

1 **CONDOMINIUM AND COMMUNITY ASSOCIATION**

2 **REGULATION AMENDMENTS**

3 2021 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Curtis S. Bramble**

6 House Sponsor: James A. Dunnigan

7

LONG TITLE

8 **Committee Note:**

9 The Business and Labor Interim Committee recommended this bill.

10 Legislative Vote: 14 voting for 0 voting against 6 absent

11 **General Description:**

12 This bill amends the Condominium Ownership Act and the Community Association
13 Act.

14 **Highlighted Provisions:**

15 This bill:

16 ▶ prevents a condominium or homeowners association from prohibiting a
17 condominium unit or lot owner from installing a personal security camera on the
18 owner's unit or structure on the owner's lot; and

19 ▶ makes technical changes.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **57-8-8.1**, as last amended by Laws of Utah 2016, Chapters 154 and 348
27



28 **57-8a-218**, as last amended by Laws of Utah 2017, Chapter 131



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

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

32 **57-8-8.1. Equal treatment by rules required -- Limits on rules.**

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

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

36 (i) vary according to the level and type of service that the association of unit owners
37 provides to unit owners;

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

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

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

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

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

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

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

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

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

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

58 (B) holds the tenant and the rental unit owner jointly and severally liable for a violation

59 of a provision of the governing documents.

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

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

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

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

67 (A) size and facilities; and

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

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

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

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

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

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

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

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

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

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

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

87 [~~6~~] (7) A rule shall be reasonable.

88 [~~7~~] (8) A declaration, or an amendment to a declaration, may vary any of the
89 requirements of Subsections (1) through (5), except Subsection (1)(b)(ii).

90 [(8)] (9) This section applies to an association of unit owners regardless of when the
91 association of unit owners is created.

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

93 **57-8a-218. Equal treatment by rules required -- Limits on association rules and**
94 **design criteria.**

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

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

98 (i) vary according to the level and type of service that the association provides to lot
99 owners;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

129 (5) (a) A rule may not interfere with the freedom of a lot owner to determine the
130 composition of the lot owner's household.

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

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

133 or

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

136 (A) size and facilities; and

137 (B) fair use of the common areas.

138 (6) (a) A rule may not interfere with an activity of a lot owner within the confines of a
139 dwelling or lot, to the extent that the activity is in compliance with local laws and ordinances.

140 (b) Notwithstanding Subsection (6)(a), a rule may prohibit an activity within a dwelling
141 on an owner's lot if the activity:

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

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

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

145 (C) generates excessive noise or traffic;

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

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

148 (F) if there are attached dwellings, creates the potential for smoke to enter another lot
149 owner's dwelling, the common areas, or limited common areas.

150 (c) If permitted by law, an association may adopt rules described in Subsection (6)(b)
151 that affect the use of or behavior inside the dwelling.

152 (7) (a) A rule may not, to the detriment of a lot owner and over the lot owner's written
153 objection to the board, alter the allocation of financial burdens among the various lots.

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

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

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

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

158 (A) is delinquent in paying assessments;

159 (B) abuses the common areas; or

160 (C) violates the governing documents.

161 (c) This Subsection (7) does not permit a rule that:

162 (i) alters the method of levying assessments; or

163 (ii) increases the amount of assessments as provided in the declaration.

164 (8) (a) Subject to Subsection (8)(b), a rule may not:

165 (i) prohibit the transfer of a lot; or

166 (ii) require the consent of the association or board to transfer a lot.

167 (b) Unless contrary to a declaration, a rule may require a minimum lease term.

168 (9) (a) A rule may not require a lot owner to dispose of personal property that was in or
169 on a lot before the adoption of the rule or design criteria if the personal property was in
170 compliance with all rules and other governing documents previously in force.

171 (b) The exemption in Subsection (9)(a):

172 (i) applies during the period of the lot owner's ownership of the lot; and

173 (ii) does not apply to a subsequent lot owner who takes title to the lot after adoption of
174 the rule described in Subsection (9)(a).

175 (10) A rule or action by the association or action by the board may not unreasonably
176 impede a declarant's ability to satisfy existing development financing for community
177 improvements and right to develop:

178 (a) the project; or

179 (b) other properties in the vicinity of the project.

180 (11) A rule or association or board action may not interfere with:

181 (a) the use or operation of an amenity that the association does not own or control; or

182 (b) the exercise of a right associated with an easement.

183 (12) A rule may not divest a lot owner of the right to proceed in accordance with a
184 completed application for design review, or to proceed in accordance with another approval
185 process, under the terms of the governing documents in existence at the time the completed
186 application was submitted by the owner for review.

187 (13) Unless otherwise provided in the declaration, an association may by rule:

188 (a) regulate the use, maintenance, repair, replacement, and modification of common
189 areas;

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

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

192 (ii) a service provided to a lot owner;

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

194 (d) provide for the indemnification of the association's officers and board consistent

195 with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

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

198 [~~14~~] (15) A rule shall be reasonable.

199 [~~15~~] (16) A declaration, or an amendment to a declaration, may vary any of the
200 requirements of Subsections (1) through (13), except Subsection (1)(b)(ii).

201 [~~16~~] (17) A rule may not be inconsistent with a provision of the association's
202 declaration, bylaws, or articles of incorporation.

203 [~~17~~] (18) This section applies to an association regardless of when the association is
204 created.