

Recent Amendments to the Strata Property Act [SBC 1998] c. 43 (the “Act”) from Nov 23, 2022 to the present.

October 10, 2023

Summary:

On August 9, 2023, there were a number of amendments made to the Act. There are four amendments that strata corporations and owners of strata lots should review in particular.

EV Installation

A number of the amendments focused on making it easier for a strata to implement EV Charging initiatives. Strata corporations now only need to receive a majority vote (51%) at an AGM or an SGM compared to the previous $\frac{3}{4}$ vote to install EV chargers.

Removal of Rental Restrictions

In response to the housing crisis, these amendments remove a strata corporation's ability to restrict rentals. Any previous rental restriction bylaws are now invalid.

Electronic Meetings

Strata corporations no longer need to pass a bylaw to allow for electronic meetings. Electronic meetings are presumptively allowed if the strata gives appropriate notice that includes the date time and where the meeting is happening (zoom, teams, etc.). If a strata hosts an electronic meeting they must also include instructions in the notice for how a person should connect to the electronic meeting.

Age Restrictions

The last significant change is that strata bylaws are no longer allowed to limit age restrictions to anything but 55 or under. Bylaws that limit ages such as and for example 19 years and under are now unenforceable. Strata's can either choose to be a senior community dedicated to those 55 or older or have no age restrictions.

Analysis of each amended section.

Definitions:

Three definitions were added to the definition section: Electric vehicle, EV Charging Infrastructure, and Motor Vehicle.

These three definitions are self explanatory and likely will not make any drastic changes to Strata Property law. Strata corporations however should check their parking bylaws and ensure that their parking bylaws are not affected by these updated definitions.

Section 27 (Control of Council)

27(2)(v) was repealed due to section 144 also being repealed and strata corporations not being allowed to restrict rentals.

Section 45(3) (notice requirements for annual or special general meetings)

An AGM or SGM meeting notice must now include the date, time, and if applicable, place of the meeting. If attendance is online or by phone, instructions must be included for how to attend via electronic means.

Strata corporations should ensure that they include when and where the meeting is happening in their notice along with instructions for how to connect online if online participation is an option.

Section 49 (electronic attendance at AGM and SGM)

The amendment removes the requirement of a bylaw being in place to allow for an electronic meeting. Now a strata corporation may have an electronic AGM or SGM if they give notice under section 45(above). The electronic means must also enable all person attending to communicate with each other (zoom, teams, phone conference etc), and the electronic means must enable the chair of the meeting to identify whether a person attending is an eligible voter.

A voting card is no longer required if a person attends by electronic means and they are not entitled to a secret ballot.

Section 59 (information certificate)

(3) This section has added (L.2) which that adds that information certificates requested by an owner or a purchaser should now also include and disclose a summary of the strata corporations' insurance coverage.

Strata Corporations should ensure that they check section 59 and disclose all required documents when they receive a request for an information certificate.

(5.1) was added and makes the summary of a strata corporations insurance coverage not binding on the strata if the summary is obtained from the strata's insurer, or insurance agent.

Strata corporations should ensure that they only provide summaries of insurance coverage that are direct from their insurer or insurance agent to avoid liability related to a third parties reliance on the summary of coverage.

Section 71 (Changes in use of common property.)

This section has remained generally the same and still allows for strata corporations to make a significant change to the use and of appearance of common property, land or assets if there is reasonable ground to believe that an immediate change is necessary, or if there is a 3/4 vote at an annual or special general meeting.

The largest change is that to approve EV charging infrastructure, a strata only needs to receive a majority vote (51% or higher) at an AGM or SGM.

Section 82 (acquisition and disposal of personal property by strata corporation)

Section 82 added subsection 3.1 where it clarifies that when acquiring or disposing of personal property with a value of more than a \$1,000 (if the bylaws are silent on the amount) then a special resolution at an SGM or AGM must be passed by a majority vote if it is related to EV infrastructure or by a 3/4 vote if it relates to any other property.

Section 96 (Expenditures from contingency reserve fund)

Section 96 was altered to add section (i) (A) (III) and (IV). These new sections allow a strata to spend money from the contingency reserve fund to add EV charging infrastructure or obtain a report on adding EV charging infrastructure if approved by a 3/4 vote at a SGM or AGM.

Section 121 (unenforceable bylaws)

Repeals section 121(2) (a) which stated that a bylaw under section 141 that prohibits or limits rentals was excluded from being unenforceable.

Section 123(1) (limits to pet bylaws)

This section was modified to clarify that a bylaw that prohibits a pet does not apply to a pet living at the building with an owner, tenant or occupant if the pet was living with them prior to the bylaw being passed. By living with the pet previously the owner, tenant or occupant must not have been contravening a bylaw that prohibited a new pet, and finally the pet continues to live with the owner after the bylaw has passed.

Section 123.1(1) (Age restrictions bylaws)

The only age restrictions that are now allowed are those that limit communities to 55 and older. Strata corporations are no longer allowed to limit children in particular; for example, all bylaws that limited those 19 and under are no longer enforceable.

This section was added to change the language slightly from “*the strata corporation must not pass a bylaw that restricts the age of persons who may reside in a strata lot except as permitted by subsection (2)*”.

To “*Except as permitted by subsection (2), a bylaw must not restrict the age of persons who may reside in a strata lot*”.

While these bylaws perform the same function the new language takes away a loophole that would allow a strata corporation who previously had bylaws in place before subsection 123.1 came into force to maintain those bylaws. The new language effectively cancels old bylaws.

Strata corporations should ensure that they do not have any bylaws in place (whether they used to be allowed or not) that limit residents 54 and under. The only age restrictions allowed are for those senior communities that limit the age of its residents to 55 and older.

Section 123.2 (limits to age restriction bylaws)

This section was added to allow for a person who was residing at the strata lot who does not meet an age restriction to continue to live there, and for a caregiver who resides in the strata lot for purposes of providing care for another person who resides in the strata lot and is dependent on the caregiver for assistance due to disability, illness, or frailty.

Section 123.2(c) also states that age requirements do not apply to persons in a “prescribed class of persons” made under regulation by the lieutenant governor in council. Currently, this includes the following:

A. Age restriction bylaw exemptions

7.01 (1) In this section:

"child" means a person under the age of 19 years;

"specified resident", in relation to a bylaw referred to in [section 123.1 \(2\)](#) of the [Act](#), means a resident of a strata lot who

(a) has reached the age specified in the bylaw, or

(b) is a person referred to in [section 123.2 \(a\)](#) of the [Act](#) to whom a requirement in the bylaw to have reached a specified age does not apply;

"spouse" means a person who

(a) is married to another person, or

(b) is living with another person in a marriage-like relationship.

(2) For the purposes of [section 123.2 \(c\)](#) of the [Act](#), the following classes of persons are prescribed:

(a) a child, if one of the child's caregivers is a specified resident;

(b) a person who is 19 years of age or older, if the person resides in a strata lot with a specified resident who was one of the person's caregivers before the person reached the age of 19 years;

(c) the spouse of a specified resident.

[en. B.C. Reg. 116/2023.]

Section 139-140 has been repealed. An owner developer no longer needs to file a rental disclosure form if they intend to rent out strata lots, nor do they need to get approval to rent out strata lots.

Section 141 (no restriction of rentals by strata corporation)

Section 141 was changed to add that a strata corporation must not restrict rentals. Prior to this amendment a strata could pass bylaws to limit rentals. There are now no limits on rentals allowed.

The section now states “The strata corporation must not screen tenants, establish screening criteria, require the approval of tenants, require the insertion of terms in tenancy agreements or otherwise restrict the rental of a strata lot.”

Section 142-145

All repealed as these were the exceptions and exemptions to rental restrictions.

Section 245 (Strata plans: accompanying documents)

This amendment removed the requirements that a strata plan that is tendered at the land title office be accompanied by the number of copies of the plan required by the registrar.

CRT Decisions that analyze the Amendments

To date, no significant CRT decisions interpreting the new legislative changes.

[*Kingler v. the Owners Strata Plan VR214, 2023 BCCRT 339*](#) dealt with an issue of a rental restriction and hardship application to allow rentals.

The CRT ruled that any rental restriction or argument about rental restrictions was entirely moot after November 22, 2022. The amendments clearly make any rental restriction unenforceable. However, the CRT did rule that prior to November 22, 2022, Ms. Kingler should have been granted a hardship exception to the rental restriction since she provided sufficient evidence of the hardship, she was suffering in the way of doctor notes and social worker notes.

The CRT awarded Ms. Kingler \$16,217.50 in lost rent, and \$2,500 in aggravated damages.

Kingler shows that rental restrictions are well and truly obsolete. Any restriction on rentals will be considered invalid and the rental will be allowed. Strata corporations should exercise caution in enforcing rental restrictions as the CRT can and will award damages for lost rent.