

8 common HOA violations that can land you in hot water

By Deborah Kearns



Elysa D. Bergenfeld

In her *Bankrate* interview Elysa D. Bergenfeld, a partner in our Community Association Practice, urges those considering buying a property with a homeowners association read the rules and bylaws ahead of time so they know what they are getting into.

Plenty of people love living in a community with a homeowners association, or HOA. HOA rules are designed to prevent neighborhoods from turning into eyesores and keep the peace. Sometimes, though, the rules can catch homeowners by surprise and result in costly consequences.

Take Melissa Carson as an example. She lives in an HOA community in Aurora, Colorado, and was floored when she got slapped with a \$50 fine in 2017 for putting her trash cans out too early one day. She read through the HOA's rules but couldn't find any entries about a specific time to put trash cans out.

What's more: the HOA didn't send a warning, just the notice of a fine. It took nearly three months — and due diligence on her part — to get the fine removed from her account, Carson says.

"If I hadn't stayed on top of this, I'm sure it wouldn't have been waived, and then I would have gotten late charges," Carson says. "We keep our house and yard looking nice so this seemed like such a petty thing."

Such rules may seem petty, but that's why homebuyers

need to find out if properties they're interested in belong to an HOA. If so, it's critical that they read the rules and bylaws ahead of time so they know what they're getting into, says **Elysa Bergenfeld, a Princeton, New Jersey-based attorney** who specializes in community association law.

HOA rules differ from one community to the next so it's important to familiarize yourself with the rules — and the consequences if you break them. Here are the most common HOA violations you should know about.

1. **Vehicles** – Speeding in a neighborhood can certainly get you in trouble with the law, but some HOAs will impose their own violations and fines for offenders, Bergenfeld says. Another issue is commercial vehicles parked outside of a home, which is considered an aesthetic no-no in many HOA communities.
2. **Landscaping** – Unkempt lawns, including weeds and overgrown grass, tend to get HOA homeowners in trouble. **Another issue Bergenfeld sees is when homeowners don't follow rules about how many and what type of plants/shrubs/trees are permissible, usually in the front yard.**

3. **Trash** – Homeowners can get in trouble for putting trash cans out too early (as Carson allegedly did) or bringing them in too late. Trash in front of your house (or anywhere else it's not allowed) can make a neighborhood look less attractive, and it could invite pests. Make sure you know how early you can put your trash out — and when you have to bring the cans in. If you work late or will be on vacation, ask a neighbor to help out.

4. **Pets** – HOAs tend to have strict rules about where you can (and can't) walk pets, walking dogs on leashes, and pet waste removal. Safety is a key consideration, as are respecting neighbors' lawns and common areas for other residents to enjoy.

5. **Holiday decorations** – Typically, holiday decorations can be put up 30 days in advance of a holiday and must be removed within 30 days after, **Bergenfeld** says. Some HOAs also may limit the size of displays or have rules about their impact on neighbors (such as flashing lights or loud music after a certain time at night)

6. **Occupancy limits** – With the rise of home-sharing apps, some HOAs now prohibit renting out rooms in your home and have rules about how many people can occupy it at any given time. It's also important to know your city or county's rules about short-term leases, as well as the tax laws for reporting rental income.

7. **Unauthorized design changes** – Just about anything that changes the appearance of your home, even a new mailbox, is likely subject to review. Most HOAs have strict rules about everything from exterior colors to design elements, including decks and patios. Typically, you need to submit a request ahead of time to your HOA to approve design changes.

8. **Failing to pay HOA dues** – Homeowners who don't pay their HOA dues or condo assessments will be subject to late fees. Once a homeowner accrues enough past-due payments, the HOA can put a lien against the property — and that usually gets reported to the member's lender, **Bergenfeld** says. And, depending on your community's governance documents and state law, an HOA can foreclose on your home to satisfy the lien — and you'll still be liable for paying your mortgage.

How to respond to HOA violations

THOAs have different rules — and some are more stringent than others. If you're already a homeowner and get an HOA violation notice, here are some key steps to take.

Don't ignore it. Ignoring HOA letters leads to more notices, late charges and, eventually, litigation that could lead to a lien on your home, **Bergenfeld** says. Generally, HOAs are required to offer homeowners an alternate dispute resolution before fining someone — and that's essentially what a warning letter does, she says.

"There's not a set way to do it, but many times you'll get a warning letter outlining the violation type, date and a deadline to fix the problem," **Bergenfeld** says, adding that many HOAs will re-inspect your property to ensure the issue was addressed. If you don't respond to a warning notice by the set deadline, you will likely be fined and have a harder time getting it dismissed.

Put everything in writing. If you dispute a violation, always put your correspondence in writing via email, **Bergenfeld** says. Keep copies of all communication between you and your HOA, as well as video and photo evidence. When HOAs send violation notices, they typically cite which HOA rule you've broken. If you can't find any record of the rule or can offer mitigating evidence, you'll be in a stronger position to dispute a violation.