



Instruction Guide 28

Sections

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 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 are Sections?

Under Part 11 of the Act, different types of strata lots can be organized into formal groups, which are called sections. The sections represent the interests of the strata lot owners in the section. Each section will operate independently from other sections in the strata corporation with respect to matters that relate solely to the section. If a strata corporation has sections, the owners will still elect a strata council to administer functions relating to the strata corporation as a whole. A strata corporation with sections will therefore have two separate levels of administration – one related to the strata corporation as a whole and the other related to the different sections alone.

2. The Different Types of Strata Lots that can Form Sections

Only specific types of strata lots can form sections. Strata corporations that contain residential and non-residential strata lots can form into residential and non-residential sections. In addition, non-residential strata lots can form different

sections if the strata lots are used for significantly different purposes. Residential strata lots can only be divided into different residential sections for the following types of strata lots:

- apartment style;
- townhouse style; and
- detached houses.

3. **How are Sections Created?**

Sections can be created by the Developer when the strata corporation is created, by filing bylaws with the strata plan which create the sections and provide for their administration.

After a strata corporation has been created, the owners of the strata lots can create sections by following the steps set out below:

- an annual or special general meeting must be held;
- a resolution to amend the bylaws to create and administer each section must be approved by:
 - a $\frac{3}{4}$ vote of the eligible voters in each proposed section, and
 - a $\frac{3}{4}$ vote of the eligible voters in the strata corporation;
- the bylaw amendment must be filed in the Land Title Office; and
- a resolution approved by a $\frac{3}{4}$ vote may be passed which designates limited common property for the exclusive use of all strata lots in the section.

4. **How do Sections Operate?**

A body called an executive administers the section. The members of the executive are elected by the eligible voters within the section. The executive of a section functions like a strata council and it has the same powers and duties with respect to the section that the strata council has with respect to the strata corporation. The bylaws of a section can provide for an election process for the executive and its powers and duties.

5. **The Powers of a Section**

With respect to matters relating solely to a section, the section is a corporation and has the same powers as the strata corporation to:

- establish its own operating fund and contingency reserve fund for common expenses of the section including expenses relating to limited common property designated for the exclusive use of all the strata lots in that section;
- prepare a section budget and require section owners to pay strata fees and special levies for expenditures the section authorizes;
- enter contracts in the name of the section;
- sue or arbitrate in the name of the section;
- acquire and dispose of land and other property in the name of or on behalf of the section; and
- enforce bylaws and rules.

The executive of the section may make rules governing the use, safety and condition of:

- limited common property designated for the use of all strata lots in the section; and
- property acquired in the name of the section.

6. **Relationship Between the Strata Corporation and Sections**

If strata lots in a strata corporation are divided into sections, the strata corporation still retains its powers and duties with respect to matters relating to the strata corporation as a whole. However, each section operates independently with regards to matters that relate exclusively to the section. Both the strata corporation and the sections can hold annual general meetings, pass budgets, and create and enforce bylaws and rules within their area of administration.

7. **Relationship Between Sections and Types**

Section 6.4(2) of the Regulations, permits strata corporations to allocate operating expenses within a strata corporation if the expense relates solely to a “type of strata lot” and a bylaw creating the type of strata lot has been created. For instance, if a strata corporation contains ten strata lots with gas fireplaces and ten strata lots without gas fireplaces, the gas expense for fireplaces could be allocated to just the ten strata lots with fireplaces. A strata corporation may only allocate expenses to different types of strata lots if it has a bylaw which identifies the separate types within the strata corporation.

The creation of different types of strata lots does not create sections. Sections are independent organizations with their own powers and duties. Whereas, a type of strata lot is not a separate organization of strata lots. It is only a method of allocating operating expenses to certain strata lots in a strata corporation budget.

It is therefore not possible for different types of strata lots to have their own operating budget, collect separate contingency reserve contributions or allocate special levies based on type.

The Act does not define what constitutes a type of strata lot. A bylaw identifying types can therefore distinguish strata lots in a variety of ways based on the features of the strata lots.

It is also possible under section 11.2 of the Regulations for a section to pass a bylaw creating types for the purpose of allocating expenses based on the different features of strata lots within the section.

8. **Allocating Section Expenses within a Section**

Generally, expenses in a strata corporation are shared by all strata lots on the basis of unit entitlement, or some other method that has been unanimously approved. Within a section, the same general rule applies and expenses that relate solely to the strata lots in a section are shared only by the strata lots in the section.

However, there are exceptions that permit a strata corporation to apportion certain contributions to only some of the strata lots. The same exceptions apply for sections as follows:

- **Limited Common Property**

If an operating expense relates to limited common property in a section, the contribution for this expense will be apportioned, by unit entitlement or some other method approved by unanimous resolution, only to those strata lots in the section which are entitled to use the limited common property.

However, while a section's operating expense may be apportioned only to strata lots entitled to use the limited common property, a contribution to the section's contingency reserve fund or a special levy must be shared by all strata lots in the section.

- **Type**

If an operating expense relates to a type of strata lot in a section and that type of strata lot has been identified in a section bylaw, the contribution for this expense will be apportioned, by unit entitlement or some other method approved by unanimous resolution, only to strata lots of that type specified in the bylaw.

However, while a section's operating expenses may be apportioned only to strata lots identified by way of type in the section's bylaws, contributions to the section's contingency reserve fund or a special levy must be shared by all strata lots in the section.

- Repair and Maintenance of Portions of Strata Lots

Under the Act, Regulations and bylaws, there is a distinction made between: who undertakes the actual repair and maintenance of various parts of the strata development; and who pays for the maintenance and repair costs.

If a section has created a bylaw that places responsibility on the section for the repair and maintenance of portions of some strata lots in the section, the operating expenses and special levies which relate to the repair and maintenance of those portions of strata lots are apportioned by unit entitlement or some other method approved by unanimous resolution, only to those strata lots being repaired or maintained.

However, while a contribution to the section's operating fund or a special levy may be apportioned only to the strata lots that the section is repairing or maintaining, contributions to the section's contingency reserve fund for strata lot expenses must be shared by all strata lots in the section.

For more information on apportioning expenses please refer to Instruction Guide 11, "How to Apportion Expenses".

9. **Bylaws**

The strata corporation's bylaws apply to a section unless they have been amended by the section. However, only a bylaw that relates solely to a section may be amended by that section. Sections may also create bylaws to govern matters within the section.

Prior to the first annual general meeting, the bylaws may only be amended as follows:

- residential sections may only amend bylaws by unanimous vote; and
- non-residential sections may amend the bylaws by a $\frac{3}{4}$ vote or by a different voting threshold if approved in the bylaws.

After the first annual general meeting a section may amend bylaws as follows:

- residential sections may amend the bylaws by a $\frac{3}{4}$ vote at an annual or special general meeting of the section; and
- non-residential sections may amend the bylaws by a $\frac{3}{4}$ vote or by a different voting threshold if approved in the bylaws, at an annual or special general meeting of the section.

References:

Sections of the Act: 72, 100, 108, 190-198

Sections of the Regulations: 6.4, 11.1-11.3