WEST VIRGINIA CODE CHAPTER 36A ARTICLE 3

WV Legislature

§36A-3-1. Administration governed by code of regulations.

The administration of every property shall be governed by a code of regulations, a true and correct copy of which, and all duly adopted amendments of which, shall be duly recorded.

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§36A-3-2. Adoption, amendment or repeal of code of regulations.

The council has authority to make, alter, amend and repeal the code of regulations, subject to the right of a majority of the unit owners to change any such actions.

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§36A-3-3. Contents of code of regulations.

The code of regulations shall provide for at least the following and may include other lawful provisions:

(a) Identification of the property by reference to the place of record of the declaration and the declaration plan;

(b) The method of calling meetings of unit owners and meetings of the council;

(c) The number of unit owners and the number of members of council which shall constitute a quorum for the transaction of business;

(d) The number and qualification of members of council, the duration of the term of such members and the method of filling vacancies;

(e) The annual election by the council of a president, secretary and treasurer and any other officers which the code of regulations may specify;

(f) The duties of each officer, the compensation and removal of officers and the method of filling vacancies;

(g) Maintenance, repair and replacement of the common elements and payment of the cost thereof;

(h) The manner of collecting common expenses from unit owners; and

(i) The method of adopting and of amending rules governing the details of the use and operation of the property and the use of the common elements.

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§36A-3-4. Compliance by owners with code of regulations, administrative provisions, etc.

Each unit owner shall comply with the code of regulations and with such rules governing the details of the use and operation of the property and the use of the common elements as may be in effect from time to time, and with the covenants, conditions and restrictions set forth in the declaration or in the deed to his unit or in the declaration plan.

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§36A-3-5. Remedy for noncompliance with code of regulations, administrative provisions, etc.

Failure to comply with the code of regulations and with such rules governing the details of the use and operation of the property and the use of the common elements as may be in effect from time to time and with the covenants, conditions and restrictions set forth in the declaration or in deeds of units or in the declaration plan shall be grounds for an action for the recovery of damages or for injunctive relief, or both, maintainable by any member of the council on behalf of the council or the unit owners or, in a proper case, by an aggrieved unit owner or by any person who holds a mortgage lien upon a unit and is aggrieved by any such noncompliance.

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§36A-3-6. Duties of council.

The duties of the council shall include the following:

(a) The maintenance, repair and replacement of the common elements;

(b) The assessment and collection of funds from unit owners for common expenses and the payment of such common expenses;

(c) The adoption and amendment of the code of regulations and the promulgation, distribution and enforcement of rules governing the details of the use and operation of the property and the use of the common elements, subject to the right of a majority of the unit owners to change any such actions; and

(d) Any other duties which may be set forth in the declaration or code of regulations.

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§36A-3-7. Powers of council.

Subject to the limitations and restrictions contained in this chapter, the council shall on behalf of the unit owners:

(a) Have power to manage the business, operation and affairs of the property and for such purposes to engage employees and appoint agents and to define their duties and fix their compensation, enter into contracts and other written instruments or documents and to authorize the execution thereof by officers elected by the council; and

(b) Have such incidental powers as may be appropriate to the performance of their duties.

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§36A-3-8. Work on common elements.

The maintenance, repair and replacement of the common elements and the making of improvements or additions thereto shall be carried on only as provided in the code of regulations.

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§36A-3-9. Certain work prohibited.

No unit owner shall do any work on his unit or the common elements which would jeopardize the soundness or safety of the property or impair any easement or hereditament without the unanimous consent of the unit owners affected thereby.

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§36A-3-10. Easements for work.

The council shall have an easement to enter any unit to maintain, repair or replace the common elements, as well as to make repairs to units if such repairs are reasonably necessary for public safety or to prevent damage to other units or to the common elements.

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§36A-3-11. Common profits and expenses.

The common profits of the property shall be distributed among, and the common expenses shall be charged to, the unit owners according to the percentage of the undivided interest of each in the common elements as set forth in the declaration and any amendments thereto.

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§36A-3-12. Voting by unit owners.

At any meeting of unit owners, each unit owner shall be entitled to the same number of votes as the percentage of ownership in the common elements assigned to his unit in the declaration and any amendments thereto.

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§36A-3-13. Records of receipts and expenditures; examination by owners; records of assessments.

The treasurer shall keep detailed records of all receipts and expenditures, including expenditures affecting the common elements, specifying and itemizing the maintenance, repair and replacement expenses of the common elements and any other expenses incurred. Such records shall be available for examination by the unit owners during regular business hours. In accordance with the actions of the council assessing common expenses against the units and unit owners, he shall keep an accurate record of such assessments and of the payment thereof by each unit owner.

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