

1 **CONDOMINIUM AND COMMUNITY ASSOCIATION**

2 **AMENDMENTS**

3 2023 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Wayne A. Harper**

6 House Sponsor: A. Cory Maloy

8 **LONG TITLE**

9 **General Description:**

10 This bill amends provisions governing community associations and condominium
11 associations.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ amends certain provisions of the Utah Nonprofit Corporation Act that apply to
15 community associations;
- 16 ▶ provides certain qualifications for a director on a board or member of a management
17 committee;
- 18 ▶ provides that an association of unit owners or community association may
19 disqualify an individual from being a director on a board or member of a
20 management committee for certain criminal violations;
- 21 ▶ provides that a community association rule may not prohibit low water use on lawns
22 during drought conditions;
- 23 ▶ requires a community association created before March 5, 2023, to adopt required
24 rules regarding water efficient landscaping before June 30, 2023;
- 25 ▶ permits an association of unit owners or community association to adopt a rule
26 restricting sex offenders from certain areas the association maintains, operates, or
27 owns;
- 28 ▶ provides that a community association that registers, or renews or updates the

29 association's registration, with the Department of Commerce is subject to the Community
30 Association Act;

31 ▶ permits certain community associations to charge an annual fee to a lot owner who
32 owns a rental lot;

33 ▶ permits certain associations of unit owners to charge an annual fee to a unit owner
34 who owns a rental unit;

35 ▶ clarifies provisions related to charging systems for electric or hybrid electric
36 vehicles;

37 ▶ clarifies provisions related to the application of regulations related to solar system
38 installation to attached dwellings;

39 ▶ requires an action against a community association board or board member for a
40 violation of certain provisions to be brought no later than 18 months after the
41 challenged board action;

42 ▶ defines terms; and

43 ▶ makes technical and conforming changes.

44 **Money Appropriated in this Bill:**

45 None

46 **Other Special Clauses:**

47 None

48 **Utah Code Sections Affected:**

49 AMENDS:

50 **16-6a-102**, as last amended by Laws of Utah 2017, Chapter 358

51 **16-6a-1602**, as enacted by Laws of Utah 2000, Chapter 300

52 **57-8-3**, as last amended by Laws of Utah 2020, Chapter 398

53 **57-8-8.1**, as last amended by Laws of Utah 2022, Chapter 439

54 **57-8-8.2**, as enacted by Laws of Utah 2022, Chapter 439

55 **57-8-10.1**, as last amended by Laws of Utah 2018, Chapter 395

- 56 **57-8-59**, as enacted by Laws of Utah 2018, Chapter 395
 - 57 **57-8a-102**, as last amended by Laws of Utah 2020, Chapter 398
 - 58 **57-8a-105**, as last amended by Laws of Utah 2020, Chapter 75
 - 59 **57-8a-209**, as last amended by Laws of Utah 2021, Chapter 102
 - 60 **57-8a-217**, as last amended by Laws of Utah 2015, Chapter 325
 - 61 **57-8a-218**, as last amended by Laws of Utah 2022, Chapter 439
 - 62 **57-8a-501**, as enacted by Laws of Utah 2013, Chapter 152
 - 63 **57-8a-701**, as last amended by Laws of Utah 2022, Chapter 439
 - 64 **57-8a-802**, as enacted by Laws of Utah 2022, Chapter 439
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66 *Be it enacted by the Legislature of the state of Utah:*

67 Section 1. Section **16-6a-102** is amended to read:

68 **16-6a-102. Definitions.**

69 As used in this chapter:

70 (1) (a) "Address" means a location where mail can be delivered by the United States
71 Postal Service.

72 (b) "Address" includes:

- 73 (i) a post office box number;
- 74 (ii) a rural free delivery route number; and
- 75 (iii) a street name and number.

76 (2) "Affiliate" means a person that directly or indirectly through one or more
77 intermediaries controls, or is controlled by, or is under common control with, the person
78 specified.

79 (3) "Articles of incorporation" include:

- 80 (a) amended articles of incorporation;
- 81 (b) restated articles of incorporation;
- 82 (c) articles of merger; and

83 (d) a document of a similar import to the documents described in Subsections (3)(a)
84 through (c).

85 (4) "Assumed corporate name" means a name assumed for use in this state:

86 (a) by a:

87 (i) foreign corporation pursuant to Section 16-10a-1506; or

88 (ii) a foreign nonprofit corporation pursuant to Section 16-6a-1506; and

89 (b) because the corporate name of the foreign corporation described in Subsection
90 (4)(a) is not available for use in this state.

91 (5) (a) Except as provided in Subsection (5)(b), "board of directors" means the body
92 authorized to manage the affairs of a domestic or foreign nonprofit corporation.

93 (b) Notwithstanding Subsection (5)(a), a person may not be considered a member of
94 the board of directors because of a power delegated to that person pursuant to Subsection
95 16-6a-801(2).

96 (6) (a) "Bylaws" means the one or more codes of rules, other than the articles of
97 incorporation, adopted pursuant to this chapter for the regulation or management of the affairs
98 of a domestic or foreign nonprofit corporation irrespective of the one or more names by which
99 the codes of rules are designated.

100 (b) "Bylaws" includes:

101 (i) amended bylaws; and

102 (ii) restated bylaws.

103 (7) (a) "Cash" or "money" means:

104 (i) legal tender;

105 (ii) a negotiable instrument; or

106 (iii) other cash equivalent readily convertible into legal tender.

107 (b) "Cash" and "money" are used interchangeably in this chapter.

108 (8) (a) "Class" means a group of memberships that has the same right with respect to
109 voting, dissolution, redemption, transfer, or other characteristics.

110 (b) For purposes of Subsection (8)(a), a right is considered the same if it is determined
111 by a formula applied uniformly to a group of memberships.

112 (9) (a) "Conspicuous" means so written that a reasonable person against whom the
113 writing is to operate should have noticed the writing.

114 (b) "Conspicuous" includes printing or typing in:

115 (i) italics;

116 (ii) boldface;

117 (iii) contrasting color;

118 (iv) capitals; or

119 (v) underlining.

120 (10) "Control" or a "controlling interest" means the direct or indirect possession of the
121 power to direct or cause the direction of the management and policies of an entity by:

122 (a) the ownership of voting shares;

123 (b) contract; or

124 (c) a means other than those specified in Subsection (10)(a) or (b).

125 (11) Subject to Section 16-6a-207, "cooperative nonprofit corporation" or
126 "cooperative" means a nonprofit corporation organized or existing under this chapter.

127 (12) "Corporate name" means:

128 (a) the name of a domestic corporation as stated in the domestic corporation's articles
129 of incorporation;

130 (b) the name of a domestic nonprofit corporation as stated in the domestic nonprofit
131 corporation's articles of incorporation;

132 (c) the name of a foreign corporation as stated in the foreign corporation's:

133 (i) articles of incorporation; or

134 (ii) document of similar import to articles of incorporation; or

135 (d) the name of a foreign nonprofit corporation as stated in the foreign nonprofit
136 corporation's:

137 (i) articles of incorporation; or
138 (ii) document of similar import to articles of incorporation.
139 (13) (a) "Corporate records" means the records described in Section 16-6a-1601.
140 (b) "Corporate records" does not include correspondence, communications, notes, or
141 other similar information, regardless of format or method of storage, that are not an official
142 decision, published document, or record of the corporation.
143 ~~[(13)]~~ (14) "Corporation" or "domestic corporation" means a corporation for profit that:
144 (a) is not a foreign corporation; and
145 (b) is incorporated under or subject to Chapter 10a, Utah Revised Business Corporation
146 Act.
147 ~~[(14)]~~ (15) "Delegate" means a person elected or appointed to vote in a representative
148 assembly:
149 (a) for the election of a director; or
150 (b) on matters other than the election of a director.
151 ~~[(15)]~~ (16) "Deliver" includes delivery by mail or another means of transmission
152 authorized by Section 16-6a-103, except that delivery to the division means actual receipt by
153 the division.
154 ~~[(16)]~~ (17) "Director" means a member of the board of directors.
155 ~~[(17)]~~ (18) (a) "Distribution" means the payment of a dividend or any part of the
156 income or profit of a nonprofit corporation to the nonprofit corporation's:
157 (i) members;
158 (ii) directors; or
159 (iii) officers.
160 (b) "Distribution" does not include a fair-value payment for:
161 (i) a good sold; or
162 (ii) a service received.
163 ~~[(18)]~~ (19) "Division" means the Division of Corporations and Commercial Code.

164 [~~(19)~~] (20) "Effective date," when referring to a document filed by the division, means
165 the time and date determined in accordance with Section 16-6a-108.

166 [~~(20)~~] (21) "Effective date of notice" means the date notice is effective as provided in
167 Section 16-6a-103.

168 [~~(21)~~] (22) "Electronic transmission" or "electronically transmitted" means a process of
169 communication not directly involving the physical transfer of paper that is suitable for the
170 receipt, retention, retrieval, and reproduction of information by the recipient, whether by email,
171 texting, facsimile, or otherwise.

172 [~~(22)~~] (23) (a) "Employee" includes an officer of a nonprofit corporation.

173 (b) (i) Except as provided in Subsection [~~(22)(b)(ii)~~] (23)(b)(ii), "employee" does not
174 include a director of a nonprofit corporation.

175 (ii) Notwithstanding Subsection [~~(22)(b)(i)~~] (23)(b)(i), a director may accept one or
176 more duties that make that director an employee of a nonprofit corporation.

177 [~~(23)~~] (24) "Entity" includes:

- 178 (a) a domestic or foreign corporation;
- 179 (b) a domestic or foreign nonprofit corporation;
- 180 (c) a limited liability company;
- 181 (d) a profit or nonprofit unincorporated association;
- 182 (e) a business trust;
- 183 (f) an estate;
- 184 (g) a partnership;
- 185 (h) a trust;
- 186 (i) two or more persons having a joint or common economic interest;
- 187 (j) a state;
- 188 (k) the United States; or
- 189 (l) a foreign government.

190 [~~(24)~~] (25) "Executive director" means the executive director of the Department of

191 Commerce.

192 [~~(25)~~] (26) "Foreign corporation" means a corporation for profit incorporated under a
193 law other than the laws of this state.

194 [~~(26)~~] (27) "Foreign nonprofit corporation" means an entity:

195 (a) incorporated under a law other than the laws of this state; and

196 (b) that would be a nonprofit corporation if formed under the laws of this state.

197 [~~(27)~~] (28) "Governmental entity" means:

198 (a) (i) the executive branch of the state;

199 (ii) the judicial branch of the state;

200 (iii) the legislative branch of the state;

201 (iv) an independent entity, as defined in Section 63E-1-102;

202 (v) a political subdivision of the state;

203 (vi) a state institution of higher education, as defined in Section 53B-3-102;

204 (vii) an entity within the state system of public education; or

205 (viii) the National Guard; or

206 (b) any of the following that is established or controlled by a governmental entity listed

207 in Subsection [~~(27)(a)~~] (28)(a) to carry out the public's business:

208 (i) an office;

209 (ii) a division;

210 (iii) an agency;

211 (iv) a board;

212 (v) a bureau;

213 (vi) a committee;

214 (vii) a department;

215 (viii) an advisory board;

216 (ix) an administrative unit; or

217 (x) a commission.

218 [~~28~~] (29) "Governmental subdivision" means:
219 (a) a county;
220 (b) a city;
221 (c) a town; or
222 (d) another type of governmental subdivision authorized by the laws of this state.
223 [~~29~~] (30) "Individual" means:
224 (a) a natural person;
225 (b) the estate of an incompetent individual; or
226 (c) the estate of a deceased individual.
227 [~~30~~] (31) "Internal Revenue Code" means the federal "Internal Revenue Code of
228 1986," as amended from time to time, or to corresponding provisions of subsequent internal
229 revenue laws of the United States of America.
230 [~~31~~] (32) (a) "Mail," "mailed," or "mailing" means deposit, deposited, or depositing
231 in the United States mail, properly addressed, first-class postage prepaid.
232 (b) "Mail," "mailed," or "mailing" includes registered or certified mail for which the
233 proper fee is paid.
234 [~~32~~] (33) (a) "Member" means one or more persons identified or otherwise appointed
235 as a member of a domestic or foreign nonprofit corporation as provided:
236 (i) in the articles of incorporation;
237 (ii) in the bylaws;
238 (iii) by a resolution of the board of directors; or
239 (iv) by a resolution of the members of the nonprofit corporation.
240 (b) "Member" includes:
241 (i) "voting member"; and
242 (ii) a shareholder in a water company.
243 [~~33~~] (34) "Membership" refers to the rights and obligations of a member or members.
244 [~~34~~] (35) "Mutual benefit corporation" means a nonprofit corporation:

245 (a) that issues shares of stock to its members evidencing a right to receive distribution
246 of water or otherwise representing property rights; or

247 (b) all of whose assets are contributed or acquired by or for the members of the
248 nonprofit corporation or their predecessors in interest to serve the mutual purposes of the
249 members.

250 ~~[(35)]~~ (36) "Nonprofit corporation" or "domestic nonprofit corporation" means an
251 entity that:

252 (a) is not a foreign nonprofit corporation; and

253 (b) is incorporated under or subject to this chapter.

254 ~~[(36)]~~ (37) "Notice" means the same as that term is defined in Section [16-6a-103](#).

255 ~~[(37)]~~ (38) "Party related to a director" means:

256 (a) the spouse of the director;

257 (b) a child of the director;

258 (c) a grandchild of the director;

259 (d) a sibling of the director;

260 (e) a parent of the director;

261 (f) the spouse of an individual described in Subsections ~~[(37)(b)]~~ (38)(b) through (e);

262 (g) an individual having the same home as the director;

263 (h) a trust or estate of which the director or another individual specified in this

264 Subsection ~~[(37)]~~ (38) is a substantial beneficiary; or

265 (i) any of the following of which the director is a fiduciary:

266 (i) a trust;

267 (ii) an estate;

268 (iii) an incompetent;

269 (iv) a conservatee; or

270 (v) a minor.

271 ~~[(38)]~~ (39) "Person" means an:

272 (a) individual; or

273 (b) entity.

274 [~~(39)~~] (40) "Principal office" means:

275 (a) the office, in or out of this state, designated by a domestic or foreign nonprofit
276 corporation as its principal office in the most recent document on file with the division
277 providing that information, including:

278 (i) an annual report;

279 (ii) an application for a certificate of authority; or

280 (iii) a notice of change of principal office; or

281 (b) if no principal office can be determined, a domestic or foreign nonprofit
282 corporation's registered office.

283 [~~(40)~~] (41) "Proceeding" includes:

284 (a) a civil suit;

285 (b) arbitration;

286 (c) mediation;

287 (d) a criminal action;

288 (e) an administrative action; or

289 (f) an investigatory action.

290 [~~(41)~~] (42) "Receive," when used in reference to receipt of a writing or other document
291 by a domestic or foreign nonprofit corporation, means the writing or other document is actually
292 received:

293 (a) by the domestic or foreign nonprofit corporation at:

294 (i) its registered office in this state; or

295 (ii) its principal office;

296 (b) by the secretary of the domestic or foreign nonprofit corporation, wherever the
297 secretary is found; or

298 (c) by another person authorized by the bylaws or the board of directors to receive the

299 writing or other document, wherever that person is found.

300 ~~[(42)]~~ (43) (a) "Record date" means the date established under Part 6, Members, or Part
301 7, Member Meetings and Voting, on which a nonprofit corporation determines the identity of
302 the nonprofit corporation's members.

303 (b) The determination described in Subsection ~~[(42)(a)]~~ (43)(a) shall be made as of the
304 close of business on the record date unless another time for doing so is specified when the
305 record date is fixed.

306 ~~[(43)]~~ (44) "Registered agent" means the registered agent of:

307 (a) a domestic nonprofit corporation; or

308 (b) a foreign nonprofit corporation.

309 ~~[(44)]~~ (45) "Registered office" means the office within this state designated by a
310 domestic or foreign nonprofit corporation as its registered office in the most recent document
311 on file with the division providing that information, including:

312 (a) articles of incorporation;

313 (b) an application for a certificate of authority; or

314 (c) a notice of change of registered office.

315 ~~[(45)]~~ (46) "Secretary" means the corporate officer to whom the bylaws or the board of
316 directors delegates responsibility under Subsection 16-6a-818(3) for:

317 (a) the preparation and maintenance of:

318 (i) minutes of the meetings of:

319 (A) the board of directors; or

320 (B) the members; and

321 (ii) the other records and information required to be kept by the nonprofit corporation
322 pursuant to Section 16-6a-1601; and

323 (b) authenticating records of the nonprofit corporation.

324 ~~[(46)]~~ (47) "Share" means a unit of interest in a nonprofit corporation.

325 ~~[(47)]~~ (48) "Shareholder" means a person in whose name a share is registered in the

326 records of a nonprofit corporation.

327 ~~[(48)]~~ (49) "State," when referring to a part of the United States, includes:

328 (a) a state;

329 (b) a commonwealth;

330 (c) the District of Columbia;

331 (d) an agency or governmental and political subdivision of a state, commonwealth, or
332 District of Columbia;

333 (e) territory or insular possession of the United States; or

334 (f) an agency or governmental and political subdivision of a territory or insular
335 possession of the United States.

336 ~~[(49)]~~ (50) "Street address" means:

337 (a) (i) street name and number;

338 (ii) city or town; and

339 (iii) United States post office zip code designation; or

340 (b) if, by reason of rural location or otherwise, a street name, number, city, or town
341 does not exist, an appropriate description other than that described in Subsection ~~[(49)(a)]~~
342 (50)(a) fixing as nearly as possible the actual physical location, but only if the information
343 includes:

344 (i) the rural free delivery route;

345 (ii) the county; and

346 (iii) the United States post office zip code designation.

347 ~~[(50)]~~ (51) "Tribal nonprofit corporation" means a nonprofit corporation:

348 (a) incorporated under the law of a tribe; and

349 (b) that is at least 51% owned or controlled by the tribe.

350 ~~[(51)]~~ (52) "Tribe" means a tribe, band, nation, pueblo, or other organized group or
351 community of Indians, including an Alaska Native village, that is legally recognized as eligible
352 for and is consistent with a special program, service, or entitlement provided by the United

353 States to Indians because of their status as Indians.

354 [~~(52)~~] (53) "United States" includes a district, authority, office, bureau, commission,
355 department, and another agency of the United States of America.

356 [~~(53)~~] (54) "Vote" includes authorization by:

357 (a) written ballot; and

358 (b) written consent.

359 [~~(54)~~] (55) (a) "Voting group" means all the members of one or more classes of
360 members or directors that, under this chapter, the articles of incorporation, or the bylaws, are
361 entitled to vote and be counted together collectively on a matter.

362 (b) All members or directors entitled by this chapter, the articles of incorporation, or
363 the bylaws to vote generally on a matter are for that purpose a single voting group.

364 [~~(55)~~] (56) (a) "Voting member" means a person entitled to vote for all matters
365 required or permitted under this chapter to be submitted to a vote of the members, except as
366 otherwise provided in the articles of incorporation or bylaws.

367 (b) A person is not a voting member solely because of:

368 (i) a right the person has as a delegate;

369 (ii) a right the person has to designate a director; or

370 (iii) a right the person has as a director.

371 (c) Except as the bylaws may otherwise provide, "voting member" includes a
372 "shareholder" if the nonprofit corporation has shareholders.

373 [~~(56)~~] (57) "Water company" means:

374 (a) the same as that term is defined in Subsection 16-4-102(5); or

375 (b) a mutual benefit corporation, when the stock in the mutual benefit corporation
376 represents a right to receive a distribution of water for beneficial use.

377 Section 2. Section **16-6a-1602** is amended to read:

378 **16-6a-1602. Inspection of records by directors and members.**

379 (1) A director or member is entitled to inspect and copy any of the records of the

380 nonprofit corporation described in Subsection 16-6a-1601(5):

381 (a) during regular business hours;

382 (b) at the nonprofit corporation's principal office; and

383 (c) if the director or member gives the nonprofit corporation written demand, at least

384 five business days before the date on which the member wishes to inspect and copy the records.

385 (2) In addition to the rights set forth in Subsection (1), a director or member is entitled

386 to inspect and copy any of the other records of the nonprofit corporation described in

387 Subsections 16-6a-1601(2) through (5):

388 (a) during regular business hours;

389 (b) at a reasonable location specified by the nonprofit corporation; and

390 (c) at least five business days before the date on which the member wishes to inspect

391 and copy the records, if the director or member:

392 (i) meets the requirements of Subsection (3); and

393 (ii) gives the nonprofit corporation written demand.

394 (3) A director or member may inspect and copy the records described in Subsection (2)

395 only if:

396 (a) the demand is made:

397 (i) in good faith; and

398 (ii) for a proper purpose;

399 (b) the director or member describes with reasonable particularity the purpose and the

400 records the director or member desires to inspect; and

401 (c) the records are directly connected with the described purpose.

402 (4) Notwithstanding Section 16-6a-102, for purposes of this section:

403 (a) "member" includes:

404 (i) a beneficial owner whose membership interest is held in a voting trust; and

405 (ii) any other beneficial owner of a membership interest who establishes beneficial

406 ownership; and

407 (b) "proper purpose" means a purpose reasonably related to the demanding member's or
408 director's interest as a member or director.

409 (5) The right of inspection granted by this section may not be abolished or limited by
410 the articles of incorporation or bylaws.

411 (6) This section does not affect:

412 (a) the right of a director or member to inspect records under Section 16-6a-710;

413 (b) the right of a member to inspect records to the same extent as any other litigant if
414 the member is in litigation with the nonprofit corporation; or

415 (c) the power of a court, independent of this chapter, to compel the production of
416 corporate records for examination.

417 (7) A director or member may not use any information obtained through the inspection
418 or copying of records permitted by Subsection (2) for any purposes other than those set forth in
419 a demand made under Subsection (3).

420 Section 3. Section 57-8-3 is amended to read:

421 **57-8-3. Definitions.**

422 As used in this chapter:

423 (1) "Assessment" means any charge imposed by the association, including:

424 (a) common expenses on or against a unit owner pursuant to the provisions of the
425 declaration, bylaws, or this chapter; and

426 (b) an amount that an association of unit owners assesses to a unit owner under
427 Subsection 57-8-43(9)(g).

428 (2) "Association of unit owners" or "association" means all of the unit owners:

429 (a) acting as a group in accordance with the declaration and bylaws; or

430 (b) organized as a legal entity in accordance with the declaration.

431 (3) "Building" means a building, containing units, and comprising a part of the
432 property.

433 (4) "Commercial condominium project" means a condominium project that has no

434 residential units within the project.

435 (5) "Common areas and facilities" unless otherwise provided in the declaration or
436 lawful amendments to the declaration means:

437 (a) the land included within the condominium project, whether leasehold or in fee
438 simple;

439 (b) the foundations, columns, girders, beams, supports, main walls, roofs, halls,
440 corridors, lobbies, stairs, stairways, fire escapes, entrances, and exits of the building;

441 (c) the basements, yards, gardens, parking areas, and storage spaces;

442 (d) the premises for lodging of janitors or persons in charge of the property;

443 (e) installations of central services such as power, light, gas, hot and cold water,
444 heating, refrigeration, air conditioning, and incinerating;

445 (f) the elevators, tanks, pumps, motors, fans, compressors, ducts, and in general all
446 apparatus and installations existing for common use;

447 (g) such community and commercial facilities as may be provided for in the
448 declaration; and

449 (h) all other parts of the property necessary or convenient to its existence, maintenance,
450 and safety, or normally in common use.

451 (6) "Common expenses" means:

452 (a) all sums lawfully assessed against the unit owners;

453 (b) expenses of administration, maintenance, repair, or replacement of the common
454 areas and facilities;

455 (c) expenses agreed upon as common expenses by the association of unit owners; and

456 (d) expenses declared common expenses by this chapter, or by the declaration or the
457 bylaws.

458 (7) "Common profits," unless otherwise provided in the declaration or lawful
459 amendments to the declaration, means the balance of all income, rents, profits, and revenues
460 from the common areas and facilities remaining after the deduction of the common expenses.

461 (8) "Condominium" means the ownership of a single unit in a multiunit project
462 together with an undivided interest in common in the common areas and facilities of the
463 property.

464 (9) "Condominium plat" means a plat or plats of survey of land and units prepared in
465 accordance with Section 57-8-13.

466 (10) "Condominium project" means a real estate condominium project; a plan or
467 project whereby two or more units, whether contained in existing or proposed apartments,
468 commercial or industrial buildings or structures, or otherwise, are separately offered or
469 proposed to be offered for sale. Condominium project also means the property when the
470 context so requires.

471 (11) "Condominium unit" means a unit together with the undivided interest in the
472 common areas and facilities appertaining to that unit. Any reference in this chapter to a
473 condominium unit includes both a physical unit together with its appurtenant undivided interest
474 in the common areas and facilities and a time period unit together with its appurtenant
475 undivided interest, unless the reference is specifically limited to a time period unit.

476 (12) "Contractible condominium" means a condominium project from which one or
477 more portions of the land within the project may be withdrawn in accordance with provisions
478 of the declaration and of this chapter. If the withdrawal can occur only by the expiration or
479 termination of one or more leases, then the condominium project is not a contractible
480 condominium within the meaning of this chapter.

481 (13) "Convertible land" means a building site which is a portion of the common areas
482 and facilities, described by metes and bounds, within which additional units or limited common
483 areas and facilities may be created in accordance with this chapter.

484 (14) "Convertible space" means a portion of the structure within the condominium
485 project, which portion may be converted into one or more units or common areas and facilities,
486 including limited common areas and facilities in accordance with this chapter.

487 (15) "Declarant" means all persons who execute the declaration or on whose behalf the

488 declaration is executed. From the time of the recordation of any amendment to the declaration
489 expanding an expandable condominium, all persons who execute that amendment or on whose
490 behalf that amendment is executed shall also come within this definition. Any successors of
491 the persons referred to in this subsection who come to stand in the same relation to the
492 condominium project as their predecessors also come within this definition.

493 (16) "Declaration" means the instrument by which the property is submitted to the
494 provisions of this act, as it from time to time may be lawfully amended.

495 (17) "Electrical corporation" means the same as that term is defined in Section 54-2-1.

496 (18) "Expandable condominium" means a condominium project to which additional
497 land or an interest in it may be added in accordance with the declaration and this chapter.

498 (19) "Gas corporation" means the same as that term is defined in Section 54-2-1.

499 (20) "Governing documents":

500 (a) means a written instrument by which an association of unit owners may:

501 (i) exercise powers; or

502 (ii) manage, maintain, or otherwise affect the property under the jurisdiction of the
503 association of unit owners; and

504 (b) includes:

505 (i) articles of incorporation;

506 (ii) bylaws;

507 (iii) a plat;

508 (iv) a declaration of covenants, conditions, and restrictions; and

509 (v) rules of the association of unit owners.

510 (21) "Independent third party" means a person that:

511 (a) is not related to the unit owner;

512 (b) shares no pecuniary interests with the unit owner; and

513 (c) purchases the unit in good faith and without the intent to defraud a current or future
514 lienholder.

515 (22) "Judicial foreclosure" means a foreclosure of a unit:

516 (a) for the nonpayment of an assessment;

517 (b) in the manner provided by law for the foreclosure of a mortgage on real property;

518 and

519 (c) as provided in this chapter.

520 (23) "Leasehold condominium" means a condominium project in all or any portion of
521 which each unit owner owns an estate for years in his unit, or in the land upon which that unit
522 is situated, or both, with all those leasehold interests to expire naturally at the same time. A
523 condominium project including leased land, or an interest in the land, upon which no units are
524 situated or to be situated is not a leasehold condominium within the meaning of this chapter.

525 (24) "Limited common areas and facilities" means those common areas and facilities
526 designated in the declaration as reserved for use of a certain unit or units to the exclusion of the
527 other units.

528 (25) "Majority" or "majority of the unit owners," unless otherwise provided in the
529 declaration or lawful amendments to the declaration, means the owners of more than 50% in
530 the aggregate in interest of the undivided ownership of the common areas and facilities.

531 (26) "Management committee" means the committee as provided in the declaration
532 charged with and having the responsibility and authority to make and to enforce all of the
533 reasonable rules covering the operation and maintenance of the property.

534 (27) "Management committee meeting" means a gathering of a management
535 committee, whether in person or by means of electronic communication, at which the
536 management committee can take binding action.

537 (28) (a) "Means of electronic communication" means an electronic system that allows
538 individuals to communicate orally in real time.

539 (b) "Means of electronic communication" includes:

540 (i) web conferencing;

541 (ii) video conferencing; and

- 542 (iii) telephone conferencing.
- 543 (29) "Mixed-use condominium project" means a condominium project that has both
544 residential and commercial units in the condominium project.
- 545 (30) "Nonjudicial foreclosure" means the sale of a unit:
546 (a) for the nonpayment of an assessment;
547 (b) in the same manner as the sale of trust property under Sections 57-1-19 through
548 57-1-34; and
549 (c) as provided in this chapter.
- 550 (31) "Par value" means a number of dollars or points assigned to each unit by the
551 declaration. Substantially identical units shall be assigned the same par value, but units located
552 at substantially different heights above the ground, or having substantially different views, or
553 having substantially different amenities or other characteristics that might result in differences
554 in market value, may be considered substantially identical within the meaning of this
555 subsection. If par value is stated in terms of dollars, that statement may not be considered to
556 reflect or control the sales price or fair market value of any unit, and no opinion, appraisal, or
557 fair market transaction at a different figure may affect the par value of any unit, or any
558 undivided interest in the common areas and facilities, voting rights in the unit owners'
559 association, liability for common expenses, or right to common profits, assigned on the basis
560 thereof.
- 561 (32) "Period of administrative control" means the period of control described in
562 Subsection 57-8-16.5(1).
- 563 (33) "Person" means an individual, corporation, partnership, association, trustee, or
564 other legal entity.
- 565 (34) "Political sign" means any sign or document that advocates:
566 (a) the election or defeat of a candidate for public office; or
567 (b) the approval or defeat of a ballot proposition.
- 568 [~~34~~] (35) "Property" means the land, whether leasehold or in fee simple, the building,

569 if any, all improvements and structures thereon, all easements, rights, and appurtenances
570 belonging thereto, and all articles of personal property intended for use in connection
571 therewith.

572 (36) "Protected area" means the same as that term is defined in Section [77-27-21.7](#).

573 ~~[(35)]~~ (37) "Record," "recording," "recorded," and "recorder" have the meaning stated
574 in Chapter 3, Recording of Documents.

575 ~~[(36)]~~ (38) "Rentals" or "rental unit" means:

576 (a) a unit that:

577 (i) is not owned by an entity or trust; and

578 (ii) is occupied by an individual while the unit owner is not occupying the unit as the
579 unit owner's primary residence; or

580 (b) an occupied unit owned by an entity or trust, regardless of who occupies the unit.

581 ~~[(37)]~~ (39) "Size" means the number of cubic feet, or the number of square feet of
582 ground or floor space, within each unit as computed by reference to the record of survey map
583 and rounded off to a whole number. Certain spaces within the units including attic, basement,
584 or garage space may be omitted from the calculation or be partially discounted by the use of a
585 ratio, if the same basis of calculation is employed for all units in the condominium project and
586 if that basis is described in the declaration.

587 ~~[(38)]~~ (40) "Time period unit" means an annually recurring part or parts of a year
588 specified in the declaration as a period for which a unit is separately owned and includes a
589 timeshare estate as defined in Section [57-19-2](#).

590 ~~[(39)]~~ (41) "Unconstructed unit" means a unit that:

591 (a) is intended, as depicted in the condominium plat, to be fully or partially contained
592 in a building; and

593 (b) is not constructed.

594 ~~[(40)]~~ (42) (a) "Unit" means a separate part of the property intended for any type of
595 independent use, which is created by the recording of a declaration and a condominium plat

596 that describes the unit boundaries.

597 (b) "Unit" includes one or more rooms or spaces located in one or more floors or a
598 portion of a floor in a building.

599 (c) "Unit" includes a convertible space, in accordance with Subsection 57-8-13.4(3).

600 [~~41~~] (43) "Unit number" means the number, letter, or combination of numbers and
601 letters designating the unit in the declaration and in the record of survey map.

602 [~~42~~] (44) "Unit owner" means the person or persons owning a unit in fee simple and
603 an undivided interest in the fee simple estate of the common areas and facilities in the
604 percentage specified and established in the declaration or, in the case of a leasehold
605 condominium project, the person or persons whose leasehold interest or interests in the
606 condominium unit extend for the entire balance of the unexpired term or terms.

607 Section 4. Section 57-8-8.1 is amended to read:

608 **57-8-8.1. Equal treatment by rules required -- Limits on rules.**

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

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

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

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

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

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

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

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

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

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

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

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

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

634 (B) holds the tenant and the rental unit owner jointly and severally liable for a violation
635 of a provision of the governing documents.

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

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

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

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

643 (A) size and facilities; and

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

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

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

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

650 (b) impose and receive any payment, fee, or charge for:
651 (i) the use, rental, or operation of the common areas, except limited common areas and
652 facilities; and
653 (ii) a service provided to a unit owner;
654 (c) impose a charge for a late payment of an assessment; or
655 (d) provide for the indemnification of the association of unit owners' officers and
656 management committee consistent with Title 16, Chapter 6a, Utah Revised Nonprofit
657 Corporation Act.

658 (6) (a) Except as provided in Subsection (6)(b), a rule may not prohibit a unit owner
659 from installing a personal security camera immediately adjacent to the entryway, window, or
660 other outside entry point of the owner's condominium unit.

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

663 (7) (a) A rule may not abridge the right of a unit owner to display a religious or holiday
664 sign, symbol, or decoration inside the owner's condominium unit.

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

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

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

670 (A) a for-sale sign; or

671 (B) a political sign;

672 (ii) regulate the content of a political sign; or

673 (iii) establish design criteria for a political sign.

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

676 (9) An association of unit owners:

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

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

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

684 [~~(10)~~] (11) A rule shall be reasonable.

685 [~~(11)~~] (12) A declaration, or an amendment to a declaration, may vary any of the
686 requirements of Subsections (1) through (5), except Subsection (1)(b)(ii).

687 [~~(12)~~] (13) This section applies to an association of unit owners regardless of when the
688 association of unit owners is created.

689 Section 5. Section **57-8-8.2** is amended to read:

690 **57-8-8.2. Electric vehicle charging systems -- Restrictions -- Responsibilities.**

691 (1) As used in this section:

692 (a) "Charging system" means a device that is:

693 (i) used to provide electricity to an electric or hybrid electric vehicle; and

694 (ii) designed to ensure a safe connection between the electric grid and the vehicle.

695 (b) "General electrical contractor" means the same as that term is defined in Section
696 [58-55-102](#).

697 (c) "Residential electrical contractor" means the same as that term is defined in Section
698 [58-55-102](#).

699 (2) Notwithstanding any provision in an association's governing documents to the
700 contrary, an association may not prohibit a unit owner from installing or using a charging
701 system in:

702 (a) a parking space:

703 (i) assigned to the unit owner's unit; and

- 704 (ii) used for the parking or storage of a vehicle or equipment; or
- 705 (b) a limited common area parking space designated for the unit owner's exclusive use.
- 706 (3) An association may:
 - 707 (a) require a unit owner to submit an application for approval of the installation of a
 - 708 charging system;
 - 709 (b) require the unit owner to agree in writing to:
 - 710 (i) hire a general electrical contractor or residential electrical contractor to install the
 - 711 charging system; or
 - 712 (ii) if a charging system is installed in a common area, provide reimbursement to the
 - 713 association for the actual cost of the increase in the association's insurance premium
 - 714 attributable to the installation or use of the charging system;
 - 715 (c) require a charging system to comply with:
 - 716 (i) the association's reasonable design criteria governing the dimensions, placement, or
 - 717 external appearance of the charging system; or
 - 718 (ii) applicable building codes;
 - 719 (d) impose a reasonable charge to cover costs associated with the review and
 - 720 permitting of a charging ~~[station]~~ system;
 - 721 (e) impose a reasonable restriction on the installation and use of a charging ~~[station]~~
 - 722 system that does not significantly:
 - 723 (i) increase the cost of the charging ~~[station]~~ system; or
 - 724 (ii) decrease the efficiency or performance of the charging ~~[station]~~ system; or
 - 725 (f) require a unit owner to pay the costs associated with installation, metering, and use
 - 726 of the charging ~~[station]~~ system, including the cost of:
 - 727 (i) electricity associated with the charging ~~[station]~~ system; and
 - 728 (ii) damage to a general common area, a limited common area, or an area subject to the
 - 729 exclusive use of another unit owner that results from the installation, use, maintenance, repair,
 - 730 removal, or replacement of the charging ~~[station]~~ system.

731 (4) A unit owner who installs a charging system shall disclose to a prospective buyer of
732 the unit:

733 (a) the existence of the charging [~~station~~] system; and

734 (b) the unit owner's related responsibilities under this section.

735 (5) Unless the unit owner and the association or the declarant otherwise agree:

736 (a) a charging [~~station~~] system installed under this section is the personal property of
737 the unit owner of the unit with which the charging station is associated; and

738 (b) a unit owner who installs a charging [~~station~~] system shall, before transferring
739 ownership of the owner's unit, unless the prospective buyer of the unit accepts ownership and
740 all rights and responsibilities that apply to the charging station under this section:

741 (i) remove the charging [~~station~~] system; and

742 (ii) restore the premises to the condition before installation of the charging [~~station~~]
743 system.

744 Section 6. Section **57-8-10.1** is amended to read:

745 **57-8-10.1. Rental restrictions.**

746 (1) (a) Subject to Subsections (1)(b), (5), and (6), an association of unit owners may:

747 (i) create restrictions on the number and term of rentals in a condominium project; or

748 (ii) prohibit rentals in the condominium project.

749 (b) An association of unit owners that creates a rental restriction or prohibition in
750 accordance with Subsection (1)(a) shall create the rental restriction or prohibition in a
751 declaration or by amending the declaration.

752 (2) If an association of unit owners prohibits or imposes restrictions on the number and
753 term of rentals, the restrictions shall include:

754 (a) a provision that requires a condominium project to exempt from the rental
755 restrictions the following unit owner and the unit owner's unit:

756 (i) a unit owner in the military for the period of the unit owner's deployment;

757 (ii) a unit occupied by a unit owner's parent, child, or sibling;

- 758 (iii) a unit owner whose employer has relocated the unit owner for two years or less;
- 759 (iv) a unit owned by an entity that is occupied by an individual who:
 - 760 (A) has voting rights under the entity's organizing documents; and
 - 761 (B) has a 25% or greater share of ownership, control, and right to profits and losses of
 - 762 the entity; or
 - 763 (v) a unit owned by a trust or other entity created for estate planning purposes if the
 - 764 trust or other estate planning entity was created for the estate of:
 - 765 (A) a current resident of the unit; or
 - 766 (B) the parent, child, or sibling of the current resident of the unit;
 - 767 (b) a provision that allows a unit owner who has a rental in the condominium project
 - 768 before the time the rental restriction described in Subsection (1)(a) is recorded with the county
 - 769 recorder of the county in which the condominium project is located to continue renting until:
 - 770 (i) the unit owner occupies the unit;
 - 771 (ii) an officer, owner, member, trustee, beneficiary, director, or person holding a
 - 772 similar position of ownership or control of an entity or trust that holds an ownership interest in
 - 773 the unit, occupies the unit; or
 - 774 (iii) the unit is transferred; and
 - 775 (c) a requirement that the association of unit owners create, by rule or resolution,
 - 776 procedures to:
 - 777 (i) determine and track the number of rentals and units in the condominium project
 - 778 subject to the provisions described in Subsections (2)(a) and (b); and
 - 779 (ii) ensure consistent administration and enforcement of the rental restrictions.
 - 780 (3) For purposes of Subsection (2)(b)(iii), a transfer occurs when one or more of the
 - 781 following occur:
 - 782 (a) the conveyance, sale, or other transfer of a unit by deed;
 - 783 (b) the granting of a life estate in the unit; or
 - 784 (c) if the unit is owned by a limited liability company, corporation, partnership, or

785 other business entity, the sale or transfer of more than 75% of the business entity's share, stock,
786 membership interests, or partnership interests in a 12-month period.

787 (4) This section does not limit or affect residency age requirements for an association
788 of unit owners that complies with the requirements of the Housing for Older Persons Act, 42
789 U.S.C. Sec. 3607.

790 (5) A declaration or amendment to a declaration recorded before transfer of the first
791 unit from the initial declarant may prohibit or restrict rentals without providing for the
792 exceptions, provisions, and procedures required under Subsection (2).

793 (6) (a) Subsections (1) through (5) do not apply to:

794 (i) a condominium project that contains a time period unit as defined in Section 57-8-3;

795 (ii) any other form of timeshare interest as defined in Section 57-19-2; or

796 (iii) subject to Subsection (6)(b), a condominium project in which the initial
797 declaration is recorded before May 12, 2009, unless, on or after May 12, 2015, the association
798 of unit owners:

799 (A) adopts a rental restriction or prohibition; or

800 (B) amends an existing rental restriction or prohibition.

801 (b) An association that adopts a rental restriction or amends an existing rental
802 restriction or prohibition before May 9, 2017, is not required to include the exemption
803 described in Subsection (2)(a)(iv).

804 (7) Notwithstanding this section, an association of unit owners may restrict or prohibit
805 rentals without an exception described in Subsection (2) if:

806 (a) the restriction or prohibition receives unanimous approval by all unit owners; and

807 (b) when the restriction or prohibition requires an amendment to the association of unit
808 owners' declaration, the association of unit owners fulfills all other requirements for amending
809 the declaration described in the association of unit owners' governing documents.

810 (8) Except as provided in Subsection (9), an association of unit owners may not require
811 a unit owner who owns a rental unit to:

- 812 (a) obtain the association of unit owners' approval of a prospective renter;
- 813 (b) give the association of unit owners:
 - 814 (i) a copy of a rental application;
 - 815 (ii) a copy of a renter's or prospective renter's credit information or credit report;
 - 816 (iii) a copy of a renter's or prospective renter's background check; or
 - 817 (iv) documentation to verify the renter's age; or
- 818 (c) pay an additional assessment, fine, or fee because the unit is a rental unit.

819 (9) (a) A unit owner who owns a rental unit shall give an association of unit owners the
820 documents described in Subsection (8)(b) if the unit owner is required to provide the
821 documents by court order or as part of discovery under the Utah Rules of Civil Procedure.

822 (b) If an association of unit owners' declaration lawfully prohibits or restricts
823 occupancy of the units by a certain class of individuals, the association of unit owners may
824 require a unit owner who owns a rental unit to give the association of unit owners the
825 information described in Subsection (8)(b), if:

826 (i) the information helps the association of unit owners determine whether the renter's
827 occupancy of the unit complies with the association of unit owners' declaration; and

828 (ii) the association of unit owners uses the information to determine whether the
829 renter's occupancy of the unit complies with the association of unit owners' declaration.

830 (c) An association that permits at least 35% of the units in the association to be rental
831 units may charge a unit owner who owns a rental unit an annual fee of up to \$200 to defray the
832 association's additional administrative expenses directly related to a unit that is a rental unit, as
833 detailed in an accounting provided to the unit owner.

834 (10) The provisions of Subsections (8) and (9) apply to an association of unit owners
835 regardless of when the association of unit owners is created.

836 Section 7. Section **57-8-59** is amended to read:

837 **57-8-59. Management committee.**

838 (1) A member of the management committee shall be:

839 (a) a natural person; and

840 (b) 18 years old or older.

841 (2) An association's bylaws may prescribe other qualifications for members of the
842 management committee in addition to the requirements described in Subsection (1).

843 (3) Without limiting the qualifications an association prescribes under Subsection (2),
844 an association may, through governing documents or the management committee's internal
845 procedures, disqualify an individual from serving as a member of the management committee
846 because the individual:

847 (a) has been convicted of a felony; or

848 (b) is a sex offender.

849 (4) A member of the management committee need not be a resident of this state or a lot
850 owner in the association unless required by the association's bylaws.

851 (5) Except as limited in the declaration, the association of unit owners bylaws or
852 articles of incorporation, or other provisions of this chapter, a management committee acts in
853 all instances on behalf of the association of unit owners.

854 Section 8. Section **57-8a-102** is amended to read:

855 **57-8a-102. Definitions.**

856 As used in this chapter:

857 (1) (a) "Assessment" means a charge imposed or levied:

858 (i) by the association;

859 (ii) on or against a lot or a lot owner; and

860 (iii) pursuant to a governing document recorded with the county recorder.

861 (b) "Assessment" includes:

862 (i) a common expense; and

863 (ii) an amount assessed against a lot owner under Subsection [57-8a-405\(7\)](#).

864 (2) (a) Except as provided in Subsection (2)(b), "association" means a corporation or
865 other legal entity, any member of which:

866 (i) is an owner of a residential lot located within the jurisdiction of the association, as
867 described in the governing documents; and

868 (ii) by virtue of membership or ownership of a residential lot is obligated to pay:

869 (A) real property taxes;

870 (B) insurance premiums;

871 (C) maintenance costs; or

872 (D) for improvement of real property not owned by the member.

873 (b) "Association" or "homeowner association" does not include an association created
874 under [~~Title 57, Chapter 8, Condominium Ownership Act~~] Chapter 8, Condominium
875 Ownership Act.

876 (3) "Board meeting" means a gathering of a board, whether in person or by means of
877 electronic communication, at which the board can take binding action.

878 (4) "Board of directors" or "board" means the entity, regardless of name, with primary
879 authority to manage the affairs of the association.

880 (5) "Common areas" means property that the association:

881 (a) owns;

882 (b) maintains;

883 (c) repairs; or

884 (d) administers.

885 (6) "Common expense" means costs incurred by the association to exercise any of the
886 powers provided for in the association's governing documents.

887 (7) "Declarant":

888 (a) means the person who executes a declaration and submits it for recording in the
889 office of the recorder of the county in which the property described in the declaration is
890 located; and

891 (b) includes the person's successor and assign.

892 (8) "Director" means a member of the board of directors.

893 ~~[(8)]~~ (9) "Electrical corporation" means the same as that term is defined in Section
894 54-2-1.

895 ~~[(9)]~~ (10) "Gas corporation" means the same as that term is defined in Section 54-2-1.

896 ~~[(10)]~~ (11) (a) "Governing documents" means a written instrument by which the
897 association may:

- 898 (i) exercise powers; or
- 899 (ii) manage, maintain, or otherwise affect the property under the jurisdiction of the
900 association.

901 (b) "Governing documents" includes:

- 902 (i) articles of incorporation;
- 903 (ii) bylaws;
- 904 (iii) a plat;
- 905 (iv) a declaration of covenants, conditions, and restrictions; and
- 906 (v) rules of the association.

907 ~~[(11)]~~ (12) "Independent third party" means a person that:

- 908 (a) is not related to the owner of the residential lot;
- 909 (b) shares no pecuniary interests with the owner of the residential lot; and
- 910 (c) purchases the residential lot in good faith and without the intent to defraud a current
911 or future lienholder.

912 ~~[(12)]~~ (13) "Judicial foreclosure" means a foreclosure of a lot:

- 913 (a) for the nonpayment of an assessment;
- 914 (b) in the manner provided by law for the foreclosure of a mortgage on real property;
- 915 and
- 916 (c) as provided in Part 3, Collection of Assessments.

917 ~~[(13)]~~ (14) "Lease" or "leasing" means regular, exclusive occupancy of a lot:

- 918 (a) by a person or persons other than the owner; and
- 919 (b) for which the owner receives a consideration or benefit, including a fee, service,

920 gratuity, or emolument.

921 ~~[(14)]~~ (15) "Limited common areas" means common areas described in the declaration
922 and allocated for the exclusive use of one or more lot owners.

923 ~~[(15)]~~ (16) "Lot" means:

924 (a) a lot, parcel, plot, or other division of land:

925 (i) designated for separate ownership or occupancy; and

926 (ii) (A) shown on a recorded subdivision plat; or

927 (B) the boundaries of which are described in a recorded governing document; or

928 (b) (i) a unit in a condominium association if the condominium association is a part of
929 a development; or

930 (ii) a unit in a real estate cooperative if the real estate cooperative is part of a
931 development.

932 ~~[(16)]~~ (17) (a) "Means of electronic communication" means an electronic system that
933 allows individuals to communicate orally in real time.

934 (b) "Means of electronic communication" includes:

935 (i) web conferencing;

936 (ii) video conferencing; and

937 (iii) telephone conferencing.

938 ~~[(17)]~~ (18) "Mixed-use project" means a project under this chapter that has both
939 residential and commercial lots in the project.

940 ~~[(18)]~~ (19) "Nonjudicial foreclosure" means the sale of a lot:

941 (a) for the nonpayment of an assessment;

942 (b) in the same manner as the sale of trust property under Sections [57-1-19](#) through
943 [57-1-34](#); and

944 (c) as provided in Part 3, Collection of Assessments.

945 ~~[(19)]~~ (20) "Period of administrative control" means the period during which the
946 person who filed the association's governing documents or the person's successor in interest

947 retains authority to:

- 948 (a) appoint or remove members of the association's board of directors; or
- 949 (b) exercise power or authority assigned to the association under the association's
- 950 governing documents.

951 (21) "Political sign" means any sign or document that advocates:

- 952 (a) the election or defeat of a candidate for public office; or
- 953 (b) the approval or defeat of a ballot proposition.

954 (22) "Protected area" means the same as that term is defined in Section [77-27-21.7](#).

955 [~~20~~] (23) "Rentals" or "rental lot" means:

- 956 (a) a lot that:
 - 957 (i) is not owned by an entity or trust; and
 - 958 (ii) is occupied by an individual while the lot owner is not occupying the lot as the lot
 - 959 owner's primary residence; or
- 960 (b) an occupied lot owned by an entity or trust, regardless of who occupies the lot.

961 [~~21~~] (24) "Residential lot" means a lot, the use of which is limited by law, covenant,

962 or otherwise to primarily residential or recreational purposes.

963 (25) (a) "Rule" means a policy, guideline, restriction, procedure, or regulation of an

964 association that:

- 965 (i) is not set forth in a contract, easement, article of incorporation, bylaw, or
- 966 declaration; and
- 967 (ii) governs:
 - 968 (A) the conduct of persons; or
 - 969 (B) the use, quality, type, design, or appearance of real property or personal property.
- 970 (b) "Rule" does not include the internal business operating procedures of a board.

971 (26) "Sex offender" means the same as that term is defined in Section [77-27-21.7](#).

972 [~~22~~] (27) "Solar energy system" means:

- 973 (a) a system that is used to produce electric energy from sunlight; and

974 (b) the components of the system described in Subsection [~~(22)(a)~~] (27)(a).

975 Section 9. Section **57-8a-105** is amended to read:

976 **57-8a-105. Registration with Department of Commerce -- Department**
977 **publication of educational materials.**

978 (1) As used in this section, "department" means the Department of Commerce created
979 in Section [13-1-2](#).

980 (2) (a) No later than 90 days after the recording of a declaration of covenants,
981 conditions, and restrictions establishing an association, the association shall register with the
982 department in the manner established by the department.

983 (b) An association existing under a declaration of covenants, conditions, and
984 restrictions recorded before May 10, 2011, shall, no later than July 1, 2011, register with the
985 department in the manner established by the department.

986 (3) The department shall require an association registering as required in this section to
987 provide with each registration:

988 (a) the name and address of the association;

989 (b) the name, address, telephone number, and, if applicable, email address of the chair
990 of the association board;

991 (c) contact information for the manager;

992 (d) the name, address, telephone number, and, if the contact person wishes to use email
993 or facsimile transmission for communicating payoff information, the email address or facsimile
994 number, as applicable, of a primary contact person who has association payoff information that
995 a closing agent needs in connection with the closing of a lot owner's financing, refinancing, or
996 sale of the owner's lot; and

997 (e) a registration fee not to exceed \$37.

998 (4) An association that has registered under Subsection (2) shall submit to the
999 department an updated registration, in the manner established by the department, within 90
1000 days after a change in any of the information provided under Subsection (3).

1001 (5) (a) During any period of noncompliance with the registration requirement described
1002 in Subsection (2) or the requirement for an updated registration described in Subsection (4):

1003 (i) a lien may not arise under Section 57-8a-301; and

1004 (ii) an association may not enforce an existing lien that arose under Section 57-8a-301.

1005 (b) A period of noncompliance with the registration requirement of Subsection (2) or
1006 with the updated registration requirement of Subsection (4) does not begin until after the
1007 expiration of the 90-day period specified in Subsection (2) or (4), respectively.

1008 (c) An association that is not in compliance with the registration requirement described
1009 in Subsection (2) may end the period of noncompliance by registering with the department in
1010 the manner established by the department under Subsection (2).

1011 (d) An association that is not in compliance with the updated registration requirement
1012 described in Subsection (4) may end the period of noncompliance by submitting to the
1013 department an updated registration in the manner established by the department under
1014 Subsection (4).

1015 (e) Except as described in Subsection (5)(f), beginning on the date an association ends
1016 a period of noncompliance:

1017 (i) a lien may arise under Section 57-8a-301 for any event that:

1018 (A) occurred during the period of noncompliance; and

1019 (B) would have given rise to a lien under Section 57-8a-301 had the association been in
1020 compliance with the registration requirements described in this section; and

1021 (ii) an association may enforce a lien described in this Subsection (5)(e) or a lien that
1022 existed before the period of noncompliance.

1023 (f) If an owner's residential lot is conveyed to an independent third party during a
1024 period of noncompliance described in this Subsection (5):

1025 (i) a lien that arose under Section 57-8a-301 before the conveyance of the residential
1026 lot became final is extinguished when the conveyance of the residential lot becomes final; and

1027 (ii) an event that occurred before the conveyance of the residential lot became final,

1028 and that would have given rise to a lien under Section 57-8a-301 had the association been in
1029 compliance with the registration requirements of this section, may not give rise to a lien under
1030 Section 57-8a-301 if the conveyance of the residential lot becomes final before the association
1031 ends the period of noncompliance.

1032 (6) The department shall publish educational materials on the department's website
1033 providing, in simple and easy to understand language, a brief overview of state law governing
1034 associations, including:

1035 (a) a description of the rights and responsibilities provided in this chapter to any party
1036 under the jurisdiction of an association; and

1037 (b) instructions regarding how an association may be organized and dismantled in
1038 accordance with this chapter.

1039 (7) (a) Unless otherwise expressly exempted, this chapter applies to an association that
1040 registers, or renews or updates the association's registration, with the department under this
1041 section.

1042 (b) This section applies to an association regardless of when the association is created.

1043 Section 10. Section 57-8a-209 is amended to read:

1044 **57-8a-209. Rental restrictions.**

1045 (1) (a) Subject to Subsections (1)(b), (5), (6), and (10), an association may:

1046 (i) create restrictions on the number and term of rentals in an association; or

1047 (ii) prohibit rentals in the association.

1048 (b) An association that creates a rental restriction or prohibition in accordance with
1049 Subsection (1)(a) shall create the rental restriction or prohibition in a recorded declaration of
1050 covenants, conditions, and restrictions, or by amending the recorded declaration of covenants,
1051 conditions, and restrictions.

1052 (2) If an association prohibits or imposes restrictions on the number and term of
1053 rentals, the restrictions shall include:

1054 (a) a provision that requires the association to exempt from the rental restrictions the

1055 following lot owner and the lot owner's lot:

1056 (i) a lot owner in the military for the period of the lot owner's deployment;

1057 (ii) a lot occupied by a lot owner's parent, child, or sibling;

1058 (iii) a lot owner whose employer has relocated the lot owner for two years or less;

1059 (iv) a lot owned by an entity that is occupied by an individual who:

1060 (A) has voting rights under the entity's organizing documents; and

1061 (B) has a 25% or greater share of ownership, control, and right to profits and losses of

1062 the entity; or

1063 (v) a lot owned by a trust or other entity created for estate planning purposes if the trust

1064 or other estate planning entity was created for:

1065 (A) the estate of a current resident of the lot; or

1066 (B) the parent, child, or sibling of the current resident of the lot;

1067 (b) a provision that allows a lot owner who has a rental in the association before the

1068 time the rental restriction described in Subsection (1)(a) is recorded with the county recorder of

1069 the county in which the association is located to continue renting until:

1070 (i) the lot owner occupies the lot;

1071 (ii) an officer, owner, member, trustee, beneficiary, director, or person holding a

1072 similar position of ownership or control of an entity or trust that holds an ownership interest in

1073 the lot, occupies the lot; or

1074 (iii) the lot is transferred; and

1075 (c) a requirement that the association create, by rule or resolution, procedures to:

1076 (i) determine and track the number of rentals and lots in the association subject to the

1077 provisions described in Subsections (2)(a) and (b); and

1078 (ii) ensure consistent administration and enforcement of the rental restrictions.

1079 (3) For purposes of Subsection (2)(b)(iii), a transfer occurs when one or more of the

1080 following occur:

1081 (a) the conveyance, sale, or other transfer of a lot by deed;

- 1082 (b) the granting of a life estate in the lot; or
- 1083 (c) if the lot is owned by a limited liability company, corporation, partnership, or other
- 1084 business entity, the sale or transfer of more than 75% of the business entity's share, stock,
- 1085 membership interests, or partnership interests in a 12-month period.
- 1086 (4) This section does not limit or affect residency age requirements for an association
- 1087 that complies with the requirements of the Housing for Older Persons Act, 42 U.S.C. Sec.
- 1088 3607.
- 1089 (5) A declaration of covenants, conditions, and restrictions or amendments to the
- 1090 declaration of covenants, conditions, and restrictions recorded before the transfer of the first lot
- 1091 from the initial declarant may prohibit or restrict rentals without providing for the exceptions,
- 1092 provisions, and procedures required under Subsection (2).
- 1093 (6) (a) Subsections (1) through (5) do not apply to:
- 1094 (i) an association that contains a time period unit as defined in Section 57-8-3;
- 1095 (ii) any other form of timeshare interest as defined in Section 57-19-2; or
- 1096 (iii) subject to Subsection (6)(b), an association that is formed before May 12, 2009,
- 1097 unless, on or after May 12, 2015, the association:
- 1098 (A) adopts a rental restriction or prohibition; or
- 1099 (B) amends an existing rental restriction or prohibition.
- 1100 (b) An association that adopts a rental restriction or amends an existing rental
- 1101 restriction or prohibition before May 9, 2017, is not required to include the exemption
- 1102 described in Subsection (2)(a)(iv).
- 1103 (7) Notwithstanding this section, an association may restrict or prohibit rentals without
- 1104 an exception described in Subsection (2) if:
- 1105 (a) the restriction or prohibition receives unanimous approval by all lot owners; and
- 1106 (b) when the restriction or prohibition requires an amendment to the association's
- 1107 recorded declaration of covenants, conditions, and restrictions, the association fulfills all other
- 1108 requirements for amending the recorded declaration of covenants, conditions, and restrictions

1109 described in the association's governing documents.

1110 (8) Except as provided in Subsection (9), an association may not require a lot owner
1111 who owns a rental lot to:

1112 (a) obtain the association's approval of a prospective renter;

1113 (b) give the association:

1114 (i) a copy of a rental application;

1115 (ii) a copy of a renter's or prospective renter's credit information or credit report;

1116 (iii) a copy of a renter's or prospective renter's background check; or

1117 (iv) documentation to verify the renter's age; or

1118 (c) pay an additional assessment, fine, or fee because the lot is a rental lot.

1119 (9) (a) A lot owner who owns a rental lot shall give an association the documents
1120 described in Subsection (8)(b) if the lot owner is required to provide the documents by court
1121 order or as part of discovery under the Utah Rules of Civil Procedure.

1122 (b) If an association's declaration of covenants, conditions, and restrictions lawfully
1123 prohibits or restricts occupancy of the lots by a certain class of individuals, the association may
1124 require a lot owner who owns a rental lot to give the association the information described in
1125 Subsection (8)(b), if:

1126 (i) the information helps the association determine whether the renter's occupancy of
1127 the lot complies with the association's declaration of covenants, conditions, and restrictions;
1128 and

1129 (ii) the association uses the information to determine whether the renter's occupancy of
1130 the lot complies with the association's declaration of covenants, conditions, and restrictions.

1131 (c) An association that permits at least 35% of the lots in the association to be rental
1132 lots may charge a lot owner who owns a rental lot an annual fee of up to \$200 to defray the
1133 association's additional administrative expenses directly related to a lot that is a rental lot, as
1134 detailed in an accounting provided to the lot owner.

1135 (10) Notwithstanding Subsection (1)(a), an association may not restrict or prohibit the

1136 rental of an internal accessory dwelling unit, as defined in Section 10-9a-530, constructed
 1137 within a lot owner's residential lot, if the internal accessory dwelling unit complies with all
 1138 applicable:

- 1139 (a) land use ordinances;
- 1140 (b) building codes;
- 1141 (c) health codes; and
- 1142 (d) fire codes.

1143 (11) The provisions of Subsections (8) through (10) apply to an association regardless
 1144 of when the association is created.

1145 Section 11. Section 57-8a-217 is amended to read:

1146 **57-8a-217. Association rules, including design criteria -- Requirements and**
 1147 **limitations relating to board's action on rules and design criteria -- Vote of disapproval.**

1148 (1) (a) Subject to Subsection (1)(b), a board may adopt, amend, modify, cancel, limit,
 1149 create exceptions to, or expand[~~or enforce~~] the rules [~~and design criteria~~] of the association.

1150 (b) A board's action under Subsection (1)(a) is subject to:

- 1151 (i) this section;
- 1152 (ii) any limitation that the declaration imposes on the authority stated in Subsection
 1153 (1)(a);

1154 (iii) the limitation on rules in Sections 57-8a-218 and 57-8a-219;

1155 (iv) the board's duty to exercise business judgment on behalf of:

1156 (A) the association; and

1157 (B) the lot owners in the association; [~~and~~]

1158 (v) the right of the lot owners or declarant to disapprove the action under Subsection
 1159 (4)[~~;~~] ; and

1160 (vi) Subsection (7).

1161 (2) Except as provided in Subsection (3), before adopting, amending, modifying,
 1162 canceling, limiting, creating exceptions to, or expanding the rules [~~and design criteria~~] of the

1163 association, the board shall:

1164 (a) at least 15 days before the board will meet to consider a change to a rule or design
1165 criterion, deliver notice to lot owners, as provided in Section 57-8a-214, that the board is
1166 considering a change to a rule or design criterion;

1167 (b) provide an open forum at the board meeting giving lot owners an opportunity to be
1168 heard at the board meeting before the board takes action under Subsection (1)(a); and

1169 (c) deliver a copy of the change in the rules or design criteria approved by the board to
1170 the lot owners as provided in Section 57-8a-214 within 15 days after the date of the board
1171 meeting.

1172 (3) (a) Subject to Subsection (3)(b), a board may adopt a rule without first giving
1173 notice to the lot owners under Subsection (2) if there is an imminent risk of harm to a common
1174 area, a limited common area, a lot owner, an occupant of a lot, a lot, or a dwelling.

1175 (b) The board shall provide notice under Subsection (2) to the lot owners of a rule
1176 adopted under Subsection (3)(a).

1177 (4) A board action in accordance with Subsections (1), (2), and (3) is disapproved if
1178 within 60 days after the date of the board meeting where the action was taken:

1179 (a) (i) there is a vote of disapproval by at least 51% of all the allocated voting interests
1180 of the lot owners in the association; and

1181 (ii) the vote is taken at a special meeting called for that purpose by the lot owners
1182 under the declaration, articles, or bylaws; or

1183 (b) (i) the declarant delivers to the board a writing of disapproval; and

1184 (ii) (A) the declarant is within the period of administrative control; or

1185 (B) for an expandable project, the declarant has the right to add real estate to the
1186 project.

1187 (5) (a) The board has no obligation to call a meeting of the lot owners to consider
1188 disapproval, unless lot owners submit a petition, in the same manner as the declaration,
1189 articles, or bylaws provide for a special meeting, for the meeting to be held.

1190 (b) Upon the board receiving a petition under Subsection (5)(a), the effect of the
1191 board's action is:

- 1192 (i) stayed until after the meeting is held; and
- 1193 (ii) subject to the outcome of the meeting.

1194 (6) During the period of administrative control, a declarant may exempt the declarant
1195 from association rules and the rulemaking procedure under this section if the declaration
1196 reserves to the declarant the right to exempt the declarant.

1197 (7) An action against an association or member of the association's board based upon
1198 failure to comply with the requirements of Subsection (2) shall be commenced no later than 18
1199 months after the day on which the board took the challenged action under Subsection (2).

1200 Section 12. Section **57-8a-218** is amended to read:

1201 **57-8a-218. Equal treatment by rules required -- Limits on association rules and**
1202 **design criteria.**

1203 (1) (a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated lot
1204 owners similarly.

1205 (b) Notwithstanding Subsection (1)(a), a rule may:

- 1206 (i) vary according to the level and type of service that the association provides to lot
1207 owners;
- 1208 (ii) differ between residential and nonresidential uses; and

1209 (iii) for a lot that an owner leases for a term of less than 30 days, impose a reasonable
1210 limit on the number of individuals who may use the common areas and facilities as guests of
1211 the lot tenant or lot owner.

1212 (2) (a) If a lot owner owns a rental lot and is in compliance with the association's
1213 governing documents and any rule that the association adopts under Subsection (4), a rule may
1214 not treat the lot owner differently because the lot owner owns a rental lot.

1215 (b) Notwithstanding Subsection (2)(a), a rule may:

- 1216 (i) limit or prohibit a rental lot owner from using the common areas for purposes other

1217 than attending an association meeting or managing the rental lot;

1218 (ii) if the rental lot owner retains the right to use the association's common areas, even

1219 occasionally:

1220 (A) charge a rental lot owner a fee to use the common areas; or

1221 (B) for a lot that an owner leases for a term of less than 30 days, impose a reasonable

1222 limit on the number of individuals who may use the common areas and facilities as guests of

1223 the lot tenant or lot owner; or

1224 (iii) include a provision in the association's governing documents that:

1225 (A) requires each tenant of a rental lot to abide by the terms of the governing

1226 documents; and

1227 (B) holds the tenant and the rental lot owner jointly and severally liable for a violation

1228 of a provision of the governing documents.

1229 (3) (a) A rule criterion may not abridge the rights of a lot owner to display a religious

1230 or holiday sign, symbol, or decoration:

1231 (i) inside a dwelling on a lot; or

1232 (ii) outside a dwelling on:

1233 (A) a lot;

1234 (B) the exterior of the dwelling, unless the association has an ownership interest in, or

1235 a maintenance, repair, or replacement obligation for, the exterior; or

1236 (C) the front yard of the dwelling, unless the association has an ownership interest in,

1237 or a maintenance, repair, or replacement obligation for, the yard.

1238 (b) Notwithstanding Subsection (3)(a), the association may adopt a reasonable time,

1239 place, and manner restriction with respect to a display that is:

1240 (i) outside a dwelling on:

1241 (A) a lot;

1242 (B) the exterior of the dwelling; or

1243 (C) the front yard of the dwelling; and

- 1244 (ii) visible from outside the lot.
- 1245 (4) (a) A rule may not prohibit a lot owner from displaying a political sign:
- 1246 (i) inside a dwelling on a lot; or
- 1247 (ii) outside a dwelling on:
- 1248 (A) a lot;
- 1249 (B) the exterior of the dwelling, regardless of whether the association has an ownership
- 1250 interest in the exterior; or
- 1251 (C) the front yard of the dwelling, regardless of whether the association has an
- 1252 ownership interest in the yard.
- 1253 (b) A rule may not regulate the content of a political sign.
- 1254 (c) Notwithstanding Subsection (4)(a), a rule may reasonably regulate the time, place,
- 1255 and manner of posting a political sign.
- 1256 (d) An association design provision may not establish design criteria for a political
- 1257 sign.
- 1258 (5) (a) A rule may not prohibit a lot owner from displaying a for-sale sign:
- 1259 (i) inside a dwelling on a lot; or
- 1260 (ii) outside a dwelling on:
- 1261 (A) a lot;
- 1262 (B) the exterior of the dwelling, regardless of whether the association has an ownership
- 1263 interest in the exterior; or
- 1264 (C) the front yard of the dwelling, regardless of whether the association has an
- 1265 ownership interest in the yard.
- 1266 (b) Notwithstanding Subsection (5)(a), a rule may reasonably regulate the time, place,
- 1267 and manner of posting a for-sale sign.
- 1268 (6) (a) A rule may not interfere with the freedom of a lot owner to determine the
- 1269 composition of the lot owner's household.
- 1270 (b) Notwithstanding Subsection (6)(a), an association may:

1271 (i) require that all occupants of a dwelling be members of a single housekeeping unit;

1272 or

1273 (ii) limit the total number of occupants permitted in each residential dwelling on the
1274 basis of the residential dwelling's:

1275 (A) size and facilities; and

1276 (B) fair use of the common areas.

1277 (7) (a) A rule may not interfere with a reasonable activity of a lot owner within the
1278 confines of a dwelling or lot, including backyard landscaping or amenities, to the extent that
1279 the activity is in compliance with local laws and ordinances, including nuisance laws and
1280 ordinances.

1281 (b) Notwithstanding Subsection (7)(a), a rule may prohibit an activity within the
1282 confines of a dwelling or lot, including backyard landscaping or amenities, if the activity:

1283 (i) is not normally associated with a project restricted to residential use; or

1284 (ii) (A) creates monetary costs for the association or other lot owners;

1285 (B) creates a danger to the health or safety of occupants of other lots;

1286 (C) generates excessive noise or traffic;

1287 (D) creates unsightly conditions visible from outside the dwelling;

1288 (E) creates an unreasonable source of annoyance to persons outside the lot; or

1289 (F) if there are attached dwellings, creates the potential for smoke to enter another lot
1290 owner's dwelling, the common areas, or limited common areas.

1291 (c) If permitted by law, an association may adopt rules described in Subsection (7)(b)
1292 that affect the use of or behavior inside the dwelling.

1293 (8) (a) A rule may not, to the detriment of a lot owner and over the lot owner's written
1294 objection to the board, alter the allocation of financial burdens among the various lots.

1295 (b) Notwithstanding Subsection (8)(a), an association may:

1296 (i) change the common areas available to a lot owner;

1297 (ii) adopt generally applicable rules for the use of common areas; or

- 1298 (iii) deny use privileges to a lot owner who:
- 1299 (A) is delinquent in paying assessments;
- 1300 (B) abuses the common areas; or
- 1301 (C) violates the governing documents.
- 1302 (c) This Subsection (8) does not permit a rule that:
- 1303 (i) alters the method of levying assessments; or
- 1304 (ii) increases the amount of assessments as provided in the declaration.
- 1305 (9) (a) Subject to Subsection (9)(b), a rule may not:
- 1306 (i) prohibit the transfer of a lot; or
- 1307 (ii) require the consent of the association or board to transfer a lot.
- 1308 (b) Unless contrary to a declaration, a rule may require a minimum lease term.
- 1309 (10) (a) A rule may not require a lot owner to dispose of personal property that was in
- 1310 or on a lot before the adoption of the rule or design criteria if the personal property was in
- 1311 compliance with all rules and other governing documents previously in force.
- 1312 (b) The exemption in Subsection (10)(a):
- 1313 (i) applies during the period of the lot owner's ownership of the lot; and
- 1314 (ii) does not apply to a subsequent lot owner who takes title to the lot after adoption of
- 1315 the rule described in Subsection (10)(a).
- 1316 (11) A rule or action by the association or action by the board may not unreasonably
- 1317 impede a declarant's ability to satisfy existing development financing for community
- 1318 improvements and right to develop:
- 1319 (a) the project; or
- 1320 (b) other properties in the vicinity of the project.
- 1321 (12) A rule or association or board action may not interfere with:
- 1322 (a) the use or operation of an amenity that the association does not own or control; or
- 1323 (b) the exercise of a right associated with an easement.
- 1324 (13) A rule may not divest a lot owner of the right to proceed in accordance with a

1325 completed application for design review, or to proceed in accordance with another approval
1326 process, under the terms of the governing documents in existence at the time the completed
1327 application was submitted by the owner for review.

1328 (14) Unless otherwise provided in the declaration, an association may by rule:

1329 (a) regulate the use, maintenance, repair, replacement, and modification of common
1330 areas;

1331 (b) impose and receive any payment, fee, or charge for:

1332 (i) the use, rental, or operation of the common areas, except limited common areas; and

1333 (ii) a service provided to a lot owner;

1334 (c) impose a charge for a late payment of an assessment; or

1335 (d) provide for the indemnification of the association's officers and board consistent
1336 with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

1337 (15) A rule may not prohibit a lot owner from installing a personal security camera
1338 immediately adjacent to the entryway, window, or other outside entry point of the owner's
1339 dwelling unit.

1340 (16) (a) An association[:]

1341 [~~(a)~~] shall adopt rules supporting water-efficient landscaping, including allowance for
1342 low water use on lawns during drought conditions[; ~~and~~] .

1343 (b) A rule may not:

1344 (i) prohibit or restrict the conversion of a grass park strip to water-efficient
1345 landscaping[:]; or

1346 (ii) prohibit low water use on lawns during drought conditions.

1347 (c) An association subject to this chapter and formed before March 5, 2023, shall adopt
1348 rules required under Subsection (16)(a) before June 30, 2023.

1349 (17) (a) Except as provided in Subsection (17)(b), a rule may not prohibit the owner of
1350 a residential lot from constructing an internal accessory dwelling unit, as defined in Section
1351 [10-9a-530](#), within the owner's residential lot.

1352 (b) Subsection (17)(a) does not apply if the construction would violate:

1353 (i) a local land use ordinance;

1354 (ii) a building code;

1355 (iii) a health code; or

1356 (iv) a fire code.

1357 (18) A rule may restrict a sex offender from accessing a protected area that is
1358 maintained, operated, or owned by the association, subject to the exceptions described in

1359 Subsection 77-27-21.7(3).

1360 [~~18~~] (19) A rule shall be reasonable.

1361 [~~19~~] (20) A declaration, or an amendment to a declaration, may vary any of the
1362 requirements of Subsections (1), (2), (6), and (8) through (14), except Subsection (1)(b)(ii).

1363 [~~20~~] (21) A rule may not be inconsistent with a provision of the association's
1364 declaration, bylaws, or articles of incorporation.

1365 [~~21~~] (22) This section applies to an association regardless of when the association is
1366 created.

1367 Section 13. Section **57-8a-501** is amended to read:

1368 **57-8a-501. Board.**

1369 (1) A director shall be:

1370 (a) a natural person; and

1371 (b) 18 years old or older.

1372 (2) An association's bylaws may prescribe other qualifications for directors in addition
1373 to the requirements described in Subsection (1).

1374 (3) Without limiting the qualifications an association prescribes under Subsection (2),
1375 an association may, through governing documents or the board's internal procedures, disqualify
1376 an individual from serving as a director because the individual:

1377 (a) has been convicted of a felony; or

1378 (b) is a sex offender.

1379 (4) A director need not be a resident of this state or a unit owner in the association
1380 unless required by the association's bylaws.

1381 (5) Except as limited in a declaration, the association bylaws, or other provisions of
1382 this chapter, a board acts in all instances on behalf of the association.

1383 Section 14. Section **57-8a-701** is amended to read:

1384 **57-8a-701. Solar energy system -- Prohibition or restriction in declaration or**
1385 **association rule.**

1386 (1) As used in this section, "detached dwelling" means a detached dwelling for which
1387 the association does not have an ownership interest in the detached dwelling's roof.

1388 (2) (a) A governing document other than a declaration may not prohibit an owner of a
1389 lot with:

1390 (i) a detached dwelling from installing a solar energy system; or

1391 (ii) a dwelling attached to other dwellings from installing a solar energy system, if:

1392 (A) the association does not have an ownership interest in the dwelling's roof or
1393 building exterior;

1394 (B) the association does not have a maintenance, repair, or replacement obligation in
1395 the dwelling's roof or building exterior; and

1396 (C) all lot owners with attached dwellings in the building agree to the installation of the
1397 solar energy system.

1398 (b) A governing document other than a declaration or an association rule may not
1399 restrict an owner of a lot with:

1400 (i) a detached dwelling from installing a solar energy system on the owner's lot; or

1401 (ii) a dwelling attached to other dwellings from installing a solar energy system on the
1402 roof of the dwelling's building, if:

1403 (A) the association does not have an ownership interest in the dwelling's roof or
1404 building exterior;

1405 (B) the association does not have a maintenance, repair, or replacement obligation in

1406 the dwelling's roof or building exterior; and

1407 (C) all lot owners with attached dwellings in the building agree to the installation of the
1408 solar energy system.

1409 (3) A declaration may, for a lot with a detached dwelling:

1410 (a) prohibit a lot owner from installing a solar energy system; or

1411 (b) impose a restriction other than a prohibition on a solar energy system's size,
1412 location, or manner of placement if the restriction:

1413 (i) decreases the solar energy system's production by 5% or less;

1414 (ii) increases the solar energy system's cost of installation by 5% or less; and

1415 (iii) complies with Subsection (6).

1416 (4) (a) If a declaration does not expressly prohibit the installation of a solar energy
1417 system on a lot with a detached dwelling, an association may not amend the declaration to
1418 impose a prohibition on the installation of a solar energy system unless the association
1419 approves the prohibition by a vote of greater than 67% of the allocated voting interests of the
1420 lot owners in the association.

1421 (b) An association may amend an existing provision in a declaration that prohibits the
1422 installation of a solar energy system on a lot with a detached dwelling if the association
1423 approves the amendment by a vote of greater than 67% of the allocated voting interests of the
1424 lot owners in the association.

1425 (5) An association may, by association rule, for a lot with a detached dwelling, impose
1426 a restriction other than a prohibition on a lot owner's installation of a solar energy system if the
1427 restriction:

1428 (a) complies with Subsection (6);

1429 (b) decreases the solar energy system's production by 5% or less; and

1430 (c) increases the solar energy system's cost of installation by 5% or less.

1431 (6) A declaration or an association rule may require an owner of a [~~detached~~] dwelling
1432 that installs a solar energy system on the owner's lot:

1433 (a) to install a solar energy system that, or install the solar energy system in a manner
1434 that:

1435 (i) complies with applicable health, safety, and building requirements established by
1436 the state or a political subdivision of the state;

1437 (ii) if the solar energy system is used to heat water, is certified by:

1438 (A) the Solar Rating and Certification Corporation; or

1439 (B) a nationally recognized solar certification entity;

1440 (iii) if the solar energy system is used to produce electricity, complies with applicable
1441 safety and performance standards established by:

1442 (A) the National Electric Code;

1443 (B) the Institute of Electrical and Electronics Engineers;

1444 (C) Underwriters Laboratories;

1445 (D) an accredited electrical testing laboratory; or

1446 (E) the state or a political subdivision of the state;

1447 (iv) if the solar energy system is mounted on a roof:

1448 (A) does not extend above the roof line; or

1449 (B) has panel frame, support bracket, or visible piping or wiring that has a color or
1450 texture that is similar to the roof material; or

1451 (v) if the solar energy system is mounted on the ground, is not visible from the street
1452 that a lot fronts;

1453 (b) to pay any reasonable cost or expense incurred by the association to review an
1454 application to install a solar energy system;

1455 (c) be responsible, jointly and severally with any subsequent owner of the lot while the
1456 violation of the rule or requirement occurs, for any cost or expense incurred by the association
1457 to enforce a declaration requirement or association rule; or

1458 (d) as a condition of installing a solar energy system, to record a deed restriction
1459 against the owner's lot that runs with the land that requires the current owner of the lot to

1460 indemnify or reimburse the association or a member of the association for any loss or damage
1461 caused by the installation, maintenance, or use of the solar energy system, including costs and
1462 reasonable attorney fees incurred by the association or a member of the association.

1463 Section 15. Section **57-8a-802** is amended to read:

1464 **57-8a-802. Electric vehicle charging systems -- Restrictions -- Responsibilities.**

1465 (1) Notwithstanding any provision in an association's governing documents to the
1466 contrary, an association may not prohibit a lot owner from installing or using a charging system
1467 in:

1468 (a) a parking space:

1469 (i) on the lot owner's lot; and

1470 (ii) used for the parking or storage of a vehicle or equipment; or

1471 (b) a limited common area parking space designated for the lot owner's exclusive use.

1472 (2) An association may:

1473 (a) require a lot owner to submit an application for approval of the installation of a
1474 charging system;

1475 (b) require the lot owner to agree in writing to:

1476 (i) hire a general electrical contractor or residential electrical contractor to install the
1477 charging system; or

1478 (ii) if a charging system is installed in a common area, provide reimbursement to the
1479 association for the actual cost of the increase in the association's insurance premium
1480 attributable to the installation or use of the charging system;

1481 (c) require a charging system to comply with:

1482 (i) the association's reasonable design criteria governing the dimensions, placement, or
1483 external appearance of the charging system; or

1484 (ii) applicable building codes;

1485 (d) impose a reasonable charge to cover costs associated with the review and
1486 permitting of a charging ~~station~~ system;

- 1487 (e) impose a reasonable restriction on the installation and use of a charging [~~station~~]
1488 system that does not significantly:
- 1489 (i) increase the cost of the charging [~~station~~] system; or
1490 (ii) decrease the efficiency or performance of the charging [~~station~~] system; or
1491 (f) require a lot owner to pay the costs associated with installation, metering, and use of
1492 the charging [~~station~~] system, including the cost of:
- 1493 (i) electricity associated with the charging [~~station~~] system; and
1494 (ii) damage to a general common area, a limited common area, or an area subject to the
1495 exclusive use of another lot owner that results from the installation, use, maintenance, repair,
1496 removal, or replacement of the charging [~~station~~] system.
- 1497 (3) A lot owner who installs a charging system shall disclose to a prospective buyer of
1498 the lot:
- 1499 (a) the existence of the charging [~~station~~] system; and
1500 (b) the lot owner's related responsibilities under this section.
- 1501 (4) Unless the lot owner and the association or the declarant otherwise agree:
- 1502 (a) a charging [~~station~~] system installed under this section is the personal property of
1503 the lot owner of the lot with which the charging [~~station~~] system is associated; and
1504 (b) a lot owner who installs a charging [~~station~~] system shall, before transferring
1505 ownership of the owner's lot, unless the prospective buyer of the lot accepts ownership and all
1506 rights and responsibilities that apply to the charging [~~station~~] system under this section:
- 1507 (i) remove the charging [~~station~~] system; and
1508 (ii) restore the premises to the condition before installation of the charging [~~station~~]
1509 system.