

Meetings and Voting

What is the applicable legislation?

The current Act is [The Condominium Property Act, 1993](#).

The current Regulations are [The Condominium Property Regulations, 2001](#).

Both Acts and Regulations contain all recent amendments and are available on the Publications Saskatchewan website at <https://publications.saskatchewan.ca/#/freelaw>.

How does a condominium board first get elected?

The condominium board gets elected at the first annual meeting. There are three ways for a first annual meeting to occur:

- a developer should convene the meeting to elect a board no later than one year after titles are issued pursuant to the condominium plan;
- if a developer has not held the meeting to elect a board within one year of the titles being issued pursuant to the condominium plan, a request by a minimum of 25% of the owners can be made and a meeting shall be called by the developer within 45 days; and
- If the owners have requested a meeting and the developer does not convene the meeting within 45 days, the owners may then convene the first annual meeting. If the owners convene the meeting, they shall notify the developer at least seven days before the meeting.

Section 38 of the Act

What has to be provided at the first annual meeting?

The developer has to provide an audited financial statement for the corporation for the period before the election of the board of directors at the first annual general meeting of the corporation. It is often the case that the other documents that are required to be turned over to the corporation by the developer pursuant to Section 12 of the Act are turned over at the first annual meeting.

Section 12 of the Act

When does the board of the condominium corporation need to hold an Annual General Meeting (AGM)?

A board has to convene an AGM once every year and not later than 15 months after the last AGM.

Section 40 of the Act

What if the board does not convene AGM within 15 months of the last AGM?

If the board fails to convene an AGM within 15 months after the last AGM, an owner can convene an AGM by giving notice to the board and all owners.

Section 40 of the Act

Does every condominium corporation have to have an AGM?

Yes. The only exception is a corporation that has all units intended or used for agricultural purposes. Only in that case can a corporation be exempted from having an annual general meeting as long as:

- the exemption is approved by a special resolution;
- a financial statement for the most recently completed fiscal year is prepared and submitted to the meeting at which the special resolution is passed or, if the special resolution has already been passed, is attached to a written copy of that special resolution; and
- the corporation has a general meeting of the owners at least once every three years.

Subsection 11(a) of the Regulations

Can an AGM be virtual?

Implemented in May of 2020 to deal with the issues arising out of the pandemic, the meaning of “convene annual general meeting” was expanded. Unless prohibited by the bylaws of a corporation, a corporation may now hold an annual general meeting of the owners by means of a telephone, electronic or other communication facility that permits all participants to communicate adequately with each other during the meeting.

If your corporation is acting under the default bylaws contained in the Regulations, there are no prohibitions contained in your bylaws and you can hold a virtual AGM.

If your corporation is not acting under the default bylaws contained in the Regulations, the government is unable to advise as to whether a specific corporation can hold a virtual meeting as it will require an interpretation of the corporation’s bylaws. If an interpretation is required, the corporation should seek out its own legal advice.

Section 13.01 of the Regulations

What documents shall a corporation present at the AGM?

At minimum, a corporation shall present the following documents at an AGM:

- subject to the opt-out provisions, an audited financial statement;
- any other information determined by the board or required by a resolution passed at a general meeting;
- a written report on the reserve fund study; and
- a written report of the insurance coverage.

Clauses 39(2)(b) 39(2)(d) and 65(11)(b) and subsection 58.1(8) of the Act

How will I know that a meeting will take place?

There is not a standard answer to this question as it will depend on your corporation's bylaws. Your corporation may be acting under the default bylaws contained in the Regulations or may have a unique set of bylaws filed at the Corporate Registry at [Information Services Corporation](#).

If your corporation is acting under the default bylaws contained in the Regulations, the board is required to provide at least seven days' advance notice of an annual or a general meeting. The notice of the meeting shall state:

- the place, date and time at which the meeting is to be convened; and
- the nature of all business to be brought forth at the meeting and level of approval required for each item.

Subsection 21(1) of Part II, Bylaws, of the Regulations.

What is an AGM versus a general meeting?

An AGM has to occur once a year and must address specific business. A general meeting occurs between annual meetings and will cover any pressing matters that cannot wait for an AGM. A condominium corporation may not require any general meetings to occur throughout the year.

What is a quorum for any general meeting?

There is not a standard answer to this question as it will depend on your corporation's bylaws. Your corporation may be acting under the default bylaws contained in the Regulations or may have a unique set of bylaws filed at the Corporate Registry at [Information Services Corporation](#).

If your corporation is acting under the default bylaws contained in the Regulations, persons or proxies representing 25% of all the unit factors constitute a quorum. This is both for an AGM and for other general meetings.

Subsection 22 of Part II, Bylaws, of the Regulations.

Are the owners able to call a general meeting?

There is not a standard answer to this question as it will depend on your corporation's bylaws. Your corporation may be acting under the default bylaws contained in the Regulations or may have a unique set of bylaws filed at the Corporate Registry at [Information Services Corporation](#).

If your corporation is acting under the default bylaws contained in the Regulations, they require the board to convene a meeting, upon written request of the owners representing not less than 25% of the

total unit factors. On such request, the board shall convene a general meeting within 45 days of the request. The request should state the general nature of business to be conducted in the meeting. However, the board can add additional agenda items other than those requested. Regardless of the corporation's bylaws, if the board fails to convene an AGM within 15 months after the end of the preceding AGM, an owner can convene an AGM in such circumstances by giving notice to the board and all owners.

Section 40 of the Act

Subsection 20 of Part II, Bylaws, of the Regulations.

What are the voting rights of an owner?

The voting rights of an owner are as follows:

- each owner has a number of votes proportional to their unit factors. However this formula can be altered by a special resolution of the owners;
- subject to the right of an owner to ask for a vote by unit factors in person or by proxy, the bylaws of the corporation may provide for the voting by the show of hands for specified purposes ;
- unless otherwise specified in the Act, all questions are decided by the majority of the votes cast (notable exceptions include approval of bylaws, scheme of apportionments, sectors and audits);
- the bylaws may also provide for a proportion in excess of a majority vote with respect to subject matters that are indicated in the bylaws;
- the corporation can pass by-laws restricting or prohibiting an owner from voting where their contribution is in arrears. If no by-law exists, a defaulting owner cannot vote if the contributions payable have been in arrears for 30 days or more at the time of the meeting unless the subject matter of the vote requires unanimous resolution. If the corporation receives payment immediately before the meeting or during the meeting before the voting, then the owner has the right to vote;
- an owner may appoint a proxy to attend and act for them at a meeting; and
- if the owner's interest is subject to a mortgage and the corporation has received notice from the mortgage holder, the power of voting is exercised by the holder of the mortgage if a unanimous resolution is required. If a unanimous resolution is not required, the owner can vote only if the holder of the mortgage is not present.

Sections 41, 41.1 and 42 of the Act

Is there a time when an owner is not entitled to vote?

An owner is not entitled to vote at a meeting when:

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The Condominium Property Act, 1993

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- the owners, through a special resolution, pass bylaws restricting an owner's right to vote where any contributions payable by that owner is in arrears. A corporation can pass the bylaws that either restrict an owner's right to vote or allow the owners to vote in an arrears situation. If no bylaw has been passed, an owner in arrears for more than 30 days is not entitled to vote unless the subject matter requires unanimous resolution;
- the owner's interest is subject to a mortgage and the corporation has received notice from the mortgage holder of their intention to vote on behalf of the owner. In this case, the power of voting is exercised by the holder of the mortgage if a unanimous resolution is required. If a unanimous resolution is not required, the owner can vote only if the holder of the mortgage is not present;
- the owner is under 18 years of age and has never been married. In this case, a guardian of the child's property or the public guardian and trustee may exercise the right to vote on their behalf; and
- the owner is, for any reason, unable to control their property. In this case, the person who for the time being is authorized by law to control that property, may exercise the right to vote on their behalf. This could occur under [The Adult Guardianship and Co-decision-making Act](#).

Sections 41 and 43 of the Act

Does a unit owner need to attend a general meeting in person?

No. Although, it is in your best interest to attend the meeting and raise your concerns during any meeting of the corporation, the unit owner can send a representative or proxy to a meeting.

An owner can appoint a proxy for a maximum of six months from the date that it was executed. You can also appoint a proxy for a specific meeting or a specific subject matter only. Any person can be employed as proxy except the property manager or any other employee of the corporation. If a person is already authorized by law to control the owner's property, there is no need to grant them a proxy in order for that person to have the authority to vote.

Section 41.1 of the Act

How do I appoint a proxy?

You have to appoint a proxy in a written or printed form that is completed and executed by the owner. This form, and any revocation of a proxy, must be provided to a member of the board as soon as is reasonably possible after it has been executed.

Section 41.1 of the Act

Who can be appointed to act as a proxy?

Any person can be employed as proxy except the property manager or any other employee of the corporation.

Subsection 41.1(3) of the Act

What does the corporation do with the proxy form?

Any proxy used in voting becomes part of the records of the corporation and must be kept by the corporation for the longer of:

- 90 days after the expiry of the proxy; and
- 90 days after the meeting at which the proxy was used.

Subsection 41.1(5) of the Act

Can owners see a proxy?

Yes. On request of any owner, the board has to make available to the owner, for inspection, any form used to appoint a proxy that has been provided to a board member within 90 days after the meeting at which the form was used.

Subsection 41.1(6) of the Act

How shall a vote be determined?

Unless otherwise provided for in the Act or Regulations, all questions posed for the consideration of the owners at a meeting of owners shall be determined by a majority of the votes cast. Notable exceptions to a majority of votes cast include approval of bylaws, scheme of apportionments, sectors and audits. However, the corporation's bylaws may provide for a proportion in excess of a majority vote on a subject matter.

Subsections 41(3) and (4) of the Act

What is a special resolution?

It is a resolution that is approved by a majority of not less than two-thirds of the persons entitled to exercise the powers of voting conferred by the Act or the bylaws of the corporation. This vote can be exercised by being present personally at a meeting, by proxy, by signing the resolution, or a combination of any of the above.

Clause 2(1)(z) of the Act

When is a special resolution required?

A special resolution is required when:

- obtaining an approval of an amendment of a developer's declaration (*Section 18 of the Act*);
- extending the time of completion of any additional units or additional common facilities in a phased development (*Section 19 of the Act*);
- acquiring an interest or disposing of an interest in real property (*Subsection 34(5) of the Act*);
- making a bylaw (*Section 46 of the Act*);
- setting an interest rate on late payment of contributions to funds (*Section 59 of the Act*);
- permitting an owner to exercise exclusive use with respect to one or more areas of the common property or one or more services units (*Section 72 of the Act*);
- accepting a grant and executing a grant of easement or restrictive covenant that benefits the parcel (*Sections 73 and 74 of the Act*);
- exempting the corporation from holding annual meetings when all units are intended or used for agricultural purposes (*Section 11 of the Regulations*);
- converting parking spaces to parking units (*Section 15.2 of the Regulations*); and
- anything else as required in the condominium corporation's bylaws.

When is the consent of at least 75% of the owners required?

A vote that requires at least 75% of the owners to consent is the establishment of a scheme of apportionment for owners' contributions to the common expenses fund or a reserve fund that is not in proportion to the unit factors by amending the bylaws of the corporation.

Section 48 of the Regulations

What is a unanimous resolution?

It is a resolution that is approved by all persons who are entitled to exercise the powers of voting conferred by the Act or the bylaws of the corporation. This vote can be exercised by being present personally at a meeting, by proxy, by signing the resolution, or a combination of any of the above.

Clause 2(1)(aa) of the Act

When is a unanimous resolution required?

A unanimous resolution will be required when:

- amending a condominium plan (*Section 14 of the Act*);
- adding more land to a condominium plan or amalgamating two or more condominium corporations (*Section 15 of the Act and Section 30 of the Regulations*);
- amending unit factors (*Section 15.1 of the Act*);

- making, amending or repealing bylaws that establish sectors, the allocation of units, common facilities and common property to a sector, and the control, management, administration, use and enjoyment of the units, common property or common facilities within a sector (*Subsection 47.1(4) of the Act*);
- transferring or leasing common property or services units (*Section 70 of the Act*);
- terminating the condominium status of a building or land (*Section 83 of the Act*);
- releasing security after the condominium board is elected, the majority of the units have been sold and there is an agreement for completion of common property, common facilities, services units and any additional units (*Section 18 of the Regulations*); and
- opting out of both an audit and review of financial statements if less than 50 units (*Section 53.2 of the Act*).

What information has to be redacted from minutes?

There is not a standard answer to this question as it will depend on your condominium corporation's bylaws. Your corporation may be acting under the default bylaws contained in the Regulations or may have a unique set of bylaws filed at the Corporate Registry at [Information Services Corporation](#).

If your corporation is acting under the default bylaws contained in the Regulations, minutes of any general meetings of the corporation or the board should not disclose the identity of any individual unit owner to whom the minutes relate. Examples of how this applies are as follows:

- if a unit owner makes or seconds a motion, his or her name should be disclosed in the minutes; and
- if a unit owner is being discussed because of a particular issue, his or her name should not be disclosed or should be redacted from the minutes.

A good rule is to disclose any information that the corporation would want to rely on in the courts if the particular issue was challenged in a court of law.

Clause 3(d)(ii) of Part II, Bylaws, of the Regulations

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