

New Laws Impacting Forest Oaks

Summary provided by Tilden & Prohidney, P.L.

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Hurricane Protection Measures

- a. New requirement in the law that the Association must adopt hurricane protection specifications that apply to each parcel governed by the Association.
- b. Hurricane protection specifications include roof systems, permanent fixed storm shutters, roll-down track storm shutters, impact-resistant windows and doors, polycarbonate panels, reinforced garage doors, erosion controls, exterior fixed generators, fuel storage tanks, and other hurricane protection products. The Board may determine what is relevant to the specifications (the Board, and/or ARB, may set the standards based on the design/building schemes for the community)

I. Section 720.3033 Education and Ethical Requirements

- a. All newly elected Directors must complete department-approved (DBPR) education requirements and receive Board Certification. This includes training relating to financial literacy, transparency, recordkeeping, levying of fines, and requirements for running meetings. The certification requirement must take place within 90 days of being elected. The DBPR will issue rules regarding current/existing directors, which will likely allow the certification course to be completed after the next election.
- b. Directors must attend a Board Certification course (typically a 2-hour course) every 4 years.
- c. Annual continuing education requirements must be completed by all Directors. Communities with less than 2,500 parcels must complete four hours of continuing education requirements annually.
- d. Provides that any officer, director, or manager who knowingly solicits, offers to accept, or accepts a kickback is guilty of a third-degree felony.
- e. Clarifies that if a Director or Officer is removed due to being charged by information or indictment for specified crimes, a vacancy is declared. Pursuant to Fla. Stat. Sec. 720.3033(b), the Board is obligated to fill the vacancy.

III. Section 720.305 Levying Fines (Changes)

- a. Requires that a hearing before the fining/hearing/covenants committee must be held within 90 days after the 14-day notice of right to a hearing is sent to the parcel owner.
- b. Allows hearings by telephone or other electronic means, which hearing notice should provide log in credentials (owner must be allowed to attend telephonically/electronically upon request).
- c. Requires that within 7 days after the hearing, the committee must provide notice to the owner and, if applicable, to the tenant of the committee's findings, including fines and suspensions that were approved/rejected and how to cure the violation, if applicable, "or fulfill a suspension, or the date by which fine must be paid."

- d. Prohibits a fine or suspension from being imposed if the violation is cured before the hearing.
- e. Requires the committee to set a due date for the fine at least 30 days after delivery of notice of confirmed fine to the owner (see c. above).
- f. Prohibits imposition of attorneys' fees or costs against owner based on actions taken in a fining matter before the date for fine to be paid (allows recovery of fees and costs beginning after the due date of the fine).
- g. We have included a flow chart of the new fining procedure to simplify the process.

IV. Restrictions on Fines

- a. Associations may not issue fines to owners who leave trash receptacles out within 24 hours prior to, or after, collection.
- b. Owners may not be fined for leaving holiday lights and decorations up without notice and one week to cure the violation.
- c. Fines may not be issued to owners who install vegetable gardens or clotheslines which are not visible from the parcel's frontage or an adjacent parcel, an adjacent common area, or a community golf course.

V. Section 720.303 Amendments - Financial Matters/Disclosures

- a. Prohibits the Association from electing to prepare a financial statement in lieu of an audited financial statement in consecutive years (although the members could authorize the Association to prepare or obtain a less rigorous financial statement than otherwise required, the reduction is only permitted every other year).
- b. The Association and its officers, directors, employees, and agents may not use a debit card issued in the name of the association, or billed directly to the association, for the payment of any association expenses.
- c. Allows an owner to make a written request for a detailed accounting of any amounts owed to the Association, which accounting must be provided within 15 business days. Should the Association fail to provide this, the Board forfeits any outstanding fine which is more than 30 days past due and for which the Association has not given prior written notice of the imposition of fines (owner can only make one request every 90 days).

VI. Section 720.303 Record Access

- a. Directors who knowingly or willfully violate the Association's obligation to make official records available may be guilty of a second-degree misdemeanor.
- b. Directors who knowingly or willfully destroy or refuse to provide records may be guilty of first-degree misdemeanor.
- c. Any person who knowingly or willfully fails to produce Association records with the intent to avoid detection, arrest, trial, or punishment commits a third-degree felony.
- d. Requires the Association to produce records to law enforcement within 5 days of receipt of a subpoena, unless a later date is provided in the subpoena. Requires an Association to "assist a law enforcement agency with its investigation to the extent permissible by law."

VII. Section 720.303 Officers and Directors

- a. Provides that a director who knowingly, willfully, and repeatedly violates the Association's obligation to make official records available for inspection with intent to harm the Association or any member is guilty of a second-degree misdemeanor.
- b. Provides that any person who knowingly and intentionally destroys accounting records or fails to create or maintain required accounting records with intent to harm the Association or member is guilty of a first-degree misdemeanor.
- c. Provides that any person who willfully and knowingly fails to produce Association records with intent to avoid detection, arrest, trial, or punishment commits third-degree felony.

VIII. Section 720.303 Record Keeping

- a. Official Records must be kept for a minimum of 7 years, but the governing documents may require more (or the Board could adopt a longer policy).
- b. Associations with 100 parcels or more must post certain official records on a website created for the Association or available through a mobile application by January 1, 2025 (redacted as necessary). The website must contain a subpage or portal that is password protected and inaccessible to the general public.
- c. The required records are:
 - i. Declaration of covenants and amendments
 - ii. Articles of Incorporation & amendments
 - iii. Bylaws and amendments
 - iv. Current rules
 - v. Contracts and bids
 - vi. Annual budget
 - vii. Financial reports
 - viii. Insurance policies
 - ix. Director certifications
 - x. All contracts, notices, minutes, and other documents related thereto constituting a conflict of interest (i.e., contracts with directors, their family, or entities in which they have an interest)
 - xi. Member Meeting notices, agenda, and any documents to be considered linked conspicuously on the homepage
 - xii. Board meeting notices and enclosures.
- d. Requires the Association to adopt written rules governing method and time period for retaining official records and post the rules/policy on its website.

IX. Section 720.3085(3)

- a. Clarifies that simple interest accrues at a maximum rate of 18% and cannot be compounded (i.e., interest on interest).