

The Governing Documents of Summer Gardens

The governance of our condominium is provided for in a hierarchy of documents, as follows:

1. **The Condominium Act** This is adopted and amended by the Nova Scotia Legislature. It established the legal framework for creation of condominiums – the Registry of Condominiums, the requirements for creation of a condominium, and the property rights that exist for a condominium. It includes general provisions about the governance of condominiums and condominium corporations.
2. **The Regulations** under the *Condominium Act* Regulations are made by the Minister, with approval of the Governor-in-Council (the Provincial Cabinet). They provide details of the administration of the condominium system, setting detailed requirements for condominium filings, and for the process of development and initial sale of condominium units. They also include the requirements for regular Reserve Fund Studies and establish a process to resolve disputes between owners and condominium corporations by mediation or arbitration.
3. **The Declaration** The Declaration is the constitution of the Condominium Corporation. It can be amended only by an 80% vote of owners¹. The Declaration for Halifax County Condominium Corporation No. 130 - Summer Gardens - is dated June 9, 1987. It was extensively amended in 2005, and it is necessary to refer to both the original and the 2005 amendments. There have been two more amendments since 2005.
4. **The By-laws** The by-laws of the condominium corporation set out the details of the governance of the corporation – the fiscal year, the Board and Officers, the process for meetings of the Board and the owners, the setting and collection of assessments for common expenses and fund contributions. They also include *Article XI - Provisions Respecting the Use and Occupation of the Units* and *Article XII – Provisions Governing the Use of the Common Elements*. The By-laws can be amended by a vote of 60% of the owners.
5. **The Common Element Rules and Regulations** The Corporation can make rules with respect to the use of the Common Elements (including the “exclusive-use common elements” – the balconies, the parking areas, and the lockers). New rules can be published by the Board and come into effect ten days after notice is given to the owners *unless any owner objects*. The Rules are ratified by a majority of members present at a duly-called meeting.

These documents overlap in many instances. If there is any inconsistency between these documents, the one higher in this hierarchy will prevail.

¹ Unitholders have the voting power based on their ownership interest in the common elements, as assigned to them in the Declaration. In Summer Gardens all units except the “double units” and the “1.5 fractional units” have equal ownership and equal votes. Those larger units have extra common area expense responsibility and extra voting power. A standard unit has 0.81301 votes and the others have proportionately more.

A vote of 80% of unitholders to amend the Declaration or the By-laws requires affirmative support of 80% of the total ownership – not merely 80% of those who attend a meeting.