



Consumer Tips

# Owning a Condominium

---

Condominium Property Act

Service Alberta, Government of Alberta

June 2020

Owning a Condominium

This publication is intended to provide general information only and is not a substitute for legal advice. For more information regarding this content visit: <https://www.alberta.ca> or phone 1-877-427-4088

# Table of Contents

|   |           |
|---|-----------|
| <b>Information about the legislation</b> .....            | <b>5</b>  |
| <b>What is a condominium?</b> .....                       | <b>6</b>  |
| Bare land units .....                                     | 7         |
| Common property.....                                      | 7         |
| Managed property .....                                    | 7         |
| Unit factor .....   | 7         |
| Exclusive-use common property .....                       | 7         |
| Doors and windows .....                                   | 8         |
| Insurance.....  | 8         |
| <b>Condominium corporation</b> .....                      | <b>9</b>  |
| <b>Bylaws</b> .....                                       | <b>9</b>  |
| Information about cannabis legalization.....              | 10        |
| <i>Alberta Human Rights Act</i> and Age Restrictions..... | 11        |
| <b>Rules</b> .....  | <b>11</b> |
| <b>Board of directors</b> .....                           | <b>12</b> |
| The board's responsibilities.....                         | 13        |
| Condominium contributions (fees and levies).....          | 15        |
| <b>Voting rights and general meetings</b> .....           | <b>16</b> |
| <b>Termination of agreements</b> .....                    | <b>17</b> |
| <b>Reserve funds</b> .....                                | <b>18</b> |
| How much money should be in the reserve fund? .....       | 19        |
| How is the reserve fund financed? .....                   | 19        |
| Corporations with 12 or fewer units.....                  | 20        |
| Updating the reserve fund study .....                     | 21        |
| Reserve fund plan .....                                   | 21        |

|   |           |
|---|-----------|
| Conversions, previous rental buildings and new condominium corporations ..... | 22        |
| <b>Living in a condominium .....</b>  | <b>22</b> |
| Resolving disputes .....  | 23        |
| Taxes.....  | 24        |
| Entering the unit .....   | 24        |
| Renting units.....  | 24        |
| <b>Personal information.....</b>  | <b>25</b> |
| <b>Resource and referral information .....</b>                                | <b>25</b> |
| Consumer Contact Centre.....  | 25        |
| Alberta Land Titles Spatial Information System (SPIN2) .....                  | 25        |
| Finding a registry agent: .....   | 26        |
| Centre for Public Legal Education.....  | 26        |
| Canadian Condominium Institute, North Alberta.....                            | 26        |
| Canadian Condominium Institute, South Alberta .....                           | 26        |
| Service Alberta .....   | 26        |
| Real Estate Council of Alberta .....  | 26        |
| ADR Institute of Alberta (ADRIA) .....  | 27        |
| Alberta Queen's Printer .....   | 27        |

This publication is intended to provide general information only and is not a substitute for legal advice.

The *Condominium Property Act* and regulations affect condominium owners, buyers, sellers and developers. This publication provides an overview of the key topics that you need to be aware of as the owner of a condominium. It does not cover all the special circumstances or unique situations that can arise.

This publication reflects the most current versions of the *Condominium Property Act* and the Condominium Property Regulation that affect condominium corporations and unit owners. Changes that affect developers and purchasers of new condominium units are addressed in a separate publication, titled *Purchasing a Condominium*, which is available on the [alberta.ca](http://www.alberta.ca) website.

## Information about the legislation

The *Condominium Property Act* and the Condominium Property Regulation set out the rules for operating and managing condominiums in Alberta. The legislation addresses:

- the rights and responsibilities of a unit owner
- the powers and duties of a condominium corporation, including repair and maintenance of the property of the corporation, the common property and managed property, and enforcement of the corporation's bylaws
- requirements for annual general meetings of the unit owners, special general meetings and meetings of the condominium board.

For complete information please refer to the *Condominium Property Act* and Condominium Property Regulation. These documents are posted on the Alberta Queen's Printer website: <http://www.qp.alberta.ca>. Please see the Resource and Referral Information section of this publication for additional contact information.

# What is a condominium?

A condominium is a form of real property ownership that has two distinct parts: you own your condominium unit to which you get a title, and you also jointly own common property with the other unit owners in your complex.

Owning a condominium is not the same as renting an apartment where all the duties and responsibilities of running the building are handled by the building owner and caretaker. In a condominium complex, ownership responsibilities belong to you and all the other unit owners in your condominium corporation.

Some examples of residential condominium units are apartment-style suites within a low-rise, mid-rise or high-rise building. Other complexes may contain detached, semi-attached (duplex) or townhouse dwellings in a bare land condominium complex, or a mixture of housing styles. Commercial and industrial units may also be included in some mixed-use complexes.



Non-residential condominiums may be commercial or industrial outlets, resorts, marinas and other recreational spaces.

Mixed-use condominium complexes combine units that have more than one function. Many are built in the apartment style and may have retail or commercial units on the ground level or lower levels, with residential units on the upper floors. Other complexes, such as business parks, may include a variety of non-residential units.

## Condominium unit

The exact boundaries of each condominium unit are identified in the condominium plan. The developer is required to provide each purchaser with a copy of the condominium plan when a new unit is purchased. If you do not currently have a copy of the condominium plan, most documents or plans can be ordered through the Alberta Registries Spatial Information System (SPIN2). Please see the Resource and Referral Information section of this publication for additional information.

In a conventional residential unit, the space is usually bound by the walls, floors, and ceilings. You are responsible for the maintenance, repair and remodeling of your unit unless the bylaws of the corporation say otherwise. However, you may need the board's permission to remodel your unit if the changes affect the common property.

## **Bare land units**

In a bare land unit, you own the actual land and anything built on it. Usually the exterior walls, the roof, the foundation, driveway and at least part of the landscaping are part of the condominium unit and must be repaired and maintained by the individual unit owner. However, repair and maintenance obligations of the individual bare land unit owners may be transferred to the condominium corporation through the registration of properly worded bylaws.

## **Common property**

The common property in a condominium complex is everything that is not within a unit identified in the condominium plan. It usually includes the space and facilities outside the condominium units, such as hallways, elevators, heating and electrical systems, laundry rooms, recreation rooms, and landscaped areas. In the case of a bare land condominium this would include such things as roads. Your share of the costs for the maintenance and repair of the common property is determined by your unit factor.

## **Managed property**

The managed property is defined in the legislation as any unit or part of a unit that a corporation is required by bylaw to maintain, repair, and replace. This concept is already applied in some bare land corporations, where the corporation may be responsible by bylaw to upkeep the exterior components of the individual units.

The corporation will be able to make bylaws respecting the control, management, and administration of managed property, and will be responsible for its upkeep.

## **Unit factor**

The unit factor identifies your portion of the joint ownership of the common property. The developer assigns a unit factor to every condominium unit when registering the condominium plan. The sum total of the unit factors for all the units in a condominium plan is 10,000. Developers must disclose how they set the unit factor on a schedule attached to the condominium plan. It is important to know the unit factor assigned to your unit because it will affect your condominium contributions and your voting rights.

## **Exclusive-use common property**

You may also lease or have the right to use defined areas of the common property called exclusive-use areas with private access to and use of the area, (for example, the carport, parking stall or balcony next to the unit). These areas may be identified on the condominium plan or

defined in the corporation's bylaws. The corporation retains the control of these areas, but you may have some responsibilities for their maintenance.

Corporations may grant exclusive possession rights for areas of the common property by bylaw, licence, or other instrument, in addition to using a lease. Rights to exclusive use may be withdrawn according to the terms of the instrument used to grant the rights.

## **Doors and windows**

All doors and windows of a condominium unit that are located on the exterior walls of the unit are part of the common property unless the condominium plan says otherwise. If the plan is silent, or does not specify whether the doors and windows are part of the unit, or part of the common property, the corporation is responsible for repairs and maintenance. If you are uncertain whether windows are part of the common property, please review your condominium plan.

For units in a bare land condominium, the bylaws of the corporation may require the corporation to repair, maintain or replace doors and windows as managed property, even if the boundaries of the unit include the windows and doors as part of the unit.

## **Insurance**

The condominium corporation is responsible for placing insurance on the entire structure of the condominium complex for units in a building. For bare land units, the condominium legislation requires the corporation to insure the common property against loss resulting from common perils (for example fire, windstorm, hail, water damage caused by flooding) and any other perils required by the bylaws.

The corporation must have replacement cost value insurance on the property for all perils listed in the Regulation, as well as any other perils included in the bylaws.

There must also be insurance for any liability incurred by the board or corporation when carrying out their duties and responsibilities, as well as a fidelity bond, which ensures the corporation is protected if a board member or manager causes a loss by dishonesty or fraud.

You will need to purchase your own insurance to cover loss of or damages to your personal property, as well as coverage for personal liability and improvements to the unit.

Liabilities may include responsibility for the corporation's deductible, if damage originated from your unit. The bylaws of your corporation may require you to purchase coverage for the corporation's deductible. Changes made to your unit are not considered "improvements" if they are included in the corporation's standard insurable unit description (SIUD).



Ask your insurance agent or broker for more information about deductibles, and request a copy of the SIUD if the corporation has not already supplied you with one.

For further information please look for the insurance-related fact sheets available at <https://www.alberta.ca/condominium-rules.aspx>.

There is also value to having coverage for expenses if you have to live elsewhere while your unit is being repaired.

The condominium corporation can give you a certificate of insurance that provides your agent or broker with information about the extent of the corporation's insurance policy.

If there is a change in insurance, including a change in the amount of the deductible, the replacement value of the coverage, or the SIUD, or additions to permitted exclusions, the corporation must provide notice of the change to the owners, along with a copy of the insurance certificate. This notice must be provided within 30 days of the corporation's receipt of the insurance certificate.

## Condominium corporation

A condominium corporation is created when the developer registers the condominium plan with Alberta's Land Titles Office. The condominium corporation consists of the owners of all the units identified in the condominium plan.

As a legal entity, it can sue for damages to the common property and it can be sued regarding any matter for which the owners are jointly liable. An agent or employee of the corporation can act on behalf of the corporation.

Bylaws regulate the corporation. They provide for the control, management and administration of the units, the common property, the managed property, and any other real and personal property owned by the corporation. A board of directors is elected by the unit owners to carry out the condominium corporation's responsibilities.

## Bylaws

Every condominium has a set of bylaws. When a condominium plan is registered, it may include the initial set of bylaws that govern the corporation. If not, the bylaws found in Schedule 4 of the Condominium Property Regulation apply unless the corporation approves and files its own bylaws.

The default bylaws in Schedule 4 of the Condominium Property Regulation only apply to condominium corporations that do not have their own bylaws registered with Land Titles. If a corporation has registered its own bylaws, the default bylaws would not apply, even in those areas where the corporation's bylaws are silent.

Instead of using the default bylaws, corporations may decide to develop their own bylaws that suit the needs of the corporation. Corporations should seek legal advice on how to draft their bylaws.

Owners can change the bylaws to suit their particular complex by passing a motion to adopt the changes. A special resolution, requiring the approval of 75% of the owners named on the unit titles and representing not less than 7,500 unit factors is required to make any changes to the bylaws. Changes are effective after the board registers the changes at a Land Titles office.

For further information, please see the "Updating Condominium Bylaws" fact sheet available at <https://www.alberta.ca/condominium-rules.aspx>.

Condominium bylaws vary greatly, and should reflect the specific needs of the corporation. Some for example, may establish minimum age requirements such as requiring that residents must be 55 years of age, or older. Other bylaws may exclude pets from the complex, or set out restrictions on noise, storing of hazardous or flammable materials, or interfering with others' use and enjoyment of the common property.

Owners, and everyone occupying a unit, are bound by the bylaws of the corporation. If there is a conflict between the bylaws and the *Condominium Property Act* or regulations, the Act or the regulations apply.

## **Information about cannabis legalization**

Recreational use of cannabis (or marijuana) became legal in Canada in the fall of 2018. Owners and occupants who live in multi-family dwellings should be aware of any restrictions surrounding cannabis. These restrictions should be clearly set out in the condominium bylaws.

A condominium corporation may prohibit the smoking of all substances including cannabis in their buildings or on their properties through their bylaws. Occupants should not smoke cannabis or other substances in prohibited premises. Non-smoking consumption, however, may be permitted, but renters and condo occupants should check applicable rules.

A condominium corporation may also prohibit the growing of cannabis in the bylaws.

## ***Alberta Human Rights Act and Age Restrictions***

Changes to the *Alberta Human Rights Act* effective January 1, 2018 includes age as a protected ground under the area of accommodation. Age is defined as 18 years or older. Age restrictions are not permitted in condominiums built after January 1, 2018, unless the restriction is to make the building seniors-only. Seniors-only is set at 55 years or older, where at least one member of the household is 55 years or older. Corporations cannot pass new bylaws with age restrictions other than 55 years or older.

Condominium corporations that had age restrictions other than seniors only in their bylaws have a transition period to pass a seniors-only bylaw, which ends on December 31, 2032. After this date, any condominiums that do not have a seniors-only bylaw will be open to all ages.

For more information about age restrictions for condominiums, please see the link from <https://www.alberta.ca/condominium-rules.aspx> to “Age as a Protected Ground” on the Alberta Human Rights Commission website. These provisions around age restrictions are found in the *Alberta Human Rights Act* rather than the *Condominium Property Act*.

## **Rules**

The board of directors may pass a resolution to make, amend or repeal rules regarding procedures used in the administration of the corporation, or the real and personal property of the corporation, the common property, and managed property. The rules must not restrict the uses of units. Rules are sometimes referred to as policies of the corporation.

The rules must be reasonable and must be consistent with the Act, the regulations and the bylaws of the corporation.

At least 30 days before a new rule comes into effect, the board must notify, in writing, all owners and tenants living in the units of the condominium complex, and notify any owners who are not residing in the complex. The board may make rules that come into effect immediately on giving notice, in an emergency (such as a fire or flood), or if the rule addresses a safety or security concern.

A rule established by the board may be amended or repealed by the owners with an ordinary resolution.

## Enforcement of bylaws and rules

The Act, the regulations and specific bylaws give the corporation the right to impose sanctions, including monetary penalties (fines), on owners who fail to comply with the bylaws, as long as those fines are set out in the bylaws.

No monetary sanctions can be levied for a contravention of a rule. Other types of non-monetary sanctions may be applied if a rule is contravened. For example, if the rules require an owner to clean the social room after using it for a personal event, and the room is not cleaned properly, the owner may lose the privilege of using the social room for a specified period of time.

For additional information, please see the “Condominium Rules, Bylaws and Sanctions” fact sheet at <https://www.alberta.ca/condominium-rules.aspx>.

## Board of directors

Every condominium corporation has a board of directors. Normally, the directors are elected by the owners to carry out the corporation’s responsibilities. The bylaws outline how many directors sit on the board, how they are selected, and if there are any eligibility requirements.

Directors are generally volunteers who agree to take on the responsibility of running the condominium for at least one term. Two thirds of the members of the board must be unit owners or mortgagees, unless otherwise stated in the bylaws.

The board conducts its business by holding regular meetings, usually monthly. Board members may participate in board meetings by electronic means, including teleconference and videoconference, as long as everyone can hear one another. Those in attendance by electronic means are still considered to be present for the meeting.

Each director has the responsibility to act honestly and in good faith in exercising the authority and in discharging the duties of the board. Every director must declare any conflict of interest and not vote on matters that may involve a decision where the director may have a material interest in an agreement, arrangement or transaction.

Board members must also act with a view to the best interests of the corporation, and exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

Developers of a new condominium are required to appoint an interim board to govern the corporation before it is turned over to the owner-elected board. This interim board must be

appointed within 30 days of the registration of the condominium plan and registered with the Land Titles office.

The interim board has the same duties as the owner elected board, including the duty to act in the best interests of the corporation and to pursue any remedies or claims under warranties or insurance policies on behalf of the corporation. The interim board remains in place until the turnover meeting where the first board is elected. (Please see the **Voting Rights and General Meetings** section of this publication for additional information.)

It is important for owners to be aware that when the board makes decisions in the best interests of the entire corporation, those decisions may sometimes conflict with an individual owner's wishes.

If a majority of the owners disagree with a board's decision, they have the ability to pass an ordinary resolution giving direction to the board. The resolution may be passed at a general meeting called for that purpose, or a written resolution may be used. Directions given by the owners must be compatible with the Act, the regulations and the corporation's bylaws.

Owners also have the right to remove a member of the board by passing an ordinary resolution. This resolution may be passed either at a general meeting or in writing.

Directors stop being members of the board in certain circumstances, including if they become bankrupt, become incapable of managing their own affairs, are convicted of certain indictable offences, or are more than 60 days in arrears of contributions. Directors also stop being members of the board if they resign by serving written notice to the corporation.

## The board's responsibilities

The board is responsible for:

- abiding by and enforcing the Act, regulations and the corporation's bylaws
- managing, administering and maintaining the common property
- maintaining, repairing and replacing any unit or part of a unit (managed property) that a corporation is required by bylaw to maintain, repair or replace
- setting and collecting condominium contributions and dealing with the financial administration of the corporation
- preparing financial statements according to generally accepted accounting practices
- preparing and approving an annual operating budget, including the allocation to the reserve fund, and providing the budget to the owners before the annual general meeting

- placing and maintaining insurance on the property for perils covered by standard insurance policies or any other perils identified in the bylaws and the regulation
- placing and maintaining liability insurance for the board or corporation with respect to carrying out their duties and responsibilities
- establishing, maintaining, and administering the capital reserve fund
- preparing a report each fiscal year setting out the payments made into and out of the reserve fund, and listing the depreciating property that was repaired or replaced during that year
- retaining a reserve fund study provider to conduct a reserve fund study every five years
- reviewing the reserve fund study report, preparing a reserve fund plan based on that report, and preparing an annual report on the reserve fund expenditures
- hiring and supervising employees and contractors, including a condominium manager or management company
- reviewing the bylaws and presenting any proposed changes to the owners for approval through a special resolution
- holding an annual general meeting
- filing with the Land Titles office any change in board membership within 30 days of the general meeting, or promptly after any other changes in board membership
- filing with the Land Titles office any changes in the corporation's address for service promptly after the change is made

## Documents

The board, or the condominium manager acting as directed by the board, must respond to a written request from an owner, purchaser, or a mortgagee of a unit, for information or specific documents. These include information about contributions that are due and payable, copies of agreements, bylaws, minutes of the board or general meetings, budget, recent financial statements, insurance, and the reserve fund study report or plan or annual update, as required under the Act and the regulation. The board, or the condominium manager, may charge fees for these documents.

The above list of documents is not exhaustive. For a list of documents the corporation must provide, and fees that can be charged for these documents, please see the checklist for owners and purchasers available at <https://www.alberta.ca/consumer-business-tips.aspx>, and on <https://www.alberta.ca/condominium-rules.aspx>.

## Condominium contributions (fees and levies)

The condominium corporation needs money to meet its financial obligations – paying for insurance premiums, snow removal, grass cutting, repairs to common property, reserve fund, etc. The main source of income for the corporation is the money paid by the owners in their condominium contributions (often referred to as a condominium fee).

Contributions are normally set annually and paid monthly. However the board can collect a special levy, which may be payable in one lump sum or several installments, if the corporation needs to raise extra funds to meet its obligations. For additional information about special levies, please see the fact sheet available at <https://www.alberta.ca/condominium-rules.aspx>.

The board sets contributions by taking into consideration the budgeted needs of the corporation. Contributions are paid by the owners in proportion to the unit factors for their units. Corporations can change the formula for allocating condominium contributions, if the owners pass a special resolution to amend the bylaws. Make sure you know how your condominium contributions are calculated. Be aware that condominium contributions can and do go up!

Developers must pay contributions for each unit they own in a building, on the same basis as other owners. This is the case no matter what the corporation's bylaws might say.

A condominium corporation has the right to collect unpaid condominium contributions. The corporation can:

- ask the owner's mortgage company to pay the outstanding amounts and add it to the owner's mortgage
- require an owner's tenant to pay the monthly rent to the corporation to cover the unpaid condominium contributions
- file a caveat against the title to the unit at the owner's expense
- charge interest (up to 18% per year) on outstanding amounts
- sue the owner for all outstanding contributions, interest and its full legal fees; and
- foreclose on the title to the unit.

# Voting rights and general meetings

The board of directors, elected by the owners, makes most of the decisions on the running of the corporation. As an owner of a unit you have the right to vote. Your voting rights are determined by the *Condominium Property Act*, the bylaws of your condominium corporation and by the unit factor for your condominium unit. Note that your corporation's bylaws may provide additional direction around voting and meeting procedures, beyond what is included in the legislation.

The corporation's first annual general meeting must be held within 12 months of the day the condominium plan is registered. Please note that the first annual general meeting and the turnover meeting described below may be separate meetings, or a meeting may serve both purposes, depending on the number of units that have been sold, and the unit factors assigned to those units.

The developer is required to hold a turnover meeting within 90 days of owners receiving title to units that hold at least 50% of the corporation's unit factors. At this meeting the first owner-elected directors become members of the board, and the developer and interim board must turn over specified documents to the corporation. Examples of the documents to be provided are structural, electrical, mechanical, architectural, and as built drawings that exist for the common property, as well as copies of written agreements that the corporation is a party to.

At least 14 days' notice is required for each annual general meeting, including the first one. Subsequent annual general meetings must be convened no later than 15 months after the immediately preceding annual general meeting.

Corporations may hold special general meetings with at least 14 days' notice to the owners. Owners may request a special general meeting as long as owners representing at least 15% of the unit factors make the request in writing. The request must include the nature of the business to be dealt with at the meeting. If the board does not respond to this request, the owners may convene such a meeting.

Corporations must give notice of all general meetings to mortgagees who have notified the corporation of their wish to be notified of these meetings.

The bylaws may clarify who has the right to vote if more than one person owns the unit and how votes are to be held, for example, when a show of hands is permitted or when owners may ask for a poll vote. In a poll vote, the person's share of the unit factor assigned to their unit(s) determines the weight of their vote.

You may exercise your right to vote personally or by proxy. A proxy may be in an electronic format or hard copy format. If you have a mortgage, the first mortgagee may have the right to



vote in your place if it gives the corporation written notice of the mortgage. A mortgagee may vote by proxy, similar to an owner.

To be valid, the proxy must contain the name and unit number of the owner giving the proxy, and the name of the individual who holds the proxy. The date the proxy is given must also be included. The owner giving the proxy must sign the proxy form.

A proxy expires on the expiry date set out in the proxy, or six months from the date the proxy was given, whichever date is earlier. If a person who gave the proxy stops being an owner or a mortgagee of the unit, the proxy expires.

A proxy held by a condominium manager or an employee of the corporation or the management company can only be used for the purposes of establishing quorum for a meeting. The proxy must contain a statement that it was held only for that purpose.

Your bylaws, and rules established by the board or the corporation, may provide more direction on how proxies work.

If you owe money to the corporation for 30 days or more on the day before a vote, you will lose your right to vote.

Owners can vote on matters presented at any general meeting and on bylaw changes, changes to the common property and other matters permitted under the Act, regulation and the bylaws. Owners can also vote to elect the board of directors and to change the bylaws.

Voting may be conducted by written resolution, instead of calling a meeting.

## Termination of agreements

Condominium corporations have the ability to cancel certain contracts that the developer entered into on behalf of the corporation.

The first elected board may cancel most types of agreements, without penalty, within the first year after the board is elected. The board must give at least 60 days' written notice to the other party.



There are some exceptions to this ability to cancel agreements, including telecommunications agreements, alternative or renewable energy systems, and restrictive covenants.

The first elected board may cancel a management agreement without cause, if it was entered into by the interim board, if at least one year has elapsed since the agreement was entered into, or if the agreement permits

termination at an earlier date. After one year, the elected board may give 60 days' written notice to the management company of its intention to terminate the agreement.

## Reserve funds

The *Condominium Property Act* requires that condominium corporations establish and maintain a capital replacement reserve fund to provide for major repairs and replacement of property and common property owned by the corporation. As buildings age they need to be repaired and maintained, for example replacing the roof of the complex. The same is true of other parts of the common property such as the asphalt in the parking lot, underground utilities or services, and landscaping. Condominium owners must pay for the repair or replacement costs of the property owned by the corporation. The reserve fund is not used for repairs or replacements that are done annually.

Condominium corporations have two years from the date the condominium plan was registered to complete the initial reserve fund study and approve a plan. A reserve fund study of the depreciating property must be conducted at least every five years. The reserve fund study must:

- identify what may need to be repaired or replaced within the period of the study, which must cover at least the next 30 years
- assess the present condition of the property and estimate when it will need to be repaired or replaced
- estimate the costs of repair or replacement of the property, at a cost no less than current costs
- identify the life expectancy of a component if it is repaired or replaced.

The Act and regulations give the corporation the responsibility and authority to make decisions around the reserve fund. The corporation must:

- engage a reserve fund study provider to conduct and prepare a reserve fund study
- receive a reserve fund report from the reserve fund study provider and prepare and adopt a reserve fund plan based on the reserve fund study report
- provide a copy of the approved reserve fund plan to the owners before implementing the plan
- maintain the reserve fund at an appropriate level so that the corporation can meet the statutory requirements

- maintain the reserve fund in a separate trust bank account and not combine the funds with other corporation funds except when bills are paid under the reserve fund plan, and ensure all managers or other persons handling the corporation money do the same\*
- prepare and provide to the owners, at the time of giving notice of every annual general meeting, an annual report on the reserve fund. The report must include the opening balance, money in and out, where the income came from, what money was spent during the year, and the list of property repaired or replaced and the costs incurred for the repair or replacement
- not use the reserve fund for “improvements” unless the owners vote by special resolution to allow it. Improvements are normally changes, enhancements, alterations or additions to the common property or property owned by the Corporation that are not listed in the reserve fund study report.

\*NOTE: The regulation now permits the board to use the corporation’s reserve fund account for operational expenses, under specified conditions, during a government-declared public emergency. A transfer from the reserve fund to pay for operational expenses can occur only during the state of emergency. For additional information about using the reserve fund during an emergency, please see the fact sheet available at <https://www.alberta.ca/condominium-rules.aspx> .

## How much money should be in the reserve fund?

Each condominium corporation will have a different amount in its reserve fund. The corporation determines how much money it should have in its reserve fund by completing a reserve fund study. The reserve fund study is prepared for use by the condominium board, owners and buyers. It is not reviewed by the government.

## How is the reserve fund financed?

Corporations may meet their funding requirements by

- adding an allocation for the reserve fund to the monthly contributions (condominium fees)
- temporarily increasing condominium contributions to meet a shortfall in the reserve fund
- levying special assessments (immediately or in the future)
- borrowing money
- using any combination of the above requirements.

This gives the corporation maximum flexibility as to how and when to deal with repair and replacement costs, while at the same time enabling it to deal with any potential surprises and undue hardship for owners.

For example, if the corporation does not have enough money in the reserve fund to cover significant repairs or incurs other large unexpected expenses, the board may require each condominium owner to pay a special levy to cover the costs.

## Who can do a reserve fund study?

Only a reserve fund study provider can do a reserve fund study. For additional information about reserve fund study providers, please see the fact sheet available at <https://www.alberta.ca/condominium-rules.aspx>.

The corporation is advised to obtain quotes for a reserve fund study, as it would get quotes for any other contract. When choosing the person who best meets all the requirements of the legislation, the corporation may want to:

- ask for verification of the person's qualifications
- ask for proof of liability insurance
- ask for and check references
- examine one of the person's other reserve fund study reports to see if it meets the corporation's needs and is understandable
- ask what follow-up assistance the person will provide
- interview the person
- ask about fees and any additional costs
- ask about timelines for completing the study and report.

Whoever is hired must provide the corporation with information about their qualifications. A business corporation can be recognized as a reserve fund study provider, and may complete a reserve fund study, assigning tasks to people who are not considered qualified, as long as a qualified person is part of the project team.

## Corporations with 12 or fewer units

In condominium corporations with 12 or fewer units, the owners have a choice on how to conduct a reserve fund study. They may hire a reserve fund study provider or they may vote (by special resolution) to let the corporation be its own reserve fund study provider (meaning, the owners can do the study themselves). This is the only size-related exemption in the condominium legislation.

Condominium corporations who act as their own reserve fund study providers must meet all the criteria and guidelines for the report and reserve fund plan. If the owners do not pass a special

resolution, the corporation must hire a reserve fund study provider to complete the reserve fund study and report.

## Updating the reserve fund study

At least every five years, condominium corporations must conduct a new reserve fund study. Once completed, the board must develop and adopt a new reserve fund plan. Before implementing the plan it must be presented to the unit owners.

For additional information about reserve fund studies, content to be included in a reserve fund study report, and persons who are ineligible to act as a reserve fund study provider, please see the “Reserve Fund Study Providers, Plans and Reports” fact sheet available at <https://www.alberta.ca/condominium-rules.aspx>.

## Reserve fund plan

The board must prepare and approve a reserve fund plan based on the reserve fund report, decide what work to do and the order in which it will be done. The plan must show that sufficient funds will be available from the owner’s contributions to repair or replace the property identified in the report.

Some questions the board needs to consider when developing the reserve fund plan:

- How much money is needed to have sufficient funds in the reserve fund? If the report made any financial recommendations were they feasible or practical for the corporation?
- What are the priorities for repair and replacement and what maintenance can be done to extend the life of any of those components?
- What alternatives are available to raise the money needed to pay for the repair and replacement of property?
- What are the practical realities, for the board and the other owners, of these funding alternatives? Will one alternative cause more hardship and community disruption than another? Is there a strong reason to choose one alternative over the other? Perhaps the board could discuss alternatives with the owners at a general meeting before making the final decision. Good community relations suggest the owners should not be surprised by the board’s final decision.

Once the board has made the decision on which funding method to implement, it must adopt a reserve fund plan and send a copy to the owners. A reserve fund plan will normally cover a five-year period, but may be updated by the board each year.

## Conversions, previous rental buildings and new condominium corporations

Residential condominium conversions must have a reserve fund study, reserve fund study report and a reserve fund plan in place before the developer sells the first unit. Purchasers are entitled to receive a copy of the reserve fund report.

If all the condominium units are owned by one owner or a group of owners, and are used as a rental property, the condominium corporation does not need to have a reserve fund. However, if the owners decide to sell any of the units, the condominium corporation must complete the reserve fund study, reserve fund study report and a reserve fund plan before any unit is sold.

New condominium corporations have two years from the date of registration of the condominium plan to complete the reserve fund study, reserve fund study report, and reserve fund plan.

## Living in a condominium

When you own a condominium unit, you have the right to

- vote in matters presented to the owners for a vote
- access common areas, subject to the bylaws
- obtain information on the management or administration of the corporation
- use mediation, arbitration or court action to resolve disputes with the corporation, the board or other owners; and
- legally challenge improper conduct of a developer, condominium corporation, employee of a corporation, director, or other owner.

Along with having specific rights as a condominium owner, you also have the following responsibilities:

- to abide by the bylaws, and rules of the corporation, and to have your family, tenants and guests do so, as well;

and

- to pay all condominium contributions and assessments or levies on time.

To support good governance and establish good relations with other condominium owners, you are encouraged to

- be informed about the Act, the regulation, and the governance of the condominium corporation

- participate in governing the condominium corporation (for example, attend general meetings and information sessions; vote; serve on the board or on a committee)
- read the minutes of the general meetings and board meetings, the budget and financial statements, the corporation's newsletter
- express your views, provide feedback to the board when requested to do so, put any complaints or concerns in writing to the board for follow up
- keep the board aware of circumstances in the condominium complex, which might affect funding or other decisions
- maintain your own unit and any exclusive use common property

Every owner and board member is encouraged to seek out a copy of the condominium plan, the bylaws, the Act and regulation for their information, education, and to make sure they know their rights and are meeting their responsibilities. You can get a copy of the condominium plan and bylaws through the Alberta Land Titles Spatial Information System (SPIN2). You will need to know the condominium plan number (usually found on correspondence from the corporation) to obtain these documents. Contact information for SPIN2 is available in the Resource and Referral Information section at the end of this publication.

For access to the Act and regulation, please see the Queen's Printer information under Resource and Referral Information.

## **Resolving disputes**

Be aware that the government cannot become involved in disputes between condominium owners and boards or managers. If you have a dispute with the board or anyone in the complex, speak directly with the person involved to try and resolve the problem. If the conflict involves the bylaws, the Act, the regulation or the corporation, put your complaint in writing to the board of directors and/or the manager. If the matter is not resolved, you may want to get legal advice.

If an owner or any person who has a registered interest in a unit believes there has been improper conduct by the developer, a corporation, an employee of a corporation, director, or owner, they can apply to the court to resolve the problem. An example of improper conduct includes non-compliance with the Act, regulation or the bylaws.

As an alternative to court action, condominium disputes can be resolved using mediation and/or arbitration. These processes involve using an objective third party. A mediator helps the parties negotiate their own resolution to the problem. An arbitrator makes a decision after all the parties present their cases.

All those involved need to agree on the process and on a mediator or arbitrator. If they agree to the process but cannot agree on a mediator or arbitrator, the Alberta Arbitration and Mediation Society can appoint one for them. The parties involved pay the costs of the dispute resolution.

For additional information, please see the “Resolving Condominium Disputes” and “Condominium Rules, Bylaws and Sanctions” fact sheets available at <https://www.alberta.ca/condominium-rules.aspx>.

## Taxes

You will pay municipal taxes on your condominium unit. It is a good idea to double check with the municipal government to confirm the amount of the taxes.

## Entering the unit

No one may enter your unit without your consent or without giving you proper notice unless there is an emergency. An emergency would include the provision of water, power, and heat, or any other service that would affect other owners. If there is no emergency, you must be given at least 24-hours notice before someone can enter your unit to repair the problem. The notice must be in writing, state the reason for entry, and set a date and time for entry. The hours for entry are between 8 a.m. and 8 p.m.

## Renting units

If you want to rent your unit to someone else, you must inform the corporation in writing of your intent, your future address, and the amount of the rent to be charged for the unit. You must name your tenant in writing to the corporation within 20 days after the tenancy starts.

The corporation may require that you pay a deposit that could be used to repair or replace common property damaged by your tenant. The maximum amount of the deposit is \$1000, or the equivalent of one month’s rent, whichever is higher. Be aware that you may not use the security deposit paid to you by your tenant to pay for a deposit requested by the corporation. The *Residential Tenancies Act* requires you to place the tenant’s deposit in a trust account until the end of the tenancy.

If you do not pay your condominium contributions, the corporation can direct the tenant to pay all or part of the rent to the corporation to cover your unpaid condominium contributions.

The tenant is bound by the bylaws of the corporation. If your tenant contravenes the bylaws or damages the common property or the corporation’s property, the corporation can ask you to evict the tenant. It can also give the tenant and you the notice directly. You should give your tenant a



copy of the bylaws at the beginning of the tenancy so they know the requirements they will have to follow.

The *Residential Tenancies Act* may affect you and your tenant if you are renting a residential unit. (Please see *Information for tenants and landlords* on the alberta.ca website). If there is a conflict between the *Residential Tenancies Act* and the *Condominium Property Act*, the *Condominium Property Act* applies.

For additional information, please see the “Condominium Unit Rentals” fact sheet available at <https://www.alberta.ca/condominium-rules.aspx> .

## Personal information

Condominium corporations are required to protect personal information under the *Personal Information Protection Act*. However, corporations can collect and use personal information that is reasonable for their business or required under the *Condominium Property Act*. For example, corporations can maintain lists of owners with contact information, record names in minutes for proper business purposes and provide copies of those minutes to other owners or purchasers under the *Condominium Property Act*. Information about privacy issues in condominium corporations can be obtained by contacting the PIPA Information Line. (Please see the next section for contact details.)

## Resource and referral information

### Consumer Contact Centre

Edmonton: 780-427-4088

Toll free in Alberta: 1-877-427-4088

### Alberta Land Titles Spatial Information System (SPIN2)

<https://alta.registries.gov.ab.ca/spinii/logon.aspx>

780-427-2742 (Edmonton)

403-297-6511 (Calgary)

8:15 am - 4:00 pm (Monday to Friday, closed statutory holidays)

## Finding a registry agent:

[www.alberta.ca](http://www.alberta.ca) (search for “find a registry agent”)  
Yellow Pages under License and Registry Services

## Centre for Public Legal Education

Condo Law for Albertans

<https://www.condolawalberta.ca/about/>

## Canadian Condominium Institute, North Alberta

780-453-9004

<http://www.ccinorthalberta.com>

## Canadian Condominium Institute, South Alberta

403-253-9082

<https://ccisouthalberta.com/>

## Canada Mortgage and Housing Corporation

1-800-668-2642

<https://www.cmhc-schl.gc.ca/>

## Service Alberta

### Condominium Fact Sheets

<https://www.alberta.ca/condominium-rules.aspx>

*Personal Information Protection Act - PIPA*

Information line: dial 310-0000 first then 780-644-PIPA (7472)

PIPA and Condominium Corporations

Privacy & Accessing Information, Service Alberta

<http://www.alberta.ca>

## Real Estate Council of Alberta

1-888-425-2754

<https://www.reca.ca/>

## **ADR Institute of Alberta (ADRIA)**

1-800-232-7214

<https://www.adralberta.com/>

## **Alberta Queen's Printer**

You may purchase Acts and regulations from the website or from Queen's Printer Bookstore:

10611 - 98 Avenue, Edmonton, Alberta T5K 2P7

Edmonton: (780) 427-4952

Toll-free in Alberta: 310-0000 then 780-427-4952

The legislation is also free for you to download in the "pdf" or "html" formats or purchase online at

<http://www.qp.alberta.ca/>