

Rules

Boards of community associations have a right and duty to make and enforce rules based on common law, state statutes, and the association's governing documents, which confer on the board the obligation to preserve and protect the assets of the community. One of the ways that the board meets this obligation is by adopting rules and seeing that residents comply with them. In this way, rules are very good things. However, making rules is a serious business and must be approached with great care and attention.

Rules are important in community associations for the same reasons laws are important in society in general. Rules provide certainty and order, protect the freedom and safety of residents, interpret provisions found in governing documents, and protect commonly owned resources.

This last reason is particularly important to boards of community associations: rules are the means by which boards restrict behavior that might reduce the value of the commonly owned property. Most important perhaps, rules help the association meet the established expectations of residents.

BASIC GUIDELINES FOR MAKING RULES

- Develop a rule only if necessary.
- Base the rules on proper authority.
- Be reasonable. Rules shouldn't be about limiting the activities of residents. They're about protecting the living environment and property values from the disruptive or harmful behavior of residents.
- Make compliance easy. Keep the rules simple and easy to follow.

TOOL 15.1: *Use the Sample Rules for Using Common Areas at the end of this section as a guide in writing your own association rules.*

TOOL 15.2: *The Adopting New Rules Flowchart at the end of this section will guide you through the process of adopting new rules.*

WORK WITH RESIDENTS TO ACHIEVE COMPLIANCE

- Educate residents about rules and give them sufficient notice of all effective dates.
- Build community consensus that supports the rule.
- Review rules periodically, and eliminate or amend them, if needed.
- Act promptly when violations occur.
- Be reasonable; make sure the rules and consequences fit the situation.
- Give residents ample opportunity to comply.
- Provide clear information and guidelines on rules.
- Apply rules uniformly and consistently.
- Be flexible; allow appropriate and reasonable exceptions.

WHEN RULES ARE BROKEN

Due process is a legal term that simply means basic fairness. The person who may have violated a rule must be treated fairly and afforded basic rights. The essentials of due process include:

- Give the resident notice of the problem and consequences.
- Give the resident an opportunity to be heard with his or her side of the story.
- The resident has the right to be represented by legal counsel.

Do's and Don'ts of Making Rules

- Make rules that make sense.
- Make rules that restrict as little as possible.
- Make rules that are actually needed.
- Make rules that are acceptable to residents.
- Make rules that residents can easily obey.
- Make rules that get the needed result.
- Make rules that are enforceable.
- Make rules that are legal.

- Don't make rules that try to regulate the personal lives of residents.
- Don't give in to political pressure.
- Don't go to extremes.
- Don't impose harsh consequences for small infractions.
- Don't refuse to make exceptions in exceptional circumstances.
- Don't act on anonymous, unverified, or unsubstantiated complaints.
- Don't make rules that create new problems.



Cautions

Being flexible with rules doesn't mean you're failing in your duty. Inflexibility can send a simple matter rocketing out of control or result in an expensive power struggle. It's important to remember that going to extremes is rarely effective.

If a problem ends up in court, nothing will lose the association's case faster than evidence that the rule hasn't been applied consistently. Boards must treat all residents the same when enforcing rules.

The board may have the authority to impose fines for rules violations, but fines have the potential to cause more problems than they solve. It's more important to work with residents toward compliance than to impose punishment.

The rules associations make must be consistent with federal, state, and local laws. It's important, therefore, to have the association attorney review existing and proposed rules and the processes used to implement them.



FOR MORE HELP

Available online at www.caionline.org/bookstore.cfm or call (888) 224-4321 (M–F, 9–6:30 ET).

Reinventing the Rules: A Step-By-Step Guide for Being Reasonable, by Lucia Anna Trigiani. (Community Associations Press, 2002.)

Be Reasonable, How Community Associations Can Enforce Rules Without Antagonizing Residents, Going to Court or Starting World War III, by Kenneth Budd. (Community Associations Institute, 1998.)

Drafting Rules, a Guide for Association Practitioners, by Gurdon H. Buck. (Community Associations Institute, 2004.)

To download a PDF of the entire Board Member Tool Kit, go to www.caionline.org/toolkit.

Sample Rules for Using Common Areas

The common areas are a great natural asset for association residents. These lands were permanently set aside to maintain a natural buffer between residential and commercial areas, and they were established to benefit current and future residents of the community.

They provide an educational area for those interested in plants and wildlife.

The preservation of these areas depends primarily on the cooperation of association residents. Preservation is only partially assured through the official activities of the association.

These grounds are owned by the association and maintained with dues paid to the association.

The association is responsible for developing natural and created features on the common areas. The association is also responsible for hiring professionals to develop landscape plans and to design common-land facilities.

The association urges residents to make suggestions for the development of the common areas; to donate, through the maintenance committee, plants or facilities for the common areas; and to help maintain the lands by removing litter or rubbish from the common areas.

Our investment in the common grounds can be enhanced and maintenance costs kept at a reasonable level if certain rules are followed.

Therefore, the association has set the following rules for common area use:

- Do not plant, cultivate, or harvest natural resources on common grounds.
- Do not place personal structures or store equipment on common areas.
- Do not discard refuse on common grounds.
- Motor-driven vehicles are not permitted on walkways or common grounds.
- Open fires on common grounds are not permitted except where facilities are provided.
- Glass or metal containers other than nursing bottles are not permitted in the tot lots.
- Bicycles are not permitted on common areas except for designated bike paths.
- Loud and boisterous activity on common grounds after dark is not permitted.

Adopting New Rules Flowchart

