

## ***SUMMARY OF IMPORTANT CONDOMINIUM ACT PROVISIONS***

**The following provisions apply to most condominium associations in North Carolina, including those created before October 1, 1986:**

- Zoning and building codes may not prohibit/discriminate against condominiums.
- Declaration prevails over the Bylaws in the event of a conflict.
- Procedures for merging or consolidating condominiums provided.
- Unless Declaration state otherwise, the Association may:
  - a. Adopt and amend bylaws, rules, and regulations.
  - b. Adopt and amend budgets and collect assessments for common expenses.
  - c. Hire and terminate managing agents, employees, agents, and contractors.
  - d. Institute, defend, or intervene in litigation or administrative proceedings.
  - e. Make contracts and incur liabilities.
  - f. Regulate use, maintenance, repair, replacement, and modification of common areas.
  - g. Impose reasonable charges for late payment of assessments, not to exceed the greater of \$20 per month or 10% of any assessment installment unpaid and, after notice and an opportunity to be heard, suspend privileges or services provided by the Association (except access to units) during any period that assessments or other amounts remain unpaid for 30 days or longer.
  - h. After notice and an opportunity to be heard, impose reasonable fines or suspend privileges or services provided by the association (except access to units) for reasonable periods for violations of the Declaration, Bylaws, or rules and regulations.
  - i. Impose reasonable charges for preparation and recordation of documents.
  - j. Impose reasonable charges in connection with the preparation of statements of unpaid assessments, which must be furnished within 10 business days after receipt of the request, not to exceed \$200 per statement or request, and an additional expedited fee not to exceed \$100 if the request is made within 48 hours of closing.
  - k. Provide for indemnification of and maintain liability insurance for officers, Board, employees, and agents.
  - l. Assign right to future income, including common expense assessments.
  - m. Exercise any other powers necessary and proper for the governance and operation of the association.
- Unless otherwise provided, Board may act on behalf of the Association.
- Within 30 days after adoption of proposed budget, Board must provide a summary and

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notice of the meeting to consider ratification, including a statement that the budget may be ratified without a quorum. Meeting must be held not less than 10 nor more than 60 days after notice. Budget is ratified, even without a quorum, unless a majority of all unit owners reject the budget, in which case last budget continues.

- Declarant control terminates no later than 120 days after conveyance of 75% of units, 2 years after Declarant ceases to offer units for sale, or 2 years after right to add new units last exercised.
- Not later than 60 days after conveyance of 25% of units, at least one member and not less than 25% of executive board elected by unit owners. Not later than 60 days after conveyance of 50% of units, not less than 33% of executive board elected by unit owners.
- Unit owners must elect a Board of at least 3 by termination of Declarant control.
- Board and officers' names and addresses must be published within 30 days of election.
- The Association is responsible for causing common areas to be maintained, repaired, and replaced when necessary. The Association may assess unit owners as necessary for such maintenance, repair, or replacement.
- A unit owner is responsible for damage caused to common area. The Association is responsible for damage to a unit caused by its agents.
- Unit owners may be fined or condominium services or privileges suspended due to late payment of assessments or violations of the Declaration, Bylaws, or rules and regulations. Unless the Declaration provides otherwise, a hearing must be held before the Board or an adjudicatory panel of no Board members. The owner must be given notice of the charge, an opportunity to be heard and to present evidence, and notice of the decision. Fines may not exceed \$100 per day beginning five days after decision. An adjudicatory panel decision may be appealed to the Board within 15 days.
- At least one Association meeting must be held per year.
- Special meetings may be called by the President, Board, or 20% of unit owners.
- Association meetings must be noticed with not less than 10 nor more than 60 days by hand-delivery, U.S. Mail, or electronic means (if designated by the owner).
- Notice of Association meetings must include agenda, including proposed amendment to the Declaration or Bylaws, any budget changes, and any proposal to remove a Board member or officer.

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- At regular intervals, Board must allow unit owners an opportunity to attend a portion of Board meeting to speak about issues or concerns, subject to reasonable time restraints.
- Meetings of the Association and Board must follow *Robert's Rules of Order Newly Revised (12<sup>th</sup> Edition)*.
- Any assessment remaining unpaid for 30 days constitutes a lien on the unit when the claim of lien is filed with the Clerk of Superior Court.
- Unit owner not required to pay attorneys' fees and court costs for assessment collection unless given specific 15 day notice letter by first-class mail to specified addresses.
- At least 15 days prior to filing lien, association must mail a statement of assessment amount due by first-class mail to physical address, address of record, and tax address.
- Claim of lien may be foreclosed only if assessment remains unpaid for 90 days or more.
- Executive board must vote to commence foreclosure proceeding against the specific unit.
- Assessment liens of fines or attorneys' fees only must be enforced by judicial foreclosure.
- Service, collection, consulting, or administration fees only if permitted in Declaration.
- A judgment or order for assessments shall include costs and reasonable attorneys' fees for the prevailing party. Attorneys' fees on any collection action for delinquent assessment are limited to \$1,200 in uncontested cases.
- Association must keep sufficient financial records. An annual income and expense statement and balance sheet must be available to unit owners within 75 days after the fiscal year. A more extensive compilation, review, or audit may be required by a vote of the Board or by a majority vote of unit owners present and voting at meeting.
- No financial payments, including goods or services, may be made to any officer or Board member or to a business, business associate, or relative of an officer or Board member except as expressly provided in the Bylaws or in payment for services or expenses of the Association approved in advance by the Board.
- In an action to enforce the Condominium Act, Declaration or Bylaws, the court may award reasonable attorneys' fees to the prevailing party.
- Members generally may fly U.S. or N.C. flag or display political signs.

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- Some statutes of limitation are tolled until Declarant control terminates.

**The following provisions apply to most condominium associations in North Carolina created on or after October 1, 1986:**

- Provisions of Act may not be varied by agreement, unless waived afterwards in writing.
- Procedures for creating, altering, terminating, merging or consolidating condominiums.
- Except in certain instances, the Declaration may be amended by the affirmative vote or signed written agreement of 67% of Association votes.
- An adopted and recorded Declaration amendment cannot be challenged after one year.
- Associations must be incorporated as profit or nonprofit corporation or unincorporated nonprofit association.
- Unless Articles of Incorporation or Declaration provide otherwise, the Association may:
  - a. Cause additional improvements to be made as part of the common area;
  - b. Acquire, hold, encumber, and convey any real or personal property, provided that common elements can only be conveyed or subjected to a security interest with 80% written approval (or higher if required by Declaration);
  - c. Grant easements, leases, licenses, and concessions over common areas; and
  - d. Impose and receive payments, fees, or charges for the use, rental, or operation of the common elements (other than limited common elements) and for services provided to unit owners.
- Certain contracts or leases may be terminated after the Board elected by unit owners with not less than 90 days' notice.
- Liability of party causing damage of \$500 or less to common area can be determined by adjudicatory panel, and any award of monies is a lien on the owner's property.
- Unless otherwise provided in the Bylaws, a quorum of 20% must be present at the beginning of a membership meeting and of 50% at the beginning of a Board meeting.
- If only one owner is present at a meeting, that owner may cast all the votes of the unit.
- Unless Declaration provides otherwise, surplus funds after payment of common expenses, operating surplus, and reserve prepayment are paid or credited to unit owners.

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