

RECODE YORK COUNTY

Zoning & Subdivision Codes Rewrite



CHAPTER 154: LAND DEVELOPMENT CODE

SUBCHAPTER F: PROPERTY OWNER ASSOCIATIONS

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PART 1: GENERAL PROVISIONS¹

§ 154.139 PURPOSE.

The purpose of this Subchapter is to set uniform requirements for the establishment, governance, and responsibilities of Property Owners Associations. These standards are intended to ensure that commonly owned elements and infrastructure of developments are maintained in a manner that supports their long-term viability and reduces the risk that public intervention will be needed to financially support the maintenance of such infrastructure.

§ 154.140 APPLICABILITY.

The provisions of the Subchapter shall apply to all developments within unincorporated York County that include commonly owned property, infrastructure, or other features, including those developments where a single owner has current control over common elements shared by multiple lots or parcels.

§ 154.141 RESERVED.

¹ This Part carries forward and expands the requirements in § 154.007 *Homeowners Association* for developers to establish property owners association in subdivisions/developments with private streets, common open space, other common areas, and shared community facilities.

PART 2: PROPERTY OWNERS ASSOCIATION REQUIRED²

§ 154.142 PURPOSE.

The purpose of this Part is to ensure that all private property, physical improvements, infrastructure, and services that are intended to be owned, maintained, and/or operated by two or more persons or other legally distinct entities are held in a fiscally sustainable and responsible legal association comprised of the owners of the real property served or enjoyed by such property, physical improvements, infrastructure, and services.

§ 154.143 APPLICABILITY.

A Property Owners Association constituted under the applicable provisions of the South Carolina Code of Laws shall be required for all development subject to the jurisdiction of this Ordinance where any real property, physical improvements, or infrastructure will be owned in common by two or more persons or legal entities, or where common services, such as private lawn or exterior building maintenance, are proposed to be provided to more than one property within a development.

§ 154.144 ESTABLISHMENT.

A Property Owners Association shall be established through filing of the declaration of covenants and restrictions for the association in the office of the York County Clerk of Court prior to any interest in property within the development being transferred to an entity other than the initial owner/developer.

§ 154.145 MASTER ASSOCIATION REQUIRED.

(A) **When Required.** Where a development subject to the requirements of this Part is comprised of multiple types of uses, such as a Special District containing a mixture of single-family residences, townhomes, apartments, and commercial areas, with each distinct neighborhood or use type having a separate Property Owners Association; a Master Property Owners Association comprised of each of the separate associations shall be established to manage the common business affairs and responsibilities of each sub-association.

(B) **Timing of Establishment.** The Master Association shall be established prior to the establishment of any sub-association.

² This Part carries forward and expands the requirements in § 154.007 *Homeowners Association* for developers to establish property owners association in subdivisions/developments with private streets, common open space, other common areas, and shared community facilities.

(C) **Applicability.** Each property within the development shall be required to maintain membership in both the separate association as well as the Master Property Owners Association.

(D) **Withdrawal and Merger.** Withdrawal by any property or sub-association from the Master Association shall be prohibited, but the merger of associations, either with other sub-associations or with the Master Association is permitted.

§ 154.146 PHASED DEVELOPMENT.

Where a development is completed in phases, each new phase shall be either annexed into the existing Property Owners Association by amendment of the declaration, or incorporated as a separate sub-association of a Master Property Owners Association, as applicable. Such amendment or incorporation shall take place prior to the transfer of any interest in property within the phase of the development to any entity other than the initial owner/developer.

§ 154.147 DISSOLUTION.

Where the commonly owned, held, or operated elements of a development that required the establishment of a Property Owners Association are disposed of or cease to operate, in whole, the dissolution of the Property Owners Association shall be permitted. An example of such circumstance would be a residential subdivision with private streets dedicating such streets to the public and having them accepted for maintenance by a public entity.

§ 154.148 RESERVED.

PART 3: REQUIRED COVENANTS, CONDITIONS, AND RESTRICTIONS³

§ 154.149 PURPOSE.

The purpose of this Part is to ensure that Property Owners Associations are established in a manner that supports the long-term viability of the organization to carry out their intended duties to their members.

§ 154.150 APPLICABILITY.

These provisions shall apply to all Property Owners Associations required under this Subchapter.

§ 154.151 REQUIRED COVENANTS, CONDITIONS, AND RESTRICTIONS.

The initial declaration of a Property Owners Association required by this Subchapter shall include, at a minimum, the following covenants, conditions, and restrictions:

- (A) All required information established under the applicable standards of the South Carolina Code of Laws;
- (B) A requirement for membership in perpetuity for each property subject to the declaration, inclusive of the Master Association, if applicable;
- (C) A requirement for the association to perpetually maintain, repair, and operate all commonly held property, infrastructure, services, and other common elements;
- (D) A restriction on the assignment, conveyance, or designation of responsibility for any commonly owned and/or operated infrastructure or real property from the Property Owners Association to any individual member or subset of individual members of the association;
- (E) A requirement for the association to maintain liability and casualty insurance for all commonly held property and infrastructure;
- (F) A requirement for the association to pay all taxes, fees, and charges for services incurred by the association related to its commonly held property and commonly operated services;

³ This Part carries forward and expands the requirements in § 154.007 *Homeowners Association* for developers to establish covenants and restrictions in subdivisions/developments with private streets and/or common open space, with a clear delineation of responsibilities.

(G) An initial operations and maintenance budget, pre-funded through the first fiscal year of its existence, that establishes adequate funding for all of its obligations incurred in carrying out its declared responsibilities;

(H) A long-term capital improvement budget, initially funded with 5% of the construction costs of all improvements held in common ownership by the association, and an initial annual capital improvement fee structure sufficient to generate 1% of the initial construction costs per annum; and

(I) A requirement that all properties subject to the declaration are liable for the payment of the annual pro rata share of the annual operating budget and capital improvement fees assessed to each property, and the method in which the association will ensure the collection of delinquent fees, penalties, and interest owed to it.

§ 154.152 RESERVED.