



## Instruction Guide 19

# How to Alter Unit Entitlement

**Important Notice:** This Instruction Guide has been prepared by the Superintendent of Real Estate to provide information about the *Strata Property Act* (the “Act”). This is only a guide to certain parts of the Act and Regulations. Please consult the Act and Regulations to determine the complete and precise requirements of the Act and Regulations. In addition, please remember when reviewing statements about the Standard Bylaws that they may not apply until January 1, 2002, and even when they do apply, they may have been amended or removed if the strata corporation has filed bylaw amendments in the Land Title Office. Please check all filed bylaw amendments to determine whether and how the Standard Bylaws may have been amended.

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### 1. What is Unit Entitlement?

Unit entitlement is a number assigned to each strata lot that determines:

- the share of common property and assets belonging to each strata lot; and
- the share of strata corporation expenses and liabilities of each strata lot owner.

### 2. Where Do I Find My Unit Entitlement?

A Schedule of Unit Entitlement for all strata lots is filed in the Land Title Office in:

- Form V, if the strata plan was filed on or after July 1, 2000; and
- Form 1, if the strata plan was filed before July 1, 2000.

### 3. **How Is Unit Entitlement Calculated?**

When filing the strata plan under the Act, the Owner Developer will create a Schedule of Unit Entitlement as follows:

- residential building strata lots:
  - a whole number based on habitable area in square metres;
  - a whole number that is the same for all residential strata lots; or
  - some other number approved by the Superintendent of Real Estate that is equitable.
- non-residential building strata lots:
  - a whole number based on area in square metres;
  - a whole number that is the same for all non-residential strata lots; or
  - some other number approved by the Superintendent of Real Estate that is equitable.
- bareland strata lots:
  - a whole number that is the same for all lots; or
  - some other number approved by the Superintendent of Real Estate that is equitable.
- mixed use building strata lots:
  - a number approved by the Superintendent of Real Estate that is equitable.

The Regulations define habitable area as “the area of a residential strata lot which can be lived in, but does not include patios, balconies, garages, parking stalls or storage areas other than closet space”.

### 4. **How Do I Change Unit Entitlement?**

There are three methods of changing unit entitlement:

- Land Title Office remedy in the case of error:
  - if there was an error made in measuring the strata lots, the registrar of the Land Title Office can be asked to correct it; and
  - the registrar of the Land Title Office will then decide whether the error should be corrected.

- court remedy:
  - if the Schedule of Unit Entitlement does not match the area or habitable area of the strata lots and unit entitlement is based on area or habitable area, a person may apply to Supreme Court to have the unit entitlement changed to reflect the correct area or habitable area;
  - this remedy is only available if the difference between the existing unit entitlement and the correct unit entitlement is at least 10% or 20 square meters.
- changing habitable area with a unanimous resolution:
  - owners who increase their habitable area, must also alter their unit entitlement:
    - ◆ if the unit entitlement is based on habitable area; and
    - ◆ if the increase in habitable area combined with previous changes, is at least 10% or 20 square meters;

by doing the following:

- obtaining a unanimous resolution to change the habitable area and unit entitlement;
- creating a new Schedule of Unit Entitlement in accordance with the unanimous resolution;
- making an application to the Land Title Office to amend the unit entitlement, which requires the submission of the following documents:
  - ◆ the new Schedule of Unit Entitlement:
    - must be signed by the Superintendent of Real Estate, if necessary; and
    - must meet the other technical requirements of the Act.
  - ◆ a Certificate of the Strata Corporation acknowledging:
    - that the unanimous resolution has been passed; and
    - that the new Schedule of Unit Entitlement conforms to the resolution.

## 5. **Changing Habitable Area Without Changing Unit Entitlement**

Owners can change the habitable area of their strata lot without altering the Schedule of Unit Entitlement, in the following two circumstances provided that they obtain prior written approval from the strata council to make the change:

- where habitable area is decreased; or

- where habitable area is increased, and the increase is under 10% and 20 square meters.

6. **Changing Strata Fees Without Changing Unit Entitlement**

A strata corporation can choose to calculate each strata lot's share of strata fees using a formula other than unit entitlement, by passing a unanimous resolution at an annual or special general meeting.

**References:**

Sections of the Act: 1, 70, 100, 246, 261

Sections of the Regulations: 5.1, 14.2, 14.3, 14.12, 14.13