



ALTUS LEGAL LLC

CONDO AND HOA LAW

LEGAL TIPS

Association Rules: How Do We Adopt New Rules?

Here's the scenario: the board has been getting an earful about occupants leaving bikes parked in the hallways. The board decides, in the interest of safety (the bikes create a trip hazard in case of a fire) that bikes must be kept in units or designated areas of the common elements. **The association needs a new rule.**

Section 18.4(h) of the Illinois Condominium Property Act ("ILCPA") details the process for adopting a new rule. The process the board must follow is:

- Agree on the language of the new rule
- Decide on a date / time / location for a unit owner meeting to discuss the rule
- Decide on a date / time / location for a board meeting to adopt the rule
- Send out the draft language of the rule and notice for the meetings
- Hold the unit owners' meeting
- Adopt the rule at the board meeting

A few details to bear in mind about those steps:

- **Language of the New of the New Rule**

The board's first step is to agree on the rule's language. Rules should apply to the issues impacting the day-to-day living in the association to make life in the community better. The board should refrain from getting too draconian, such as prohibiting bikes in the building entirely (i.e. something unreasonable). **Some boards make the mistake of adopting rules that simply beg to be broken, which doesn't do anyone in the community any favors.** Strike the right balance between administering the association and preventing a unit owner revolt against an unreasonable rule.

- **Notify the Owners**

In order to formally adopt the rule, the board must call a special meeting of the unit owners, giving them a chance to discuss the proposed rule. The draft should be included with the meeting notice and must be mailed or delivered at least ten days before the meeting (but not more than 30 days before).

- **Condo Owners Do Not Get a Vote**

Many condo dwellers think the unit owners get to vote on the rules, **which is incorrect.** The unit owners do not vote on the rules; **the board alone votes to adopt the rule.** So why require the unit owners' meeting at all, you may ask, which is a good question. **The purpose of the unit owners' meeting is to give them an opportunity to provide feedback before the board adopts the rules.** It allows the owners to call for edits, bring up any issues with the rules, etc.

- **The Board Can Adopt the Rules the Same Night as the Owners' Meeting**

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After the unit owners' meeting, and provided the board does not make any substantive changes to the rule based on the owner feedback, the board can go ahead and formally adopt the rules at the next board meeting. We recommend you schedule the board meeting for the same night as the unit owners' meeting; the board meeting can begin immediately following adjournment of the owners' meeting. There's no requirement to do it as described, but it is highly efficient. The board is already present, so you might as well get the rule adopted while everyone is there. However, if the unit owners' meeting and the board meetings are not held on the same night, you'll need to be sure that the board meeting is properly noticed to the unit owners.