

ADOPTING AND AMENDING HOA RULES, REGULATIONS AND POLICIES

LOMAA

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<https://www.davis-stirling.com/HOME/A/Adopting-Amending-HOA-Rules>

What are Rules, Regulations, Policies

- **Operating Rules Defined.** "Operating Rules" are broadly defined as any rule or regulation that applies to the management and operation of a [common interest development](#) or the conduct of its business and affairs. "Operating Rules" are specifically defined as a rule or regulation that applies to:
 1. Use of the common area or of an [exclusive use common area](#).
 2. Use of a separate interest, including any aesthetic or [architectural standards](#) that govern the alteration of a separate interest.
 3. Member discipline, including any schedule of [monetary penalties](#) for violation of the governing documents and any procedure for the imposition of penalties.
 4. Delinquent assessment [payment plans](#).
 5. Resolution of [assessment disputes](#).
 6. Reviewing and approving or disapproving a proposed physical change to a member's separate interest or to the common area.
 7. [Election rules](#).

What is Not a Rule, Regulation, Policy

- **Exceptions.** The following do not fall under the definition of an "Operating Rule" and are free of the requirements for implementation:
 1. A decision regarding maintenance of the common area.
 2. A decision on a specific matter that is not intended to apply generally.
 3. A decision setting the amount of a regular or special assessment.
 4. A rule change that is required by law, if the board has no discretion as to the substantive effect of the rule change.
 5. Issuance of a document that merely repeats existing law or the governing documents.

Implementation Requirements

- **Rulemaking Authority:** Before enacting rules and regulations, associations must have rulemaking authority either statutorily or through its governing documents.
- **Notice of Proposed Change.** Before adopting or amending an operating rule or changing the [fine schedule](#), the board must provide notice of a proposed rule change at least 28 days before making the rule change.
 - **Text of Change.** The notice must include the text of the proposed rule change and a description of its purpose and effect.
 - **Comments by Members.** A decision on a proposed rule change must be made at a board meeting, after consideration of any comments made by association members. The board must consider comments by members but is not required to adopt them.
 - **Notice of Adoption.** Within 15 days of adopting or changing a rule, the board must deliver notice to the membership. Rules become effective upon written notice to the membership.
- **Not Recorded.** Only CC&Rs are recorded, not rules.

Emergency

- Notice is not required if the board determines that an immediate rule change is necessary to address an imminent threat to public health or safety or an imminent risk of substantial economic loss to the association. Once adopted emergency rules take effect upon notice to the membership. An emergency rule change is effective for up to 120 days.

Enforcement

- The rule is in writing, within authority of the board, not in conflict with governing law or association documents, adopted in compliance with requirements, made in good faith and reasonable.
- **Membership Veto.** The membership has a limited right to veto rule changes. Members may call a special meeting of the members to reverse a rule change. If an operating rule is reversed, it cannot be re-adopted by the board for at least one year. However, the board may vote on other operating rules covering the same subject. (See D-S for details of veto)
- **Nonsubstantive Changes.** If the board is doing nothing more than correcting grammar or renumbering provisions, the 28-day notice period is not triggered since the rules are not being changed. Even so, the board must distribute a copy of the clean set along with an explanation of what was done and that no changes were made to the rules.
- **No Annual Notice.** Once Rules and Regulations have been adopted and distributed to the membership they do not need to be distributed annually. New members to the association must receive a copy of the rules and fine policy and normally do so through escrow. Rule changes need only be distributed once--when they are adopted. [Disciplinary policies](#), however, must be distributed annually.

Examples

- Election Rules
- Delinquency
- Violations
- Parking
- Generators
- Private drip systems
- ...