

**Effective 5/12/2015**

**Superseded 5/10/2016**

**57-8-8.1 Equal treatment by rules required -- Limits on rules.**

- (1)
  - (a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated unit owners similarly.
  - (b) Notwithstanding Subsection (1)(a), a rule may:
    - (i) vary according to the level and type of service that the association of unit owners provides to unit owners; and
    - (ii) differ between residential and nonresidential uses.
- (2)
  - (a) If a unit owner owns a rental unit and is in compliance with the association of unit owners' governing documents and any rule that the association of unit owners adopts under Subsection (4), a rule may not treat the unit owner differently because the unit owner owns a rental unit.
  - (b) Notwithstanding Subsection (2)(a), a rule may:
    - (i) limit or prohibit a rental unit owner from using the common areas for purposes other than attending an association meeting or managing the rental unit;
    - (ii) if the rental unit owner retains the right to use the association of unit owners' common areas, even occasionally, charge a rental unit owner a fee to use the common areas; or
    - (iii) include a provision in the association of unit owners' governing documents that:
      - (A) requires each tenant of a rental unit to abide by the terms of the governing documents; and
      - (B) holds the tenant and the rental unit owner jointly and severally liable for a violation of a provision of the governing documents.
- (3)
  - (a) A rule may not interfere with the freedom of a unit owner to determine the composition of the unit owner's household.
  - (b) Notwithstanding Subsection (3)(a), an association of unit owners may:
    - (i) require that all occupants of a dwelling be members of a single housekeeping unit; or
    - (ii) limit the total number of occupants permitted in each residential dwelling on the basis of the residential dwelling's:
      - (A) size and facilities; and
      - (B) fair use of the common areas.
- (4) Unless contrary to a declaration, a rule may require a minimum lease term.
- (5) Unless otherwise provided in the declaration, an association of unit owners may by rule:
  - (a) regulate the use, maintenance, repair, replacement, and modification of common areas;
  - (b) impose and receive any payment, fee, or charge for:
    - (i) the use, rental, or operation of the common areas, except limited common areas; and
    - (ii) a service provided to a unit owner;
  - (c) impose a charge for a late payment of an assessment; or
  - (d) provide for the indemnification of the association of unit owners' officers and board consistent with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.
- (6) A rule shall be reasonable.
- (7) A declaration, or an amendment to a declaration, may vary any of the requirements of Subsections (1) through (5), except Subsection (1)(b)(ii).
- (8) This section applies to an association regardless of when the association is created.