

Province of British Columbia
Guide 9: What to Know About Voting

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1. Voting Entitlements

All strata lots will have:

- one vote; or
- the number of votes set out in the "Schedule of Voting Rights" (Form W) which has been filed in the Land Title Office.

A Form W cannot be filed for strata developments that are exclusively residential, unless it relates to a plan amendment.

Unless the Form W has been approved by the Superintendent of Real Estate or relates to a plan amendment, it should state that:

- all residential strata lots in mixed use developments have one vote each;
- a non-residential strata lot has a vote that is in proportion to its unit entitlement divided by either the average residential unit entitlement in mixed use developments or the average unit entitlement of all strata lots in exclusively non-residential developments.

If there is a tie vote at annual or special general meeting, the president, or if the president is absent or unable or unwilling to vote, the vice-president may, if the bylaws so provide, break the tie by casting a second deciding vote.

2. Eligible Voters

The following persons are eligible to vote at a general meeting:

- strata lot owners, unless:
 - pursuant to a bylaw, they are ineligible to vote on resolutions requiring a majority or $\frac{3}{4}$ vote due to unpaid strata fees or other monies owing (if the strata corporation is entitled to register a lien against that strata lot pursuant to the Act);
 - they have assigned their right to vote on certain matters to tenants or mortgagees;
 - they no longer have a vote due to an automatic assignment to a residential tenant with a lease of three years or greater or to a family member who is a tenant;
 - they lack the capacity to vote or are under sixteen years of age; or

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*Content that has been updated has been highlighted in **bold italic font** and will remain that way for approximately one year.*

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*Province of British Columbia
Guide 9: What to Know About Voting*

- there are two or more owners of a strata lot, in which case only one owner representing the strata lot may vote on any given matter. If owners who share a vote cannot agree on how their vote should be cast, the vote in respect of their strata lot will be discounted by the chair of the meeting.
- tenants who have been assigned an owner's (landlord's) right to vote;
- residential tenants who are family members as defined in the Regulations or who have entered into a lease of three years or greater;
- mortgagees who have given the strata council a notice of an intention to vote, however:
 - the notice must be given to the strata corporation, and anyone who has the right to vote;
 - the notice must be given at least three days before the meeting; and
 - the mortgagee is restricted to voting on matters of insurance, maintenance, finance or matters that affect the security of the mortgage.
- a parent or guardian acting for a strata lot owner who is under sixteen years of age;
- a person who is legally authorized to act for the owner who, for a reason other than being under sixteen years of age, lacks the capacity to make a decision;
- the Public Trustee or other person appointed by the court:
 - the court may appoint the Public Trustee or other person to vote in respect of a strata lot when there is no person to vote in respect of the strata lot and an application has been made to the court by an owner, a strata corporation or an interested person; and
 - the court must, when a matter requires a unanimous vote, appoint the Public Trustee or other person to vote in respect of a strata lot.

3. **Ineligible Voters**

A strata lot (owner) may be ineligible to vote for the following reasons:

- pursuant to a bylaw they are ineligible to vote on resolutions requiring a majority or $\frac{3}{4}$ vote due to unpaid strata fees or other monies owing (if the strata corporation is entitled to register a lien against that strata lot pursuant to the Act);
- they are an owner and have assigned their right to vote on certain matters to tenants or mortgagees;
- they are a residential owner and no longer have a vote due to an automatic assignment to a tenant with a lease of three years or greater or to a family member;
- are under sixteen years of age; or
- they lack the capacity to vote.

*Province of British Columbia
Guide 9: What to Know About Voting*

4. Voting by Proxy

A proxy is a written authorization given to enable the proxy holder to act on behalf of the person giving the proxy. A proxy:

- must be in writing, and be signed by the person appointing the proxy;
- can be given for general purposes or for a specific resolution or for a specific meeting;
- can be revoked by the person appointing the proxy at any time; and
- can be held by any person except the strata corporation's strata manager or an employee of the strata corporation.

A proxy holder may do anything the person appointing the proxy can do, including: voting, proposing and seconding motions and participating in discussion at an annual or special general meeting unless limited in the appointment document.

5. Quorum

Business must not be conducted at an annual or special general meeting unless a quorum is present.

Subject to the bylaws, a quorum for an annual or special general meeting is:

- eligible voters holding 1/3 of the strata corporation's votes present in person or by proxy.
- If there are fewer than 4 strata lots or fewer than 4 owners then eligible voters holding 2/3 of the strata corporation's votes present in person or by proxy.

Unless otherwise provided by the bylaws, if--- within ½ hour from the scheduled start of the annual or general meeting---a quorum is not present, the meeting stands adjourned to the same day in the next week at the same place and time.

However if within ½ hour of the start of this subsequent meeting, a quorum is not present, quorum is deemed to be achieved with the eligible voters present in person or by proxy.

Note: By bylaw, a strata corporation may provide for attendance at an annual or special meeting by telephone or any other method, if the method permits all persons participating in the meeting to communicate with each other during the meeting.

Province of British Columbia
Guide 9: What to Know About Voting

6. Voting at a General Meeting

The Standard Bylaws set out the following provisions which deal with voting at general meetings:

- a voting card must be issued to all eligible voters;
- generally, votes are decided on a show of voting cards;
- an eligible voter can request a precise count, and if a precise count is requested, the chair must decide whether it will be by a show of voting cards, roll call, secret ballot or some other method;
- 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;
- if an eligible voter requests a secret ballot the vote must be taken that way; and
- a tie vote can be broken by the president of the strata council, or vice president if the president is unwilling or unable to act.

7. Levels of Strata Corporation Voting Approval

Strata corporation resolutions at general meetings must be approved by:

- **a majority vote:**
 - a majority vote requires more than ½ of the votes cast in favour of the resolution; cast by eligible voters present in person, or by proxy, at a general meeting who have not abstained from voting, at the time the vote was taken;
 - all resolutions should be determined by a majority vote, unless the Act or Regulations require an alternative level of voting approval.

Example of Calculating a Majority Vote

Total # of eligible votes in the strata corporation	Quorum (1/3 of total eligible votes)	# of eligible votes present in person or by proxy	Total # of votes cast (either for or against; abstentions are not counted)	Minimum # of votes in favour, for a majority vote to pass
90	30	34	34	18
90	30	34	25	13

Province of British Columbia
Guide 9: What to Know About Voting

- **a $\frac{3}{4}$ vote:**
 - a $\frac{3}{4}$ vote requires that at least $\frac{3}{4}$ of the votes are cast in favour by eligible voters present in person or by proxy at a general meeting who have not abstained from voting, at the time the vote was taken.
 - If a resolution requiring a $\frac{3}{4}$ vote was passed at a general meeting by persons holding less than 50% of the votes in the strata corporation, then the strata council cannot implement the resolution for one week unless such action is needed to ensure safety or prevent significant loss (please see part 8 of this guide for more information).

Example of Calculating a $\frac{3}{4}$ Vote

Total # of votes in the strata corp.	50% of the strata corp's votes	Quorum: 1/3 as per the Strata Property Act	# of votes present in person or by proxy	Total # of votes cast (either for or against; abstentions are not counted)	# of votes in favour of the resolution	$\frac{3}{4}$ vote passed?	Did persons voting in favour hold less than 50% of strata corp's votes?
24	12	8	16	15	13	<p>Yes</p> <p>13 out of 15 is 87% which is greater than 75% ($\frac{3}{4}$ vote)</p>	<p>No</p> <p>13 is not less than 50% of the total votes (i.e. 12 votes) see part 8 below for more information on $\frac{3}{4}$ votes</p>

- **unanimous vote:**
 - a unanimous vote means a vote in favour of a resolution by all the votes of all the eligible voters¹.
- **some other vote:**
 - exclusively non-residential strata sections can pass a bylaw which allows new bylaws to be approved by a voting threshold of other than a $\frac{3}{4}$ vote.

¹ References include *Strata Property Act Section 1.1 for the definition of an unanimous vote and section 52 for when a strata corporation can apply to the Supreme Court to pass a failed unanimous resolution. Also section 11 of this guide provides more details.*

*Province of British Columbia
Guide 9: What to Know About Voting*

8. Reconsideration of a $\frac{3}{4}$ Vote

If a resolution requiring a $\frac{3}{4}$ vote was passed at a general meeting by persons holding less than 50% of the votes in the strata corporation, then the strata council cannot implement the resolution for one week unless such action is needed to ensure safety or prevent significant loss.

Any $\frac{3}{4}$ vote passed by persons holding less than 50% of the votes must be retaken, if--- within one week of the general meeting---persons holding 25% of the strata corporation's votes demand a special general meeting to reconsider the resolution.

For example:

- A strata corporation has persons who hold a total of **120** votes.
- Under the Standard Bylaws, in order to have a quorum, the strata corporation would need eligible voters holding a minimum of **40** votes ($\frac{1}{3}$ of 120 total votes) either in person or by proxy. In the example below, **51** votes are present, more than the minimum of 40 votes required for a quorum.
- The resolution needs to pass by $\frac{3}{4}$ vote. The $\frac{3}{4}$ vote is determined by those who vote for or against the resolution. It is not determined by the votes present at the time of the vote, as abstentions are not counted. At this meeting a total **44** votes were cast, either for or against the resolution, with **33** votes in favour. The resolution passed by the required $\frac{3}{4}$ vote (33 out of 44).
- However, the **33** votes in favour of the resolution are less than **50%** or **60** of the total number of **120** votes. So the strata corporation must wait one week to implement the resolution---unless such action is needed to ensure safety or prevent significant loss---because the resolution could be overturned. A vote must be retaken, if--- within one week of the general meeting---persons holding at least **30** votes (i.e. 25% of the overall 120 votes in the strata corporation) demand a special general meeting to reconsider the resolution.

Example of Reconsidering a Resolution Passed by a $\frac{3}{4}$ Vote

Total # of votes in the strata Corp.	50% of the strata corp's votes	Quorum: $\frac{1}{3}$ as per the Strata Property Act	# of votes present in person or by proxy	Total # of votes cast (either for or against; abstentions are not counted)	Total # of votes in favor of the resolution	$\frac{3}{4}$ vote passed?	Did persons voting in favour hold less than 50% of strata corp's votes?
120	60	40	51	44	33	Yes. 33 out of 44 is the minimum 75 %	33 < 60 votes wait one week

9. Strata Corporation Decisions that Require a $\frac{3}{4}$ Vote

*Province of British Columbia
Guide 9: What to Know About Voting*

A $\frac{3}{4}$ vote is required to:

- create, amend or remove bylaws for residential lots and non-residential lots on or after the Second Annual General Meeting (unless an alternative voting threshold for the non-residential lots is set out in the bylaws);
- approve special levies when the method of payment of the levy is based on unit entitlement;
- ***waive the requirement to obtain a depreciation report (For more information on the new depreciation report requirements please see the updated Guide 12: Depreciation Reports, Contingency Reserve Funds and Special Levies).***
- designate limited common property or remove a limited common property designation by means of a sketch plan (if the LCP has not been designated by the owner-developer, otherwise a unanimous vote is required).
- cancel a strata management contract, other than in accordance with its terms or by failing to renew it after the second annual general meeting;
- approve significant changes to the common property, unless there are reasonable grounds to believe that immediate change is required to ensure safety or prevent significant loss or damage, in which case no vote is needed;
- approve the borrowing of money;
- acquire or dispose of personal property (except permitted investment instruments), if the market value of the personal property is:
 - over the amount specified in the bylaws; or
 - if there is no amount specified in bylaws, over \$1,000.
- acquire or sell land held by the strata corporation that is not common property;
- make land held by the strata corporation into common property;
- divide a residential strata lot into two or more strata lots if the division does not have the effect of:
 - decreasing the relative voting power of the other strata lots;
 - increasing the share of common expenses borne by the other strata lots; or
 - decreasing the relative unit entitlement of the other strata lots.
- amalgamate a strata corporation with another strata corporation;
- make land held by the strata corporation into a new strata lot, if the unit entitlement, voting power and strata fees for all other lots is unaffected by the change;
- approve expenditures from the Contingency Reserve Fund, unless the expenditure is required for an emergency, in which case no vote is needed;
- approve expenditures from the operating fund that are not:
 - authorized in the budget;
 - within the unapproved expenditure limit; or

Province of British Columbia
Guide 9: What to Know About Voting

- required to deal with an emergency.
- change the fiscal year end and start date;
- approve decisions related to surplus funds when surplus funds are not being dealt with under the options set out in the Act;
- decide not to replace or repair damaged property after receiving insurance proceeds paid on a claim in respect of the damaged property;
- create or cancel separate sections, along with a $\frac{3}{4}$ vote of the section; and
- give approval to the strata corporation to sue.

10. **Strata Corporation Decisions that Require a Unanimous Vote**

A unanimous vote is required to:

- give approval to the Owner Developer to enter into a contract or transaction on behalf of strata corporation with the Owner Developer or with a person who is not at arm's length to the Owner Developer, after the first strata lot is sold but before the first annual general meeting;
- approve any resolutions ordinarily requiring a $\frac{3}{4}$ vote, during the period from the sale of the first strata lot to the first annual general meeting, unless:
 - the resolution is to amend the bylaws in a wholly commercial strata corporation or to amend the commercial section bylaws in a strata corporation consisting of residential and commercial sections;
 - the resolution is to amend a Rental Disclosure Statement.
- approve changes to the schedule of unit entitlement;
- approve a method other than by unit entitlement, in which a special levy will be assessed to the owners;
- approve changes to the strata corporation bylaws in a residential or mixed use development before the second annual general meeting;
- amend a strata plan to designate or remove a designation of limited common property (as made by the owner-developer);
- amend the strata plan to:
 - divide a strata lot into two or more strata lots;
 - consolidate a strata lot with one or more other strata lots;
 - make land held by the strata corporation into a new strata lot;
 - add land held by the strata corporation to an existing strata lot;
 - change the unit entitlement of a strata lot;
 - add part of a strata lot to another strata lot;if the amendment would have the effect of:
 - decreasing the relative voting power of the other strata lots;
 - increasing the share of common expenses borne by the other strata lots; or

*Province of British Columbia
Guide 9: What to Know About Voting*

- decreasing the relative unit entitlement of the other strata lots.
- amend the strata plan to add a strata lot to the common property;
- cancel the strata plan and wind up the strata corporation; and
- change the basis for calculating a strata lot's contribution to the operating fund and contingency reserve fund.

11. Court Approval of Failed Unanimous Votes

If there are ten or more strata lots, and a unanimous resolution is not passed due to:

- a dissenting vote in respect of one strata lot; or
- the dissenting votes in respect of more than one strata lot, if those votes represent less than 5% of the total strata corporation votes;

The strata corporation can seek a $\frac{3}{4}$ vote to apply to court for an order that the resolution be passed despite the lack of unanimous support.

The court may order that the resolution be passed despite the lack of unanimity if the resolution:

- would be in the best interests of the strata corporation; and
- would not unfairly prejudice the dissenting voters.

Example of Calculating the Votes Needed to Request Judicial Passage of a Nearly Unanimous Vote

Total # of Votes in the strata corp.	# of votes necessary to pass a unanimous resolution	Maximum # of votes (using whole #) which taken together represent < 5% of the strata corp.'s votes	# of votes in Favor of the Resolution	Unanimous vote passed?	Can the strata corp. choose to go to court?
100	100	4	96	No	Yes. $100 - 96 = 4$ the vote failed by 4 votes; 4 votes is less than 5% of the strata corp.'s total votes

12. Voting at a Strata Council Meeting

The Standard Bylaws set out the following provisions which deal with voting at strata council meetings:

- each council member has one vote;
- all matters are decided by a majority vote;
- at council meetings, decisions are made by council members present in person at

*Province of British Columbia
Guide 9: What to Know About Voting*

- the meeting (i.e. no proxies);
- a record of each vote must be recorded in the minutes; and
 - a tie vote can be broken by the president unless the strata corporation consists of only two strata lots.

The Act sets out the following provision which deals with voting at strata council meetings:

- a council member cannot vote on a matter if the council member has a direct or indirect interest in the outcome of the vote.

Under the Standard Bylaws a quorum of the council is:

- one member (if the council consists of one member);
- two members (if the council consists of two, three or four members);
- three members (if the council consists of five or six members);
- four members (if the council consists of seven members).

Council members must be present in person at the council meeting to be counted in establishing quorum.

Council has the option of holding council meetings by electronic means as long as all council members and participants can communicate with each other.

References:

Sections of the Act: 1, 10, 11, 32, 39, 48, 50-58, 70, 71, 73-75, 78-80, 82, 96-98, 100, 102, 105, 108, 111, 112, 116, 142, 127, 128, 147, 148, 159, 171, 193, 197, 247, 248, 257, 260-263, 266, 272, 277

Sections of the Regulations: 6.1

Standard Bylaws: 16, 17, 18, 27