

1 **CONDOMINIUM AND COMMUNITY ASSOCIATION REGULATION**

2 **AMENDMENTS**

3 2021 GENERAL SESSION

4 STATE OF UTAH

5

6 **LONG TITLE**

7 **General Description:**

8 This bill amends the Condominium Ownership Act and the Community Association
9 Act.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ prevents a condominium or homeowners association from prohibiting a
- 13 condominium unit or lot owner from installing a personal security camera on the
- 14 owner's unit or structure on the owner's lot; and
- 15 ▶ makes technical changes.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **57-8-8.1**, as last amended by Laws of Utah 2016, Chapters 154 and 348

23 **57-8a-218**, as last amended by Laws of Utah 2017, Chapter 131

24

25 *Be it enacted by the Legislature of the state of Utah:*

26 Section 1. Section **57-8-8.1** is amended to read:

27 **57-8-8.1. Equal treatment by rules required -- Limits on rules.**

28 (1) (a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated unit
29 owners similarly.

30 (b) Notwithstanding Subsection (1)(a), a rule may:

31 (i) vary according to the level and type of service that the association of unit owners

32 provides to unit owners;

33 (ii) differ between residential and nonresidential uses; or

34 (iii) for a unit that a unit owner leases for a term of less than 30 days, impose a
35 reasonable limit on the number of individuals that may use the common areas and facilities as
36 the rental unit tenant's guest or as the unit owner's guest.

37 (2) (a) If a unit owner owns a rental unit and is in compliance with the association of
38 unit owners' governing documents and any rule that the association of unit owners adopts under
39 Subsection (4), a rule may not treat the unit owner differently because the unit owner owns a
40 rental unit.

41 (b) Notwithstanding Subsection (2)(a), a rule may:

42 (i) limit or prohibit a rental unit owner from using the common areas and facilities for
43 purposes other than attending an association meeting or managing the rental unit;

44 (ii) if the rental unit owner retains the right to use the association of unit owners'
45 common areas and facilities, even occasionally:

46 (A) charge a rental unit owner a fee to use the common areas and facilities; and

47 (B) for a unit that a unit owner leases for a term of less than 30 days, impose a
48 reasonable limit on the number of individuals that may use the common areas and facilities as
49 the rental unit tenant's guest or as the unit owner's guest; or

50 (iii) include a provision in the association of unit owners' governing documents that:

51 (A) requires each tenant of a rental unit to abide by the terms of the governing
52 documents; and

53 (B) holds the tenant and the rental unit owner jointly and severally liable for a violation
54 of a provision of the governing documents.

55 (3) (a) A rule may not interfere with the freedom of a unit owner to determine the
56 composition of the unit owner's household.

57 (b) Notwithstanding Subsection (3)(a), an association of unit owners may:

58 (i) require that all occupants of a dwelling be members of a single housekeeping unit;
59 or

60 (ii) limit the total number of occupants permitted in each residential dwelling on the
61 basis of the residential dwelling's:

62 (A) size and facilities; and

63 (B) fair use of the common areas and facilities.

64 (4) Unless contrary to a declaration, a rule may require a minimum lease term.

65 (5) Unless otherwise provided in the declaration, an association of unit owners may by
66 rule:

67 (a) regulate the use, maintenance, repair, replacement, and modification of common
68 areas and facilities;

69 (b) impose and receive any payment, fee, or charge for:

70 (i) the use, rental, or operation of the common areas, except limited common areas and
71 facilities; and

72 (ii) a service provided to a unit owner;

73 (c) impose a charge for a late payment of an assessment; or

74 (d) provide for the indemnification of the association of unit owners' officers and
75 management committee consistent with Title 16, Chapter 6a, Utah Revised Nonprofit
76 Corporation Act.

77 (6) (a) Except as provided in Subsection (6)(b), a rule may not prohibit a unit owner
78 from installing a personal security camera on the entryway, window, or outside of the owner's
79 condominium unit.

80 (b) A rule may prohibit a unit owner from installing a personal security camera in a
81 common area not physically connected to the owner's unit.

82 ~~[(6)]~~ (7) A rule shall be reasonable.

83 ~~[(7)]~~ (8) A declaration, or an amendment to a declaration, may vary any of the
84 requirements of Subsections (1) through (5), except Subsection (1)(b)(ii).

85 ~~[(8)]~~ (9) This section applies to an association of unit owners regardless of when the
86 association of unit owners is created.

87 Section 2. Section **57-8a-218** is amended to read:

88 **57-8a-218. Equal treatment by rules required -- Limits on association rules and**
89 **design criteria.**

90 (1) (a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated lot
91 owners similarly.

92 (b) Notwithstanding Subsection (1)(a), a rule may:

93 (i) vary according to the level and type of service that the association provides to lot

94 owners;

95 (ii) differ between residential and nonresidential uses; and

96 (iii) for a lot that an owner leases for a term of less than 30 days, impose a reasonable
97 limit on the number of individuals who may use the common areas and facilities as guests of
98 the lot tenant or lot owner.

99 (2) (a) If a lot owner owns a rental lot and is in compliance with the association's
100 governing documents and any rule that the association adopts under Subsection (4), a rule may
101 not treat the lot owner differently because the lot owner owns a rental lot.

102 (b) Notwithstanding Subsection (2)(a), a rule may:

103 (i) limit or prohibit a rental lot owner from using the common areas for purposes other
104 than attending an association meeting or managing the rental lot;

105 (ii) if the rental lot owner retains the right to use the association's common areas, even
106 occasionally:

107 (A) charge a rental lot owner a fee to use the common areas; or

108 (B) for a lot that an owner leases for a term of less than 30 days, impose a reasonable
109 limit on the number of individuals who may use the common areas and facilities as guests of
110 the lot tenant or lot owner; or

111 (iii) include a provision in the association's governing documents that:

112 (A) requires each tenant of a rental lot to abide by the terms of the governing
113 documents; and

114 (B) holds the tenant and the rental lot owner jointly and severally liable for a violation
115 of a provision of the governing documents.

116 (3) (a) A rule criterion may not abridge the rights of a lot owner to display religious
117 and holiday signs, symbols, and decorations inside a dwelling on a lot.

118 (b) Notwithstanding Subsection (3)(a), the association may adopt time, place, and
119 manner restrictions with respect to displays visible from outside the dwelling or lot.

120 (4) (a) A rule may not regulate the content of political signs.

121 (b) Notwithstanding Subsection (4)(a):

122 (i) a rule may regulate the time, place, and manner of posting a political sign; and

123 (ii) an association design provision may establish design criteria for political signs.

124 (5) (a) A rule may not interfere with the freedom of a lot owner to determine the

125 composition of the lot owner's household.

126 (b) Notwithstanding Subsection (5)(a), an association may:

127 (i) require that all occupants of a dwelling be members of a single housekeeping unit;

128 or

129 (ii) limit the total number of occupants permitted in each residential dwelling on the

130 basis of the residential dwelling's:

131 (A) size and facilities; and

132 (B) fair use of the common areas.

133 (6) (a) A rule may not interfere with an activity of a lot owner within the confines of a

134 dwelling or lot, to the extent that the activity is in compliance with local laws and ordinances.

135 (b) Notwithstanding Subsection (6)(a), a rule may prohibit an activity within a dwelling

136 on an owner's lot if the activity:

137 (i) is not normally associated with a project restricted to residential use; or

138 (ii) (A) creates monetary costs for the association or other lot owners;

139 (B) creates a danger to the health or safety of occupants of other lots;

140 (C) generates excessive noise or traffic;

141 (D) creates unsightly conditions visible from outside the dwelling;

142 (E) creates an unreasonable source of annoyance to persons outside the lot; or

143 (F) if there are attached dwellings, creates the potential for smoke to enter another lot

144 owner's dwelling, the common areas, or limited common areas.

145 (c) If permitted by law, an association may adopt rules described in Subsection (6)(b)

146 that affect the use of or behavior inside the dwelling.

147 (7) (a) A rule may not, to the detriment of a lot owner and over the lot owner's written

148 objection to the board, alter the allocation of financial burdens among the various lots.

149 (b) Notwithstanding Subsection (7)(a), an association may:

150 (i) change the common areas available to a lot owner;

151 (ii) adopt generally applicable rules for the use of common areas; or

152 (iii) deny use privileges to a lot owner who:

153 (A) is delinquent in paying assessments;

154 (B) abuses the common areas; or

155 (C) violates the governing documents.

- 156 (c) This Subsection (7) does not permit a rule that:
- 157 (i) alters the method of levying assessments; or
- 158 (ii) increases the amount of assessments as provided in the declaration.
- 159 (8) (a) Subject to Subsection (8)(b), a rule may not:
- 160 (i) prohibit the transfer of a lot; or
- 161 (ii) require the consent of the association or board to transfer a lot.
- 162 (b) Unless contrary to a declaration, a rule may require a minimum lease term.
- 163 (9) (a) A rule may not require a lot owner to dispose of personal property that was in or
- 164 on a lot before the adoption of the rule or design criteria if the personal property was in
- 165 compliance with all rules and other governing documents previously in force.
- 166 (b) The exemption in Subsection (9)(a):
- 167 (i) applies during the period of the lot owner's ownership of the lot; and
- 168 (ii) does not apply to a subsequent lot owner who takes title to the lot after adoption of
- 169 the rule described in Subsection (9)(a).
- 170 (10) A rule or action by the association or action by the board may not unreasonably
- 171 impede a declarant's ability to satisfy existing development financing for community
- 172 improvements and right to develop:
- 173 (a) the project; or
- 174 (b) other properties in the vicinity of the project.
- 175 (11) A rule or association or board action may not interfere with:
- 176 (a) the use or operation of an amenity that the association does not own or control; or
- 177 (b) the exercise of a right associated with an easement.
- 178 (12) A rule may not divest a lot owner of the right to proceed in accordance with a
- 179 completed application for design review, or to proceed in accordance with another approval
- 180 process, under the terms of the governing documents in existence at the time the completed
- 181 application was submitted by the owner for review.
- 182 (13) Unless otherwise provided in the declaration, an association may by rule:
- 183 (a) regulate the use, maintenance, repair, replacement, and modification of common
- 184 areas;
- 185 (b) impose and receive any payment, fee, or charge for:
- 186 (i) the use, rental, or operation of the common areas, except limited common areas; and

187 (ii) a service provided to a lot owner;
188 (c) impose a charge for a late payment of an assessment; or
189 (d) provide for the indemnification of the association's officers and board consistent
190 with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

191 (14) A rule may not prohibit a lot owner from installing a personal security camera on
192 a structure on the owner's lot.

193 [~~(14)~~] (15) A rule shall be reasonable.

194 [~~(15)~~] (16) A declaration, or an amendment to a declaration, may vary any of the
195 requirements of Subsections (1) through (13), except Subsection (1)(b)(ii).

196 [~~(16)~~] (17) A rule may not be inconsistent with a provision of the association's
197 declaration, bylaws, or articles of incorporation.

198 [~~(17)~~] (18) This section applies to an association regardless of when the association is
199 created.