



APEX POLICE DEPARTMENT

The Apex Police Department has been receiving numerous complaints from Citizens regarding covenant/Home Owner association or Pool rules. This memo's intention is to provide clear direction to the public on what the Apex Police Department's policy is regarding these complaints. Please forward this information to the members of your community.

If there is a violation of State Statue or City Code the Apex Police officers will handle the complaint as directed by the Apex Police Standard Operating Procedure (SOP). If the complaint is in regards to a rule established by a Home Owners Association (HOA) or Community group the Apex Police will not take action.

Examples:

1. Pool rules: No alcohol allowed.
 - a. This is not a criminal act. The residents are paying the HOA for the use of this property and allows them to act as if it were there own property. This rule is only enforceable by HOA fines. The Police will not report names or addresses of those involved to the HOA.
2. Alcohol consumed by underage individuals at the pool or disorderly conduct by individuals due to impairment.
 - a. This is a State Statue that will be handled by Apex Police.
3. Trespassing
 - a. Pool/HOA communal property: NO Trespassing -If the person is paying dues for the right to participate on/in this property it is not a trespassing charge. If the property has set hours of operation and residents are in violation of this, they can be fined by the HOA but are not in violation of a state statue.
 - b. Trespassing signs could include "No trespassing by anyone (residents or non residents) between the hours of __ and __.
4. Parking/Towing
 - a. If the vehicle is in violation of a city or state statue the Apex Police department will follow SOP regarding the removal of the vehicle.

HOA members or Property Management groups DO NOT have the authority to remove a properly registered vehicle from a public street. Fines can be imposed through the Home Owners Association only. Removal of these vehicles can result in criminal and/or civil penalties to the HOA and its members who had the vehicle towed.

A Public Street or highway means the entire area between internal property lines which is open to the use of the public, as a matter of right, for purposes of vehicular traffic.

Section 19-7 of the City Code defines what areas a Covance has authority over.

C. Covenants and restrictions. The developer shall file with the application for the preliminary approval a declaration of covenants and restrictions governing the common areas, if any, as required by this Code, the homeowners' association, and unit sites. The restrictions shall contain (but not be limited to) provisions for the following:

1. If the plan of development includes common areas or a common maintenance of units and lots, a homeowners' association shall be mandatory and shall be organized and in legal existence prior to the sale of any unit in the development.

2. If a homeowners' association is organized, membership in the homeowners' association shall be mandatory for each original purchaser and each successive purchaser of a unit site.

3. **The homeowners' association shall be responsible for the payment of premiums for liability insurance, local taxes on common areas, maintenance of recreational and other facilities located on the common areas, payment of assessments for public and private capital improvements made to or for the benefit of the common areas.**

4. **The homeowners' association shall be empowered to levy assessments against the owners of the unit sites within the development for the payment of expenditures made by the homeowners' association for the item set forth in subsection 3. And any such assessments not paid by the owner against whom such are assessed shall constitute a lien on the unit site of that owner.**

5. Easements over the common areas, if any, for access, ingress from and to public streets and walkways and easements for enjoyment of the common areas, as well as for parking, shall be granted to each owner of a unit site.

6. All walls between individual units shall conform to the requirements of the North Carolina State Building Code and provision for the maintenance thereof and restoration in the event of destruction or damage shall be established.

7. A perpetual access easement over the adjoining lot must be recorded for any unit located closer than five feet from a lot line.

(Ord. of 10-15-91, § 1)

State law references: For such Act, see G.S. 47A-1 et seq.