



CHANGES TO CONDOMINIUM AND PLANNED COMMUNITY ACTS

On January 1, 2006, several new laws will take effect that impact homeowner and condominium associations. Highlights of these changes are as follows:

Late Fees

- Late fees are limited to \$20 per month or 10% of any assessment installment unpaid, whichever is greater. The owner has fifteen days to pay the debt without owing attorney's fees, and must be notified of this grace period by first class mail. This notice must provide contact information for a representative of the Association (e.g., the attorney) so that a payment schedule can be discussed.
- Associations cannot charge service, collection, consulting, or administration fees unless provided in the Declaration. Any lien securing a debt consisting of only such fees may only be enforced by a special judicial foreclosure (which takes longer and is more expensive).
- Attorney's fees in uncontested collection foreclosure cases cannot exceed \$1,200. This attorney's fee limitation does not apply to the special judicial foreclosure process necessary to foreclose liens for fines and service fees.
- An Executive Board may allow outstanding balances to be paid in installments. Reasonable administrative fees and costs for accepting and processing installments may be added. Reasonable attorney's fees may also be added for monitoring an installment schedule; however, the lot owner must be notified of any additional attorney's fees imposed for monitoring.

Fine Hearings

- Fine hearings must be held before the Executive Board or an adjudicatory panel appointed by the Executive Board. Any adjudicatory panel must be composed of

members of the Association who are not officers or members of the Executive Board.

- The daily fine amount has been reduced from \$150 to \$100. A fine may not be imposed until five days after the decision.
- An owner may appeal an adjudicatory panel's decision to the Executive Board by delivering written notice of appeal within fifteen days of the decision. The Executive Board may affirm, vacate or modify the decision.
- A lien consisting only of fines, interest on fines, or attorney's fees related to fines may not be foreclosed with the normal foreclosure process. A special foreclosure process, which is more expensive and takes longer, must be used.

Publish Officers and Directors

- The Association must "publish" the names and addresses of all officers and board members within thirty (30) days of their election.

Board Meetings

- At regular intervals, the Executive Board must provide lot owners an opportunity to attend a portion of the executive board meeting and to speak about issues or concerns. Reasonable restrictions may be placed on speaking time limits and on the number of persons on each side of an issue.
- Board and annual meetings shall be conducted in accordance with the most recent edition of *Robert's Rules of Order Newly Revised*.
- Unless otherwise specified in the Bylaws, the Association must keep accurate records of meetings of the Association and Executive Board, all cash receipts and expenditures, and all assets and liabilities. The Association must make an annual income and expense statement and balance sheet available to lot owners at no charge within seventy-five (75) days after the close of the fiscal year. A more extensive compilation, review or audit for the current or immediately preceding fiscal year may be ordered by the Executive Board or by a majority vote of the lot owners present and voting in person or by proxy at the annual meeting or a special meeting duly called for that purpose.

This document is only a summary of the changes and is not legal advice or a legal opinion. Specific questions should be directed to a lawyer at Forman Rossabi Black, P.A., or to another attorney.

- No financial payments, including goods and services, may be made to any officer or member of the Executive Board or to a business, business associate or relative of an officer or member of the Executive Board, except as expressly provided in the Bylaws in payment on behalf of the Association and as approved in advance by the Executive Board.

Flags and Political Signs

- American flags and North Carolina flags no bigger than 4'x6' are allowed unless:
 - a) The declaration was recorded prior to October 1, 2005, and specifically prohibits "Flag of the United States of America," "American flag," "United States flag," or "North Carolina flag."
 - b) The declaration was recorded on or after October 1, 2005, and states on the first page in boldface type with all capital letters: "**THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF THE FLAG OF THE UNITED STATES OF AMERICA OR STATE OF NORTH CAROLINA.**"
- Political signs are allowed unless:
 - a) The declaration was recorded prior to October 1, 2005, and specifically has language prohibiting "political signs."
 - b) The declaration was recorded on or after October 1, 2005, and states on the first page in all capital letters and bold "**THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF POLITICAL SIGNS.**"
- An Association may prohibit political signs earlier than forty-five (45) days before or later than seven (7) days after an election. The Association may also regulate the size and number of political signs placed on a member's property, so long as the Association's restriction is no more restrictive than any local ordinance. If there is no local regulation, the Association must permit at least one political sign up to 24"x24" on any lot.

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