

PROPERTY OWNER ASSOCIATION AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Norman K Thurston

Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill amends provisions of the Condominium Ownership Act and the Community Association Act in relation to radon mitigation.

Highlighted Provisions:

This bill:

▶ prohibits an association of unit owners or a homeowner association from adopting or enforcing a rule that prohibits an owner from making modifications for radon mitigation.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-8-8.1, as last amended by Laws of Utah 2023, Chapter 503

57-8a-218, as last amended by Laws of Utah 2023, Chapter 503

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

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

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 immediately adjacent to the entryway, window, or
79 other outside entry point of the owner's 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 (7) (a) A rule may not abridge the right of a unit owner to display a religious or holiday
83 sign, symbol, or decoration inside the owner's condominium unit.

84 (b) An association may adopt a reasonable time, place, and manner restriction with
85 respect to a display that is visible from the exterior of a unit.

86 (8) (a) A rule may not:

87 (i) prohibit a unit owner from displaying in a window of the owner's condominium
88 unit:

89 (A) a for-sale sign; or

- 90 (B) a political sign;
- 91 (ii) regulate the content of a political sign; or
- 92 (iii) establish design criteria for a political sign.

93 (b) Notwithstanding Subsection (8)(a), a rule may reasonably regulate the size and
 94 time, place, and manner of posting a for-sale sign or a political sign.

95 (9) An association of unit owners:

96 (a) shall adopt rules supporting water-efficient landscaping, including allowance for
 97 low water use on lawns during drought conditions; and

98 (b) may not prohibit or restrict the conversion of a grass park strip to water-efficient
 99 landscaping.

100 (10) A rule may restrict a sex offender from accessing a protected area that is
 101 maintained, operated, or owned by the association, subject to the exceptions described in
 102 Subsection [77-27-21.7\(3\)](#).

103 (11) (a) Except as provided in Subsection (11)(b), a rule may not prohibit a unit owner
 104 from making modifications, consistent with industry standards, for radon mitigation.

105 (b) Subsection (11)(a) does not apply if the modifications would violate:

106 (i) a local land use ordinance;

107 (ii) a building code;

108 (iii) a health code; or

109 (iv) a fire code.

110 [~~(11)~~] (12) A rule shall be reasonable.

111 [~~(12)~~] (13) A declaration, or an amendment to a declaration, may vary any of the
 112 requirements of Subsections (1) through (5), except Subsection (1)(b)(ii).

113 [~~(13)~~] (14) This section applies to an association of unit owners regardless of when the
 114 association of unit owners is created.

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

116 **57-8a-218. Equal treatment by rules required -- Limits on association rules and**
 117 **design criteria.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

144 (3) (a) A rule criterion may not abridge the rights of a lot owner to display a religious
145 or holiday sign, symbol, or decoration:

146 (i) inside a dwelling on a lot; or

147 (ii) outside a dwelling on:

148 (A) a lot;

149 (B) the exterior of the dwelling, unless the association has an ownership interest in, or
150 a maintenance, repair, or replacement obligation for, the exterior; or

151 (C) the front yard of the dwelling, unless the association has an ownership interest in,

152 or a maintenance, repair, or replacement obligation for, the yard.

153 (b) Notwithstanding Subsection (3)(a), the association may adopt a reasonable time,
154 place, and manner restriction with respect to a display that is:

155 (i) outside a dwelling on:

156 (A) a lot;

157 (B) the exterior of the dwelling; or

158 (C) the front yard of the dwelling; and

159 (ii) visible from outside the lot.

160 (4) (a) A rule may not prohibit a lot owner from displaying a political sign:

161 (i) inside a dwelling on a lot; or

162 (ii) outside a dwelling on:

163 (A) a lot;

164 (B) the exterior of the dwelling, regardless of whether the association has an ownership
165 interest in the exterior; or

166 (C) the front yard of the dwelling, regardless of whether the association has an
167 ownership interest in the yard.

168 (b) A rule may not regulate the content of a political sign.

169 (c) Notwithstanding Subsection (4)(a), a rule may reasonably regulate the time, place,
170 and manner of posting a political sign.

171 (d) An association design provision may not establish design criteria for a political
172 sign.

173 (5) (a) A rule may not prohibit a lot owner from displaying a for-sale sign:

174 (i) inside a dwelling on a lot; or

175 (ii) outside a dwelling on:

176 (A) a lot;

177 (B) the exterior of the dwelling, regardless of whether the association has an ownership
178 interest in the exterior; or

179 (C) the front yard of the dwelling, regardless of whether the association has an
180 ownership interest in the yard.

181 (b) Notwithstanding Subsection (5)(a), a rule may reasonably regulate the time, place,
182 and manner of posting a for-sale sign.

183 (6) (a) A rule may not interfere with the freedom of a lot owner to determine the
184 composition of the lot owner's household.

185 (b) Notwithstanding Subsection (6)(a), an association may:

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

187 or

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

190 (A) size and facilities; and

191 (B) fair use of the common areas.

192 (7) (a) A rule may not interfere with a reasonable activity of a lot owner within the
193 confines of a dwelling or lot, including backyard landscaping or amenities, to the extent that
194 the activity is in compliance with local laws and ordinances, including nuisance laws and
195 ordinances.

196 (b) Notwithstanding Subsection (7)(a), a rule may prohibit an activity within the
197 confines of a dwelling or lot, including backyard landscaping or amenities, if the activity:

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

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

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

201 (C) generates excessive noise or traffic;

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

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

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

206 (c) If permitted by law, an association may adopt rules described in Subsection (7)(b)
207 that affect the use of or behavior inside the dwelling.

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

210 (b) Notwithstanding Subsection (8)(a), an association may:

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

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

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

- 214 (A) is delinquent in paying assessments;
- 215 (B) abuses the common areas; or
- 216 (C) violates the governing documents.
- 217 (c) This Subsection (8) does not permit a rule that:
- 218 (i) alters the method of levying assessments; or
- 219 (ii) increases the amount of assessments as provided in the declaration.
- 220 (9) (a) Subject to Subsection (9)(b), a rule may not:
- 221 (i) prohibit the transfer of a lot; or
- 222 (ii) require the consent of the association or board to transfer a lot.
- 223 (b) Unless contrary to a declaration, a rule may require a minimum lease term.
- 224 (10) (a) A rule may not require a lot owner to dispose of personal property that was in
- 225 or on a lot before the adoption of the rule or design criteria if the personal property was in
- 226 compliance with all rules and other governing documents previously in force.
- 227 (b) The exemption in Subsection (10)(a):
- 228 (i) applies during the period of the lot owner's ownership of the lot; and
- 229 (ii) does not apply to a subsequent lot owner who takes title to the lot after adoption of
- 230 the rule described in Subsection (10)(a).
- 231 (11) A rule or action by the association or action by the board may not unreasonably
- 232 impede a declarant's ability to satisfy existing development financing for community
- 233 improvements and right to develop:
- 234 (a) the project; or
- 235 (b) other properties in the vicinity of the project.
- 236 (12) A rule or association or board action may not interfere with:
- 237 (a) the use or operation of an amenity that the association does not own or control; or
- 238 (b) the exercise of a right associated with an easement.
- 239 (13) A rule may not divest a lot owner of the right to proceed in accordance with a
- 240 completed application for design review, or to proceed in accordance with another approval
- 241 process, under the terms of the governing documents in existence at the time the completed
- 242 application was submitted by the owner for review.
- 243 (14) Unless otherwise provided in the declaration, an association may by rule:
- 244 (a) regulate the use, maintenance, repair, replacement, and modification of common

245 areas;

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

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

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

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

250 (d) provide for the indemnification of the association's officers and board consistent
251 with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

252 (15) A rule may not prohibit a lot owner from installing a personal security camera
253 immediately adjacent to the entryway, window, or other outside entry point of the owner's
254 dwelling unit.

255 (16) (a) An association

256 shall adopt rules supporting water-efficient landscaping, including allowance for low
257 water use on lawns during drought conditions .

258 (b) A rule may not:

259 (i) prohibit or restrict the conversion of a grass park strip to water-efficient
260 landscaping; or

261 (ii) prohibit low water use on lawns during drought conditions.

262 (c) An association subject to this chapter and formed before March 5, 2023, shall adopt
263 rules required under Subsection (16)(a) before June 30, 2023.

264 (17) (a) Except as provided in Subsection (17)(b), a rule may not prohibit the owner of
265 a residential lot from constructing an internal accessory dwelling unit, as defined in Section
266 [10-9a-530](#), within the owner's residential lot.

267 (b) Subsection (17)(a) does not apply if the construction would violate:

268 (i) a local land use ordinance;

269 (ii) a building code;

270 (iii) a health code; or

271 (iv) a fire code.

272 (18) (a) Except as provided in Subsection (18)(b), a rule may not prohibit the owner of
273 a residential lot from making modifications, consistent with industry standards, for radon
274 mitigation.

275 (b) Subsection (18)(a) does not apply if the modifications would violate:

276 (i) a local land use ordinance;

277 (ii) a building code;

278 (iii) a health code; or

279 (iv) a fire code.

280 [~~18~~] (19) A rule may restrict a sex offender from accessing a protected area that is
281 maintained, operated, or owned by the association, subject to the exceptions described in
282 Subsection ~~77-27-21.7~~(3).

283 [~~19~~] (20) A rule shall be reasonable.

284 [~~20~~] (21) A declaration, or an amendment to a declaration, may vary any of the
285 requirements of Subsections (1), (2), (6), and (8) through (14), except Subsection (1)(b)(ii).

286 [~~21~~] (22) A rule may not be inconsistent with a provision of the association's
287 declaration, bylaws, or articles of incorporation.

288 [~~22~~] (23) This section applies to an association regardless of when the association is
289 created.

290 Section 3. **Effective date.**

291 This bill takes effect on May 1, 2024.