

THE PONDEROSA Strata Plan – K296

BYLAWS

Registered:

Repeal & Replace: June 9, 2016

Registration #:

CA5249158

Strata Corporation K296 The Ponderosa @ Big White Schedule of Bylaws

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These Bylaws repeal all previously registered Bylaws, and shall be the Bylaws, which replace the Schedule of Standard Bylaws as set out in the Strata Property Act.  
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Division 1 - Duties of Owners, Tenants, Occupants and Visitors

1. Payment of Strata Fees

- a) An Owner must pay Strata Fees on or before the first day of the month to which the Strata Fees relate.
- b) An interest rate of 10% per annum will be charged for late payment of Strata Fees or levies. (Act S.107, Regulation 6.8).
- c) The Strata Corporation authorizes the Strata Council to begin a small claims action to collect money owing in excess of \$1,000.00, including Strata Fees and levies, without prior approval (Act S.171) before suing an Owner or Tenant to collect monies owing. The Strata Corporation must give notice to the Owner or the tenant, and the Mortgagee who has filed the "Request for Notification".

2. Repair and Maintenance of Property by Owner

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.

3. Use of Property

- 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) Pets of Owners must be supervised when inside the building, and must ensure all animals are leashed or otherwise secure when on common property. Guests and tenants are not allowed to bring pets into the building.
- 4) Barbequing involving heat is prohibited on the balconies of any Strata Lot where the balcony is enclosed or open.

4. Inform Strata Corporation

- 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.

5. Obtain Approval before Altering a Strata Lot

- 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, windows or skylights on the exterior of a building, or that front on the common property;
 - e. railings or similar structures that enclose balconies;
 - 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 agrees, in writing, to take responsibility for any expenses relating to the alteration.
- 3) An Owner should complete all alterations changes, or improvements to their strata lot during the off season (usually May 1 to October 31). Where work cannot be reasonably completed in such a way so as to minimize the impact and noise to other strata lots.
- 4) An Owner must ensure that the hours of work are restricted to between 8:00 am to 6:00 pm Monday through Friday, and 10:00 am to 4:00 pm on Saturdays, Sundays and statutory holidays.

To perform renovation/alterations on statutory holidays or on a Saturday or Sunday of a long weekend, or during the period between Christmas and New Years day, an owner MUST APPLY FOR PERMISSION IN WRITING to the Council at least five business days before the holiday date.

6. Obtain Approval before Altering Common Property

- 1) An Owner must obtain the written approval of the Strata Corporation before making an alteration to 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.

7. Permit Entry to Strata Lot

- 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, 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.

- 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

8. Repair and Maintenance of Property by Strata Corporation

The Strata Corporation must repair and maintain all of the following:

- a) common assets of the Strata Corporation;
- b) common property
- c) a Strata Lot in a Strata Plan, but the duty to repair and maintain it is restricted to j. the structure of a building,
 - i. the exterior of a building,
 - ii. chimneys, balconies and other things attached to the exterior of a building,
 - iii. doors and windows on the exterior of a building or that front on the common property, (doors locks/hardware excluded) and
 - iv. railings and similar structures that enclose balconies.
- d) a strata lot having a fireplace or wood burning stove utilizing the chimney in the Limited Common Property of that strata lot shall bear the cost of;
 - i. installing the chimney system within the limited common property, including modifications to the firebreaks if applicable, to facilitate the chimney;
 - ii. the cost of the fireplace or wood burning stove;
 - iii. the cost incurred by the Strata Corporation in cleaning and maintaining the chimney;
 - iv. the supply and cost of the firewood;
 - v. the liability for the improper use, or failure of the fireplace or stove;
 - vi. the cost of any future certification, inspection, upgrade, or change that the Strata Corporation might reasonably require.

Division 3 - Council

9. Council Size

The Council must have at least 3 and not more than 7 Members.

10. Council Members' Terms

- 1) The term of office of a Council Member ends at the end of the Annual General Meeting at which the new Council is elected.
- 2) A person whose term as Council Member is ending is eligible for reelection.

11. Removing Council Member

- 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.

12. Replacing Council Member

- 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.

13. Officers

- 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.

14. Calling Council Meetings

- 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.

15. Requisition of Council Hearing

- 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 one month 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.

16. Quorum of Council

- 1) A quorum of the Council is
 - a) 2, if the Council consists of 3 or 4 Members,
 - b) 3, if the Council consists of 5 or 6 Members, and
 - c) 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.

17. Council Meetings

- 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.

18. Voting at Council Meetings

- 1) At Council Meetings, decisions must be made by a majority of Council Members present in person at the meeting.
- 2) 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.

19. Council to Inform Owners of Minutes

- 1) 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.

20. Delegation of Council's Powers and Duties

- 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
- 5) The on-site Manager may decide whether a person should be denied access to a recreational facility.

21. Spending Restrictions

- 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.

22. Limitation on Liability of Council Member

- 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

23. Maximum Fine

The Strata Corporation may fine an Owner or tenant a maximum of

- a. \$200.00 for each contravention of a Bylaw, and
- b. \$50.00 for each contravention of a Rule.

- 24.** If an activity or lack of an 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

25. Person to Chair Meeting

- 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.

26. Participation by Other Than Eligible Voters

- 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.

27. Voting

- 1) No person can vote (exception for unanimous votes) if the Strata Corporation can register a lien against the Strata Lot (Section 53 (2)).
- 2) At an Annual or Special General Meetings, voting cards must be issued to eligible voters.
- 3) 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.
- 4) 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.
- 5) 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.
- 6) 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.
- 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.

28. Attendance at an Annual or Special General Meeting:

- 1) In accordance to Section 49(1) of the Strata Property Act, attendance at an Annual or Special General Meeting may be by telephone or any other method, if the method permits all persons participating in the Meeting to communicate with each other during the Meeting.
- 2) In accordance with Section 49(2) of the Strata Property Act, a person who attends a Meeting provided under Section 49(1) is present in person at the Meeting.

29. Quorum for Annual or Special General Meeting:

- 1) If at the time appointed for a General Meeting, a quorum is not present, the Meeting shall stand adjourned for a period of 30 minutes whereupon the adjourned Meeting shall be reconvened at the same place and the eligible voters present in person and by proxy shall constitute a quorum.
- 2) Bylaw 29(1) does not apply to a General Meeting demanded pursuant to Section 43 "Special General Meeting Called by Voters" of the Strata Property Act and failure to obtain a quorum for a Meeting demanded pursuant to Section 43 within the initial 30 minutes terminates, and does not adjourn, that Meeting.
- 3) Bylaw 29(1) does not apply to a General Meeting requiring a unanimous vote."

30. Order of Business

- 1) The order of business at Annual and Special General Meetings are 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

31. Voluntary Dispute Resolution

- 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.

32. Insurance and Indemnity

- 1) An Owner is deemed to be responsible for any loss or damage caused to the common property, limited common property, common assets or to any strata lot, personal injury, death or any other loss or damage; where the original cause of any such loss or damage originated within the owner's strata lot or an occupant's vehicle and to the extent that the loss or damage is not fully paid from the proceeds of an insurance policy. This provision shall not apply to acts of nature, acts of trespassers, and other causes which are not within the power of an owner to control or prevent.
- 2) An Owner is also deemed to be responsible for any loss or damage to the common property, limited common property, common assets or to any strata lot, personal injury, death or any other loss or damage; where the cause of any such a loss or damage is the result of an act, omission, negligence or carelessness of the owner, and/or the owner's tenants, occupants, employees,

agents, visitors or invitees and to the extent that the loss or damage is not fully paid from the proceeds of an insurance policy.

- 3) If any loss or damage deemed to be the responsibility of an owner under subsection (1) and/or (2) of this bylaw results in a claim against any insurance policy held by the Strata Corporation; that owner is strictly liable to reimburse the Strata Corporation for the full amount of any insurance deductible, any portion of insurance coverage declined and/or any amount by which the loss or damage exceeds the insurance coverage. That owner shall indemnify and save harmless the Strata Corporation for these amounts.
- 4) If any loss or damage deemed to be the responsibility of an owner under subsection (1) and/or (2) of this bylaw does not exceed the insurance deductible for an insurance policy held by the Strata Corporation; that owner is strictly liable and shall fully indemnify and save harmless the Strata Corporation for any resulting expense for maintenance, repair or replacement rendered necessary, which it is the Strata Corporation's responsibility to perform, including legal costs incurred in relation to defending any claim against the Strata Corporation, and/or prosecuting any claim made against the owner, such indemnity to be a solicitor and own client basis, including disbursements, expenses, taxes, filing and/or Court fees, all on a full indemnity basis.
- 5) Owners are responsible to ensure that their strata lot interior is maintained at a minimum temperature of 10 degrees centigrade, year round. Any water pipe leak, burst or any other loss or damage whatsoever which the Strata Council reasonably determines resulted from or is contributed to by an owner's failure to comply with this bylaw shall constitute a loss or damage which is deemed to be the responsibility of that owner pursuant to these bylaws, whether the loss or damage occurs within that owners' strata lot, within adjacent common property, or within an adjacent strata lot.
- 6) An owner in arrears of strata fees, and/or any special levies, including fines and interest on arrears must reimburse the Strata Corporation 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.
- 7) Pursuant to section 133 of the Strata Property Act, all reasonable costs of remedying a bylaw contravention must be paid to the Strata Corporation by the owner of the strata lot associated with the bylaw contravention. Payment of such costs shall be on a full indemnity basis and must be paid within 30 days notice from the Strata Council that there has been a finding that the bylaws have been contravened and specifying the costs incurred with respect to remedying the contravention. The costs remedying a bylaw contravention shall be deemed to include for responsible legal expenses incurred by the Strata Corporation in enforcing the bylaws, recoverable from the owner on a "solicitor and own client" basis by the Strata Corporation.

33. Severability

- 1) Should any portion of these bylaws be deemed unenforceable by any court of competent jurisdiction, then for the purposes of interpretation and enforcement of the bylaws, each paragraph, sub-paragraph or clause hereof shall be deemed separate provision and severable, and the balance of the provisions contained herein shall remain in full force and effect.

June 22, 2005

THE PONDEROSA AMENDED BYLAWS

Hot Water Tank Bylaw:

An Owner shall repair and maintain any water heater installed in the Strata Lot. The water heater shall be replaced before it reaches an age of twelve years. If damage results from water escaping from a water heater over the age of 12 years, then the Owner shall be deemed responsible for the damage. The Strata Council is authorized to commence legal action against an Owner to recover the cost of the Strata insurance deductible arising from any insurance claim arising from such damage. The water and electricity to the hot water tank must be shut off when the Strata Lot is not in use for extended periods of time.

Eligibility for Council Bylaw:

Whereas, for purposes of taxation, inheritance, or personal reasons, it may be found that only one spouse may be registered as legal Owner of property in the Ponderosa Inn. This Bylaw shall allow either spouse to be nominated and if elected, hold office on the Ponderosa Inn Strata Council if approved in writing by the registered Owner. However, for voting purposes at the Annual General Meeting, only the spouse named as the legal Owner of the property in the Ponderosa Inn shall be allowed to cast a ballot.