

**AMENDMENT OF RULES AND REGULATIONS OF  
AMERICANA CONDOMINIUM ASSOCIATION, INC.**

(Effective May 9, 2006)

The earlier, undated Rules and Regulations of Americana Condominium Association, Inc. were superseded by the Rules and Regulations dated July 1, 2003. The Rules and Regulations dated July 1, 2003, are hereby amended as follows:

Article II, Sections C, D, and E, are superseded in their entirety by the following:

- C. The Association shall be diligent in the enforcement of the governing documents consisting of the Declaration, articles of incorporation, bylaws, and rules. Some formal resolutions of the Board and resolutions of the members, maintained in the minutes of the Association, may be considered governing documents. As stated in the governing documents, reasonable enforcement is intended to maintain the values of all the units in the community and to make the community a desirable place to live. The objective of the Association is to be fair, firm, and consistent in its enforcement.
- D. Regardless of the language of the governing documents, Senate Bill 05-100 states and the governing documents are superseded by the following:
1. Owners may display on their property, in their windows, or on the balconies adjoining their units American flags of no larger than 4 feet by 6 feet and install flagpoles of no greater height than 12 feet.
  2. Owner(s) may display on the inside the unit's window or door a service flag (sometimes called blue star or gold star banner) of no more than 20 inches by 30 inches indicating the military service of a member of the owner's immediate family during a time of war or armed conflict.
  3. Owner(s) may display one political sign on the owner's sole property or in the unit's window for each contested election and ballot issue from 45 days before through 7 days after election up to the size and number of signs allowed by the local municipal or county ordinance. If there is no such ordinance, each sign shall be no larger than 36 inches by 48 inches.
  4. A member of a volunteer fire department, and owner(s) whose emergency service provider employer (defined in C.R.S. § 29-11-101 (1.6)) requires such vehicle access, may park an emergency vehicle bearing an official emblem and weighing less than 10,000 pounds on the common interest community when it does not bar emergency access or other owners' reasonable use of streets.

- E. In the normal course of the Association's business, the Board will supervise those acting on behalf of the Association to communicate with the owners so that owners are aware of their responsibilities and the standards of behavior in the community. The communication will reasonably use such means as the Association's website (if in existence), newsletters, correspondence, email broadcast messages, and postings in areas of the community frequented by the owners to advise owners of agenda items in regular and special Board meetings. The Association will encourage any continuing developer, real estate agents, and title insurance companies to provide full packages of applicable governing documents to all new owners in the community.
- F. If an owner or resident of the community apparently violates any of the governing documents (other than the requirement to pay assessments), the Association will promptly give notice to the owner (and resident, if a different person) of the apparent violation and request prompt compliance. The Association will set deadlines for compliance in accordance with its governing documents and the urgency of the situation.
- G. If the owner (and resident, if applicable) fails to comply, then the Association may enforce the governing documents by any direct Association remedy of the violation provided in the governing documents and by bringing appropriate legal or injunctive action in court against the violating parties. In such enforcement actions, the Association will seek to recover all of its costs of enforcement, including direct costs to the Association charged by agents, court costs, and costs of enforcement and collection, including attorney fees.
- H. In a proper instance, the Association may consider a fine against the owner and/or resident, after proper notice, the opportunity to be heard, and hearing before the Board on each and every fine. The Association will comply with following:
  - I. Fines are levied on a case-by-case basis by the Board of Directors to assist in the enforcement of the Declaration of Covenants, articles of incorporation, bylaws, rules and regulations, and other governing documents of the Association.

Fining Procedure for owner's or resident's violation of Association governing documents:

- First Notice Written Warning (two weeks to respond or comply from date of notice.)
- Second Notice Notice of Hearing before Board. Advise that Board may levy up to a \$50.00 fine.
- Third Notice Notice of Hearing before Board. Advise that Board may levy up to a \$100.00 fine.

Fourth Notice

Association attorney gives notice of impending legal action for any and all remedies under the governing documents, including collection of fines as assessments under the Declaration and the Colorado Common Interest Ownership Act.

In its sole discretion, the Board may cease the fining process and take other appropriate legal or injunctive action.

The Association shall provide proper notice and the opportunity to be heard at a specific Board hearing, at a set time, date, and location specified in the notice (sample form of notice letter for violation of a section of the Declaration follows as Exhibit A and is made a part hereof by this reference). If the Board assesses a fine, the fine shall be posted to the appropriate owner's ledger as an amount payable in the same manner as periodic or special assessments, with all the same Association remedies as provided for collection of assessments in the Association's governing documents.

(Effective May 9, 2006)

**EXHIBIT A TO RULE ON ENFORCEMENT**

AMERICANA CONDOMINIUM ASSOCIATION, INC.

HEARING NOTICE FOR POSSIBLE FINES BY ASSOCIATION

Date

Address

**Notice of Hearing and Opportunity to be Heard**

Dear Homeowner:

As a homeowner in a community subject to governing documents, you have definite responsibilities to the Association and to the other homeowners in the community. This includes compliance with covenants or agreements found in the governing documents, such as the Declaration, and certain owner obligations to maintain, repair, and/or correct the exterior of your unit, within your Limited Common Elements, or on the General Common Elements.

This is notice of a hearing on your apparent violation of **Section \_\_\_\_\_**, of the \_\_\_\_\_ as follows:

The board will hold a hearing to determine the existence of the violation(s), whether or not you committed the violation(s), and what action the Association will take under the governing documents, including possibly levying a fine against you in the amount of \$\_\_\_\_\_. You have the opportunity to attend, to hear any allegations against you, to present your side of the story, and to be heard by the Board. Should you decide not to attend the hearing, the Board will proceed with the hearing of the matter under the violation procedures in place and take appropriate action within the Board's power.

Board of Directors Hearing:      Day of the week \_\_\_\_\_,  
Date: \_\_\_\_\_, 200\_\_\_\_  
Time: \_\_\_\_\_  
Location: \_\_\_\_\_

Board of Directors  
Americana Condominium Association, Inc.

By \_\_\_\_\_ (managing agent).

cc: Board of Directors  
Tenant  
Manager

The following Rules are hereby added:

III. ASSESSMENT COLLECTION RULE.

- A. Monthly assessments (sometimes called dues or maintenance fees) are due and payable the first day of the month (the due date), are delinquent if not paid on the due date, and incur a late charge and bear interest from the date of delinquency if not paid on or before 30 days after the due date.
- B. Special assessments are due on the date or dates specified in the special assessment.
- C. The owner shall pay a one-time late charge of \$25.00 on each late monthly payment or late special assessment payment.
- D. In addition, the owner shall pay interest on each assessment after the due date of that assessment at the rate of eight (8%) percent per annum.
- E. When delinquency exceeds 30 days, the Association or the Manager will send a **reminder** to the owner that the assessment payment is delinquent, the owner has incurred a late charge, interest is accruing, and the owner must immediately pay the assessment, plus late charge, plus interest.
- F. When delinquency exceeds two months, the Association or the Manager will send the **first warning notice** to owner, stating the late charge(s) and interest, and stating that owner must pay the account current on or before the end of the month of the date on the first warning notice, OR enter into a written payment plan acceptable to the Association, OR the Association will take further collection action.
- G. When delinquency exceeds three months, the Association or the Manager will send **final warning notice**. The owner must pay the account current by paying all delinquent assessments, late charges, interest, and costs of collection on or before the end of the month of the date of the final warning notice, OR enter into a written payment plan acceptable to the Association, OR the account will be turned over the Association's legal counsel for collection.
- H. From the time the owner's account is turned over to legal counsel, the owner must communicate only with the law firm to pay or settle the account. The owner must pay all late charges, interest, costs of collection, and legal fees incurred by the Association.
- I. An owner's payment of less than the full amount owed to the Association at any time shall be applied to pay the following (if applicable) in the order listed, from the oldest to most recent in each category:
  - 1. Attorney fees and legal costs

2. Association costs and expenses
3. Late charges
4. Interest
5. Fines (if applicable)
6. Utilities, storage (if applicable)
7. Assessments

J. In the normal course of business, the Association will reject any check containing a restrictive endorsement.

(Effective May 9, 2006)

IV. PROCEDURE FOR ADOPTING AND AMENDING RULES.

- A. After due consideration, the Board will draft or cause to be drafted proposed rules and/or amendments of rules ("proposed rules") for the Board's proposed rule-making.
- B. The Board will cause notice of the proposed rulemaking and copies of the proposed rules to be sent by regular first class mail or hand delivered to the owners at their addresses of record with the Association, such mailing or delivery to be completed no less than 30 days prior to the Board meeting at which the Board will consider adoption of the proposed rules.
- C. The notice of rule-making will both request owners' written comments on the proposed rules to the address specified in the notice, to be received no less than 10 days prior to the proposed rule-making meeting of the Board, and the owners' personal oral comments to the Board at the rule-making meeting of the Board at the specified time, date, and place of meeting.
- D. At its rule-making meeting, the Board will reasonably consider the owners' written and oral comments on the proposed rules. After the Board has considered the owners' comments, the Board will act upon the proposed rules upon proper motion, second, and discussion by the Board members only (and any others only as specifically requested by the Board) to adopt, reject, amend, or otherwise act upon the proposed rules, including, among other normal procedures of the Board, to adjourn the meeting from day to day or as otherwise specified by the Board.
- E. Upon adoption of the final rules, as the rules may be amended by the Board, the Board shall mail by regular first class mail or hand deliver the rules as adopted to the owners at their addresses of record with the Association.
- F. The rules will be numbered and will show the date of adoption and the date on which each rule shall be effective.
- G. The Association shall maintain the current, effective rules in an orderly manner so that owners and Board members may readily access the rules.

(Effective May 9, 2006)

V. ASSOCIATION RECORDS AND INFORMATION

- A. The Association will keep a record of all actions taken at meetings of owners, the Board, and all committees, plus a record of all notices of meetings and waivers of notice.
- B. The Association will maintain records of owners in a form that allows preparation of a list of names and addresses. All Association records must be maintained in a form that allows conversion into written form in a reasonable time.
- C. The Association will charge owners copying charges to copy association records that do not exceed actual cost per page to the Association, including all costs such as paper, copy machine supplies, parts and maintenance, and all labor costs for the copying.
- D. Owners are allowed to inspect and copy records during normal business hours, on five business days' notice, if the request is made in good faith and for a proper purpose and the records are described sufficiently and are relevant.
- E. These records will be maintained at the Association's principal office located at 1121 Albion Street, Denver, CO 80220:
  - Declaration
  - Covenants
  - Articles of incorporation
  - Bylaws
  - Rules
  - Resolutions of the board
  - Minutes of all owners' meetings for the past three years
  - Records of all actions by owners without a meeting for the past three years
  - All written communications to owners generally for the past three years
  - List of the names and addresses of current directors and officers
  - Most recent annual report, if any
  - All audits or reviews for the past three years
- F. The Association shall maintain accounting records using generally accepted accounting principles.
- G. Audits or reviews of the records of Association shall be done at least every two years.
  - 1. Audits are required only if the Association has annual revenues or expenditures of \$250,000 and at least 1/3 of the members request an audit.



2. Copies of audits or reviews are to be available on request to any owner 30 days after completion.
- H. Annually, within 90 days after the end of each fiscal year, the Association will give written notice of the following items by first class mail, personal delivery, a binder at the principal place of business, or on the association's website:
1. Names of the Association and the common interest community
  2. Name and address of management company, if any
  3. Physical address and phone number for the Association and the manager
  4. Date of recording of the Declaration and recording information
- I. Within 90 days after the end of each fiscal year, the Association will make the following information available to owners upon reasonable notice:
1. Date the fiscal year begins
  2. Operating budget for the current year
  3. List of current regular and special assessments, by unit type
  4. Annual financial statements, including reserves
  5. Results of any financial audit or review for previous fiscal year
  6. List of all Association insurance policies (property, general liability, director and officer liability, fidelity), including companies, policy limits and deductibles, additional insureds, and expiration dates
  7. Association's bylaws, articles, and rules and regulations
  8. Minutes of board and member meetings for prior fiscal year
  9. Association's "Responsible Governance Policies (contained in bylaws and rules)
- J. In the event of any damage to units or common area, owners shall first inform the Association through its managing agent and its officers so the claim may be evaluated and coordinated for most efficient handling with Association's insurance company. Owners may file claims against the insurance policy of the Association as if owners were additional named insureds.
- K. The Association will provide free education annually to all owners on the general operations of the Association and the rights and duties of the owners,

the Association, and the Board of Directors. The criteria for this education shall be determined from time to time by the Board.

- L. The Association encourages education on good governance for the members of the Board. Upon submission prior to the seminar or course, the Board may approve payment of expenses for education for individual members of the Board if the education is directly related to good Association operations within the common interest community.
- M. Regardless of the provision in Section 16.2 of the Declaration, the statute, C.R.S § 38-33.3-217(a), states that amendments of the Declaration shall not require the affirmative votes or agreements of the owners of units to which more than 67 percent of the votes of the Association are allocated. Amendments of the Declaration need only comply with this statute.
- N. Regardless of the provision in the Declaration at Section 16.2 requiring the approval of 100 percent of the first mortgagees for amendments, C.R.S. § 38-33.3-217(b) states: (1) If dated, written notice of the amendment is sent to the first mortgagees by certified mail, (2) a copy of the full proposed amendment is published at least twice, on separate occasions at least one week apart in a newspaper of general circulation in the county in which the common interest community is located, and (3) a first mortgagee does not deliver to the Association a negative response within 60 days of the notice, the first mortgagee is then deemed to have approved the amendment. Amendments of the Declaration need only comply with this statute.

(Effective           May 9          . 200  6  )

V. INVESTMENT OF RESERVE FUNDS.

- O. The Association shall obtain a competent reserve study to show the required reserve funds for maintenance, repair, and replacement of capital improvements which are the Association's responsibility. This shall include such items as painting, repair of exterior surfaces, walls, gutters and downspouts, roofs, doors, windows, walks, parking areas, storage areas, drives, patios, porches, steps, concrete and asphalt, utilities, plumbing, wiring, and other substantial improvements to the real estate that the Declaration requires the Association to maintain, repair, and replace.
- P. The Association will invest reserve funds in one or more accounts separate from the general operating account of the Association. The reserve funds shall be invested in conservative accounts with a small possibility of loss to the Association. The majority of the reserve funds shall be deposited in accounts and amounts that are fully insured against loss by an agency of the U.S. government.
- Q. Any and all persons who have access to the reserve funds shall have fidelity insurance covering the Association against dishonesty of such persons in the full amount of the funds in those accounts.

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VI. DISCLOSURES IN PURCHASES AND SALES OF UNITS.

A. In accordance with CRS § 38-35.7-102, sellers of a unit must provide copies of the following documents to the buyers:

1. Bylaws and rules
2. Declaration
3. Covenants
4. Party wall agreements
5. Minutes of the most recent members' meeting for which minutes have been approved and of all board meetings that occurred within the past 6 months
6. Association's operating budget
7. Association's income and expense statement and balance sheet
8. Association is to use its best efforts to accommodate requests by the seller for documents in the Association's control

B. Sellers must provide buyers with disclosure statements in bold type stating:

1. Buyer acknowledges receipt of the documents required by C.R.S. § 38-33.3-223
2. Buyer understands the documents are an agreement between buyer and the Association
3. By signing, buyer acknowledges he or she has read and understood the documents
4. Buyer also understands he or she must pay assessments, and failure to pay could result in a lien or sale of the property to collect assessments
5. Buyer also understands any change to the exterior of the property may be subject to architectural approval and that failure to comply could result in action by the Association
6. Seller must obtain the signed acknowledgment and deliver it to the Association as soon as practicable after closing.

This amendment of the Rules and Regulations was adopted by majority vote of a quorum of the Board on Aug 9, 2006.

ATTEST:

Stephanie Gannon  
Secretary