

FIELDS & BACHOVE, PLLC

4440 PGA BOULEVARD, SUITE 308
PALM BEACH GARDENS, FL 33410
PHONE: (561) 625-1200
FAX: (561) 625-1259
www.fbhoalaw.com

GARY D. FIELDS, ESQUIRE
gary@fbhoalaw.com

EVAN R. BACHOVE, ESQUIRE
evan@fbhoalaw.com

2020 REVISIONS TO FLORIDA COMMUNITY ASSOCIATION LAW

September 29, 2020

(Via e-mail)

Dear Client:

We hope this correspondence finds you safe and well. Although the last few months have been focused on regulations related to the pandemic, there are three (3) new laws that went into effect in 2020 which may have an impact on your community association. Please note that below is only a summary of some of the significant changes in these new laws and is not an exhaustive list of all changes that may affect your community. If you have any questions about a specific statutory provision or other laws that may or may not have passed, please contact our office.

Effective as of February 21, 2020 (applies to condos and HOAs):

1. Law Enforcement Vehicles

The Association is not allowed to prohibit a law enforcement officer from parking his or her assigned law enforcement vehicle in any area where other vehicles have a right to park. This applies if the law enforcement officer owns a property in the community, or is a tenant, guest, or invitee of an owner.

Effective as of April 8, 2020 (applies only to HOAs):

2. Fireworks

The Homeowners Association is not allowed to promulgate rules, through the Board of Directors, which prohibits a homeowner's right to use fireworks on New Year's Day, Independence Day, or New Year's Eve. However, if there is a prohibition on fireworks in the Declaration of Covenants or other covenant running with the land, this can still be enforced. Also, please note that the new law does not supersede any local (City or County) regulations relating to the use of fireworks.

Effective as of July 1, 2020 (applies to condos and HOAs):

3. Emotional Support Animals

a) Defines an “emotional support animal” as: an animal that does not require training to do work, perform tasks, provide assistance, or provide therapeutic emotional support by virtue of its presence which alleviates one or more identified symptoms or effects of a person’s disability.

b) Makes it unlawful to discriminate against a person with a disability or disability-related need for, and who has or at any time obtains, an emotional support animal.

c) Prohibits the Association from charging the owner a fee for such animal.

d) Allows the Association to deny a request for an emotional support animal if such animal poses a direct threat to the safety or health of others or poses a direct threat of physical damage to the property of others, which threat cannot be reduced or eliminated by another reasonable accommodation.

e) If the person’s disability is not readily apparent, the Association can request reliable information which may include, among other things, information from a health care practitioner who has personal knowledge of the person’s disability. Note that if the practitioner is in another state, then he/she must have provided in-person care on at least one occasion to the person requesting the emotional support animal.

f) If the need for an emotional support animal is not readily apparent, the Association can request reliable information which may include, among other things, information from a health care practitioner identifying the particular assistance or therapeutic emotional support provided by the specific animal. Note that if the persons requests to keep more than one emotional support animal, then the Association may request information regarding the specific need for each animal.

g) The Association may request proof of compliance with state and local requirements for licensing and vaccinating each emotional support animal.

h) The Association cannot request information that discloses the diagnosis or severity of a person’s disability or any medical records relating to the disability.

- i) The Association can develop a routine method for processing requests for emotional support animals, but cannot require the use of a specific form or notarized statement, nor can the Association deny a request solely because a person did not follow the Association's routine method.
- j) An emotional support animal registration, including identification cards, patches, or certificates obtained from the Internet, by themselves, are not sufficient information to establish a disability or need for an emotional support animal.
- k) A person is liable for any damage caused by his or her emotional support animal.
- l) Makes it a misdemeanor of the 2nd degree for any person who falsifies information or written documentation , or knowingly provides fraudulent information or documentation, for an emotional support animal, or otherwise knowingly and willfully misrepresents himself or herself as having a disability or need for an emotional support animal.

If there are any questions I can answer in this regard, please let me know. Please stay safe and well.

Sincerely,

E. Bachove (e-mail signature)

EVAN R. BACHOVE