant;
[Note: if an owner fails to comply with any of the above requirements, the tenant is still bound by the bylaws and rules of the strata corporation, but the tenant may terminate the tenancy, within 90 days of the contravention if he or she chooses, and recover reasonable moving expenses from the owner.]
- the strata corporation may collect a tenant’s fines or costs of remedying a contravention from either the tenant or the landlord; and
[Note: if the strata corporation collects a tenant’s fine from the landlord, then the tenant owes that sum to the landlord.]
- serious and repeated breaches by a residential tenant may give a landlord grounds to evict the tenant.
- The strata corporation may be able to evict a residential tenant who repeatedly breaches reasonable and significant bylaw or rules, if there is serious interference with the rights of other persons in the strata development.

References:

Sections of the Act: 61, 69, 112-118, 121, 122, 125, 129-137, 146, 171, 173, 176, 177

Sections of the Regulations: 7.1 Sections of Standard Bylaws: 23

Please also see

- *Strata Property Act “Guide 6: The Role and Responsibilities of Tenants and Landlords”*
- *Residential Tenancy Act information* available at the Residential Tenancy Branch website: <http://www.rto.gov.bc.ca/default.aspx>