

Adopting & Enforcing Rules

Community association rules govern activities in a community's common areas or activities that affect common elements. They are enforced by the association board, which is obligated to preserve and protect the harmony, architectural integrity and assets of the community. Importantly, that can help protect property values.

Adopting rules and seeing that residents comply with them helps the board meet this obligation. Of course, making and enforcing rules is a process best approached by being reasonable. If a rule is an understandable restriction with a purpose, residents are more likely to appreciate and follow it. Reasonable rules are logical, relevant, rational, fair, enforceable and sensible.

Rules should only be enacted when necessary; it's best to regulate as few activities as possible. Additionally, boards should be flexible enough to allow rules to be changed and even rescinded as the needs and interests of the community evolve.

Compliance is easier for residents if the rules specify correct behavior rather than just state what isn't permitted. Rules should be stated in positive language. If they can't be stated positively, encourage voluntary compliance by adding information about what residents can do instead. The best rules are written in plain language without legal jargon—they're brief and straightforward.

Good rules are balanced—neither too restrictive nor too broad. The more narrowly focused or specific a rule is, the greater the opportunity for residents to break it inadvertently. Similarly, the broader a rule, the less guidance it provides.

When drafting rules, boards should begin by

identifying a problem or a need and deciding whether a rule will address it. They should ask themselves, "Does our association really need this new rule?" To answer that question, they review the association's governing documents and existing rules to ensure the problem isn't already addressed elsewhere.

Once the board has drafted the rule—but before it's enacted formally—the association should circulate it to owners and residents and ask for comments. Board members should discuss the rule at an open meeting where they can explain their rationale and encourage owners to share their opinions. Depending on owner response, they may amend the rule and begin the process again. If the board decides to move ahead, the final rule will be published well before its effective date to give all residents time to comply.

When the rule is in place, residents must follow it and boards must enforce it uniformly and consistently. Inconsistent application of the rules invariably divides residents and promotes discord.

Not enforcing a rule makes the association seem ineffective and arbitrary. Plus, failing to enforce a rule invalidates it, so boards are usually motivated to see residents comply. That doesn't mean a board can't be flexible and make appropriate exceptions when necessary. However, exceptions should be reserved for exceptional circumstances.

Rules enforcement includes due process—notify residents of issues, allow them time to comply and provide them a chance to be heard and represented. Wise associations start with friendly notice since many violations are unintentional.