

STRATA PLAN VR1122

BIRCH GARDENS

BY-LAWS

1263 West 8th Avenue
Vancouver, BC
V6H 1C7

Attached hereto are the bylaws for Strata Plan VR1122. For legal purposes please obtain a true copy as registered at the Land Titles Office.

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NOTE: This bylaw package may or may not contain the basic bylaws of the Condominium Act or the old Strata Titles Act.

VR1122 Bylaws

Division 1 -- Duties of Owners, Tenants, Occupants and Visitors

Payment of strata fees

1. An owner must pay strata fees on or before the first day of the month to which the strata fees relate.
2. Late strata fees (including NSF cheques) will have a \$50 fine imposed each month the fees are late or not available.

Repair and maintenance of property by owner

3. (1) An owner must repair and maintain the owner's strata lot, except for repair and maintenance that is the responsibility of the strata corporation under these bylaws.

(2) An owner who has the use of limited common property must repair and maintain it, except for repair and maintenance that is the responsibility of the strata corporation under these bylaws.

Use of property

4. (1) An owner, tenant, occupant or visitor must not use a strata lot, the common property or common assets in a way that
 - (a) causes a nuisance or hazard to another person,
 - (b) causes unreasonable noise,
 - (c) unreasonably interferes with the rights of other persons to use and enjoy the common property, common assets or another strata lot,
 - (d) is illegal, or
 - (e) is contrary to a purpose for which the strata lot or common property is intended as shown expressly or by necessary implication on or by the strata plan.
(2) An owner, tenant, occupant or visitor must not cause damage, other than reasonable wear and tear, to the common property, common assets or those parts of a strata lot which the strata corporation must repair and maintain under these bylaws or insure under section 149 of the Act.

(3) An owner shall indemnify and save harmless the Strata Corporation from the expense of any maintenance, repair or replacement of any damaged common property, common assets, strata lot or contents thereof caused by or resulting from acts, omission of acts, negligence or carelessness, by the owner or by that of any member of the owners' family, their guests, employees, contractors, agents, tenants or volunteers to the extent that such expense is not met by the proceeds received from any applicable insurance policy. Any insurance deductibles paid or payable by the application of the strata corporation policy or damage done

and requiring repair that is under the appropriate deductible of the strata corporations' policy shall be considered an expense due to the strata corporation from the owner and shall become due and payable on the date of payment of the monthly assessment for the next month following the date on which the expense was incurred.

(4) A fine of \$50 shall be imposed on any strata owner that allows unreasonable noise after 10 pm to be created in his/her unit or on the common property, whether the noise is created by the owner, occupants guests, or tenants. The strata council will give written notice of the complaint to the owner and tenant, if any, of the unit. The owner has seven days to respond to the complaint, including a hearing. When council imposes the fine, it is payable with the monthly assessment.

(5) An owner, tenant, occupant or visitor must ensure that all animals are leashed or otherwise secured when on the common property or on land that is a common asset.

(4) An owner, tenant or occupant must not keep any pets on a strata lot other than one or more of the following:

- (f) a reasonable number of fish or other small aquarium animals;
- (g) a reasonable number of small caged mammals;
- (h) up to 2 caged birds;
- (i) two dogs or two cats or one of each.

Inform strata corporation

5. (1) Within 2 weeks of becoming an owner, an owner must inform the strata corporation of the owner's name, strata lot number and mailing address outside the strata plan, if any.

(2) On request by the strata corporation, a tenant must inform the strata corporation of his or her name.

Obtain approval before altering a strata lot

6. (1) An owner must obtain the written approval of the strata corporation before making an alteration to a strata lot that involves any of the following:

- (a) the structure of a building;
- (b) the exterior of a building;
- (c) chimneys, stairs, balconies or other things attached to the exterior of a building;
- (d) doors or windows on the exterior of a building, or that front on the common property;
- (e) fences, railings or similar structures that enclose a patio, balcony or yard;
- (f) common property located within the boundaries of a strata lot;

(g) those parts of the strata lot which the strata corporation must insure under section 149 of the Act.

(2) The strata corporation must not unreasonably withhold its approval under subsection (1), but may require as a condition of its approval that the owner agree, in writing, to take responsibility for any expenses relating to the alteration.

Obtain approval before altering common property

7. (1) An owner must obtain the written approval of the strata corporation before making an alteration to common property, including limited common property, or common assets.

(2) The strata corporation may require as a condition of its approval that the owner agree, in writing, to take responsibility for any expenses relating to the alteration.

Permit entry to strata lot

8. (1) An owner, tenant, occupant or visitor must allow a person authorized by the strata corporation to enter the strata lot

(a) in an emergency, without notice, to ensure safety or prevent significant loss or damage, and

(b) at a reasonable time, on 48 hours' written notice,

(i) to inspect, repair or maintain common property, common assets and any portions of a strata lot that are the responsibility of the strata corporation to repair and maintain under these bylaws or insure under section 149 of the Act, or

(ii) to ensure compliance with the Act and the bylaws.

(2) The notice referred to in subsection (1) (b) must include the date and approximate time of entry, and the reason for entry.

(3) An owner must furnish the Strata Council with a key to his/her unit within three weeks of purchasing the property and within three weeks of changing his/her locks for use in an emergency.

(c) Division 2 -- Powers and Duties of Strata Corporation

Repair and maintenance of property by strata corporation

9. The strata corporation must repair and maintain all of the following:
- (a) common assets of the strata corporation;
 - (b) common property that has not been designated as limited common property;
 - (c) limited common property, but the duty to repair and maintain it is restricted to
 - (i) repair and maintenance that in the ordinary course of events occurs less often than once a year, and
 - (ii) the following, no matter how often the repair or maintenance ordinarily occurs:
 - (A) the structure of a building;
 - (B) the exterior of a building;
 - (C) chimneys, stairs, balconies and other things attached to the
 - (D) exterior of a building;
 - (E) doors and windows on the exterior of a building or that front on
 - (F) the common property;
 - (G) fences, railings and similar structures that enclose patios, balconies and yards;
 - (d) a strata lot in a strata plan that is not a bare land strata plan, but the duty to repair and maintain it is restricted to
 - (i) the structure of a building,
 - (ii) the exterior of a building,
 - (iii) chimneys, stairs, balconies and other things attached to the exterior of a building,
 - (iv) doors and windows on the exterior of a building or that front on the common property, and
 - (v) fences, railings and similar structures that enclose patios, balconies and yards.

(A) Division 3 -- Council

Council size

10. Council must have at least 3 and not more than 7 members.

Council members' terms

11. (1) The term of office of a council member ends at the end of the annual general meeting at which a replacement is elected.

(2) A person whose term as council member is ending is eligible for reelection.

(3) The members elected to fill the vacant Council positions must be elected for a term of one year.

Removing council member

12.(1) The strata corporation may, by a resolution passed by a majority vote at an annual or special general meeting, remove one or more council members.

(2) After removing a council member, the strata corporation must hold an election at the same annual or special general meeting to replace the council member for the remainder of the term.

Replacing council member

13.(1) If a council member resigns or is unwilling or unable to act for a period of 2 or more months, the remaining members of the council may appoint a replacement council member for the remainder of the term.

(2) A replacement council member may be appointed from any person eligible to sit on the council.

(3) The council may appoint a council member under this section even if the absence of the member being replaced leaves the council without a quorum.

(4) If all the members of the council resign or are unwilling or unable to act for a period of 2 or more months, persons holding at least 25% of the strata corporation's votes may hold a special general meeting to elect a new council by complying with the provisions of the Act, the regulations and the bylaws respecting the calling and holding of meetings.

Officers

14.(1) At the first meeting of the council held after each annual general meeting of the strata corporation, the council must elect, from among its members, a president, a vice president, a secretary and a treasurer.

(2) A person may hold more than one office at a time, other than the offices of president and vice president.

(3) The vice president has the powers and duties of the president while the president is absent or is unwilling or unable to act, or for the remainder of the president's term if the president ceases to hold office.

(4) If an officer other than the president is unwilling or unable to act for a period of 2 or more months, the council members may appoint a replacement officer from among themselves for the remainder of the term.

Calling council meetings

15.(1) Any council member may call a council meeting by giving the other council members at least one week's notice of the meeting, specifying the reason for calling the meeting.

(2) The notice does not have to be in writing.

(3) A council meeting may be held on less than one week's notice if all council members consent in advance of the meeting, or the meeting is required to deal with an emergency situation, and all council members either

(i) consent in advance of the meeting, or

(ii) are unavailable to provide consent after reasonable attempts to contact them.

(4) The council must inform owners about a council meeting as soon as possible after the meeting has been called.

Requisition of council hearing

16.(1) By application in writing, stating the reason for the request, an owner or tenant may request a hearing at a council meeting.

(2) If a hearing is requested under subsection (1), the council must hold a meeting to hear the applicant within 2 weeks of the request.

(3) If the purpose of the hearing is to seek a decision of the council, the council must give the applicant a written decision within one week of the hearing.

Quorum of council

17.(1) A quorum of the council is 3, if the council consists of 5 or 6 members.

(2) Council members must be present in person at the council meeting to be counted in establishing quorum.

Council meetings

18.(1) At the option of the council, council meetings may be held by electronic means, so long as all council members and other participants can communicate with each other.

(2) If a council meeting is held by electronic means, council members are deemed to be present in person.

(3) Owners may attend council meetings as observers.

(4) Despite subsection (3), no observers may attend those portions of council meetings that deal with any of the following:

- (a) bylaw contravention hearings under section 135 of the Act;
- (b) rental restriction bylaw exemption hearings under section 144 of the Act;
- (c) any other matters if the presence of observers would, in the council's opinion, unreasonably interfere with an individual's privacy.

Voting at council meetings

19.(1) At council meetings, decisions must be made by a majority of council members present in person at the meeting.

(3) The results of all votes at a council meeting must be recorded in the council meeting minutes, along with the names of the council members moving and seconding any resolutions, and the names of any dissenting or abstaining council members.

Council to inform owners of minutes

20.The council must inform owners of the minutes of all council meetings within 2 weeks of the meeting, whether or not the minutes have been approved.

Delegation of council's powers and duties

21.(1) Subject to subsections (2) to (4), the council may delegate some or all of its powers and duties to one or more council members or persons who are not members of the council, and may revoke the delegation.

(2) The council may delegate its spending powers or duties, but only by a resolution that

- (a) delegates the authority to make an expenditure of a specific amount for a specific purpose, or
- (b) delegates the general authority to make expenditures in accordance with subsection (3).

(3) A delegation of a general authority to make expenditures must

- (a) set a maximum amount that may be spent, and
- (b) indicate the purposes for which, or the conditions under which, the money may be spent.

(4) The council may not delegate its powers to determine, based on the facts of a particular case,

(a) whether a person has contravened a bylaw or rule,

(b) whether a person should be fined, and the amount of the fine, or

(c) whether a person should be denied access to a recreational facility.

Spending restrictions

22.(1) A person may not spend the strata corporation's money unless the person has been delegated the power to do so in accordance with these bylaws.

(2) Despite subsection (1), a council member may spend the strata corporation's money to repair or replace common property or common assets if the repair or replacement is immediately required to ensure safety or prevent significant loss or damage.

Limitation on liability of council member

23.(1) A council member who acts honestly and in good faith is not personally liable because of anything done or omitted in the exercise or intended exercise of any power or the performance or intended performance of any duty of the council.

(2) Subsection (1) does not affect a council member's liability, as an owner, for a judgment against the strata corporation.

(A) Division 4 -- Enforcement of Bylaws and Rules

Maximum fine

24. The strata corporation may fine an owner or tenant a maximum of

(a) \$200 for each contravention of a bylaw, (other than breaches of rental restrictions);

(b) \$500 for each contravention of a rental restriction bylaw, or

(c) 50 for each contravention of a rule.

25. Any fine levied against an owner by the Strata Council for violation of a Bylaw shall be incorporated as part of the following month's maintenance fees, and shall be collectable as such.

Continuing contravention

26. If an activity or lack of activity that constitutes a contravention of a bylaw or rule continues, without interruption, for longer than 7 days, a fine may be imposed every 7 days.

(a) Division 5 -- Annual and Special General Meetings

Person to chair meeting

- 27.(1) Annual and special general meetings must be chaired by the president of the council.
- (2) If the president of the council is unwilling or unable to act, the meeting must be chaired by the vice president of the council.
- (3) If neither the president nor the vice president of the council chairs the meeting, a chair must be elected by the eligible voters present in person or by proxy from among those persons who are present at the meeting.

Participation by other than eligible voters

- 28.(1) Tenants and occupants may attend annual and special general meetings, whether or not they are eligible to vote.
- (2) Persons who are not eligible to vote, including tenants and occupants, may participate in the discussion at the meeting, but only if permitted to do so by the chair of the meeting.
- (3) Persons who are not eligible to vote, including tenants and occupants, must leave the meeting if requested to do so by a resolution passed by a majority vote at the meeting.

Voting

- 29.(1) At an annual or special general meeting a vote is decided on a show of hands.
- (2) The outcome of each vote, including the number of votes for and against the resolution, must be announced by the chair and recorded in the minutes of the meeting.
- (5) If there is a tie vote at an annual or special general meeting, the president, or, if the president is absent or unable or unwilling to vote, the vice president, may break the tie by casting a second, deciding vote.
- (6) Despite anything in this section, an election of council or any other vote must be held by secret ballot, if the secret ballot is requested by an eligible voter.

Order of business

30. The order of business at annual and special general meetings is as follows:

- (a) certify proxies and corporate representatives and issue voting cards;
- (b) determine that there is a quorum;
- (c) elect a person to chair the meeting, if necessary;
- (d) present to the meeting proof of notice of meeting or waiver of notice;
- (e) approve the agenda;
- (f) approve minutes from the last annual or special general meeting;
- (g) deal with unfinished business;
- (h) receive reports of council activities and decisions since the previous annual general meeting, if the meeting is an annual general meeting;
- (i) ratify any new rules made by the strata corporation under section 125 of the Act;
- (j) report on insurance coverage in accordance with section 154 of the Act, if the meeting is an annual general meeting;
- (k) approve the budget for the coming year in accordance with section 103 of the Act, if the meeting is an annual general meeting;
- (l) deal with new business, including any matters about which notice has been given under section 45 of the Act;
- (m) elect a council, if the meeting is an annual general meeting;
- (n) terminate the meeting.

(A) Division 6 -- Voluntary Dispute Resolution

Voluntary dispute resolution

- 31.(1) A dispute among owners, tenants, the strata corporation or any combination of them may be referred to a dispute resolution committee by a party to the dispute if
- (a) all the parties to the dispute consent, and
 - (b) the dispute involves the Act, the regulations, the bylaws or the rules.
- (2) A dispute resolution committee consists of
- (c) one owner or tenant of the strata corporation nominated by each of the disputing parties and one owner or tenant chosen to chair the committee by the persons nominated by the disputing parties, or
 - (d) any number of persons consented to, or chosen by a method that is consented to, by all the disputing parties.
- (3) The dispute resolution committee must attempt to help the disputing parties to voluntarily end the dispute.

Restriction of rentals by strata corporation

32. The number of Strata Lots within Strata Plan VR1122 that may be leased at any one time is restricted to 4 in number. Any Owner leasing in breach of this bylaw must immediately give the tenant notice to vacate in accordance with the legislation and/or common law of the Province of British Columbia governing residential tenancies.
33. An Owner who leases his strata lot shall provide to the Strata Corporation Council a "Form D Tenants Undertaking" in accordance with Sections 4556 and 47 of the Condominium Act. Failure to provide Form D within 10 days of the commencement of a tenancy shall be cause for a fine against the strata lot Owner.
34. For purpose of enforcement of this by-law, a tenant shall be defined to include:
- (a) Any person not a Member of the immediate family of the Owner. Immediate family is defined as children or parents of the Owner;
 - (b) Any person beneficially owning less than 50% of the shares, which carry the right to vote, of a corporate Owner;
 - (c) Any person owning less than 40% undivided registered or beneficial interest in the strata lot.

Limits to rental restriction bylaws

35. Rental restriction bylaw does not apply to strata lots already rented until the ownership of the lot is conveyed to a new owner.

Exemption from rental restriction bylaw

36. (1) An owner may apply to the strata corporation for an exemption from the rental restriction.
- (2) The application must be in writing and must state
- (a) the reason the owner thinks an exemption should be made, and
 - (b) whether the owner wishes a hearing.
- (3) If the owner wishes a hearing, Council will hear the owner or the owner's agent within 3 weeks after the date the application is given to the strata corporation.
- (4) An exemption is allowed if the strata corporation does not give its decision in writing to the owner
- (c) within one week after the hearing, or
 - (d) if no hearing is requested, within 2 weeks after the application is given to the strata corporation.
- (5) An exemption granted by the strata corporation may be for a limited time.

Rental agreement in contravention of rental restriction bylaw

37. (1) If an agreement for the rental of a residential strata lot contravenes a bylaw that prohibits or limits rentals, the tenant
- (a) is not in contravention of the bylaw, and
 - (b) may, within 90 days of learning of the landlord's contravention, end the tenancy agreement without penalty by giving notice to the landlord.
- (2) If a tenant ends a tenancy agreement under subsection (1), the landlord must pay the tenant's reasonable moving expenses to a maximum of one month's rent.

Landlord to give bylaws, rules and Notice of Tenant's Responsibilities to tenant

38. (1) Before a landlord rents all or part of a residential strata lot, the landlord must give the prospective tenant
- (a) the current bylaws and rules, and
 - (b) a Notice of Tenant's Responsibilities in the prescribed form.
- (2) Within 2 weeks of renting all or part of a residential strata lot, the landlord must give the strata corporation a copy of the notice signed by the tenant.
- (3) If a landlord fails to comply with subsection (1) or (2), the tenant
- (c) is still bound by the bylaws and rules, but
 - (d) may, within 90 days of learning of the landlord's failure to comply, end the tenancy agreement without penalty by giving notice to the landlord.

