

Part 13. Enforcement, Exemptions and Dispute Resolution

Division 1. **Enforcement of Bylaws and Rules**

1. Complaints and Enforcement

- (1) The Board of Directors shall not be obliged to investigate or enforce any bylaw or rule at the request of any person, unless that person delivers a complaint to the Homeowners Corporation in a manner contemplated by this bylaw, and shall not be responsible to any owner for any breach of the bylaws by another owner as contemplated by article 8.1.
- (2) Each complaint of contravention of a bylaw or rule must be in writing and must disclose an allegation of contravention of a bylaw or rule with sufficient clarity and detail to permit the Board of Directors to provide reasonable particulars to the person alleged to have contravened the bylaw or rule.
- (3) Nothing in this bylaw shall either require that any member of the Board of Directors submit a complaint on their own initiative or prevent any member of the Board of Directors from doing so, in compliance with this bylaw.
- (4) Nothing in this bylaw shall be interpreted to modify the Board of Directors' authority to determine in their discretion that a bylaw or rule complaint should or should not result in formal enforcement steps.

2. Fines

- (1) Pursuant to articles 3.2 and 8.2 of the Sublease, the Homeowners Corporation shall have authority to assess fines and charge back costs of remedying a bylaw contravention in a manner similar to that of a Strata Council of a BC Strata Corporation. The Board of Directors shall follow a process similar to section 135 of the Strata Property Act before issuing any fine or requiring any owner to reimburse the Homeowners Corporation for the costs of remedying a bylaw contravention.
- (2) An infraction or violation of the bylaws or rules and regulations may be corrected, remedied, or cured by the Homeowners Corporation. The reasonable cost of remedying a bylaw contravention, including any legal expenses reasonably incurred shall be fully recoverable from the owner of the unit associated with the contravention, including any contravention in common areas committed by an owner, tenant, guest or invitee associated with that unit.
- (3) Following a letter of warning, and unless otherwise provided for in the bylaws, the fine for a violation of the bylaws or any rules and regulations established by the Board of Directors or committee of the Homeowners Corporation is \$100.00 for a first violation when paid promptly.
- (4) Unless otherwise provided for in the bylaws or rules and regulations, outstanding fines for violations are payable for each month the fine is outstanding and will increase in proportion as follows:

Month Fine Total Due

1st \$100.00 \$100.00

Approved at the AGM of July 6, 2022

2nd \$200.00 \$300.00

3rd \$300.00 \$600.00

- (5) Unless otherwise stated in the bylaws or rules and regulations, fines for the 2nd and subsequent violations of the same bylaw or rule by the same person are cumulative as follows (to a maximum of \$2,000.00 / month):

2nd violation \$250.00

3rd violation \$500.00

4th violation \$1,000.00

5th violation \$2,000.00

- (6) Any fines levied by the Homeowners Corporation for a violation of the bylaws or rules and regulations on the part of an owner, the owner's employee, tenant, agent, invites or guest:

a. Must be charged to the owner; and

b. Must be added to and become a part of the assessment of that owner for the month next following the date on which the infraction occurred and become due and payable on the date of payment of the monthly assessment.

3. Indemnification of Fees Related to Collection of Arrears of Maintenance Payments and Special Levies

- (1) An owner in arrears of maintenance payments, and/or any special levies, including fines and interest on arrears must reimburse the Homeowners Corporation on demand and in full for the reasonable costs of collecting those arrears, including legal costs on a "solicitor and own client" basis, disbursements, expenses, taxes, filing and/or Court fees, all on a full indemnity basis, analogous to section 118 of the Strata Property Act.

4. Enforcement of Bylaws and Rules

- (1) All reasonable costs of investigating and/or remedying a bylaw or rule contravention must be paid to the Homeowners Corporation by the owner of the unit associated with the contravention and/or other person responsible to pay fines associated with the contravention. Payment of such costs shall be on a full indemnity basis and must be paid within thirty days' of notice from the Board of Directors that there has been a finding that the bylaws and/or rules have been contravened and specifying the costs incurred with respect to remedying the contravention. The costs of

remedying a bylaw or rule contravention shall be deemed to include any reasonable legal expenses incurred by the Homeowners Corporation in enforcing the bylaws and/or rules, recoverable from the owner on a "solicitor and own client" basis by the Homeowners Corporation.

Approved at the AGM of July 6, 2022

Division 2. **The British Columbia Human Rights Code**

1. Duty to Accommodate

(1) The Board of Directors shall have authority and discretion to interpret or apply the Homeowners Corporation's rules and bylaws as necessary to avoid contravention of the B.C. Human Rights Code, as required pursuant to section 121 of the Strata Property Act.

2. Accommodation of Physical or Mental Disability

(1) Notwithstanding any bylaw or rule of the Homeowners Corporation to the contrary the Board of Directors may provide such exemptions to any bylaw or rule of the Homeowners Corporation to the minimum extent necessary to accommodate a physical or mental disability as defined in the British Columbia Human Rights Code; subject to the following restrictions:

- a. The exemption requires an application of an owner, tenant or occupant (the "Applicant") in which the Applicant has the onus to provide satisfactory proof of a physical or mental disability in the form of a medical report, letter or detailed prescription from a physician qualified, registered and licensed to practice medicine in the Province of British Columbia; providing a specific medical opinion that results in a conclusion by the Board of Directors that specific application of a particular bylaw or rule of the Homeowners Corporation is inconsistent with the treatment, management or otherwise has a discriminatory effect with respect to a diagnosed mental or physical disability of the Applicant;
- b. Upon request, the Applicant must provide further or additional documentation reasonably requested by the Board of Directors including, but not limited to, reasonable medical records or a letter from a physician which confirms the existence of the physical or mental disability claimed and addresses why other treatment options which avoid the need for specific accommodation are not suitable;
- c. The Application and such information and/or documentation which is provided to the Board of Directors pursuant to this bylaw must be kept confidential by the Board of Directors, except as between the Board of Directors, property management agent, the Homeowners Corporation's lawyer, or as required to defend the decision of the Board of Directors in court, arbitration or other dispute resolution process;
- d. If the Board of Directors declines an application for whatever reason, the Applicant may re-apply with additional documentation and/or expanded

submissions;

- e. The exemption may be on such conditions as the Board of Directors feels is appropriate to accommodate the physical or mental disability while respecting to the extent possible, the language and intent of the bylaws and rules, including restricting the time for which the exemption exists to the period during which the mental or physical disability persists, requiring that the exemption specifically end upon the Applicant vacating the unit, requiring that the Applicant participate in reasonable accommodation by taking such steps at their own expense as may be necessary to mitigate the

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effect of the bylaw or rule exemption on other owners, tenants and occupants, or such other conditions as are agreed upon between the Applicant and the Board of Directors, or are reasonably imposed by the Board of Directors;

f. Any conditions or restrictions may be revised or amended from time to time by the Board of Directors on reasonable notice to the Applicant;

g. If in the opinion of the Board of Directors an application under this bylaw should not be granted because granting the application under all of the circumstances, would contravene a preeminent legal duty or obligation or would otherwise be unlawful, create undue hardship, or constitute prohibited discrimination against another person; or because the Board of Directors is of the view that alternatives are reasonably available which would not require an exemption from a bylaw or rule; then the Board of Directors must decline to grant an exemption under this bylaw;

h. In the course of any application or re-application, the Applicant may request a hearing before the Board of Directors; and

i. No application under this bylaw may be made to exempt an owner, tenant or occupant from any obligation to pay their share of common costs, to pay any amounts required under the bylaws or to comply with their obligations to avoid disturbing or interfering with the property rights of other owners, tenants or occupants. Further, no such application for an exemption will be granted if granting the exemption would breach any preeminent obligation of the Homeowners Corporation.

Division 3. **Disputes Generally**

1. Nothing in these bylaws shall be interpreted as preventing informal resolution of disputes by consent, where appropriate.