

Special By-Law 18 Parking on common property

1. In this by-law, unless the context otherwise requires, words and phrases defined in or for the purposes of the Developer By-laws lodged on registration of Strata Plan 73943 or the Act have the meaning there ascribed and additional words and phrases are defined in clauses of this by-law for the purposes of this by-law.
2. An Owner or Occupier must not park or stand (for any period other than to load and unload passengers) any motor or other vehicle (**vehicle**) on Common Property including, without limitation, any car spaces set aside as visitor parking.
3. Without limiting clause (2) of this by-law, an Owner or Occupier must not, and must not allow any invitee of that Owner or Occupier to, park or stand any vehicle in any place that may obstruct access to the driveway at any time.
4. An Owner or Occupier must not park or stand a vehicle in any car space that is designated as a car wash bay for longer than one hour and must use the car wash bay solely for the purpose of washing or cleaning that vehicle.
5. An Owner or Occupier must not permit any visitor to their Lot to park or stand any vehicle on Common Property other than in an area marked as visitor parking or that Owner or Occupier's car space.
6. An Owner or Occupier may only permit a visitor to their Lot to park or stand any vehicle on Common Property disabled spaces if that visitor has a valid mobility parking permit displayed in a prominent position on the front of that vehicle.

Enforcement of By-Law

7. Every Owner and every Occupier must comply, and ensure that visitors to their Lots comply, in all respects with this by-law.
8. The Owners Corporation may by resolution of its executive committee and for the purpose of the control, management, administration, use and/or enjoyment of the Common Property including, without limitation, any areas set aside as visitor parking, car wash bays and disabled parking, and to preserve the security of the building:
 - a. install signage on the Common Property regulating the ingress and egress of vehicles to and from the Building and grounds of the Scheme;
 - b. establish and maintain a register of all vehicles owned or used by Owners and Occupiers of Lots in the Scheme including:
 - i. the make and registration number of the vehicle;
 - ii. the name of the Owner or Occupier who owns or uses the vehicle;
 - iii. the Lot number and contact details of the Owner or Occupier; and
 - iv. if the Owner or Occupier does not own the vehicle, the name and contact details of the Owner of the vehicle;
 - c. notwithstanding the foregoing and in particular but without limiting clauses (2) and (3), approve in writing the parking or standing of any vehicle on the Common Property in particular circumstances and for specified periods of time; and

- d. take such further action consistent with this by-law as is reasonable and necessary in order to regulate or restrict the parking or standing of vehicles on Common Property and/or preserve the security of the Building.
9. If the Owners Corporation erects signage regulating the parking or standing of vehicles on the Common Property and/or the ingress or egress of vehicles to and from the Building or grounds of the Scheme in accordance with clause (8), the Owners and Occupiers must abide by those signs and must procure that visitors to their respective Lots must abide by those signs, in default of which the defaulting Lot Owner or Occupier shall be liable to pay the costs of the Owners Corporation in enforcing this by-law.

Notice of Breach of By-Law

10. If an Owner or Occupier of a Lot parks or stands any vehicle owned by that person on Common Property in breach of this by-law
 - a. the Building Manager or security personnel appointed from time to time by the Owners Corporation (each of whom are included in the term **Building Manager**), may, without reference to the executive committee, give a notice; and/or
 - b. if the Building Manager is not on site, a member of the executive committee (acting reasonably) may give a notice,

to that Owner or Occupier requiring that the Owner or Occupier comply with this by-law, in default of which the Owners Corporation may take action in respect of the vehicle as provided in this by-law (**Notice of Breach**).

11. The Notice of breach given under clause (10) must:
 - a. be in writing;
 - b. be displayed prominently on the vehicle in such a way as to come to the attention of the driver of the vehicle but so as to ensure no damage is done to the vehicle;
 - c. if the vehicle is registered, specify the registration number of the vehicle that has been or is parked or standing on Common Property in breach of this by-law;
 - d. advise that if the Owner or Occupier fails to remove the vehicle parked or standing on Common Property in breach of this by-law or parks or stands that vehicle on Common Property repeatedly or persistently in breach of this by-law, the Owners Corporation may either have the vehicle towed away or immobilize the vehicle by means of affixing a wheel-clamp to the vehicle; and
 - e. advise that an administration fee not exceeding \$1,000 may be charged by the Owners Corporation for towing of the car or releasing the wheel-clamp.
12. If an Owner or Occupier is given a Notice of Breach under this by-law, the Owner or Occupier must forthwith comply with that Notice of Breach and remove the vehicle the subject of the Notice of Breach parked on Common Property in breach of this by-law.

Towing of Vehicle or Affixing Wheel-clamp

13. If a Notice of Breach is given under this by-law to an Owner or Occupier and the Owner or Occupier does not comply with the Notice of Breach or commits a further breach of this by-law, the executive committee may resolve at a duly constituted executive committee meeting to have the vehicle towed away or wheel-clamped.
14. The signage installed by the Owners Corporation under clause (8) warning that vehicles parked in breach of this by-law may be towed away or wheel-clamped must set out a

telephone number or other contact details of a person who has details of where the car is to be towed or who is authorized to release the wheel-clamp.

15. Every Owner and Occupier consents to the towing or immobilizing by means of a wheel-clamp of a vehicle owned or controlled by them and parked or left on common property in breach of this by-law.

Liability and Indemnity

16. None of the executive committee, any member thereof, the strata managing agent, any Building Manager and any person acting under the instructions of the executive committee in accordance with this by-law shall be liable for any loss or damage sustained by an Owner or Occupier to whom a Notice of Breach is given and who fails to remove a vehicle parked or standing on Common Property or repeatedly or persistently parks or stands a vehicle on Common Property in breach of this by-law after a Notice of Breach is given.
17. Each member of the executive committee, the strata managing agent, any Building Manager and every person acting under the instruction of the executive committee in accordance with this by-law is hereby indemnified by the Owners Corporation against any loss or damage suffered by any of them arising out of any action taken by any of them in accordance with this by-law.
18. For the avoidance of doubt, the Building Manager and/or the executive committee must not give a Notice of Breach, affix a wheel clamp or tow away any vehicle on grounds which are, in the circumstances, frivolous or vexatious.
19. Nothing in this by-law operates to restrict or prevent the Owners Corporation from making application to the Local Court for an order authorizing the Owners Corporation to dispose of any vehicle left on Common Property and subsequently disposing of that vehicle in accordance with the *Uncollected Goods Act 1995* or any Act amending or replacing that Act.