

How to Amend Your HOA Documents

Has your HOA implemented a rule that you disagree with? Have you been punished or fined for a rule or amendment that you didn't know existed? If you are determined to change the rules, here are five tips to keep in mind for optimal success.

1. Clarify your reasons for changing the governing documents.

Make your new amendment as contemplative and coherent as possible. This will make it easier for the HOA board, attorneys, and homeowners to take you and your proposition seriously. Processing your modification to the governing documents will go faster if there are fewer changes that need to be made to your amendment. This editorial period is also a good time to look over your reasons for changing the amendment, and if they are worth the trouble. Depending on the severity of the problem, amendments are lengthy and often costly processes. Is fighting for certain freedoms worth it? If so, reflect your hard work and well-intended time by creating a sharp, refined amendment.

2. Find others with common concerns.

If you have concerns with your existing documents, there is a good chance that you are not alone. Before venturing into the abyss by yourself, find common allies in your fellow neighbors, potential homeowners and even board members. With only one person, a board or attorney may prolong considering your document, maybe because they believe it is not a real issue. However, if a slew of homeowners are all complaining about the same thing, whether it be pet size, ability to hang flags in your yard, or car placement on the street, the board is more likely to consider your proposition.

3. Have a local attorney refine your amendment.

After reviewing your amendment on your own and including any additional concerns that your neighbors may have, it would be wise to send your amendment to a local attorney. An attorney can look over your new amendment as well as the existing governing documents to make sure that, should the vote pass, there would be no conflicts of interest. If need be, they can also filter any implausible clauses in your amendment. Attorneys can be a colossal help through this uniquely HOA legal process. Every state, city and HOA has different rules and routines regarding amendments, and an attorney can help you identify these differences.

4. Be prepared to negotiate/compromise.

This may come before, during, or after the final vote. If you submit your amendment to the board, they may have concerns regarding your amendment or wish to keep some of the original rule intact. If this occurs, be prepared to explain your reasoning and if need be, compromise. After sending the ballot out to homeowners, others may have additional concerns or issues with your new amendment. Again, explain your reasoning and listen to any additions they might have. When discussing your amendments with anyone, be it board member or homeowner, respond calmly and respectfully. Their concerns as well as yours will make your HOA better.

5. Send a confidential ballot to the homeowners in your association.

After your amendment has been clarified and reviewed, you will need to send out a confidential ballot to the rest of the homeowners in the HOA. Every HOA is different, so every voting process is likely to be different. Check with an attorney or in your governing documents to determine how many positive votes are needed to pass. Sometimes an amendment needs 50 percent of homeowners' positive vote, sometimes $\frac{2}{3}$, sometimes 75 percent. If the vote does pass, add the amendment to the existing governing documents and send the new addition to all homeowners in the HOA. If the vote does not pass, understand that now may not be the right time for a change, or that the problem may not be concerning enough to other homeowners.

Changing something as monumental as the governing documents can be a tedious and long-winded project. However, if there is a problem that is continually bothering your way of life, do not be daunted. Your problem may be shared by other homeowners, and therefore it will be easier to garner support. Be respectful and neighborly when listening to others' opinions, and be ready to discuss your reasoning for amending the documents. If you need additional, HOA unique help, contact a local attorney or board member.

This article contains general information. Individual situations are unique; please, consult your attorney, accountant or other professional before utilizing any of the information contained in this article.

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