

Strata Plan LMS 2364

Schedule of 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 **fifteenth (15)** day of the month to which the strata fees relate.

Repair and maintenance of property by owner

2 (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

3 (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, 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:

(a) a reasonable number of fish or other small aquarium animals;

(b) a reasonable number of small caged mammals;

(c) up to 2 caged birds;

(d) one dog or one cat.

Inform strata corporation

4 (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

5 (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.

(3) This section does not apply to a strata lot in a bare land strata plan.

Obtain approval before altering common property

6 (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

7 (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.

Division 2 -- Powers and Duties of Strata Corporation

Repair and maintenance of property by strata corporation

8 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 exterior of a building;
 - (D) doors and windows on the exterior of a building or that front on the common property;
 - (E) 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.

Division 3 -- Council

Council size

- 9** (1) Subject to subsection (2), the council must have at least 3 and not more than 7 members.
- (2) If the strata plan has fewer than 4 strata lots or the strata corporation has fewer than 4 owners, all the owners are on the council.

Council members' terms

- 10** (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) In the election of council members held at the first annual general meeting, all council members must be elected for a term of one year.
- (4) In the election of council members held at the second annual general meeting,

- (a) if the council has an even number of members, 1/2 the members must be elected for a term of 2 years and the remainder elected for a term of one year, or
- (b) if the council has an odd number of members, a simple majority must be elected for a term of 2 years, and the remainder elected for a term of one year.
- (5) In the election of council members held at each annual general meeting after the second annual general meeting, the members elected to fill the vacant positions must be elected for a term of 2 years.

Removing council member

- 11** (1) Unless all the owners are on the council, 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

- 12** (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

- 13** (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
- (a) while the president is absent or is unwilling or unable to act, or
 - (b) 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

14 (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

(a) all council members consent in advance of the meeting, or

(b) 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

15 (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

16 (1) A quorum of the council is

(a) 1, if the council consists of one member,

(b) 2, if the council consists of 2, 3 or 4 members,

(c) 3, if the council consists of 5 or 6 members, and

(d) 4, if the council consists of 7 members.

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

Council meetings

17 (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

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

(2) Unless there are only 2 strata lots in the strata plan, if there is a tie vote at a council meeting, the president may break the tie by casting a second, deciding vote.

(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

19 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

20 (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

21 (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

22 (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.

Division 4 -- Enforcement of Bylaws and Rules**Maximum fine (revised by LMS 2364 at July 2001 AGM)**

23 The strata corporation may fine an owner or tenant a maximum of
(a) \$200 for each contravention of a bylaw, and
(b) \$50 for each contravention of a rule.

Continuing contravention

24 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.

Division 5 -- Annual and Special General Meetings**Person to chair meeting**

25 (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

26 (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

27 (1) At an annual or special general meeting, voting cards must be issued to eligible voters.

- (2) At an annual or special general meeting a vote is decided on a show of voting cards, unless an eligible voter requests a precise count.
- (3) If a precise count is requested, the chair must decide whether it will be by show of voting cards or by roll call, secret ballot or some other method.
- (4) The outcome of each vote, including the number of votes for and against the resolution if a precise count is requested, 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) If there are only 2 strata lots in the strata plan, subsection (5) does not apply.
- (7) 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

28 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, including reports of committees, 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.

Division 6 -- Voluntary Dispute Resolution

Voluntary dispute resolution

29 (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
 - (a) 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
 - (b) 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.

Division 7 -- Marketing Activities by Owner Developer

Display lot

- 30** (1) An owner developer who has an unsold strata lot may carry on sales functions that relate to its sale, including the posting of signs.
 - (2) An owner developer may use a strata lot, that the owner developer owns or rents, as a display lot for the sale of other strata lots in the strata plan.
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Additional Bylaws

AGM Quorum

- 31** If within 30 minutes from the time appointed for a general meeting a quorum is not present, the persons entitled to vote present in person or by proxy at such meeting will constitute a quorum.

Late Payment of Strata Fees

- 32** An owner who has not paid strata fees in accordance to bylaw number 1 of the Strata Property act will be considered to be in violation of such bylaw and is subject to a fine of \$75.00 for each occurrence.

Use of Common Property and Facilities

- 33** The downers acknowledge and agree that the development in which the strata lots are located is a condominium hotel project and that the strata lots and certain rights of the owners of the strata lots to the common property and common facilities have been leased to a rental pool operator and hotel manager (the "Manager") pursuant to and in accordance with the terms and conditions set out in leases (the "Leases") registered against title to the strata lots, for the mutual benefit of all owners. The Manager and its employees, agents, contractors and permit tees and all guest (the "Guests") of the hotel shall at all times have access to and use of all portions of the common property and common facilities as are

reasonably required by the Manager for the operation and enjoyment of the hotel from time to time, as determined by the Manager, acting reasonably, including, without limitation, the parking garage and parking stalls, all common areas and common facilities within the building (including, without limitation, the swimming pool, exercise room and all other recreational facilities, laundry rooms, storage lockers, storage rooms, closets and ski storage areas). The Manager shall be entitled to set up and maintain within the common property any works and facilities as are reasonably required by the Manager in connection with the operation of the hotel and rental pool, including, without limitation, a concierge desk and signage, if so desired by the Manager. The Manager shall pay to the strata corporation the amount equal to the net cost to the strata corporation as a result of the Manager's use of the common property and common facilities pursuant to this Bylaw 133, upon the written request of the strata corporation, together with reasonable evidence of such costs. The Manager shall comply with all governmental and other regulatory statutes, rules, regulations, codes, ordinances and licensing requirements and the Manager shall comply and shall use reasonable efforts to cause its employees, agents, contractors and permittees and the Guests to comply with all bylaws and rules and regulations of the strata corporation, so long as such bylaws and rules and regulations are of general application to all owners and occupiers of strata lots, do not provide for any fee or other charge whatsoever to be paid by the Manager or the Guests except as set out herein and are generally consistent with and do not conflict with the operation of the development as a condominium hotel in accordance with the standards contemplated in the Leases. The Owners agree that all future bylaws and rules and regulations of the strata corporation shall be consistent with the operation of the development as a condominium hotel in accordance with the standards contemplated in the Leases so that they will not impair, interfere with or adversely affect such operation. In addition, the owners agree that all future property management agreements with the strata corporation shall be made on terms and conditions acceptable to the Manager, acting reasonably, and with a property manager acceptable to the Manager, acting reasonably. This Bylaw 133 shall cease to be effective upon the expiration or termination of the last of the Leases. This Bylaw 133 replaced prior to the expiration or termination of the last of the Leases except by unanimous resolution of the strata corporation.

Use of Common Property and Facilities

34 Each strata lot in the development will be permitted to have the use of a parking stall or parking stalls within the common property of the development and follows:

<u>Strata Lot Type</u>	<u>Number of Parking Stall(s)</u>
Studio	One Parking Stall
One Bedroom	One Parking Stall
Two Bedroom	Two Parking Stalls

And no owner shall use or permit any person to use any parking stalls in excess of the number of parking stalls indicated above. This Bylaw number 34 may not be amended, modified, rescinded, repealed or replaced prior to the expiration or termination of the last of the Leases except by unanimous resolution of the strata corporation. Following the expiration or termination of the last of the Leases, this Bylaw 34 may be amended, modified, rescinded, repealed or replaced by a special resolution of the strata corporation

Borrowing for Upgrade of Strata Lots and Common Property

35 The strata corporation may borrow up to a maximum principal amount of \$2,000,000 by way of a loan from Royal Bank of Canada (the “Bank”) pursuant to a loan agreement between the Bank and the strata corporation dated March 25, 2002 (the “Facility Letter”), for the purpose of assisting in the upgrade of the strata lots and the common property of the development comprising Strata Plan LMS2364, and to secure the loan and the payment of interest thereon by granting to the Bank the security to be granted by the strata corporation as described in the Facility Letter (provided that any floating charge on real property of the strata corporation required by the Bank shall be granted only to the extent permitted by the *Strata Property Act*), and such other security as the Bank and the strata council of the strata corporation may agree upon.”.

Remuneration to Council for Out of Pocket expenses;

36 Any council member who attends an officially scheduled council meeting will be entitled to an “Out of Pocket” expense reimbursement in the fixed amount of \$25 for each council meeting attended within the “Lower Mainland”, and a \$50 expense reimbursement for any officially scheduled meeting held in Whistler.

Property Tax Reporting

37 O’Neill Hotels and Resorts Springs Management Ltd. Will report on behalf of all owners usage statistics in calculating the relevant tax classification to British Columbia Assessments on an annual basis.