

Rule Change Procedure Chart (Consistent with Assembly Bill 512)

Criteria for Valid Operating Rule:

1. Must be in writing.
2. Adoption authority must be in governing documents or conferred by law.
3. Must not be inconsistent with governing documents or law.
4. Must be adopted, amended, repealed in compliance with 30-day notice and comment requirements.
5. Must be reasonable.

OPERATING RULE PROCEDURE		
<p>STEP 1: IS THE OPERATING RULE ONE OF THE EXEMPTIONS?</p> <p>Exemptions: emergency rule, required by law, repeat existing law or governing documents, regarding maintenance of common area, setting amount of regular or special assessment, matter not intended to apply generally. Usually adjudicative in nature.</p> <p>IS THE OPERATING RULE A VALID EMERGENCY RULE?</p> <p>Must be related to imminent threat to public health or safety or imminent risk of substantial economic loss to association.</p>	<p>IF NO – Go to Step 2.</p>	<p>IF YES –</p> <p>No 30-day notice to membership or comment at open board meeting required. Assembly Bill 512 requirements do not apply.</p> <p>Emergency rule can be adopted without 30-day Membership Notice or Comment, but is only effective for up to 120 days.</p>
<p>STEP 2: IS THE RULE RELATED TO A COVERED TOPIC?</p> <p>Covered topics: regarding use of common area or exclusive common area; separate interest; member discipline; standards for delinquent assessment payment plans or procedures for assessment dispute resolution.</p>	<p>IF NO –</p> <p>No 30-day notice to membership or comment at open board meeting required. Assembly Bill 512 requirements do not apply.</p>	<p>IF YES – Go to Step 3.</p>
<p>STEP 3: 30-DAY MEMBERSHIP NOTICE</p> <p>OPEN BOARD MEETING FOR MEMBERSHIP COMMENT</p>	<ul style="list-style-type: none"> Provide written notice to membership that board intends to consider rule adoption, including text of change, description of purpose / effect 30 days prior to open board meeting date. Have open board meeting for member comment. Consideration and vote for adoption of rule must be in open board meeting. Go to Step 4. 	
<p>STEP 4: NOTICE OF BOARD DECISION</p>	<p>Provide written notice of board decision and, if applicable, resulting rule change within 15 days of board's decision. Go to Step 5.</p>	
<p>STEP 5: HAS THE BOARD RECEIVED PETITION FOR RULE REVERSAL WITHIN 30 DAYS OF NOTICE IN STEP 4?</p>	<p>IF YES – Determine if signatures represent at least 5% of owners within community.</p> <p>If no, petition is rejected.</p> <p>If yes, go to Step 6.</p>	<p>IF NO – Rule is not subject to member rule reversal. (Petition received after 30 days of notice may be rejected as untimely.)</p>



OPERATING RULE PROCEDURE

<p>STEP 6: SUBMIT RULE REVERSAL TO A MEMBERSHIP VOTE WITHIN 20 DAYS OF PETITION RECEIPT.</p>	<p>Rule Reversal Vote may be by either:</p> <ul style="list-style-type: none">• Special meeting – Must be scheduled not less than 35 days nor more than 90 days after receipt of petition to reverse rule; OR• Written ballot – Must be returned not less than 35 days nor more than 90 days after receipt of petition to reverse rule. <p>Rule change would be reversed if a majority of a quorum of members approved the rule reversal. (Higher percentage may be required if so indicated in the governing documents.)</p> <p>Go to Step 7.</p>
<p>STEP 7: NOTICE OF RESULT OF RULE REVERSAL PETITION VOTE.</p>	<p>Written notice to members of voting results must be within 15 days after close of voting. If rule change is reversed, board of directors cannot attempt to readopt such rule for one year.</p>



Sample Format of Member Notice of Proposed Operating Rule Change

(The written notice must be given at least 30 days prior to the Board Meeting, *i.e.*, the written notice must actually be mailed at least 30 days prior to the board meeting.)

TO: ALL MEMBERS

Pursuant to *Civil Code* §1357.130, the Board of Directors will be considering a proposed operating rule change at the Board of Directors meeting to be held at [location], on [date] at [time] a.m./p.m. ("Board Meeting"). If you wish to make any written comments on this proposed operating rule change, please indicate your comments in the space designated below and return it to the Association's office so it can be delivered to the Board prior to the Board Meeting. Alternatively, if you can attend the Board Meeting, your constructive comments will be considered by the Board of Directors prior to its making a decision on the proposed rule change. Any and all comments made at the Board Meeting will be subject to the standing rules of the Board related to member comments at Board meetings.

- The text of the proposed rule change is as follows:
[Indicate the exact text of the rule change. We recommend that if it is a modification to an existing rule, that the text indicate the changes by showing a line through words to be deleted and underlining or italicizing words to be added.]
- A description of the purpose and effect of the proposed rule change is as follows:
[List not only the purpose of the proposed rule, but also its intended effect within the common interest development.]
- Member Comments. If you wish to provide written comment, please indicate your comments in the space designated below and return this form to ABC Association, Attention _____, [insert address]. Please date, identify your unit/lot number, print your name and sign this form. Anonymous/unsigned comments will not be considered.

I / We comment on the proposed operating rule change as follows:

(Please attach additional pages as needed.)

Date: _____ Lot/Unit Number: _____

Owner Printed Name

Signature

Owner Printed Name

Signature



Sample Format of Member Notice of Emergency Rule Change

TO: ALL MEMBERS

Pursuant to *Civil Code* §1357.130, the Board of Directors has adopted the following emergency rule which will take effect immediately and shall continue in effect until *[insert a date that is no longer than 120 days from the effective date of the emergency rule change]*.

- The text of the proposed rule change is as follows:
[Indicate the exact text of the rule change. We recommend that if it is a modification to an existing rule, that the text indicate the changes by showing a line through words to be deleted and underlining or italicizing words to be added.]
- A description of the emergency rule change is as follows:
[List not only the purpose of the proposed rule, but also its intended effect within the common interest development.]

[Insert the following optional provision, if applicable, if the association wants to make the emergency rule a permanent rule change.]

Additionally, pursuant to *Civil Code* §1357.130, the Board of Directors will be considering making the emergency rule a permanent change to the operating rules at the Board of Directors meeting to be held [location], on [date] at [time] a.m./p.m. ("Board Meeting"). If you wish to make any written comments on this proposed rule change, please indicate your comments in the space designated below and return it to the Association's office so it can be delivered to the Board prior to the Board Meeting. Alternatively, your constructive comments will be considered by the Board of Directors prior to its making a decision on the proposed rule change. Any and all comments made at the Board Meeting will be subject to the standing rules of the Board related to member comments at Board meetings.

- Member Comments. If you wish to provide written comment, please indicate your comments in the space designated below and return this form to ABC Association, Attention _____, [insert address]. Please date, identify your unit/lot number, print your name and sign this form. Anonymous/unsigned comments will not be considered.

I / We comment on the proposed operating rule change as follows:

(Please attach additional pages as needed.)

Date: _____ Lot/Unit Number: _____

Owner Printed Name

Signature

Owner Printed Name

Signature

