



# STRATA MANAGEMENT GUIDE: 10

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By-Laws



## Preamble

This series of Strata Management Guides published by the Building and Construction Authority ("**BCA**") is intended to help subsidiary proprietors ("**SPs**"), council members and managing agents ("**MAs**") better manage their estates.

The guide sets out recommended procedures and good practices to address common issues (e.g. how to conduct a general meeting and how to requisition a motion).

The guide is aimed at providing a consistent approach and standard for the strata community to facilitate better self-regulation.

## Disclaimer

This guide has been prepared to provide practical information on the Building Maintenance and Strata Management Act ("**BMSMA**") and the Building Maintenance (Strata Management) Regulations ("**BM (SM) Regulations**").

This guide:

- Does not provide a legal interpretation of provisions in the BMSMA or BM (SM) Regulations; and
- Is not a substitute for independent legal advice.

Readers should seek professional legal advice if they need to determine specific legal rights and duties applicable to them. The Commissioner of Buildings, BCA or any agency stated in this guide shall not be liable for any reliance on any information contained in this guide by any person.

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**Important notice: Readers must not rely on this guide for legal advice.**

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Icon in this guide



**Good Practice**



**Example**

## Abbreviations

<b>AGM</b> .....	Annual General Meeting
<b>BMSMA</b> .....	Building Maintenance and Strata Management Act
<b>BM(SM) REGULATIONS</b> .....	Building Maintenance(Strata Management) Regulations 2005
<b>MA</b> .....	Managing Agent
<b>MCST</b> .....	Management Corporation Strata Title
<b>MC</b> .....	Management Corporation
<b>SP</b> .....	Subsidiary Proprietor

# 01

## Introduction



- 1.1 By-laws are essentially the means to regulate communal living within a strata-titled development and aid in resolving issues that may arise. By-laws are necessary for the smooth functioning of day-to-day activities within the development to ensure that everyone can live together peacefully.



# 02

## Types of By-laws



- 2.1 Under the BMSMA, there are two types of by-laws that regulate every parcel comprised in a strata title plan:
- (a) Prescribed by-laws as set out in the Second Schedule to the BM (SM) Regulations; and
  - (b) Additional by-laws that may be made by a management corporation ("**MC**"). Additional by-laws may be made by MCs for the purpose of controlling and managing the use or enjoyment of the parcel comprised in the strata title plan, or in respect of the exclusive use of the whole or any part of the common property, including all or any of the following purposes:
    - (i) Safety & security measures;
    - (ii) Details of any common property of which the use is restricted;
    - (iii) The keeping of pets;
    - (iv) Parking of vehicles;
    - (v) Floor coverings;
    - (vi) Garbage disposal;
    - (vii) Behaviour;
    - (viii) Architectural & landscape guidelines to be observed by all SPs; and
    - (ix) Such other matters as are appropriate to the type of strata scheme concerned.
- 2.2 The prescribed by-laws apply to every MC, and take precedence over any additional by-laws made by the MC. Additional by-laws must not conflict with the prescribed by-laws.
- 2.3 Before a by-law is made, MCs should understand why the proposed by-law is necessary. Imposing a by-law without understanding the problem may result in a lack of improvement or a worsening of the situation.

# 03

## Creation, amendment and repeal of By-laws

(Section 32 of the BMSMA)



- 3.1 MCs may adopt additional by-laws and amend the additional by-laws as they deem fit. When making additional by-laws, MCs should be mindful of certain legislative restrictions.
- 3.2 Additional by-laws made by MCs should not:
  - (a) Be inconsistent with the prescribed by-laws;
  - (b) Prohibit or restrict the devolution of a strata lot or a transfer, lease, mortgage or other dealing of a strata lot;
  - (c) Destroy or modify any easement expressly or impliedly created by or under the BMSMA or the Land Titles (Strata) Act 1967; and
  - (d) Pertain to matters that are outside the MC's powers.
- 3.3 MCs may also repeal, add to and/or amend the existing additional by-laws. Most additional by-laws can be repealed, amended or created by a special resolution passed at a general meeting.
- 3.4 A special resolution requires, at minimum, 21 days written notice of the motion to be passed and support from SPs representing 75% of the share value of all the valid votes cast at the general meeting.
- 3.5 MCs should ensure that any additional by-law passed does not conflict with the BMSMA, the prescribed by-laws or any other laws and make sure the by-law is expressed clearly and is valid. For example, MCs do not have powers to impose penalties or fines for non-compliance with by-laws and should not make by-laws providing for imposition of penalties or fines.
- 3.6 A good tip for MCs is to create by-laws with the long term in mind. By-laws should include the most fundamental rules only. The MC can make amendments to the by-laws as needed and a resolution should be clear if the amended by-law intends to replace a previous by-law. Matters that are prone to changes are better written as policies. For example, an MC should not state how often they will have meetings as a by-law.



- 3.7 Another important issue that the MC should consider is to make sure that the by-laws reflect the operational needs of the MC.
- 3.8 MCs should review their by-laws periodically with legal advice at least once every two years to ensure that the information they are disseminating is accurate.
- 3.9 Should an MC require advice regarding the drafting of by-laws, the MC should consider seeking legal advice to ensure that it is acting within the scope of powers provided under the BMSMA. An MC can take into consideration the guidelines below, when preparing additional by-laws:

Dos	Don'ts
<ul style="list-style-type: none"><li>• <b>Start with very basic by-laws that cover major issues surrounding meetings and use of common facilities, and then slowly amend those by-laws over time.</b></li><li>• <b>Note carefully when and how by-laws can be amended.</b></li><li>• <b>Have a lawyer verify that the by-laws are in compliance with statutory laws.</b></li><li>• <b>Review the by-laws periodically and ensure timely amendments when necessary.</b></li></ul>	<ul style="list-style-type: none"><li>• <b>Don't include a full standard operating procedure in the by-laws. Instead, refer to a standalone standard operating procedure housed in a separate document that can be quickly amended by the MC.</b></li></ul>
<ul style="list-style-type: none"><li>• <b>Use simple language and presentation. Instead of "Shall", "Must" should be used to highlight obligations.</b></li><li>• <b>Each provision should be concise.</b></li></ul>	<ul style="list-style-type: none"><li>• <b>Avoid gendered terms, use terms such as "the person" in place of "he / she" whenever applicable.</b></li></ul>



**Some examples of common additional by-laws are set out below:**



#### **By-laws for Car-Parking**

**Example:** All SPs, residents and visitors are not allowed to park or leave any vehicle at designated car park lots, except with the MC's approval. On approval, the MC will designate a car park lot for the relevant vehicle.



#### **By-laws for Wheel-Clamping**

**Example:** A wheel-clamping device will be used to immobilise any vehicle that is:

- a) Unauthorised to be on the premises;
- b) Unauthorised to be parked in a particular parking lot; or
- c) Found to be parking indiscriminately.

The MC may do all things reasonably necessary for the enforcement of this by-law. The MC shall be entitled to apply to the court for an order to compel the performance of or restrain the breach of this by-law or to recover damages for any loss or injury to person or property arising out of the breach of this by-law.



#### **Disposing refuse and other items on the common property**

**Example:** Without the permission of the MC, you should not dispose of refuse or other items (such as discarded sofas) on the common property that are likely to interfere with the peaceful enjoyment of others in the estate. Should any SP or visitor be found to have disposed of refuse or other items on the common property, the MC could impose an administrative fee of up to \$200 to recover the costs for cleaning of the common property and removal of the items.



#### **Keeping of animals**

**Example:** If you keep pets, make sure that the pets do not cause disturbance to other residents in the estate, and make sure you clean up after your pet. Should any SP, resident or visitor fail to remove their pet's defecation, the MC could impose an administrative fee of up to \$200 to recover the costs for cleaning and sanitising of the affected areas.



#### **Behaviour causing nuisance or hazard**

**Example:** All SP, residents and visitors are required not to make excessive noise or behave in a way that disrupts the quiet enjoyment of the estate. The MC can enforce by-laws through the Strata Titles Boards or the court.





## Good Practice: Ways to Avoid Causing Nuisance or Hazard to People in the Estate

The MC sometimes deals with complaints about nuisance such as excessive noise or second-hand tobacco smoke emanating from individual lots. These issues are often regulated under by-laws. The MC may enforce by-laws through the Strata Titles Boards or the court to ensure the nuisance is managed.

### What The MC and Residents Can Do:



You can approach your neighbour and let them know your concerns regarding the matter. Normally, they are not even aware that their conduct has become a nuisance to their neighbours.



If the conduct continues, you can write to the secretary of the MC or the managing agent, to request their help to look into the matter. The MC can serve a notice on the relevant resident if there are relevant by-laws in place.



You can also write to the secretary of the MC to table the matter for discussion at any upcoming general meeting and decide how this issue should be best managed. For example, the MC can consider passing a by-law to require a resident to ensure that second-hand tobacco smoke within their lot does not cause a nuisance, danger or hazard to other residents within individual lots and the common property.



## 04

# Exclusive use By-laws

(Section 33 of the BMSMA)



- 4.1 Apart from by-laws governing the behaviour of residents and guests, the MC can make by-laws that give SPs, for a certain period of time, exclusive use and enjoyment or special privileges in respect of the whole or any part of the common property.
- 4.2 The requirements for making exclusive use by-laws are stricter than those for making additional by-laws. An exclusive use by-law may be attached to a lot only if the following resolutions are passed:

Period of granting a SP exclusive use of common property	Resolution required to be passed at a general meeting
<b>Less than a year</b>	Ordinary resolution
<b>Between one year and three years</b>	Special resolution
<b>More than three years</b>	90 percent resolution



# 05

## Lodgement of By-laws

(Section 32 of the BMSMA)



- 5.1 MCs shall lodge the by-laws created, and any amendment of or addition to or repeal of the additional by-laws with the Commissioner of Buildings within forty-five (45) days upon passing the special resolution approving the making of such by-law, amendment, addition to or repeal of any existing additional by-law.
- 5.2 The additional by-law(s) and any amendment of or addition to or repeal of the additional by-laws will only take effect after a copy has been certified as a true copy under the MC's seal, and lodged with the Commissioner of Buildings within 45 days from passing the resolution approving the making of such by-law, amendment, addition to or repeal of any existing additional by-law.
- 5.3 To lodge the additional by-laws with the Commissioner of Buildings, the following documents are required:
  - (a) **By-laws lodgement form\*;**
  - (b) **MC covering letter stating the intention of lodging the by-laws;**
  - (c) **A certified true copy of the additional by-laws sealed with the seal of the MC and signed by either:**
    - (i) **2 members of the council as the MC determines; or**
    - (ii) **The secretary and any other member of the council if there is no such determination, and**
  - (d) **Extract of the minutes of the general meeting at which the additional by-laws are passed.**

**The Commissioner of Buildings will give an acknowledgement to the MC if the lodgement is in order.**

- 5.4 The fee for obtaining a copy of the by-laws is prescribed in the BM (SM) Regulations. MCs shall make available the by-laws at the management office for viewing by SPs at no cost if a copy of the full set of by-laws is not displayed on the MC's notice board.

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\* The by-law lodgement form is available for download on BCA's website.

## 06

## House Rules



- 6.1 House Rules are generally enacted by the developer for the management and operation of common property before the MC is constituted. Developers should be mindful that the House Rules drafted do not discourage social cohesion and are not draconian or unfair. House Rules should not be inconsistent with the BMSMA. Although there are no legislative requirements governing the making of House Rules and they are not enforceable, House Rules set the basic rules in place until the MC is formed.
- 6.2 Developers are encouraged to convert House Rules into additional by-laws at the first AGM for continuity purposes. For the additional by-laws to take effect, the additional by-laws have to be lodged with the Commissioner of Buildings as described in section 4 above.
- 6.3 An MC may make House Rules relating to the use and enjoyment of only the common property. Where the collection of fees is involved, it is suggested to put such rules in the by-laws. If the House Rules are essential, it is recommended to convert the House Rules into by-laws at a general meeting with the requisite resolution.







## Examples of House Rules

6.4 House Rules are made through the MC's power "to do all things reasonably necessary for the performance of duties and for the enforcement of the by-laws" according to Section 29 of the BMSMA. Some examples of House Rules are set out below:



### House Rules for Visitors driving in

**Example:** All visitors driving into the premises must register at the guardhouse with their particulars and the unit they are visiting. They are to park their vehicle at the white lots of basement 1 carpark only.



### House Rules for Pets

**Example:** No pets are allowed in the swimming pool area, jacuzzi, gymnasium, tennis courts, squash courts and function/multi-purpose rooms.



## 07

# Enforcement of By-laws

(Section 32 of the BMSMA)



- 7.1 The MC, SP, mortgagee in possession, lessee or occupier of a strata development lot may apply to the Strata Titles Boards or the court for an order to compel a person to comply with the by-laws, restrain the breach of any by-laws or to recover damages due to the breach of by-laws.
- 7.2 Please note the following matters regarding the MC's powers in respect of breaches of any by-law:
- (a) MCs cannot impose fines / forfeit deposits paid;
  - (b) MCs may recover administrative fees to compensate for costs incurred as a result of the breach of any by-law;
  - (c) MCs must be impartial when enforcing by-laws; and
  - (d) MCs do not have the power to ban SPs from using the facilities in the development, unless the MC applies for and obtains a court order to do so.
- 7.3 MCs may consider taking the following steps in the event of a breach of any by-law:
- (a) Resolve the problem by communicating with the relevant SP or occupier.
  - (b) MC can issue the SP or occupier a formal written notice, requiring the SP or occupier to comply with the by-law.
  - (c) If the issue persists, MC can apply to the Strata Titles Boards / court for an order to enforce the by-law.

**References:**

BMSMA - Sections 32, 33  
*BM (SM) Regulations*



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