



#271 HOA Homefront – Recipe for Reasonable Rules

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One important board responsibility is to adopt and enforce community rules. Developers, when creating common interest communities, provide CC&Rs and Bylaws (usually boilerplate), but typically do not create rules. So, it is up to the volunteer boards to create necessary and reasonable rules for their communities.

Rules can cover many important topics, such as parking, community room use or architectural and landscaping standards. Rules should be tailored to the needs of each community. However, the Civil Code does require each association to have certain rules. These required rules are: Internal dispute resolution procedures, election rules, delinquency enforcement policies, architectural modification application rules, and a schedule of fines.

Rules must be written, per Civil Code 4350(a). From time to time, an association will describe to me “house rules” but cannot point to any place where the particular rule is written. Unwritten rules are traditions, not “rules,” and are unenforceable. Also, rules must be adopted per the process in Civil Code 4360.

Keep it simple. Draft rules in straightforward language. Rules should be clear and concise. Avoid overly complex rules, because most likely the manager, board and homeowners will not remember all the technicalities in a complicated rule set.

Consider starting each rule section with a positive introductory statement. Beginning a section of rules with a short explanation about the purpose of the rules makes a more positive statement to the community, and hopefully increases community compliance by the residents. People do not like being told “because I said so”, regardless of age, and explaining the importance of the rules shows respect.

Avoid having separate rules for kids. Rules cannot single out children for treatment different than adults, because that violates current Fair Housing laws. Someday, hopefully the law will allow reasonable safety standards to be applied to children, but presently, the law does not. For example, do not ban children from skateboarding in hallways, just ban skateboarding in the hallways.

Some broad terms are acceptable. It is unnecessary to try to define every possible issue, or manner of non-neighborly behavior. Using words such as “reasonable” and “nuisance” are ok.



Let the lawyer have a peek. Before publishing the proposed rule change to the members, send it to the association attorney for a brief review. Attorneys are trained to draft and edit documents and may spot legal problems with a proposed rule.

Check the other governing documents. Make sure the rules are consistent with the CC&Rs and bylaws. Per Civil Code 4205, rules may not contradict the bylaws and CC&Rs, unless something in the CC&Rs or bylaws violates current law – then the rules can follow the law.

When considering a proposed possible new rule, make sure the issue is something the board is willing to enforce. Some issues are difficult to enforce, and it is better not to have a rule than to have one which is not enforced.

When establishing or updating the association schedule of fines, remember that the same fine amount may not work for each type of rule violation. Fines should deter but not be punitive.

If, at the board meeting to formally adopt a rule change, a significant number of members oppose the rule, consider restarting the process and modifying the proposed change.

Successful communities adopt and reasonably enforce necessary, clear, and reasonable rules.