



Condominium Rules, Bylaws and Sanctions

Condominium Property Act

Rules are different from bylaws

Bylaws regulate the corporation and provide for the control, management and administration of the units, the real and personal property of the corporation, the common property and managed property. Bylaws are established by owners through special resolutions.

Rules are focused on procedures used in the administration of the corporation or administration of the real and personal property of the corporation, the common property and managed property. Rules must not restrict the uses of the units. Rules are sometimes referred to as "policies".

The board may make, amend, or repeal rules by passing a resolution of the board.

A rule established by the board may be amended or repealed by an ordinary resolution passed by the owners.

Rules must be reasonable, and must be consistent with the Act, the regulations, and the bylaws of the corporation.

When rules come into effect

The corporation must provide 30 days written notice of a new rule before it comes into effect. The notice can be provided by delivering it to each occupied unit in the building or on the parcel of land, or by posting the notice of a new rule in an open and conspicuous common area where all the owners and occupants have access. The corporation must also give written notice of the new rule to all owners (non-resident) who do not reside in the complex.

Note: If delivering notice to each occupied unit (and each non-resident owner), the 30-day notice period does not start until all notices have been delivered.

The corporation may delegate to the condominium manager or an employee of the corporation the responsibility of sending / delivering the notice.

If the rule addresses a safety concern, security concern or an emergency, the rule can become effective immediately after notice is provided. These types of rules cease to apply when the safety concern, security concern or emergency no longer exists.

Enforcement of rules

The board may impose non-monetary sanctions for not following a rule. For example, if an owner requests the use of a corporation's common room for a family event, and then fails to clean the room in accordance with the rules, that owner may be barred from using the room for personal events for a specified period of time. The sanctions must be set out in the rules, similar to the way monetary sanctions are set out under a bylaw.

No matter what the current bylaws of a corporation may state, no monetary sanction can be imposed for failure to comply with a rule. Any bylaw that says monetary sanctions can be applied to violations of the rules would be in conflict with the legislation.

Bylaws

The default bylaws in the Condominium Property Regulation only apply to condominium corporations that do not have their own bylaws registered with Land Titles. If a corporation has registered its own bylaws, the default bylaws do not apply, even in those areas where the corporation's bylaws are silent.

A corporation may adopt bylaws that meet its own needs. A special resolution is required to adopt new bylaws.

To determine whether a corporation has registered bylaws, you may search the Land Titles website at:
<https://alta.registries.gov.ab.ca/spinii/ogon.aspx>.

Amending bylaws

A special resolution is required to amend, repeal, or replace bylaws. Special resolutions require the approval of 75% of the owners who represent at least 75% of the unit factors in the condominium corporation. Corporations may pass a special resolution at a general meeting or may use a written vote. The owners or mortgagees may be represented at a properly convened meeting to vote either in person or by proxy.

If an owner or mortgagee is in arrears for contributions or obligations owing to the corporation related to the owner's unit or common property for more than 30 days prior to the day the vote is taken, they cannot vote.

Boards are encouraged to consult with a legal advisor when making any new bylaws or amendments.

Legislation takes precedence

If bylaws conflict with the Act or regulations, the Act or regulation takes precedence.

Where the Act or regulations establish requirements for corporations, those apply even if the corporation does not specifically address the requirement in their bylaws.

Corporations should examine legislation for sections where the legislation might mention corporation bylaws, such as insurance requirements, to determine if their existing bylaws adequately address that topic.

Sections of the legislation that require corporations to have complementary bylaws, such as those addressing sanctions for bylaw violations, are unavailable to corporations unless they have bylaws enabling the use of these sections.

Enforcement of bylaws

A corporation may impose a monetary sanction for non-compliance with a bylaw. To issue a monetary sanction, the bylaws must identify that non-compliance is subject to a monetary sanction and a maximum sanction amount must be established in the corporation's bylaws.

Notice regarding non-compliance

The Condominium Property Regulation requires corporations to serve notice to someone who is believed to have contravened the bylaws or a rule before a sanction may be issued. The notice of a proposed sanction must contain:

- the unit number associated with the contravention
- the name of the person who contravened the bylaw or rule, if known
- the provision of the bylaw, or the rule, that has been contravened
- the date and time of the contravention, if applicable
- the maximum monetary sanction for non-compliance with a bylaw
- a description of corrective action, if any, that must be taken
- other relevant particulars of the failure to comply; and
- the deadline for taking the required actions or providing a written response.

The person must be given the opportunity to take any corrective action. They must also be permitted to provide a written response to the notice if they wish to do so. The notice must contain a deadline for this action and/or

response. The deadline must be at least three days after service of the notice, excluding Sundays and holidays.

If the board is satisfied with the response or action from the notified person, it may decide that no further action is necessary. However, if the deadline has expired and the corporation has not received a response, or if the response does not reasonably resolve the situation, the corporation may provide the person with a notice of sanction. This notice must include the amount of the sanction and the instructions and deadline for payment.

If a sanction is something other than a monetary fine, such as the loss of use of a common space, the notice must include a description of the sanction and the time when it will come into effect. For either type of sanction, the corporation must pass a resolution approving the sanction, and the notice must provide the date of this resolution and provide reasons for issuing the sanction.

When a sanction is issued to a tenant of a rented unit, the owner of the unit must also be notified.

A corporation can delegate all the steps related to issuing a sanction except for the final decision to issue a sanction, which must be made by the board. This means that while a condominium manager can do the administrative work for a sanction (giving notice of a bylaw violation, filling out forms, delivering notices, managing payments, informing the person receiving the sanction), the actual decision to sanction must be made by the board.

Maximum sanctions

The maximum monetary sanction that may be imposed for the first instance of non-compliance by an owner, tenant, or occupant is \$500 or a lower amount stated in the corporation's bylaws for each instance.

If a person contravenes the same bylaw more than once, the maximum sanction for a subsequent contravention is \$1,000 or a lower amount set out in the corporation's bylaws for each instance.

For a continuing contravention of a bylaw (for example, leaving a prohibited item on a balcony), the maximum sanction is \$500 for the first week and \$1,000 for each subsequent week.

Recovery of unpaid sanctions

The *Condominium Property Act* permits corporations to go to the Alberta Court of Justice to recover a monetary sanction or recover damages.

If the total amount of all sanctions and/or damages exceeds the limit of the Alberta Court of

Justice, the corporation may take the matter to the Court of King's Bench. Corporations may want to consider consulting with a legal advisor regarding court procedures.

Caveats for unpaid sanctions

A corporation can only place a caveat for failure to pay a monetary sanction if they have obtained a writ of enforcement against the owner. This would require the corporation to first take the owner to court and receive a judgement for the outstanding monetary sanctions.