

# Condo Insights

## **#31 – Rules & Regulations for Condominium & Community Associations**

When you purchase a condo, you're automatically a member of the Association and enter into a covenant with the condominium or community Association. You'll have a voice in how the Association operates, but it also means you'll pay Association maintenance fees and that you agree to abide by, and be held accountable to, the terms outlined in the Association's Governing Documents. Governing documents include the Association Declaration of Covenants, Conditions, Easements and Restrictions (the "Declaration"), Master Deed, By-Laws, Rules & Regulations, and any recorded amendments.

An Association's Master Deed and Declaration contain the Association's primary set of rules. The Master Deed and Declaration establish guidelines for how condo owners can use the building, facilities, and common areas and in some cases establish guidelines for what owners can and cannot do in their individual condominium.

While governing documents vary between Associations, most include rules and regulations for acceptable behavior in the common areas. If not already explicitly stated in the Master Deed or Declaration, Associations establish rules that prohibit activities that cause unreasonably loud sounds or noise to prevent residents from disturbing another resident's peace and right to quiet enjoyment or to alter or damage any part of the common elements. Rules and regulations apply to all owners, and to any guests and tenants staying at or visiting the condo.

In most Associations, the Master Deed and By-Laws give the Board the authority to adopt reasonable rules and regulations that are in accordance with the Declaration and Bylaws. The rules and regulations are not typically recorded; therefore, to change or amend the rules and regulations, all that is required is a Board vote and a distribution of the changes to the membership. The rules must be distributed to the owners to be effective.

There are numerous samples of model rules and regulations available online. Associations typically establish rules regarding use of common areas, hallways, elevators, balconies and common walkways, recreational facilities, trash & recycling, pets, parking, bicycles, flags and holiday decorations, uniformity of exterior colors and appearance, unit renovations and construction. Other common rules involve smoking (and non-smoking areas) and prohibitions on glass in common areas.

Rules determine the use of common areas such as sidewalks and lawns. An Association might have a rule to prohibit unit owners from obstructing walkways, entryways, or any of the common areas. This makes sense when you consider that leaving a bicycle or personal property unattended in a public space can be an inconvenience, a barrier, or even a hazard to other owners.

Pet rules stipulate the type of animals that are allowed in the building as pets, limit their number in any unit and prohibit breeding. Pet rules require owners to control their pets, to prevent nuisance barking, keep pets leashed in common areas, keep pets out of landscape beds and clean up after the pet. Owners are responsible for any damage caused by their pets to common areas or to another owner's property.

Many Associations have parking rules that offer guidance on common parking issues. Parking rules are different for each building. Some may assign spaces to each unit owner, while others operate on a first-come, first-served basis. To make sure that unit owners adhere to the parking policy, some condos issue parking tags, or stickers to unit owners as a form of registration and identification of the vehicle so that there isn't any confusion about who can park where. Some larger Associations use access control and parking management software to expedite and streamline the process.

Particularly at the shore, Associations have rules regarding transient short term rental activity. Most Association Master Deeds have restrictions on short term rentals, require the owner provide the Association with a copy of the lease including tenant information, require the tenant to be provided with a copy of the rules and regulations, and state that the unit owner is ultimately responsible for the behavior and actions of anyone occupying their unit. Some Associations charge a fee to the unit owner to cover the costs involved with the administration and handling of the lease process.

Some Associations update rules and regulations annually. Evolving trends and societal influences often spur the need for new rules governing such things as vaping, e-bikes, and electric vehicle charging. In recent years, Associations are adding rules against inappropriate verbal, digital or physical conduct of any kind including voyeuristic, invasive photography or videography.

Effective rules and regulations are clear, concise, and consistent. Rules should be reasonable and measurable. Rules must apply to all residents. There are not separate rules for owners and separate rules for rental guests. Consistency in the uniform application and enforcement of rules and regulations is essential to a well-run Association. Rules should be straightforward and simple.

By buying into an Association, the unit owner agrees to abide by the terms outlined in the governing documents, including the rules and regulations. Since the governing documents are legally binding, the Association can take action against unit owners for violating them.

What can the Association do if someone breaks the rules? Remedies commonly afforded to the Board include the ability to issue verbal and written warnings; the ability to assess and impose monetary fines, suspension of use privileges for recreational amenities and even seeking court order compelling the unit owner to comply. If a tenant violates rules, the Association will likely fine the owner.

Rules & Regulations should include due process guidelines that include notice of the violation and an opportunity for the cited owner to attend a hearing regarding the violation, should also include procedures for the hearing and a schedule of the fines. If the Board is going to issue a fine, the Board must give the owner the opportunity to be heard regarding the violation and to present evidence regarding their action. The New Jersey Condominium Act requires every Association to have a dispute resolution mechanism (ADR) as an alternative to litigation.

Association Boards seeking to establish rules should be cognizant of going too far or making too many rules. Rules cannot be arbitrary, capricious, or unreasonable. Courts will often impose a reasonableness test with regard to the enforceability of rules. Rules may also be deemed unenforceable when they are in contradiction with a state or federal law, or a violation of Fair Housing Laws.

Condo owners may have never signed anything agreeing to the rules but by accepting the deed at closing there is language in the deed binding all unit owners to the Association and all governing documents including the rules and regulations. Condo buyers are advised to read the rules and regulations before purchase to avoid any confusion at a later date.

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