

“Police Cruisers May Park In Neighborhood,” News-Press

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By: Joseph E. Adams



Q: My homeowners' association has a rule that prohibits commercial vehicles from being parked in the driveways. A question came up as to whether this rule would apply to a police cruiser that is driven by one of our owners who is a law enforcement officer. The board stated that the police cruiser was allowed regardless of the rule. While I have no objection to the police cruiser, I am worried that this creates a precedent that would allow true commercial vehicles to be parked in our community. Should the police cruiser be permitted? (J.M., via e-mail)

A: Restrictions regulating what types of vehicles may be parked in a community are common and frequently prohibit the parking of commercial vehicles, except when those vehicles are providing services to a home.

Whether commercial vehicle restrictions apply to certain types of governmental vehicles, including police cruisers, has been a subject of historical debate. For example, on June 16, 2005, Florida's Attorney General issued an advisory opinion concluding that police cruisers were not commercial vehicles for the purpose of subdivision restrictions.

The debate was laid to rest by the Florida legislature last year. Section 720.318 of the Florida Homeowners' Association Act became effective July 1, 2020. This law specifically states that an association may not prohibit a law enforcement officer who is an owner or resident in a community from parking their assigned law enforcement vehicle within the community.

Therefore, the association would be obligated to permit a law enforcement officer to park their police cruiser in the community. Further, allowing this would not limit the association to otherwise consistently enforce a valid restriction against commercial vehicles.

Q: What notice to unit owners is required for condominium association boards when they revise the rules and regulations? (S.M., via e-mail)

A: Section 718.112(2)(c)1 of the Florida Condominium Act generally requires posting a notice and agenda on the condominium property at least 48 hours in advance of a board meeting. This requirement would apply to the general adoption of rules regarding use of the common elements.

Under the same statute, when a proposed rule pertains to unit use, the notice requirement is increased to 14 days prior to the meeting, and the notice must actually be mailed, delivered, or electronically transmitted to the unit owners (e-mail is only permissible if the owner has consented in writing to receive official notice in that manner). The notice must also be posted on the condominium property 14 days in advance.

Additionally, an affidavit demonstrating compliance with the 14-day notice requirement must be signed by the person providing the notice and filed in the condominium association's official records. It is important to note that not all condominium documents confer rulemaking authority to the board regarding unit use, so this should be verified. Additional procedural requirements of the condominium documents should also be reviewed.

The Florida Homeowners' Association Act imposes substantially similarly requirements.

Q: If the association uses reserves for operating expenses, does the association have to repay the reserves by a certain date ? (R.G., via e-mail)

A: Section 718.112(2)(f)3 of the Florida Condominium Act states that reserve funds may only be used for authorized reserve purposes unless there is a vote of the unit owners to approve the non-scheduled use.

If the owners have authorized the use of reserves for another purpose, there is no legal requirement that reserves be repaid. However, the reserve fund balances for the next budget year would show a reduced beginning balance, so the reserves would have to be "made up" if the association fully funds statutory reserves.

Many associations vote to authorize the use of reserves for operating cash flow management, such as paying large insurance premiums that come due early in the fiscal year. In many cases, the unit owner vote that authorizes the use of reserves for operating expenses requires repayment by a certain date, normally the end of the fiscal year in which the reserve funds were "borrowed."

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