



Adopting and/or Changing **RULES AND POLICIES**

Civil Code §§ 1357.100 et seq. (Formerly [AB 512](#) / 2004)

REQUIRES NOTICE TO MEMBERS OF PROPOSED RULES/CHANGES:

Applies to new or changed rules*
(*rules & policies are synonymous)

1357.100 (a) “Operating rule” means a regulation adopted by the board of directors of the association that applies generally to the management and operation of the common interest development or the conduct of the business and affairs of the association.

(b) “Rule change” means the adoption, amendment, or repeal of an operating rule by the board of directors of the association

Requirements for rule to be valid and enforceable

- *in writing*
- *within authority of board*
- *not inconsistent*
- *adopted in good faith*
- *reasonable*

1357.110 An operating rule is valid and enforceable only if all of the following requirements are satisfied:

(a) The rule is in writing.

(b) The rule is within the authority of the board of directors of the association conferred by law or by the declaration, articles of incorporation or association, or bylaws of the association.

(c) The rule is not inconsistent with governing law and the declaration, articles of incorporation or association, and bylaws of the association.

(d) The rule is adopted, amended, or repealed in good faith and in substantial compliance with the requirements of this article

(e) The rule is reasonable.

Procedures for rules relating to:

- *use of common area/ exclusive use common area*
- *architectural alterations*
- *member discipline*
- *payment plan standards*
- *assessment dispute resolution*

1357.120 (a) Sections 1357.130 and 1357.140 only apply to an operating rule that relates to one or more of the following subjects:

- (1) Use of the common area or of an exclusive use common area.
- (2) Use of a separate interest, including any aesthetic or architectural standards that govern alteration of a separate interest.
- (3) Member discipline, including any schedule of monetary penalties for violation of the governing documents and any procedure for the imposition of penalties.
- (4) Any standards for delinquent assessment payment plans.
- (5) Any procedures adopted by the association for resolution of assessment disputes.

Procedures do not apply to:

- *Common Area maintenance decisions*
- *assessment amounts*
- *change required by law*
- *repeat of existing law or governing documents*

1357.120 (b) Sections 1357.130 and 1357.140 do not apply to the following actions by the board of directors of an association:

- (1) A decision regarding maintenance of the common area.
- (2) A decision on a specific matter that is not intended to apply generally.
- (3) A decision setting the amount of a regular or special assessment.
- (4) A rule change that is required by law, if the board of directors has no discretion as to the substantive effect of the rule change
- (5) Issuance of a document that merely repeats existing law or the governing documents.

30 day written notice of proposed rule

1357.130 (a) The board of directors shall provide written notice of a proposed rule change to the members at least 30 days before making the rule change. The notice shall include the text of the proposed rule change and a description of the purpose and effect of the proposed rule change. Notice is not required under this subdivision if the board of directors determines that an immediate rule change is necessary to address an imminent threat to public health or safety or imminent risk of substantial economic loss to the association.

Decision made at board meeting

1357.130 (b) A decision on a proposed rule change shall be made at a meeting of the board of directors, after consideration of any comments made by association members.

15 day notice requirement

1357.130 (c) As soon as possible after making a rule change, but not more than 15 days after making the rule change, the board of directors shall deliver notice of the rule change to every association member. If the rule change was an emergency rule change made under subdivision (d), the notice shall include the text of the rule change, a description of the purpose and effect of the rule change, and the date that the rule change expires.

**Emergency rules;
effective for 120 days**

1357.130 (d) If the board of directors determines that an immediate rule change is required to address an imminent threat to public health or safety, or an imminent risk of substantial economic loss to the association, it may make an emergency rule change; and no notice is required, as specified in subdivision (a). An emergency rule change is effective for 120 days, unless the rule change provides for a shorter effective period. A rule change made under this subdivision may not be readopted under this subdivision.

1357.130 (e) A notice required by this section is subject to Section 1350.7.¹

MEMBER ABILITY TO REVERSE RULES/CHANGES:

Special meeting to reverse rule

1357.140 (a) Members of an association owning 5 percent or more of the separate interests may call a special meeting of the members to reverse a rule change.

Special meeting request delivered within 30 days after notice of rule

1357.140 (b) A special meeting of the members may be called by delivering a written request to the president or secretary of the board of directors, after which the board shall deliver notice of the meeting to the association's members and hold the meeting in conformity with Section 7511² of the Corporations Code. The written request may not be delivered more than 30 days after the members of the association are notified of the rule change. Members deemed to have been notified of a rule change on delivery of notice of the rule change, or on enforcement of the resulting rule, whichever is sooner. For the purposes of Section 8330³ of the Corporations Code, collection of signatures to call a special meeting under this section is a purpose reasonably related to the interests of the members of the association. A member request to copy or inspect the membership list solely for that purpose may not be denied on the grounds that the purpose is not reasonably related to the member's interests as a member.

Majority of a quorum can reverse rule

1357.140 (c) The rule change may be reversed by the affirmative vote or a majority of the votes represented and voting at a duly held meeting at which a quorum is present (which affirmative votes also constitute a majority of the required quorum), or if the declaration or bylaws require a greater proportion, by the affirmative vote or written ballot of the proportion required. In lieu of calling the meeting described in this section, the board may distribute a written ballot to every member of the association in conformity with the requirements of Section 7513⁴ of the Corporations Code.

1357.140 (d) Unless otherwise provided in the declaration or bylaws, for the purposes of this section, a member may cast one vote per separate interest owned.

1357.140 (e) A meeting called under this section is governed by Chapter 5 (commencing with Section 7510) of Part 3 of Division 2 of Title 1 of, and Sections 7612⁵ and 7613 of, the Corporations Code.

Reversed rule may not be re-adopted for 1 year

1357.140 (f) A rule change reversed under this section may not be readopted for one year after the date of the meeting reversing the rule change. Nothing in this section precludes the board of directors from adopting a different rule on the same subject as the rule change that has been reversed.

15 day notice requirement

1357.140 (g) As soon as possible after the close of voting, but not more than 15 days after the close of voting, the board of directors shall provide notice of the results of a member vote held pursuant to this section to every association member. Delivery of notice under this subdivision is subject to Section 1350.7.

Special meeting/rule reversal procedure does not apply to emergency rules

1357.140 (h) This section does not apply to an emergency rule change made under subdivision (d) of Section 1357.130.

Applies January 1, 2004

1357.150 (a) This article applies to a rule change commenced on or after January 1, 2004.

(b) Nothing in this article affects the validity of a rule change commenced before January 1, 2004.

(c) For the purposes of this section, a rule change is commenced when the board of directors of the association takes its first official action leading to adoption of the rule change.

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ENDNOTES:

1. Civil Code §1350.7: Describes allowable methods of delivery of documents and information, such as personal delivery, first class mail, e-mail, fax, newsletter.

2. Corporations Code §7511: Among other things, sets forth specific timing and content requirements for notice and conducting of a Special Meeting.

3. Corporations Code §8330: Describes a members right to inspect and copy Association records and obtain a member roster.

4. Corporations Code §7513: Describes the protocol for use of a Ballot without a Meeting.

5. Corporations Code §7512: Describes quorum requirements.