

# HOA Covenants: What to Know About CC&Rs

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HOA covenants can shape neighborhoods and the lives of residents significantly. Here's what real estate agents should know about HOA CC&Rs.

With 75.5 million Americans living in communities governed by homeowners associations (or HOAs) and 3,000 new HOAs expected to form in 2024, community associations are quickly becoming an important aspect of real estate transactions.

An HOA is an organization that creates and enforces rules and regulations for the properties and residents of a given residential community. The regulations or guidelines governing the HOA community are called restrictive covenants and are outlined in a document called a Declaration of Covenants, Conditions, and Restrictions (CC&Rs). These CC&Rs can play an integral role in how an HOA influences day-to-day life in a neighborhood. Let's explore them more so you can keep your clients in the know.

## What Are HOA Covenants?

HOA covenants are the rules and expectations for living in community governed by a homeowners association. For example, an HOA covenant may prevent residents from painting their home exteriors certain colors, or it may require all residents to pay a certain fee. Rules may differ from one community to the next, but they usually exist to protect property values and facilitate a good standard of living in the community.

HOA covenants have three types of governing documents: Covenants, conditions and restrictions (CC&Rs); bylaws; and rules and regulations.

## Covenants, Conditions & Restrictions (CC&Rs)

CC&Rs are officially recorded and filed with the state. They cover the rights and obligations of both the HOA and the community residents. CC&Rs may cover property-use restrictions, maintenance obligations (for the HOA and residents), rule enforcement mechanisms, dispute resolution and insurance obligations.

## Bylaws

Bylaws typically cover the day-to-day governance aspects of the HOA. This includes HOA board election processes, frequency of elections, number of board members, length of service terms and the responsibilities of the board members.

## Rules and Regulations

Rules and regulations are a less permanent extension of CC&Rs. They often include rules that must be updated seasonally based on changing needs.

CC&Rs, bylaws and rules can all be amended, provided the board and members are largely in agreement. HOAs may choose to update their covenants every few years.

## Why Are HOA Covenants and CC&Rs Important?

HOA covenants and CC&Rs are important because they can substantially impact the lives of community residents. They offer amenities and benefits, but these advantages may come at the cost of personal choice and individuality.

- **Limits on paint colors and presentation:** HOAs may require residents to adhere to a strict code for home exteriors. This may mean residents aren't allowed to personalize their home's exterior to their liking through paint colors, lawn ornaments, or seasonal decorations.
- **Fees and amenities:** Homeowners living in HOA communities must pay HOA fees for as long as they own their home. These fees can be steep depending on the community and cannot be avoided, even if homeowners choose not to use common amenities.
- **Quality of life:** An HOA's regulations, fees, and well-maintained common spaces all contribute to protecting property values in the community. HOA communities are a great fit for people aligned with these goals but may interfere with individuals seeking full independence.

## What Are Some Common Features of CC&Rs in HOAs?

HOA covenants are usually created when a developer forms the community. The developer may attempt to anticipate the community's needs based on their observations and experience. This is why HOA CC&Rs vary from one community to the next. However, when educating a client, real estate professionals can cite some of the following examples:

- **Property maintenance standards:** This may mean no piles of trash, broken or damaged fencing, or unsightly sheds.
- **Pet rules:** The HOA may prohibit pets above a certain weight, livestock (such as chickens) and restrictions on certain dog breeds.
- **Parking and guests:** The HOA may not allow parking in the street or oversized guest vehicles like RVs in the driveway. They may also restrict house parties, large celebrations or get-togethers on your property.
- **Landscaping rules:** Rules may prohibit flower beds or herb gardens in the front yard. Residents may not be allowed hardscaping elements like fountains, treehouses or swings.

## What Should Real Estate Professionals Know About HOA Covenants?

When considering buying a home in an HOA neighborhood, here's what real estate professionals should discuss with clients:

- **HOAs may impact property values:** Living in an HOA often means living in a clean, well-maintained neighborhood with community amenities. These benefits may inflate the price of the home.
- **HOAs can shape neighborhoods:** Based on their rules, HOAs can have a positive or negative impact on residents' lives. The neighborhood may be clean and offer great amenities. However, certain HOA rules may mean residents can't have the gardens or native plants they want, or only particular pets may be allowed in the community.
- **HOAs may affect how homeowners use their home:** An HOA may affect the owner's ability to rent out the house. Many HOAs also block residents from using their homes for anything besides residential purposes. This means residents may not be able to run a small business from their home. This rule doesn't apply to all HOAs or all small businesses, but it highlights the importance of understanding the HOA's CC&Rs before buying a house.

## Representing HOA Buyers or Sellers

Real estate professionals can help buyers navigate HOAs by understanding the buyer's needs at the outset. For example, an HOA with rules against leasing may not be suitable for a buyer wanting to turn the home into a vacation rental. Similarly, an HOA with strict rules about pets may not be right for someone with large dogs.

Finding the right house while navigating HOA rules may make house hunting a longer process, but it's only through research and comparison that agents can help their buyers find the perfect home. A buyer's specific needs may warrant a larger conversation about whether an HOA is the right fit.

Agents representing sellers must find out if they are required by law to disclose any HOA information, such as unpaid dues or litigation. They can also highlight the benefits of the HOA to potential buyers.

## **CC&Rs FAQs**

### **Where can I find CC&Rs?**

Before showing a house to a client, real estate agents can obtain a copy of the applicable HOA CC&Rs from the seller or listing agent, the county recorder's office, or an HOA board member. You may also inquire about any outstanding disputes the seller has with the HOA involving potential litigation and unpaid dues or fines.

### **Are CC&Rs legally binding?**

HOA CC&Rs are legally binding documents as long as they comply with local, state and federal law. When buying an HOA home, people typically sign a contract that states they've read and understand the HOA CC&Rs. Buyers are then bound by the contract.

### **How are CC&Rs enforced?**

The HOA usually has a detailed process for dealing with rule-breakers. The process may begin with one or two violation notices followed by fines. If the problem remains unresolved, the board may set up a meeting or hearing to discuss the issue and how best to proceed. If the situation escalates, the HOA may take legal action against the resident.