

Strata Living

Headline: Barbeque Rules & Bylaws

Topic: Balconies & Decks; Barbecues, Rules

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Dear Tony: Because of the recent barbeque fire in Kelowna, our strata council has decided to impose a rule in our buildings that the use of barbeques is prohibited. We are very unhappy about this decision because my wife just purchased a new high end barbeque, that we will now be unable to use. Is it safe to assume that we are grandfathered from this rule as we already have a barbeque, and if not, what are the consequences if we continue to use our barbeque.

Alan Millar

Dear Allan: Rules apply to the use and enjoyment of common property and common assets. I looked at your strata plan and the balconies are not part of your strata lot, they are in fact common property, so yes, the strata council may adopt a rule that regulates the use and enjoyment of the common property. Under your bylaws, which may vary from strata to strata, the strata corporation has the ability to impose a fine of up to \$50 per week or per violation, and the corporation may also seek a court order to enforce the rule. Once a rule is imposed, it continues to be in effect until the owners at the next annual or special general meeting approve it by majority vote. If they do not approve it, the rule will expire. The Strata Property Act only grants exemptions (not grandfathering) for 3 specific types of bylaws, rentals, pets and age restrictions. If

the strata corporation had intended on grandfathering use of common property they would have contemplated such exemptions in the rules or bylaws. Your building is a significant fire risk because your balconies are entirely enclosed, all facings are wood, and the overhang over the balcony above, without any type of fire suppression is just an invitation for a fire in the event of a flare up. Your balconies are also quite small, which limits the amount of safe space around the barbeque to a maximum of 1 m in any direction, only if the barbeque is placed in the middle of the balcony. When a strata corporation considers adopting such bylaws or rules, they should closely assess the fire hazards and proximity of the cooking device near the building exterior walls, overhangs, and the type of construction.

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