

Pets at Condos and HOAs: Best Practices for the Challenges that Come with Residents' Animals

An Exclusive Special Report
from [HOAleader.com](https://www.hoaleader.com)

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HOAleader.com's attorney editors and experienced journalists constantly research the latest developments in HOA law affecting homeowner and condominium associations across the U.S. Then we publish plain-English analyses of what those developments mean to you as an HOA leader, and what you need to do now to comply with HOA laws, steer clear of legal trouble, avoid or resolve conflicts within your homeowners association, make HOA management easier, and safeguard your community association's property values and quality of life.

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The screenshot shows the HOAleader.com website. At the top, the logo features an orange house icon followed by "HOAleader.com" in bold black text, with the tagline "THE PRACTICAL GUIDE TO HOMEOWNER ASSOCIATION MANAGEMENT" below it. A navigation bar includes links for Home, Browse by Topic, Discussion Forum, Research, Search, and Member Log-in. The main content area is titled "Practical Advice for Condominium and Homeowners Association Leadership" and lists target audiences: board members, committee members, professional managers, and advisors/vendors. It offers a "Start Your Free 7-Day Trial" and a "Browse by Topic" link. A sidebar on the left promotes a "FREE HOAleader Tip of the Week" sign-up with an email field and a "Send me my tips!" button. Below this is a search bar and an "INTERACT" section with links for Free Newsletter, Discussion Forum, Follow on Twitter, and RSS Feed. On the right, there are sections for "FREE WHITEPAPERS" (featuring "HOA Finances: Best Practices for Getting Your Homeowners Association through Difficult Economic Times" with a "Download now" link) and "SPONSORED LINKS" (featuring an advertisement for "Is your community reaching its potential?" with a "CONTACT ASSOCIA TODAY" button and the website URL www.associaonline.com).

A Message from the President

Dear HOA Leader,

You may recall a fact often cited by many HOA insiders: The biggest challenges boards face are “the 3 Ps,” which stand for **P**arking, **P**ets, and **P**eople.

Recently, we made your life easier by publishing a special report on parking “[Eliminate Parking Problems at Your HOA](#): How to Create an Effective and Enforceable Parking Policy.”

We continue on that mission with this report, “[Pets at Condos and HOAs: Best Practices for the Challenges that Come with Residents’ Animals](#).” In it, our editorial team and our legal and management experts nationwide have come together to provide information on best practices for handling the difficult issues you face with pets in your community.

You’re getting critical information on:

- Which HOAs and condo associations need a policy on pets
- The pros and cons of common pet restrictions
- 8 pet rules every community should have
- Why you shouldn’t believe rumors of a trend toward holistic pet policies
- A primer on service and comfort animals
- Talking points for when you receive a request for an accommodation
- The disturbing growth of online comfort animal certifications
- What to do when a comfort or service animal goes bad
- Details on the trend of barnyard animals as pets
- Considerations before you add a pet amenity to your property
- Tips for getting compliance with your pet provisions
- A sample request form for a reasonable accommodation
- Three sample governing document pet restrictions, including one each for a condo and an HOA
- Sample regulations on dangerous animals
- Sample pet rules for condos

In providing you with this information, we follow our mission of offering useful information you can easily deploy in our characteristic clear, plain English.

As always, when it comes to issues of legal compliance for HOAs, it is important to remember that each state has its own rules, and you should consult with an attorney or other professional as to the appropriate steps for your specific situation.

Our goal for this report, as for all [HOAleader.com](#) information products, is to help make your association a better run organization and help make you a better leader for your community. I am confident that you will find concrete ideas you can put to work in your condo or homeowners association.

To find more [HOA governance tips](#), visit [HOAleader.com](#) today.

Best regards,



Matt Humphrey

President

Plain-English Media

Publisher of [HOAleader.com](#)

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Why It's Important to Create an HOA Pet Policy, and What Should Be In It

Do we really need another [HOA or condo policy](#), you may be groaning. And a [pet policy](#)? Is that necessary?

Some experts say you definitely do need a pet policy, and others say you probably do. Either way, creating a policy on pets is a smart move for most associations.

You'll be glad you did it

"Probably every association needs some kind of pet policy," says Patrick Clark, president of Excel Association Management in Plano, Texas, which manages more than 100 condos and HOAs. "That's especially true if there are [common areas](#) where people tend to bring their pets, like condo common areas and hallways and around the [pool](#)."

[Phaedra J. Howard](#), a partner specializing in community association law at Hellmuth & Johnson PLLC in Edina, Minn., agrees. "I generally recommend that everybody have something in place, even if it's basic and generic," she reports. "The language we typically use when we're drafting [governing documents](#) gives the board the authority to prohibit or regulate by [rules and regulations](#) the ability of owners to have animals.

"Then you have to make sure what you're doing is consistent with your documents," adds Howard. "Pets are a hot-button issue with a lot of people. So even if you're allowing pets, you need to have some rules in place to make sure owners are being responsible about their pets."

Put simply, if you pride yourself on having a well-run association, you need a policy. "I'd say, and we're speaking very generally here, it's a best practice to have a policy on pets," says [Elizabeth White](#), a shareholder and head of the community associations practice at the law firm of LeClairRyan in Williamsburg, Va.

"The policy will depend on your [covenants](#) and state law," notes White. "If your covenants speak to animals or authorize the board to adopt rules on animals, you really need to have well-thought-out policies in place. Policies will also be dependent on the nature of the community and what you're trying to accomplish. When you're talking about what to do outside on the common areas, it's really important. The harder part is what to do inside the units."

Be Sure It's Where It Should Be

Not only do you need a policy, but you need a policy in the right place.

"Associations need more than just a policy on pets," asserts [Christopher J. Shields](#), a partner at Pavese Law Firm in Ft. Myers, Fla., who's represented associations for decades. "They need a use restriction in their declaration because I don't think a board-made rule on pets is sufficient.

"All the critical major restrictions—such as [restrictions on leasing](#), restrictions on the [types of vehicles](#) in your association, restrictions on your ability to sell, and restrictions on commercial uses in units—are in the declaration," he says. "Pet restrictions are becoming extremely critical, and I don't think it's anywhere near sufficient to delegate that to board members themselves promulgating rules. That typically means you'll need to amend your declaration."

[Stephen Marcus](#), a partner at Marcus, Errico, Emmer, Brooks in Braintree, which represents about 4,000 associations, mostly condos, in Massachusetts, New Hampshire, and Rhode Island, says that's certainly true in Massachusetts. "There was a 1975 Massachusetts case involving pets and condos," he recalls. "A woman had two pet poodles that didn't go out of the house. A maintenance guy knocked on the door and saw the dogs. The association tried to enforce its rule against pets, but the court said, 'If you want to control any kind of conduct within owners' units, you have to go beyond a rule. It has to be in the master deed or [bylaws](#) and [voted on by the unit owners](#).'" "

Covering pets in your declaration gives everybody fair notice of your restrictions on animals, and that's something that becomes very helpful when you're later trying to enforce your restrictions. People will be less successful relying on an "I never knew" argument.

"The key is that if it's in your governing documents and recorded in the public records, everybody's placed on constructive notice before they buy or rent as to what's permitted," says Shields. "Then they can decide that the community isn't the one they should be moving into, and maybe they'll find one that's more pet friendly."

Or not pet friendly, if that's their preference. "Let's assume you're in a high rise, and the only way up and down is in an elevator," states Shields. "Maybe one resident is an 80-year-old man who has a difficult time with mobility, and other owners have a 90-pound Rottweiler they're supposed to keep on a leash but really can't control. That serves as a [nuisance](#). And some people are less comfortable about certain size or breeds of animals, especially when the person handling the pet has difficulty in the first place."

Whatever potential residents prefer, you need to let them know the ground rules before they sign a lease or purchase agreement. That doesn't mean you can't flesh out your restrictions in your rules. But your declaration should be a big, waving flag to people that this community has pet restrictions they should at least ask for more information about.

Rethink Your Current Policy

If you already have restrictions on pets in your community, please don't think your work is done. Smart boards regularly revisit their existing regulations frequently to fix what's not working or determine if their owners' preferences have changed, and thus the documents should, too.

"I'm seeing both ends of the spectrum," reports [Alessandra Stivelman](#), a partner who specializes in community association law at Eisinger Brown Lewis Frankel & Chaiet in Hollywood, Fla. "I'm seeing associations that generally allow pets that want to become more restrictive because residents aren't following the community's existing restrictions."

"I'm also finding associations that maybe allow two pets, and they're finding that owners have two pets, plus a third animal the owners are considering an emotional support animal," adds Stivelman. "They're finding that people are finding ways around pet restrictions, so they're deciding they might as well just loosen their rules."

The problem is that it's not easy to pass pet restrictions or to change your existing restrictions. "The procedures in governing documents are so difficult—that's the challenge," says Stivelman. "I had one community that tried to loosen their pet requirements about two years ago, and their efforts failed. The changes in their pet restrictions were included with so many other amendments that I think owners were hesitant to approve so many."

"I'm also finding that a lot of clients want to do something about pets, but when they go through the steps to understand how to get there, they decide it's not worth the work," states Stivelman.

What to Include

Your provisions on pets should be specific, and they should be thoughtful. "Even in a single-family community or condo, we want to define and be very expressly specific about what's permitted and what's not," advises Shields.

Here are the general topics most HOAs consider covering when creating restrictions on pets:

1. Whether to permit pets at all. Times are certainly changing, says Marcus. He's drafted governing documents for decades, and he always advises permitting pets for the broadest buyer appeal. Then, as soon as a [developer transitioned control to a board](#), the board would contact Marcus to request that the pets-are-permitted provision be amended to completely ban pets.

"The typical scenario is that I say to the developer, 'I advise that you put in that the person can have two pets because we want the market for buyers in your property to be as broad as possible,'" he explains.

"Then somewhere down the road, the owners will take control from the developer, and inevitably, the first phone call I'd get from the new board would be, 'Let's talk about some [amendments](#),'" notes Marcus. "The first amendment they want is either about [rentals](#) or [pets](#). On pets, they say, 'Let's limit pets or [grandfather in the existing ones](#) so that as they die off, it becomes a no-pet building.'

"That was the way of the world for decades," states Marcus. "I've been doing this for 39 years. I still get some of those calls, but I get less of them. Also, these days we advise boards not to interpret such an amendment as meaning owners will never have pets at their association. Unit owners and tenants do have the ability to request service or support animals. So I tell them that we can draft this amendment, but it's not bulletproof."

2. If you permit pets, exactly which pets are permitted—“Years ago, some association governing documents would say, ‘Usual household pets are permitted,’” explains Shields. “But what does that mean? Could that include an anaconda? That snake doesn’t make any noise, but it could grow to 26 feet.

“There was a legal case out of Orlando 20 years ago involving a very exclusive subdivision with two-acre lots on a golf course,” recalls Shields. “The rules stated, ‘No mules, donkeys, or fowl, but nothing shall prohibit anyone from keeping a household pet.’

“Homeowners bought two Shetland ponies for their daughters, and they also built a shed,” explains Shields. “The court held the shed was an ancillary structure not permitted by the [architectural regulations](#), and that had to come down. But the court also said the association never defined what a pet was, so even ponies were allowed.

“That’s a lesson to be learned—you have to be expressly specific as to what types of pets you’ll permit,” says Shields. “Tropical fish? Caged birds? Chickens? Horses? You can’t simply say you’ll permit domesticated animals because then you’ll want to define what’s a domesticated breed.

“We also need to make sure we check whether the county health department or local animal ordinance or control department has restrictions on the types of nondomesticated pets allowed,” Shields notes. “But we can’t expect the county, state, or municipality to do the work of the association.”

3. How many pets you’ll permit and whether you’ll regulate their size. “Most associations want to limit the size, number, height, and weight of animals,” says Shields. “Most governing documents will set forth weight limitations. Or they’ll limit permission to two dogs, or two of either breed—dogs or cats, or whatever.”

4. Whether to address particular breeds of animals. The idea that certain breeds of dogs are more aggressive than others isn’t universally accepted and is certainly the subject of unending debate. But some associations have considered banning certain breeds of dogs. “If you do this, you need to be specific as to what types of breeds people find offending,” says Shields. “Remember that it gets even muddier when you’re dealing with mixed breeds.”

5. The behavior that’s permitted and prohibited. This is critical. When you address animals, you must also specifically mention the behavior you expect of owners and animals and the behavior you won’t tolerate.

“The trend now in associations is making rules that make sense in controlling the behavior of the animal and the owner,” says Clark. “If you’ve got a bad owner who’s not picking up after the dog, that’s the owner’s fault. On the top of my list of animal things that get people more upset about than anything else is the owner’s behavior.”

The Pros and Cons of the HOA Pet Restrictions You're Probably Considering

Are two pets OK at your association? Then how do owners' two kittens plus their guinea pig fit in?

What about two dogs and a cat?

Are 25-pound dogs OK? What happens when that 23-pound cocker spaniel becomes a 29-pounder?

It's easy to say you'll permit two pets per unit with none more than 25 pounds, but [enforcing those rules](#) is harder than it sounds. "Most communities will be reasonable in their restrictions and how they enforce them," notes [Christopher J. Shields](#), a partner at Pavese Law Firm in Ft. Myers, Fla., who's represented associations for decades. "The problem is when they have vague, subjective restrictions, and then they try to enforce them."

Here's a rundown of the various pet restrictions condos and HOAs consider and the pros and cons of enforcing each.

Complete restrictions on animals—This is harder than you might expect. "We've had condo communities, primarily, go to banning pets completely," according to Patrick Clark, president of Excel Association Management in Plano, Texas, which manages more than 100 condos and HOAs.

"There are all kinds of problems with that," he adds. "It sounds good on paper, but it doesn't work as well as you might expect because you'll always have [grandfathered](#) pets there. Boards will put in that once a pet dies, you can't replace it. But sometimes you don't know when the pet dies, and people replace them without you realizing it—and that has happened. Then what do you do?"

Animal restrictions—If you permit "pets," you need to define that term. "Poorly written [covenants](#) and rules create all sorts of issues with that—what's a pet?" says [Elizabeth White](#), a shareholder and head of the community associations practice at the law firm of LeClairRyan in Williamsburg, Va. "A lot of people would think of pets as being cats and dogs, but now we've got people keeping snakes and pot-bellied pigs.

"That's actually getting into the specifics into covenant drafting," reports White. "It's a challenge even for an experienced association attorney to draft around that. A lot of times we say, 'No animals except...' It's almost easier to say that. But then you get into whether a spider or a bird is an animal. Are those animals? And mice. We get a lot of issues with mice."

Mixed breeds of animals can be tricky, too. "Now we're getting hybrids of animals," adds White. "What do you do with a wolf that's been cross-bred with a domestic animal? How about a coyote that's been cross-bred? I've just read about those. Those animals may have certain instincts and may not be prone to living peacefully in a residential community. These are among the questions I've been wondering about."

Number restrictions—"Size and number restrictions typically tend to be more in condos, where you have confined spaces," notes [Phaedra J. Howard](#), a partner specializing in community association law at Hellmuth & Johnson PLLC in Edina, Minn. "Where they make less sense is in a single-family or townhouse community, where whether your dog is 30 pounds really makes no difference to anybody else."

When it comes to number restrictions, Howard says she usually sees a maximum of two pets if there's a cap at all. "They'll say two cats, two dogs, or one of each," she says. "I always say, 'But what about other animals, like birds, hamsters, and rabbits? Are they subject to the limits?' I've had rabbits since I was in fourth grade."

[Debra A. Warren](#), CMCA, CCAM, PCAM, senior vice president at Dallas-based Associa®, a [community association management company](#) with offices throughout the United States, Canada, and Mexico, agrees that limiting the number of animals is important and that, in her experience, the consensus is that owners can have two animals in their property.

"It's generally two of what you'd consider to be domesticated animals," she reports. "But that gets tricky. Maybe somebody has two dogs but also a 20-year-old cat. What are you going to do if the 20-year-old cat's not bothering anybody?"

"Or maybe the situation is temporary," adds Warren. "Mom and dad live there, and they have two dogs. Then the daughter moves in. She just graduated from college, and she has a cat. But she's going to be moving by the end of the year. You're not going to start imposing sanctions for that, in my opinion."

Weight restrictions—Clark has seen communities with size restrictions, but he says those create their own enforcement issues. "How do you tell when a dog is 25 pounds?" he asks? "Who's going to weigh it?"

"The answer is to get a certificate from the animal's veterinarian, but that's a confrontational issue," adds Clark. "We've had communities with size restrictions, and they've had lots of problems with little dogs. The little ones yap, and, frankly, in my experience, the people with little dogs have more issues with not picking up their dog's excrement."

Warren is "not a big fan" of weight restrictions. "When you're looking at creating a policy or rules of any kind, you always have to think about how this is going to be enforced," she says, "and nobody's going to weigh dogs."

Shields disagrees, even if you encounter an animal that was 49 pounds when it entered the community and is now 53, which is over your 50-pound limit. "Perhaps anybody who knows there's a weight limitation on their pet should make sure their pet is under

the weight ceiling, making sure it doesn't become overweight while they're harboring that pet," he asserts.

Warren isn't swayed. "By trying to regulate weight, I think what people are trying to do is limit the kind of dog that's in the community, and that might be a dog that's aggressive," she says. "I think it's more important to talk about how the animal is controlled rather than the kind of animal or its size."

That said, Warren does think that bigger dogs aren't a good fit for some communities. "I'm thinking of condos where there's no exclusive-use area where pets could be outside," she offers as an example. "I think of pit bulls and other big dogs where people don't have a yard, but I also know there are people for which that situation works."

Actually, weight restrictions are the provisions that White says have created the most problems among her client communities. "Some of the ones we've had the most problems with in terms of disharmony in a community deal with weight limitations," she says.

"We hear a lot of justification for a weight limitation being advocated that bigger dogs will have bigger poops and will leave more waste outside, and their voices are deeper," says White. "Typically with building codes, we're not worried about the weight of a dog making a difference when it comes to the structure of a unit. And I can't imagine a scenario where we'd regulate the weight of humans."

"But we've seen limitations on weight that haven't worked out well," notes White. "My firm didn't litigate the case, but we observed it happening in a community, and it split the condo community apart. The covenant had a weight limitation of 25 pounds, and this dog had aged in place with its human. And like people, it had put on weight and become a 30-pound dog. By most standards, that's not a big dog."

"But the board has a duty to enforce the community's covenants, and they began enforcement actions instead of trying to resolve this in another way," she says. "It divided the community, and local real estate agents heard about the situation and started saying the community had unreasonable dog restrictions."

White says she believes the parties settled that dispute prior to trial, and the association ultimately went back and changed their covenants. "That community no longer has a weight limitation," reports White. "What may have happened was that the attorneys' fees and bad publicity backfired on the association."

Could this board have waived the policy for this type of scenario? "There's not any discretion on Virginia law on that," she reports. "In a litigation context there might be, and that may have been how the association got to where it did. But generally speaking, boards don't have discretion unless it's written into their documents. That's why I'm more of one to regulate the conduct as opposed to what the dog looks like."

Breed restrictions—This is primarily an issue with dogs. And let's be honest, we're nearly always talking about pit bulls for starters.

Warren admits she's not objective on this topic, so it's hard for her to put her professional hat on. "I have a real significant fear of pit bulls," she explains. "I was never hurt, but I've certainly known enough and been around them enough to know how strong they are. And in one of my communities 12 years ago, a pit bull killed another dog.

"I also know they're not bad dogs, but [human safety](#) is a really critical component of any community," she says. "At the same time, I know people who've had very sweet pit bulls, and it's not fair to discriminate against them. So I find that very challenging. That's why I say you should start with a policy that focuses on the behavior, not the breed."

White doesn't see breed bans much anymore. "Maybe 10 years ago we saw it," she says. "When we run into it now, they're more antiquated documents. What I'm seeing is definitely a trend toward regulating the conduct and behavior of the animal."

Clark thinks breed bans are more trouble than they're worth. "We gone through some fairly extensive issues with aggressive dogs, and there are discussions of who's the bully," he says. "And then the question is what's a pit bull? There are a million dogs that get labeled like that, but what's actually a pit bull? That's a dog that's been picked on recently."

Some boards have tried to get around breed bans by trying to prohibit aggressive dogs. That's got its own challenges.

"What I've been seeing for years and that hasn't changed is boards wanting to [amend their governing docs](#) to prohibit aggressive dogs," reports [Alessandra Stivelman](#), a partner who specializes in community association law at Eisinger Brown Lewis Frankel & Chaiet in Hollywood, Fla.

"We struggle a lot with that," she says. "First, we have to come up with a definition of an aggressive dog. I don't believe it's breed specific. And if you have a mixed dog, how do you define what breed that dog is? I also think a lot of times, little dogs can be more aggressive than bigger dogs."

Stivelman suggests a different tactic. "We've become creative," she says. "We say we prohibit dogs that have an aggressive or vicious nature rather than being breed specific."

Remember that your local municipality or county may have taken this issue out of your hands. "Florida's Broward County has an ordinance related to aggressive dogs," reports Stivelman. "Associations can prohibit them from being kept in a unit and on common property. There, we're relying on county laws to define aggressiveness. On the other hand, the city of Miami prohibits pit bulls entirely."

Stivelman has a warning, however. Banned breeds can still be comfort animals, according to a federal court in Miami Dade County hearing the case of *Warren v. Del Vista Towers Condominium Association*. "The court held that even if county laws prohibit pit bulls, those breeds can still be emotional support animals because federal law supercedes local restrictions," she explains. "The association had claimed it couldn't allow the dog because Miami Dade County had restrictions against pit bulls."

8 Rules Every HOA and Condo Community with Pets Should Have

If you permit animals in your community, it's critical to spell out for owners the behavior that's required and the behavior that's absolutely not OK.

Here are eight nonnegotiable [HOA rules](#) you should implement.

1. That owners register their animal with the association. "One thing I recommend for associations with dogs and cats is having a rule that requires owners to register their animals with the association," advises [Phaedra J. Howard](#), a partner specializing in community association law at Hellmuth & Johnson PLLC in Edina, Minn. "You want the animal's name and description so you can identify the animal if it gets lose or if someone sees it being naughty."

Can [you charge a fee](#) with that registration? That depends on your state law, so check first. "If it's related to an actual cost the association has with tracking and registering the animal, in Minnesota, yes, you can," says Howard. "But you can't do that for a comfort or support animal.

"It's kind of like charging a pet deposit," adds Howard. "But I don't recommend that because I think we can deal with issues on a case-by-case basis. If there's damage to the owner's unit, the owner can fix that. If there's damage to the [common area](#), we'll fix it and [assess the costs](#) back to that owner."

2. Where animals can and can't be. If you have a designated dog run, state that dogs can't be exercised outside that area. Will you designate a particular elevator or entrance for pets to be brought in and out of the building? Can animals be in the common areas, such as on the [pool deck](#)? List every area your association controls, and state how and when animals can appear there.

3. All cleanup is the owner's responsibility. As though you need to say this. But say it, anyway. All owners must clean up after their pets, and that includes waste and any other debris resulting from a pet.

4. That owners control their animal. This is different from leashing an animal. A requirement of control addresses the family that lets their 10-year-old walk their 70-pound lab. The lab may be a lovely dog, but if it bolts for a squirrel or to jump onto a person to say hello, that 10-year-old simply may not have the strength to hold on. This rule can also help you address problems with noise.

5. That you can kick animals out. Your [governing documents](#) should give your association the right to expel any animal that harms a person on association property. “Florida has a one-bite rule,” reports Alessandra Stivelman, a partner who specializes in community association law at Eisinger Brown Lewis Frankel & Chaiet in Hollywood, Fla. “Associations have the right to require that animals that bite leave the property. But there are definitely negotiations that take place when that happens. For instance, what if that bite happened when the animal got loose accidentally?”

6. Whatever your municipality says on pets, you should say it, too. Most local governments require that animals be leashed. You should, too.

Likewise, if your local government requires registration and certain vaccinations for pets, you should, too. “You want to require that pets are in compliance with all applicable governmental laws, ordinances, rules, and regulations,” recommends [Stephen Marcus](#), a partner at Marcus, Errico, Emmer, Brooks in Braintree, which represents about 4,000 associations, mostly condos, in Massachusetts, New Hampshire, and Rhode Island.

This idea also applies to the types of animals permitted. “We’ve got to comply with the restrictions on pets in the cities in which our communities are located,” says Patrick Clark, president of Excel Association Management in Plano, Texas, which manages more than 100 condos and HOAs.

“Some cities have bans on certain types of animals, and that makes enforcement easier,” he says. “Any time we can send an issue to the city if there’s crossover or applicability in enforcement, that’s good because the city has a lot bigger stick than associations do—at least homeowners think so.”

7. No breeding or selling. Be sure you state that no animals can be used for commercial purposes in your community, advises Marcus.

8. Outdoor cats must be kept in the owner’s yard. “I don’t know that any community has said that cats must be indoors, and I don’t know that would be enforceable,” says [Debra A. Warren](#), CMCA, CCAM, PCAM, senior vice president at Dallas-based Associa®, a [community association management company](#) with offices throughout the United States, Canada, and Mexico.

“But I’ve had more problems with cats that were doing their business in somebody else’s yard than with other animals,” she says. “The cats would jump their owner’s fence, and they’d spray, too. In my own home, I currently have this huge grey cat that comes into our yard all the time, and I can’t do anything about it. I think it’s from the people behind me.

“That’s almost harder than dealing with dogs,” says Warren. “You could put in the rules that cats need to remain in the yard of the owner. Then it’s up to the owner to figure out how to do that in a reasonable way.”

Don't Believe the Rumors on HOAs with Holistic Pet Policies

There are reports of a trend toward more holistic pet policies in community associations, where HOAs and condos have broad rules but evaluate pets based on their individual behavior.

We're not buying those reports, and neither are our experts. Here's why you shouldn't, either.

If It's Happening, We're Not Seeing It

"I've never seen or heard of that," reports [Phaedra J. Howard](#), a partner specializing in community association law at Hellmuth & Johnson PLLC in Edina, Minn. "If somebody asked me about that type of policy, I'd tell them they were setting themselves up for all kinds of problems and potential lawsuits.

"Maybe if you have 10 units, it's OK," she adds. "But how are you going to determine whose dog or cat is nice—and why would you ever want to get into that? Use a hard-line rule. It's easier to enforce."

In addition, courts will back you up if you have [clear, consistent rules](#). "I haven't seen this, and I'd clearly not recommend that only because courts are very consistent in that they're far less likely to enforce subjective and vague rules and regulations," contends [Christopher J. Shields](#), a partner at Pavese Law Firm in Ft. Myers, Fla., who's represented associations for decades.

"The burden is on the association to identify the behavior and conduct you want to restrict," says Shields. "So I think it's a mistake waiting to happen to have the board have broad or unclear standards about what types of animals are permitted."

Think About How This Would Work in Real Life

That's also the concern of [Elizabeth White](#), a shareholder and head of the community associations practice at the law firm of LeClairRyan in Williamsburg, Va. "I'm not seeing that here in Virginia, but we've also got attorneys from other states on our team, and I'm not seeing that from them, either," she reports.

White is currently dealing with a very serious dog-bite case, and it's a reminder that it's very difficult to predict animal behavior. "I have a case now in which a very violent dog just about ripped apart a man's arm in the [common area](#)," she explains. "The owners are saying it was a one-time thing and that dog's never bitten before. It was a rescue dog and one from another country on top of everything else.

"Where I'd be concerned is that you get into who's qualified to make these determinations of the animals," states white. "We've found from [vicious-dog cases](#) that there are a limited number of dog psychologists, and engaging them is very costly. So what would

a board do in this situation? Would it keep one of those psychologists on retainer to test animals?

"Also, you can't gauge temperament from one interaction with the animal," contends White. "You have to look at the environment you're evaluating the animal in. Is the owner present? What if you changed the environment, and what if the owner wasn't present? What if you introduced other animals into the environment? What we learned from dealing with the dog-psychology world is that there can be deep-seated triggers there you didn't know about."

Patrick Clark, president of Excel Association Management in Plano, Texas, which manages more than 100 condos and HOAs, also knows from his own personal experience that animals can be safe in one environment but dangerous in another. "When I was little, we had a wonderful dog," he recalls. "It was a German shepherd, and that dog wouldn't hurt a fly as long as it was my family."

"Did we have a great dog?" he asks. "Yes, to our family, we had a great dog. The neighbors weren't fond of our dog, but as far as we were concerned he was a pussycat. If we'd have had that dog in a community association and I was managing that association today, I'd have cited that dog because it was aggressive to other people."

The Absurdity of It All!

This one actually brings a chuckle to [Debra A. Warren](#), CMCA, CCAM, PCAM, senior vice president at Dallas-based Associa®, a [community association management company](#) with offices throughout the United States, Canada, and Mexico.

"I wouldn't advise this, and it even makes me laugh a little bit," she says. "I just adopted a new cat to be a companion with my six-year-old cat because we lost our 14-and-a-half-year-old cat about a month ago. When I went to look at the cats at our local humane society, I selected Oliver, and the animal behaviorist who evaluated him happened to be there."

"I almost had to giggle a little when I heard about this concept because that's what you'd need in this situation—on a case-by-case basis, you'd have to hire this animal behaviorist," she adds. "Board members aren't experts on pets."

What HOA and Condo Boards Must Know About Service and Comfort Animals

When a resident asks for an accommodation to have an animal that's not currently permitted by your [condo or HOA's rules](#), you need to know exactly how to respond so you don't stumble into unnecessary and costly legal liability. Here's a guide.

The Difference Between Them

Let's start with some definitions. Here's a short list of the terms you need to know:

Assistance animal—"An assistance animal provides assistance or performs tasks for the benefit of a person with a disability," explains [Alessandra Stivelman](#), a partner who specializes in community association law at Eisinger Brown Lewis Frankel & Chalet in Hollywood, Fla.

"They're sometimes called service animals, assistance animals, companion animals, or emotional support animals," she notes. "Their use is governed by [federal and state fair housing laws](#)."

Service animal—"A service animal is a dog that's trained to do work or perform tasks to benefit someone with a disability," explains Stivelman. "It can be a physical, sensory, psychiatric, intellectual, or other disability." Miniature ponies can also be service animals.

Emotional support or comfort animal—"This is an animal that provides therapeutic benefit, such as alleviating or mitigating some symptoms of the disability, to a person with a mental or psychiatric disability," says Stivelman. "They're typically dogs or cats but can be other animals. Emotional support animals aren't assistance animals under the Americans with Disabilities Act."

"I think there's a lot of confusion about what's a service animal and what's an emotional support animal," reports [Christopher J. Shields](#), a partner at Pavese Law Firm in Ft. Myers, Fla., who's represented associations for decades.

"Service animals are specifically trained to perform a certain task for the benefit of an individual who has a disability," he explains. "That would typically be a seeing-eye dog, and the disability would be the inability to see without the services of that animal. The ADA would apply, and I don't see any association having difficulty with allowing a person to keep a bona fide service animal."

“Emotional support animals are entirely different,” explains Shields. “They provide emotional support and alleviate some of the effects of a person with a disability. The disability could be anxiety or the loss of a loved one, and the bar is extremely low as to the type of analysis or evaluation the person must receive.”

Just in case it’s not clear, here’s another way to look at these animals. “Service animals are specially trained, and under the ADA, they’re specifically limited to dogs and miniature horses,” notes [Elizabeth White](#), a shareholder and head of the community associations practice at the law firm of LeClairRyan in Williamsburg, Va. “Comfort animals, which are also legally classified as emotional support animals, don’t receive training but still have to be allowed as an accommodation if needed for a disability.”

Today, you’re more likely to get a request for a comfort animal than a service animal. “Fortunately or unfortunately, I think you’re seeing far fewer applications for service animals because people now don’t have to prove an animal is a service animal,” says Shields. “They only have to say they need the animal as a companion pet because it provides emotional support.”

There’s No Practical Difference

We spelled out the definitions just to be clear on the terms and what they mean. But for your purposes, not much of that matters.

“As far as the fair housing context, there’s no difference between a service or emotional support animal,” says [Phaedra J. Howard](#), a partner specializing in community association law at Hellmuth & Johnson PLLC in Edina, Minn. “You can use whatever term to describe any animal that assists someone with a disability with the federal fair housing act and most state statutes. The ADA doesn’t apply in the fair housing context.

“The U.S. Department of Justice has made it abundantly clear there’s no difference,” adds Howard. “The absolutely number-one confusing issue I hear is people asking, ‘I know we have to allow service animals, but what about a comfort animal?’ If the animal assists someone with a disability, whether it’s a physical or mental or emotional disability, there’s no distinction.”

Another important issue to know: “Service or emotional support animals aren’t even pets,” explains [Stephen Marcus](#), a partner at Marcus, Errico, Emmer, Brooks in Braintree, which represents about 4,000 associations, mostly condos, in Massachusetts, New Hampshire, and Rhode Island. “They’re just considered animals. So if your HOA says you can have one pet, that means you can have one pet plus an emotional support animal if needed.”

By the way, one of Marcus’s association clients just got an accommodation request for a goat. Marcus also points out that a woman recently took [a turkey on a commercial flight](#) after providing proof it was a service animal.

One more note: Even if you’ve banned a particular breed of dog from your association, you may have to permit an owner to have that animal if a request for accommodation has been made, reports Stivelman. That’s the ruling of a federal court in Miami Dade County hearing the case of *Warren v. Del Vista Towers Condominium Association*.

"The court held that even if county laws prohibit pit bulls, they can still be emotional support animals because federal law supersedes local restrictions," explains Stivelman. "The association had claimed it couldn't allow the dog because Miami Dade County had restrictions against pit bulls."

You're Going to Need a Process

Stivelman advises her clients to have a [formal process for handling accommodation requests](#). "These guidelines are generally approved at a [board meeting](#), and if a unit owner comes in requesting an accommodation, the board can provide these guidelines to the owner to show that the board and [manager](#) are following a procedure," she explains. "That's helping clients avoid discrimination claims."

The process starts with requiring that requests be in writing. It also includes the association letting the owner know how long the review process will take so there's no anger building while the board appears to be doing nothing.

"What I've found is that when my clients have gotten in trouble, it's because they didn't know what to do, didn't know what they could ask, or didn't handle the request in a timely manner," she says. "A lot of times, they say, 'The rules are the rules, and we're going to enforce them.' They don't come to us for advice."

Know What to Say

What can you ask someone requesting an accommodation?

"You can ask two basic questions: Is the animal necessary, and is it reasonable to afford the person an opportunity to enjoy their dwelling?" states White.

You can also ask the person to explain the relationship between the disability and the need for the requested accommodation, advises Stivelman.

Beyond that, do not tread, our experts advise. "We've drafted scripts for managers and personnel as to what they can and can't ask for when someone comes forward and makes a request," says White. "If they have an obvious disability, the questioning can't continue. If it's not an obvious disability that's known to you, there are questions you can ask." (See "[Talking Points for Associations Regarding Requests for Assistance and Service Animals](#).")

If you believe the wool is most certainly being pulled over the board's eyes, it's OK to refer the matter to your HOA's lawyer. "Clearly, if you know this is a scam, you may need to engage legal counsel that's knowledgeable about this," says White. "You say, 'Here are the facts. What can I ask and not ask?'"

"But this is a really risky area," adds White. "As soon as boards overstep their bounds and make this difficult for someone with a disability, that's dangerous because with fair housing, that's one of the times you can have [individual liability](#)."

How to Handle Competing Requests

One emerging challenge for associations is what to do when different owners have different disabilities that can't easily be accommodated in tandem.

"We'll hear from boards that they know they have to accommodate a request, but they also say a lot of their owners are allergic to animals, and they don't know what to do," says Stivelman. "The law isn't clear, and associations have to get creative in accommodating pets.

"In one case, a board member was allergic, but we had to grant another owner's request because that owner provided sufficient proof," she adds. "They decided which elevator the owner with the animal would use and implemented other commonsense stuff, like that the dog must be well maintained and groomed so as not to shed and carried in [common areas](#), if possible.

"There are also people genuinely afraid of dogs, and they often chose to live in a no-pet condo for that reason," says Stivelman. "Their rights have to be respected, too. You do need a balancing of the interests involved."

Talking Points for Associations Regarding Requests for Assistance and Service Animals

Upon receiving a request for a reasonable accommodation to possess an assistance or service animal in a dwelling or common area, consider the following:

1. Does the person seeking to use and live with the animal have a disability — i.e., a physical or mental impairment that substantially limits one or more major life activities?

2. Does the person making the request have a disability-related need for an assistance or service animal? (In other words, does the animal work, provide assistance, perform tasks or services for the benefit of a person with a disability, or provide emotional support that alleviates one or more of the identified symptoms or effects of a person's existing disability?)

If the answer to either question is "no," then the Fair Housing Act and related regulations don't require a modification to the association's pet policies, rules, or covenants.

If the answer to both questions is "yes," the association will need to modify or provide an exception to its rule, covenant, or policy to permit a person with a disability to live with and use an assistance/service animal in all areas of the premises (i.e., dwelling unit, lot, and common areas) where residents are normally allowed to go, unless doing so would impose an undue financial and administrative burden or would fundamentally alter the nature of the association's services.

If you're uncertain whether the person seeking the accommodation has a disability *and* the disability isn't readily apparent:

- You may ask the person (or his or her representative) to submit reliable documentation of a disability *and* their disability-related need for an assistance or service animal.

If the disability is readily apparent or known but the disability-related need for an assistance or service animal isn't:

- You may ask the individual to provide documentation of the disability-related need for an assistance animal.
- You may ask the individual to provide evidence that a service animal has been adequately trained (and you may require proof of proper training in the form of a written assertion by the animal's owner that the animal has been trained to perform tasks).

- If it's not obvious what task(s) the service animal performs, you may ask:
 1. Whether the animal is a service animal required because of a disability and
 2. What work or task the animal has been trained to perform

You should *not*:

- Inquire about the individual's disability
- Request medical records
- Request a special identification card or training documentation for the animal
- Request a demonstration of the service animal's abilities

You should *not* ask an individual to provide documentation showing their disability or disability-related need for an assistance animal if the disability or disability-related need is readily apparent or already known to the association.

You should *not* ask an individual to provide access to medical records or medical providers or provide detailed or extensive information or documentation of a person's physical or mental impairments.

A request for a reasonable accommodation may *not* be:

- Unreasonably denied
- Conditioned on payment of a fee or deposit or other terms and conditions applied to residents with pets
- Unreasonably delayed

Courtesy of [Elizabeth White](#), a shareholder and head of the community associations practice at the law firm of LeClairRyan in Williamsburg, Va.

Disclaimer: This is not legal advice; after reviewing this document, consult with a lawyer in your state on how your association should proceed in any particular situation.

Emotional Support Animals: The Challenge for HOAs Comes in the Form of a Different Type of Puppy Mill

Did you know that there are now websites that anyone can use to get a note claiming they have a disability that's eased by an emotional support animal?

What's a conscientious HOA or condo to do?

Pay Your Fee, Get Your Certification

"I've seen it where these websites not only issue you a prescription or certification, but there are now organizations online that you pay and then fill out a survey, and someone will apparently diagnose you and say you're disabled," laments [Phaedra J. Howard](#), a partner specializing in community association law at Hellmuth & Johnson PLLC in Edina, Minn.

"I think the survey is free, and you can fill out whatever lies you want so the people behind the website will say you're disabled," she says. "What you pay for is to get the certificate and letter. We know that because we had one of our [property managers](#) fill it out.

"We tried to catch one of these sites," she recalls. "We're in Minnesota, and this doctor was on the West Coast. We told the owner, 'We need someone who talked to you and is treating you.' Then we got a note from that doctor that said, 'We're treating this person.' What can you do?"

This is a problem in Florida, too. "The requestor doesn't need to have a prescription from a medical doctor; it could be a licensed mental health counselor," explains [Christopher J. Shields](#), a partner at Pavese Law Firm in Ft. Myers, Fla., who's represented associations for decades.

"I'll see applications or prescriptions for an emotional support animal, and the licensed mental health counselor is located in California," he notes. "We know that person making the request has done an internet search and had the prescription sent to them for \$25. There's a lot of gamesmanship involved."

[Alessandra Stivelman](#), a partner who specializes in community association law at Eisinger Brown Lewis Frankel & Chaiet in Hollywood, Fla., has encountered those "certification mills," too. "We've seen a trend for different websites, and one is called Cert-aPet," she says. "We caught them because we were getting the exact same letter from therapists all over the county. One therapist was silly enough to leave 'CertaPet' on the bottom of the letter. In those cases, if we say that's not sufficient, the requestor comes back and tells you they do teletherapy."

Just Demand They See a Real Doctor! (No.)

Can you say the health provider must be licensed in your state?

"Unfortunately, no," says Shields. "With the guidance from the U.S. Department of Housing and Urban Development and the U.S. Department of Justice, the deck is stacked squarely against the association. It makes it very difficult for associations to ask for more or put hurdles or anything that could be considered an obstacle in place.

"As a practical matter, we'd like to know whether the person actually saw the person making the request, but who knows?" he says. "They could have Skyped. In many cases, I seriously doubt whether the person evaluated them for more than 30 seconds."

If you're feeling lucky, you can butt up against the line. But be careful. "We've done things like said we need to hear from somebody who's actually treating you," says Howard. "But I think under HUD guidances, that's probably walking close to the line. I've had associations note that a letter was signed by a physician's assistant and not a doctor, and I have to tell them it doesn't matter."

Will there be pushback now that there seem to be growing abuses of this practice? "Up until recently, I'd have said no, there's not going to be," says Howard. "HUD has been leaning so far on the side of the individual and letting them do and say whatever they want. As long as you get a letter that says the magic words, associations can't ask for more documentation.

"But with the current administration, who knows what's going to happen?" says Howard. "I haven't seen any indication that's going to change, but who knows?"

Don't Sweat the Small Stuff

Avoid getting too hung up on people abusing [fair housing laws](#), advises [Stephen Marcus](#), a partner at Marcus, Errico, Emmer, Brooks in Braintree, which represents about 4,000 associations, mostly condos, in Massachusetts, New Hampshire, and Rhode Island.

"People abuse every law, but others have the need for the law," he contends. "Of course we have people who are cheating and bucking the system and almost making a mockery of it. But it could also be that 99 percent of the requests are legitimate.

"The danger when we start assuming that 100 percent of the people making these requests are scamming is that there are people who do need an emotional support animal," explains Marcus. "I think if 99 percent of the people making the request need the animal, you don't tear apart the law because it gets abused. I'd say the law is serving its purpose."

Stivelman advises her clients to consider what she calls the one-third rule. "One third of these request are completely bogus, and you'll be able to reject those with little or no risk," she explains. "One-third are legitimate. You can tell the requestor is cooperating, and you know their information is accurate.

"Then there's a final third where the documentation is probably fake, but the requestor has gone through all the steps and provided you with everything required," concludes Stivelman. "Those people know the law, and the association has done its due diligence. In those cases, we advise our clients to not fight those requests because it may be too risky."

When a Service or Comfort Animal Goes Bad

Don't confuse your [obligations under fair housing laws](#) with your right to [enforce reasonable rules](#) on animals in your property.

Translation: Just because you've approved an accommodation request, that doesn't mean an animal or owner can ignore your reasonable rules.

Nope, This Won't Fly

"Unfortunately, we've had to deal with these things," explains Patrick Clark, president of Excel Association Management in Plano, Texas, which manages more than 100 condos and HOAs. "In one particular case, we had a person who probably really did need some kind of emotional support animal. We got a letter from a physician saying she needs an animal, and this was in a condo that had banned pets.

"The association has to acquiesce to that because that's what the law says, and we did," recalls Clark. "But the dog was very poorly behaved, though the problems were mainly the owner. The owner didn't clean up after the animal. And she'd do things like walk the dog in the mud and let it run up and down the carpeted stairs. She often didn't have it on a leash, either.

"Just because it's a comfort animal doesn't mean it's exempt from the behaviors the association restricts," notes Clark. "If the owner is behaving incorrectly, you can still have the dog removed, even if they're a comfort pet. Service animals on the other hand are trained and are generally well behaved."

Luckily for that condo, the ill-behaved pet's owner was a tenant. "She ultimately moved," states Clark. "But there's no question the association was doing enforcement actions against her."

What You Can Restrict

You've approved a comfort or service animal, but what can you regulate when it comes to that animal?

A lot.

Let's start with what you can't do. You can't charge a pet security deposit, reports [Stephen Marcus](#), a partner at Marcus, Errico, Emmer, Brooks in Braintree, which represents about 4,000 associations, mostly condos, in Massachusetts, New Hampshire, and Rhode Island.

But you don't have to tolerate dogs that attack. "Let's say the dog attacked another dog or person," explains Marcus. "Most people would say, 'Let's demand the removal of the dog.' That's one way that could be handled with true aggressive behavior. But you could also require a muzzle."

You can also adopt reasonable controls on these approved animals. "We say the animal must be house trained, and if it bites, it must go," states [Christopher J. Shields](#), a partner at Pavese Law Firm in Ft. Myers, Fla., who's represented associations for decades. "If and when associations do accept the application for an animal and do approve the request, they often do so with conditions.

"One of those is usually that the handler of the pet has to take care of and supervise and maintain control of the pet," says Shields. "That means they clean up the animal's waste, make sure it doesn't [constitute a nuisance](#), and if it's a dog, that it doesn't growl, bark, or run away from the handler.

"The second thing that's typically required," says Shields, "is that when the pet is outside the unit or home, it'll be under a leash or tether and that the handler must be able to control the leash as well."

You can also impose other reasonable restrictions on animals in your association as a result of an approved accommodation. "There should be vaccinations and licensing," says Shields. "Rabies is a public [health and safety concern](#), and many other diseases can be contracted from animals.

"My recommendation to association clients if they do accept an application for an accommodation is that they require the person who's making the application provide proof of the rabies vaccination and that the animal licensed as required by the county," says Shields. "I also suggest they be required to provide and make sure the pet is kept clean and free of fleas or other pests, and make sure the animal doesn't exhibit an unusual or offending odor, as well."

The HOA Trend of Barnyard Animals as Pets; What to Know

You need a ready response for when—not if—one of your residents tells you those chickens you hear clucking incessantly are their pets. Or maybe it'll be their pot-bellied pig. Or goats.

"I have no clients that permit barnyard animals," says [Christopher J. Shields](#), a partner at Pavese Law Firm in Ft. Myers, Fla., who's represented associations for decades. "But I think we've risen up into an era where people think they have a right to go ahead and raise any type of pet. So it's up to associations to have very clear restrictions."

This is an issue right in the backyard—literally—of [Debra A. Warren](#), CMCA, CCAM, PCAM, senior vice president at Dallas-based Associa®, a [community association management company](#) with offices throughout the United States, Canada, and Mexico.

"I'm in a single-family-home community, and the HOA allows so many chickens as long as they're not a nuisance," she explains. "The people behind us have chickens, and the chickens make funny noises. Other than that, they're not a problem."

Lucky for Warren, that fowl isn't fouling up the neighborhood. Ha!

But should your HOA have the same policy permitting chickens and other animals you typically see on farms? Here's some insight.

What Does Your Government Say?

What came first—the chicken, or the [HOA violation notice](#)?

That's easy. The chicken obviously triggered the violation. But is that necessary?

Your first question should be whether your state government has addressed this issue. "Our state legislature just passed a bill about chickens saying that cities can't restrict people having up to six chickens," says Patrick Clark, president of Excel Association Management in Plano, Texas, which manages more than 100 condos and HOAs.

He's referring to a [bill](#) passed in April 2017 by the Texas Senate. "It doesn't apply to HOAs, so HOAs can still do something about that," he adds. "But that's a big deal. We've also had pot-bellied pigs."

Your local government may also have rules on this front. "Sometimes the local government won't allow these types of animals within a particular zoning designation," says [Elizabeth White](#), a shareholder and head of the community associations practice at the law firm of LeClairRyan in Williamsburg, Va. "There hasn't been as much of a problem where local governments have restricted that. It can become a problem where you have fewer zoning restrictions."

Note, however, that even if your local government does permit owners to have what are typically farm animals, that doesn't mean you have to follow suit.

"There's some concern that a lot of our municipalities are letting people keep up to four chickens in their yard," reports [Phaedra J. Howard](#), a partner specializing in community association law at Hellmuth & Johnson PLLC in Edina, Minn. "One association contacted me and was worried that if their city authorized that by ordinance, somehow they'd have to allow chickens, too. I said no, that wasn't the case."

Spell Out What's OK and Not

Because there'll never be agreement on whether someone's goat is a pet or a barnyard animal, you need to head off that problem before it arises. That means you should specifically describe what's permitted in your association and not.

"We use language that says only dogs, cats, birds, fish, and other animals recognized as household pets," says Howard. "That general definition could be changing over time. But we're going to consider only certain types of animals as pets, and if you're going to try to bring in a cow or a goat, we'll say that goes against our definition, and we'll not allow it."

"Today, more associations I work with tend to list the animals they'll allow rather than list the ones they allow," adds Howard.

Always remember, however, that [fair housing and disability laws](#) will trump your [HOA rules](#). "When it comes to pets, generally the [governing documents](#) will define what's allowed, and we do have communities that allow barnyard animals," says [Alessandra Stivelman](#), a partner who specializes in community association law at Eisinger Brown Lewis Frankel & Chaiet in Hollywood, Fla.

"But the discussion is different when you're talking about an emotional support or a service animal," she explains. "Even if your community says you can't have pigs, if this person says their pig is their *support animal*, you have to allow it. Only dogs and miniature horses can be *service animals*."

Thinking of Adding HOA Amenities for Pets? Here's the Poop

Is a pet-friendly playground or a dog run on your HOA's wish list?

Or have you considered throwing pet pool parties?

What about having a dog island?

Though she hasn't personally seen it for herself, [Phaedra J. Howard](#), a partner specializing in community association law at Hellmuth & Johnson PLLC in Edina, Minn., says one of her clients has what it calls a "dog island."

"It's a condo association, and I think it's a designated area for the dogs to go potty," she reports. "They call it a dog island, but I don't know if it's actually an island. I know of it only because there was an issue between dogs, and it took place at the dog island."

Dog island aside, our experts advise you to slow your roll on plans to add [HOA amenities](#) for pets. They're very hard to add once your community is established. Here's why.

You'll Need Overwhelming Owner Support

Alessandra Stivelman, a partner who specializes in community association law at Eisinger Brown Lewis Frankel & Chaiet in Hollywood, Fla., just isn't seeing her clients consider adding perks for pets. They either don't have the space, or they don't have the funds for such a low-priority item.

"For condos, it's hard to add these types of amenities because they could possibly be deemed a material modification to [common elements](#), and that generally requires a vote of owners," she explains. "In Florida, you'd need 75 percent approval of owners by statute unless otherwise specified in your documents."

Owner approval is also the concern of [Christopher J. Shields](#), a partner at Pavese Law Firm in Ft. Myers, Fla., who's represented associations for decades. "There's a segment of the American population who love their pets and want to have different areas where they can run, recreate, and meet others," he states. "The problem is putting in something like a dog run after the fact. It's sort of difficult to retrofit a community on common property, especially if it's near to or causes a nuisance to some type of housing product.

"Let's say a community has a large [common area](#) or park, and they could segregate an area of it for owners to recreate with their pets," explains Shields. "But installing a dog run after the fact could constitute a nuisance for some owners. They might argue, 'I bought overlooking the park, not knowing you were going to transform a part of that park adjacent to me into a dog run bringing all the things that come with it, like noise and a potential odor.'"

Consider the Liability Angle

If you want add an amenity, also be sure to investigate how much additional liability to which you're exposing your association.

A client of [Elizabeth White](#), a shareholder and head of the community associations practice at the law firm of LeClairRyan in Williamsburg, Va., is currently planning a community that'll have a pet-friendly area, and that's pinging White's legal radar.

"I have a developer who's developing a master planned community with a pet park theme to it," she explains. "Some part of it will be for owners who want to let their pet off their lead or their leash. That gives me some angst because when you concentrate a number of dogs in one place on common area, you have to make sure [your insurance company](#) is cool with that."

She also advises that you have owners sign waivers of liability against your association. "Have owners sign waivers, but we know in Virginia those aren't bullet proof," she reports. "In Virginia, it's unlawful to agree to waive someone else's negligence that causes injury. For the waiver to be meaningful, there must be no negligence on the part of the association."

Even if you've already [adopted general pet rules at your HOA](#), you'll need to adopt specific ones for whatever amenity you add. "Whatever the amenity is, especially if it's an enclosed space, I think you definitely need rules to make sure animals aren't fighting," advises Howard. "You also have to have rules about things like cleaning up after your animals."

White agrees: "You'll need rules for any amenities, like rules that owners have to remove pets when they're not behaving, that all animals need to be up on vaccinations, and so on."

Pet Pool Parties? Hardly

Just like the idea that there's a trend of associations adopting free-form rules for pets, we're also not buying reports that associations are hosting pool parties for owners' pets.

Patrick Clark, president of Excel Association Management in Plano, Texas, which manages more than 100 condos and HOAs, can barely contain his disbelief. "If we had a pool party for pets here, the city would shut us down," he says. "That's a health hazard. That's ridiculous!"

Shields also doesn't understand how pet pool parties would fly. "I can't see how that would be permissible by the local government, whether it's the county, city, or town, as far as the health department," he notes. "It could certainly violate regulations related to water quality. I don't believe that pets are even allowed on the pool deck area in many associations."

Except for service animals, which can sun themselves (in a manner of speaking) but not take a dip into the water. "Most of the time, the rules are very specific about animals being allowed in the pool," says Howard. "If it's a service animal, it can be in the pool area, but not in the pool."

Be Sure This Should Be a Priority

It's possible a pet amenity would be welcomed by your owners and insurer and that you can manage the cost and liability. But there's one more thing to consider: Are you going to spend time, money, and goodwill duplicating the efforts of others?

"I find that cities are accommodating pet owners," says Stivelman. "I live in community with a bunch of homes that's well gated. Right outside the community, the city created a dog park for big and little dogs. I think it's easier for the issue to be approached that way.

"I also think it's hard for existing communities because you have to have land and money, and that's not in the books for a lot of communities now," she adds. "They're focusing on things like concrete restoration and repairs they've had to do for a long time, not adding amenities."

How to Get Compliance with Your HOA's Pet Provisions

Want to get people to follow the [HOA rules](#) you've set forth on pets? Make them clear and consistent, and you'll be most of the way there.

"Enforcement is really about drafting clear and concise rules to begin with," contends [Phaedra J. Howard](#), a partner specializing in community association law at Hellmuth & Johnson PLLC in Edina, Minn. "You have to think about things like if you have a weight limit, how are you going to enforce that?"

"A good thing would be to say maybe on an annual basis, you have to provide documentation of an animal's weight," explains Howard. "But at the end of the day I don't know the difference if my dog is 32 pounds instead of 30 pounds. Don't have rules you can't enforce."

"Fine-tune" Your Enforcement

When it comes to [fining owners](#) for [violating rules](#), start by double checking that you have that authority.

"The first thing to look at in Virginia in setting fee scales for fines is that we have a statutory limit, and that assumes your [governing documents](#) permit you to assess these fees in the first place," notes [Elizabeth White](#), a shareholder and head of the community associations practice at the law firm of LeClairRyan in Williamsburg, Va.

"In Virginia, we can't call them fines," White adds. "Our supreme court has said fines are punitive, so we call them 'charges.'"

"Then our statute distinguishes between a one-time violation with a maximum charge of \$50 or a continuing violation of up to \$10 per day for up to 90 days," White states. "So the maximum is \$900. That amount has the same weight as a [special assessment](#) for [collection purposes](#). We can [foreclose](#) on those [liens](#) or take them to collections."

The best way forward, in White's opinion, is to use those charges as a deterrent and a way to get owners to work with you. But that may not work. "We've had to go to court seeking an injunction because some owners just pay the fine instead of correcting the behavior," she says.

Florida also has laws governing your fining ability. "Under Florida law at the condo or HOA level, it's prescribed by statute," reports [Christopher J. Shields](#), a partner at Pavese Law Firm in Ft. Myers, Fla., who's represented associations for decades. "Fines can't exceed \$100 per day per violation.

"In condos, the total is capped at \$1,000 in the aggregate," adds Shields. "If there was a continuing violation, the total couldn't exceed the \$1,000, including for pet violations. In HOAs, it's \$100 per day, and typically there's no cap.

"If it's an unpaid fine of \$1,000, you could lien and foreclose on the owner's unit," states Shields. "And in either setting, the association could sue for unpaid fines and get a money judgment, but whether that would attach to an owner's homestead property, that's another matter."

That doesn't mean you can't suspend owners' use rights, says Shields, such as their access to [HOA amenities](#) like the pool, the clubhouse, and so on.

And don't forget that you can cut off owners' right to have an animal. "If it's a serious violation, there's nothing stopping the association from rescinding an application for an animal, especially if it's an emotional support animal," says Shields. "If you're in a no-pets association and the owner brings in a 90-pound Rottweiler and it causes harm, you can rescind and sue for removal of that pet as well."

Challenges Abound

Remember that you have to prove a violation before you can penalize an owner for it.

That can be difficult when it comes to dog waste. "The waste issue is a problem, and we do have owners who have problems with that," says White. "I haven't had to take anybody to court for not picking up the waste once we charge them for it. But we've done all sorts of special reconnaissance trying to figure out who's leaving the dog poop. Sometimes, we've figured out that it was a board member."

It's also very challenging when the violation involves excessive noise. "The biggest thing we deal with is the nuisance complaint," says [Alessandra Stivelman](#), a partner who specializes in community association law at Eisinger Brown Lewis Frankel & Chalet in Hollywood, Fla. "That goes with regular [pets](#) and emotional support animals.

"We have owners leaving a dog in a unit or on a balcony all day barking," she says. "We've had to reach settlements in those cases. I tell associations that if they don't have a [nuisance provision](#) in their governing documents, add one.

"Also require specificity in complaints so they're something we can rely on when we enforce," adds Stivelman. "Request that complaints be in writing, and the association should do incident reports so they can document what's taking place.

"Then we say to the owners: 'This nuisance needs to stop, or the dog needs to leave in 10 days,'" reports Stivelman. "We do mediation. Or for condos we've filed [arbitration proceedings](#). But it's very hard to get proof. It's most effective to try to get the parties to come to an agreement or to assist the dog with the barking."

Barking also raises the conundrum of continuing violations. "Some owners will play with that," says White. "If a dog is occasionally left at home and barks its brains out for 12 hours, is that a continuing violation or a one-time violation? It's helpful to define in your documents what's ongoing. If it's recurring with some frequency, like twice a week or a certain number of times per month, you have the ability to treat it as a continuing violation."

Don't Waive If You Don't Have That Authority

Let's say you have a 25-pound limit for pets, but a resident mutt is now 30 pounds. Can you just waive that violation for long-time canine residents?

"I think there can certainly be exceptions if the owner has provided proper documentation of that," says Howard. "You might hear, my dog has gained a couple of pounds, but we've got him on a strict diet, and we're working on it. Are we really going to say you have to get rid of your dog for that violation?"

"You need to be reasonable within your guidelines," asserts Howard. "I'm not sure your provisions really have to state a specific weight limit. It's more about thinking along the lines of, if you're going to allow dogs, you want them to be smaller breeds."

But remember that you may not have discretion to waive violations. "There's not any discretion on Virginia law on that," reports White. "Generally speaking, boards don't have discretion unless it's written into their documents."

Bites are Seriously Different

As a rule, you can't just fine owners for a dog bite and move on. That's a situation that requires serious attention.

"With dog bites, in particular those that occur on the [common area](#), the association's obligation is to protect owners from that," says White. "In Virginia, there's a [duty to act once you have knowledge an animal is vicious or dangerous](#). So what's that action going to be when you have knowledge that a dog bit someone in the common area?"

"Sometimes that means we have to take the unusual step of trying to ban the dog from the common area or the community," says White. "Banning them completely from the community depends on having a [strong covenant](#) that allows you to do that. I have some developers say they don't want that strong of a covenant because they don't want the association to have that responsibility.

"Also, local governments have definitions of dangerous or vicious dogs, and a jury may not have the heart to ban that dog," adds White. "If you don't have a strong covenant allowing you to ban an animal, you may not be able to protect your community in that scenario. It's tough, and I have clients on both sides of that equation."

Sample Certification Of A Need For A Reasonable Accommodation

_____ CONDOMINIUM

RESIDENT NAME: _____

RESIDENT ADDRESS: _____

1. My name, address, and business telephone number are as follows (information of qualified professional who is completing this form):

2. I am a duly licensed physician or medical professional in [U.S. state], and my license number is: _____.

3. I am certified in the following medical specialty(ies), if any:

4. Please specify the approximate amount of time that you have been treating the resident.

Please complete the following information as it applies to the above named resident:

The Fair Housing Act defines a "person with a disability" to include (1) individuals with a physical or mental impairment that substantially limits one or more major life activities; (2) individuals who are regarded as having such an impairment; and (3) individuals with a record of such an impairment.

5. I am familiar with the resident's history and with the functional limitations imposed by his/her disability.

YES

NO

6. In my considered professional opinion, the resident meets the definition of a person with a disability under the Fair Housing Act.

YES NO

7. If you have answered YES to Numbers 5 and 6 above, please describe the nature of the resident's disability and for about how long the resident has been impaired by said disability.

8. Please describe how the resident's disability substantially limits one or more major life activities.

9. Please describe the needed accommodation.

10. Please describe and show the relationship between the resident's disability and the need for the requested accommodation.

11. Are there any other alternative methods, procedures, medications, etc. that you can suggest to address this matter? For example, if the resident is requesting to have a dog, would another animal, such as a cat, suffice?

12. I understand that this information is solely for the use of the above-named condominium in evaluating a request for accommodation made by the resident, that it will be kept confidential and will be provided only to authorized representatives of the above-named condominium who periodically may need to verify and re-validate that this information is still correct and a tribunal of competent jurisdiction should a dispute arise in regards to this request and a complaint is filed by the resident against the condominium in regard hereto.

Please initial/check the applicable statement(s) below:

I do not believe the resident requires a change to the rules, regulations, policies, and procedures as a result of his/her disability to have an equal housing opportunity.

[]

I verify that the above request for a change to the rules, regulations, policies, and procedures is necessary for the above named person, as a result of his/her disability, to have an equal housing opportunity.

[]

I cannot verify that the above request for a change to the rules, regulations, policies, and procedures are necessary for the above named person, as a result of his/her disability, to have an equal housing opportunity.

[]

[Please feel free to attach another page(s) to supplement any responses above]

Signature _____ Date _____

Title of Physician or Medical Professional _____

Courtesy of [Stephen Marcus](#), a partner at Marcus, Errico, Emmer, Brooks in Braintree, which represents about 4,000 associations, mostly condos, in Massachusetts, New Hampshire, and Rhode Island.

Disclaimer: State laws vary; consult with a lawyer in your state after reviewing this sample document.

Sample Governing Document

Pet Provisions

Here's one section of a community's governing documents related to pet restrictions to give you a feel for how to address various issues with pets:

- A. Customary household pets may be kept in any unit pursuant to the restrictions and regulations contained in the declaration of trust; provided, however,
 - 1. That no such pets are raised or bred for commercial and/or remunerative purposes,
 - 2. That such pet(s) are in no greater number than two (2) per unit so as to maintain appropriate peaceful enjoyment of the condominium by all residents thereat,
 - 3. That such pet(s) are in compliance with all applicable governmental laws, ordinances, rules, and regulations,
 - 4. That said pets do not create a nuisance as the board may in its reasonable discretion determine,
 - 5. Any such pet(s) are duly registered with the board
 - 6. Pets shall be walked in the designated pet walking area, if any, and
 - 7. Residents must clean up after their pet.

Moreover, the conduct of such pet(s) upon the common elements is subject to rules and regulations adopted from time to time by the board. If said pet is deemed a nuisance by the board, in its sole discretion, the board may require the pet owner to remove the pet upon ten (10) days' notice.

In addition, such pet shall not interfere with the quiet enjoyment of the condominium by its residents. The board may exclude a pet, including, but not limited to, exclusion based on the general disposition and noise level of the breed, and no Pit Bulls, Rottweilers, Doberman Pinchers or snakes are permitted under any circumstances (except as provided by the U.S. Department of Housing and Urban Development pursuant to the Federal Fair Housing Amendments Act as to service animals and emotional support animals).

All pets shall be properly registered with the county, town, or city and any other appropriate agency, and all inoculations required by such government entity, such as rabies shots, are also required.

Courtesy of [Stephen Marcus](#), a partner at Marcus, Errico, Emmer, Brooks in Braintree, which represents about 4,000 associations, mostly condos, in Massachusetts, New Hampshire, and Rhode Island.

Disclaimer: State laws vary; consult with a lawyer in your state after reviewing this sample document.

Sample Governing Document

Pet Provisions (Condo)

Here's one section of a condo community's governing documents related to pet restrictions to give you a feel for how to address various issues with pets:

Animals. No more than two (2) dogs or two (2) cats or one (1) dog and one (1) cat shall be permitted to be kept, harbored, or stay in any unit. In addition, tropical fish and small caged birds are permitted. No other type or kind of pet is permitted other than domesticated dogs, domesticated cats, tropical fish, and small caged birds.

No aggressive or loud breeds of dog are allowed including, but not limited to, Pit Bulls, Rottweilers, Dobermans, Mastiffs, Chows, or German Shepherds. The board is empowered to adopt additional rules and to prohibit anyone from keeping a breed of dog the board considers to be a vicious or dangerous breed of dog.

No birds, snakes, rodents, or any type of reptile, whether caged or not, may be kept in a unit. No pets shall be kept outside of a unit or in any courtyard, patio, or entry area unless someone is physically present with the dog or cat.

When outside of the unit owner's unit, all pets must be on a proper pet leash at all times. Unit owners shall immediately pick up and remove any solid waste deposited by their pet.

The unit owner shall indemnify the association and hold it harmless against any loss or liability of any kind or character whatsoever arising from or growing out of having an animal in [ABC Association].

If a dog or any other animal becomes obnoxious to the unit owners by barking or otherwise, the unit owner thereof must cause the problem to be corrected; or, if it is not corrected, the unit owner, upon written notice by the association, will be required to permanently remove the animal from [ABC Association].

Tenants make keep an otherwise permitted and acceptable pet but only if their request has been approved in writing by the board. No tenant may bring a pet prior to the application being submitted and approved in writing by the board.

No pet may be kept or harbored in a unit unless the pet owner is physically present and in residence at all times the pet is present.

No other animal or pets of any other person or owner may be kept, harbored, or brought onto condominium property for any commercial purpose whatsoever.

No pet watching, pet sitting, grooming, or breeding is allowed.

The association, by and through the board, may promulgate additional and more stringent rules and regulations from time to time designated other rules necessary to regulate pets.

Courtesy of [Christopher J. Shields](#), a partner at Pavese Law Firm in Ft. Myers, Fla., who's represented associations for decades.

Disclaimer: State laws vary; consult with a lawyer in your state after reviewing this sample document

Sample Governing Document

Pet Provisions (HOA)

Here's one section of an HOA community's governing documents related to pet restrictions to give you a feel for how to address various issues with pets:

Animals and pets. Only common household pets (i.e., dogs, cats, birds, and fish) may be kept in any dwelling unit, but in no event for the purpose of breeding or for any commercial purposes whatsoever.

No other animals, livestock, or poultry of any kind shall be kept, raised, bred, or maintained on any portion of the neighborhood.

Permitted pets shall only be kept subject to and in accordance with such rules and regulations as shall be promulgated from time to time by the association.

However, under no circumstances will any dog whose breed is noted for its viciousness or ill-temper, in particular the "Pit Bull" (as hereinafter defined), Rottweiler, Mastiff, Presa Canario, or any crossbreeds of such breeds, be permitted on any portion of the property. A "Pit Bull" is defined as any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog displaying a majority of the physical traits of any one (1) or more of the above breeds or any dog exhibiting those distinguishing characteristics that substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds.

No exotic pet or any animal of any kind that has venom or poisonous defense or capture mechanisms, or if let loose would constitute vermin, shall be allowed on any portion of the property.

Trained seeing-eye dogs will be permitted for those persons holding certificates of blindness and necessity. Other animals will be permitted if such animals serve as physical aides to handicapped persons and such animals have been trained or provided by an agency or service qualified to provide such animals. The guide or assistance animal will be kept in direct custody of the assisted person or the qualified person training the animal at all times when on the property, and the animal shall wear and be controlled by a harness or orange-colored leash and collar.

Pets may not be kept, bred, or maintained for any commercial purpose. Any pet must be temporarily caged, carried, or kept on a leash when outside of a dwelling unit. No pet shall be kept tied outside a dwelling unit or on any lanai, unless someone is present in the adjacent dwelling unit.

No dogs will be curbed in any landscaped area or close to any walk, but only in special areas designated by the board, if any, provided this statement shall not require the board to designate any such area. A dwelling unit owner shall immediately pick up and remove any solid animal waste deposited by his pet.

The dwelling unit owner shall compensate any person hurt or bitten by his or her pet and shall indemnify the association and hold it harmless against any loss or liability of any kind or character whatsoever arising from or growing out of having any animal within the property.

If a dog or any other animal becomes obnoxious to other dwelling unit owners by barking or otherwise, the dwelling unit owner thereof must cause the problem to be corrected; or, if it is not corrected, the dwelling unit owner, upon written notice by the association, will be required to permanently remove the animal from the property.

The association will promulgate rules and regulations from time to time designating other rules as necessary to regulate pets.

Courtesy of [Christopher J. Shields](#), a partner at Pavese Law Firm in Ft. Myers, Fla., who's represented associations for decades.

Disclaimer: State laws vary; consult with a lawyer in your state after reviewing this sample document

Sample Pet Rules and Regulations on Dangerous Animals

Here's a sample set of pet rules with a particular focus on issues related to dangerous animals:

1. The maintenance, keeping, boarding, or raising of pets shall be subject to these rules and regulations as enacted by the board.
2. Pets shall not be allowed upon the common elements unless restrained by a leash, transport box or cage, or carried; and in no event upon the land portion of the property save for transit there across, except for areas designated thereof.
3. Every dangerous or vicious dog or dangerous breed, as determined in the sole discretion of the board, *shall be securely muzzled and leashed while on the common areas and facilities.* **(Option to replace italicized wording: "shall be prohibited within any unit or upon the common elements")**
 - a. Any dog that inflicts a bite to any person while on the condominium property shall be deemed a dangerous or vicious dog.
 - b. For purposes of these rules, the following breeds, or any dog being a mixed breed thereof, shall be considered to constitute dangerous breeds: (a) American Staffordshire terrier (also known as "American Pit Bull Terrier" or "Pit Bull Terrier"); (b) Rottweilers; and (c) Doberman Pincers. The board reserves the right to add to the list of breeds of dogs determined to be dangerous breeds, and such determination shall be in the sole discretion of the board without the consent of unit owners, and the decision of the board shall be absolute.
 - c. The term "muzzled" herein means wearing a device constructed of strong, soft material or a metal muzzle such as that used commercially with greyhound dogs. Such muzzle device must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but must prevent the dog from biting any person or animal.

(Option banning expanding certain breeds of dangerous dogs in addition to the three options above):

The following breeds of dogs, or any dog being a mixed breed thereof, shall be prohibited within any unit or upon the common elements: (a) Akitas (b) American Staffordshire terriers (also known as "American Pit Bull Terrier" or "Pit Bull Terrier"); (b) Chows; (d) Doberman Pincers; (e) Rottweillers and (f) German Shepherds.

1. Pets of any kind may not be kept, bred, or maintained within the unit for commercial purposes.
2. Pets shall not exceed such number and kind as to interfere with the quiet enjoyment of the condominium and its residents.

3. Residents must prevent their pets from becoming a nuisance, creating unreasonable disturbances and noise.
4. Owners must, at all times, clean up after their pets.
5. All pets shall be in compliance with all applicable governmental laws, ordinances, rules, and regulations.
6. Residents with pets must complete and return a pet registration form to the board. The board may establish reasonable fees for registration of pets.
7. An owner or his or her tenant who keeps or maintains any pet upon any portion of the property shall be deemed to have indemnified and to have agreed to hold the condominium free and harmless from any loss, claim, or liability of any kind or character whatever arising by reason of keeping or maintaining such pet within the property.
8. Any resident who witnesses a violation of these rules should send a written complaint to the board detailing the offense. The resident filing the complaint must sign the complaint.
9. Each unit owner keeping such a pet who violates any of the above conditions or permits any damage to or soiling of, without prompt removal of the same, any of the common elements or permits any nuisance or unreasonable disturbance or noise shall:
 - a. Be assessed by the board for the cost of the repair of such damage or cleaning or elimination of such nuisance and/or
 - b. Be levied such fine as the board may reasonably determine; and/or
 - c. Be required by the board to permanently remove such pet from the condominium upon five (5) days' written notice from the board.

Courtesy of [Stephen Marcus](#), a partner at Marcus, Errico, Emmer, Brooks in Braintree, which represents about 4,000 associations, mostly condos, in Massachusetts, New Hampshire, and Rhode Island.

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Sample Pet Rules

Here's a sample set of pet rules:

For those owners who want to keep a pet, the following rules shall apply. "Pet" shall mean any domesticated bird, cat, and dog or aquatic animal within an aquarium.

- 1. Pet registration**—All pets must be registered with the association; failure to register a pet may result in a continuing daily fine. Only the unit owner may obtain approval to keep a pet in the association. Non-owners must obtain approval from the unit owner, who must complete the application on their tenant's behalf and submit the application to the association office before a pet may be approved to be kept in the unit. The owner is responsible for tenant's compliance with these rules. Pet registration forms are available at the association office. A copy of the city's license for a dog or cat, a pet photo, and \$25 fee are required.
- 2. Licensed and neutered**—Pets must be spayed or neutered and licensed with the city. When the dog or cat is in the common area, it must wear both the city license tag and the association's pet tag and be controlled on a leash.
- 3. Number and size limited**—No more than one approved, registered cat or dog per unit; no exceptions. The weight limit on any pet is 30 pounds (unless the pet is an approved assistance animal).
- 4. No commercial operations**—A pet shall not be kept, bred, or used for any commercial purpose.
- 5. Prohibited breeds**—The following dog breeds, due to their aggressive nature, are not permitted in the association: Pit Bull, Rottweiler, German Shepherd, Husky, Malamute, Wolf-Dog hybrid, Chow-Chow, Doberman-Pinscher, Great Dane, St. Bernard.
- 6. Common area restrictions**—A pet shall be confined to the unit registering the pet, must not be allowed to roam free in any common area (including hallways), and may not be tied or left unattended in any common area. Pets in transit shall be carried, restrained by a leash, or placed in an animal carrier. A pet shall not be walked or exercised in the common areas (including building hallways) of the complex. When a pet is taken to and from the unit registering the pet, the cat or dog (i) shall be on a leash that may not exceed six feet in length, and (ii) any waste droppings left must be picked up by the pet owner and deposited in an appropriate waste container.
- 7. Patios and balconies**—A pet shall never be left alone on any patio or balcony.
- 8. Damage to common areas**—The owner of the unit registering the pet shall be responsible for any damage to the common area elements caused by the pet. Any damage caused by cleaning chemicals or other such materials used in an attempt to remedy such damage shall also be the full financial responsibility of owner of the unit registering the pet. Pet owners shall have sole liability for all damages claimed by any person harmed by such pet and shall indemnify, hold harmless, and defend the

association from any and all liability whatsoever resulting from such claims and damages including, without limitation, damage awards as well as costs and reasonable attorney fees incurred by the association.

- 9. No nuisance allowed**—No pet shall be permitted to become a nuisance or create any unreasonable disturbance. If a pet, in accordance with the association’s complaint and hearing procedures, has been determined to constitute a nuisance or cumulative assessed fines for violation of these rules exceed \$500, the pet shall be permanently removed from the development within 14 days of notice of the board’s decision.
- 10. Pool restrictions**—Pets are never permitted in the pool areas, recreation centers, or association office or exercise rooms.
- 11. Visiting pets prohibited**—Guests may not bring pets when they visit residents in the association.
- 12. Aggressive animals**—No person may allow an animal, when unprovoked, to bite, attack, endanger, or inflict injury on another person or animal or chase or approach an individual in a menacing fashion or apparent attitude of attack. If a dog previously determined by the board to be aggressive attacks or bites a human being or a domestic animal without provocation, the owner shall be subject to significant fines and may be required to (i) sterilize the dog, (ii) provide the association with proof of a current health certificate for the dog issued by a veterinarian; (iii) keep the dog muzzled at all times in the common areas and restrained by a substantial six-foot or shorter chain or leash under control of a competent person, (iv) permanent removal from the property. Any person who owns, harbors, or otherwise provides custody for a dangerous dog shall be responsible for any damage or injury caused by that dog, including, but not limited to, veterinary or medical bills or property damage.
- 13. Fines and removal**—There is a \$100 fine per occurrence for pet violations unless noted differently above. The board may order the permanent removal of any pet where cumulative fines related to the pet exceed \$500.

Courtesy of [Stephen Marcus](#), a partner at Marcus, Errico, Emmer, Brooks in Braintree, which represents about 4,000 associations, mostly condos, in Massachusetts, New Hampshire, and Rhode Island.

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Rental restrictions are unlike most other policies HOA boards create because they necessarily curb owners' real property rights. The law jealously protects property owners' rights, which means any HOA board that seeks to restrict rentals in their community needs to act wisely and deliberately. This report provides you with the information you need achieve that goal. [Download now »](#)

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This report is intended to be your road map for an entire year of operations that you begin using today and turn to for years to come. It provides you with checklists compiled by our editorial team with substantial input from experts on HOA operations and management from across the country to ensure you're steering your association in the right direction and not letting crucial issues slip through the cracks. [Download now »](#)

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HOA insiders often say that the biggest challenges boards face are "the 3 Ps." Based on your own experience as an HOA board member, you can probably guess that those Ps stand for Parking, Pets, and People. It's our overarching goal to make your life easier. So with this report, "Eliminate Parking Problems at Your HOA: How to Create an Effective and Enforceable Parking Policy," we're aiming to remove parking as one of the issues that throws speed bumps in your path to effective management. [Download now »](#)

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This report is a follow-up to our earlier special report, 50 HOA Management Tips: Best Practices for Homeowners Association Boards. It is filled with new and cutting-edge advice from our editorial team and experts on HOA governance and management from across the country. You'll find tips to minimize your legal risk, tips to improve your collections, tips to manage the human side of HOA leadership, tips to streamline rule enforcement, tips to save your association money, and much more. [Download now»](#)

HOA Reserves, Special Assessments, Loans & More: A Homeowners Association Board Member's Guide to HOA Funding Options

The best-run HOAs have boards that are smart with money. Those boards manage their owners' money with care, and when they have unplanned projects that require additional funding, they're equally methodical and thoughtful. What do those boards do that's so smart? They explore every funding option, starting with well-known ideas like drawing on reserves, taking out a loan, or passing a special assessment. Then they unearth funding options that few HOA board members know about. In this special report, you'll discover tips and guidance on funding options from HOAleader.com's expert contributors. [Download now»](#)

HOA Management Companies: A Practical Guide for Homeowners Association Boards

In this exclusive HOA management special report, we offer insight and guidance on finding a good HOA manager and determining whether you need an onsite manager, must-have and must-not-have contract language, and tips for responding when your management company isn't doing its job, including guidance on when to cut ties or work toward a better relationship. We also educate going-it-alone boards on best practices for self-managed homeowners associations, and much, much more. [Download now»](#)

HOA Policies: 17 Sample Policies Every Homeowners Association Board of Directors Should Consider

In this special report, we lay the groundwork for your HOA board to draft policies and procedures governing a broad scope of condo or homeowners association life by providing you with 17 sample policies released exclusively to you by HOAleader.com's expert contributors. [Download now»](#)

HOA Leadership Roles and Duties: A Guide to the Positions of President, Vice President, Secretary, Treasurer, and Board Member in Condo and Homeowners Associations

We're hearing from a growing number of association members who want more detail about their responsibilities—or who want an easy way to educate their newly elected fellow board members about what, exactly, board members do. What's the president supposed to do? How about the vice president, secretary, and treasurer? [Download now»](#)

50 HOA Management Tips: Tips and Best Practices for Homeowners Association Boards

This report compiles advice from our editorial team and from experts on HOA governance and management from across the country. You'll find tips about different ways to keep your association safe from embezzlement and financial malfeasance, tips about managing the human side of HOA leadership, tips about rule enforcement, tips on saving your association money, and much more. [Download now»](#)

HOA Finances: Best Practices for Getting Your Homeowners Association through Difficult Economic Times

This report was created to help you make smart decisions that will in turn help your HOA weather the current financial storm. We've spoken to leading condominium and homeowner association advisors across the country and distilled their recommendations down into practical, plain-English suggestions for what you can do now to best position your association for financial stability. Times are tough, but the good news is there are steps you can take today that will help. [Download now»](#)

HOA Debt Collection from A to Z: How to Create and Implement a Debt Collection System at Your HOA Special Report

In this report, our editorial team and experts on HOA law, management, and collections from across the country provide information you can begin implementing immediately to collect money due your association more quickly and easily. [Download now»](#)

Webinars Available On Demand from HOAleader.com

How to Read Your Association's Financial Reports (and Fulfill Your Fiduciary Duty)

Nobody expects you, as a board member, to be a CPA or a super-high-level financial whiz. But to fulfill your fiduciary duties, you do need to be able to understand your association's financial statements, ask good questions about its financial status, and spot potential problems. This webinar, led by two community association management experts, will help get you there. [View now »](#)

Make Your Job Easier: Say Yes to an HOA Board Code of Conduct

Even the most conscientious board members can become stumped on how to proceed in difficult situations and uncharted territory. And let's face it: Some board members might be embarrassed to ask for advice for fear they'll look uninformed or even because they're afraid others might get the wrong impression about their intentions. You can help your HOA board avoid that type of situation by providing guiding principles for board members' conduct. But what should go in your board code of conduct? Find out in this webinar. [View now »](#)

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When, Why, and How HOA Boards Should Meet Behind Closed Doors

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2. **Living Up to Your Fiduciary Duty as an HOA Board Member**

"Fiduciary" is not just a big word. It carries legal consequences if you—even unknowingly—breach that duty. Here's what you need to know about fulfilling your fiduciary duty as a homeowners association board member. [Read more»](#)

3. **HOA Board Members: 7 Things You Must Know If You're Sued Personally for Board Actions**

Sometimes homeowners sue HOA boards, and sometimes they sue both the board and board members individually. Here are seven things you should know if you're personally sued for actions taken as a condo or homeowners association board member.

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4. **HOA Elections: 6 Mistakes to Avoid with your Condo or Homeowners Association Elections**

It's very easy to invalidate an election by not following every rule to a T. Keep an eye out for these common mistakes condo and homeowners associations make when conducting elections. [Read more»](#)

5. **HOA Board Meetings: Open Meetings and Executive Session—What You Must Know**

Does your state require that your condo or homeowner association board have open meetings? If so, what does that mean? And what about executive session? What can you discuss privately, and what must you discuss in front of homeowners who wish to attend? Here's a rundown. [Read more»](#)

6. **Master Homeowners Associations: Is Your HOA Its Own Master?**

Imagine your surprise. You buy a home in a community knowing full well that you'll become a member of your local homeowners association only to learn that your homeowners association is really a subassociation and you're bound to follow the rules of a bigger "master" association. Here's a primer on master associations and how masters and subassociations, often called "subs," interact. [Read more»](#)

7. **9 Mistakes New HOA Board Members Make—And How to Avoid Them**

Here we list the nine most common mistakes new HOA board members make and provide tips for turning those mistakes into successes. [Read more»](#)

8. **Discussion Forum Follow-Up: Reining in Bullies on Your HOA Board**

A reader on the HOAleader.com discussion board asks: "I am on the board of directors of our HOA, but the president is just running wild and not following any of the bylaws or CC&Rs..." Here, we provide tips for handling secretive, power-hungry board member tactfully yet effectively. [Read more»](#)

9. **HOA Reserve Studies: What You Need to Know**

Just what is a reserve study? What should it include, and how often should it be done? We've got answers. [Read more»](#)

10. **HOA Rules: What You Must Know About Flag Restrictions**

There are several legitimate reasons why your HOA might want to provide guidance to homeowners on flag displays. Before you do, however, make sure you understand the maze of laws governing the issue. [Read more»](#)

11. **HOA Reserve Funds: The Pros and Cons of Underfunding Reserves**

Some boards stop funding—or underfund—their homeowners association reserves as a way to ease the burden on homeowners during difficult economic times. Is this a smart move for your HOA? [Read more»](#)

12. **HOA Pet Rules & Required Accommodations: The Facts About Comfort Animals**

Is Fido a medical necessity, or are we being taken for chumps? That's the question HOA board members are asking themselves as a growing number of owners claim that their beloved pet isn't a violation of their association's rules but a critical part of their medical treatment. Here's what you need to know about comfort animals and how your association should treat owners' requests for them. [Read more»](#)

13. **HOA Finances: Think Twice Before Throwing a Party with Unused Budget Funds**

This week's tip deals with condo and homeowners associations that take leftover money in a miscellaneous or contingency budget account and fritter them away with things like parties. Be careful before taking that step. [Read more»](#)

14. **What Happens When Nobody Runs for the HOA Board?**

An HOAleader.com reader wants to know what happens when nobody runs for any open board seats. Here our experts give the lowdown. [Read more»](#)

15. **9 Responsibilities HOA Boards Shouldn't Delegate to a Manager**

HOA management companies can be a great help to an association's board of directors. But a manager is not supposed to usurp the board's duties. Here we share nine duties you shouldn't allow your HOA manager to handle. [Read more»](#)

16. **HOA Contracts: Can One Board Member Contractually Bind Your Homeowners Association?**

Can one board member, without the board's knowledge, bind the association to a contract? The short answer is yes. However, our experts have suggested practices you can implement to prevent it from happening at your association. [Read more»](#)

17. **HOA Financial Matters: What's Receivership, and When Do Condo and Homeowner Associations Need It?**

Though it's still rare in community associations, receivership has become more common in today's economy. With any luck, your HOA will never experience receivership. But some unlucky associations will. So here are some basics on receivership, along with information about how it's arising in condo and homeowner associations today. [Read more»](#)

18. **Definition: Quorum**

A quorum is the smallest number of board members necessary to legally conduct the business of your HOA. Most, but not all, groups define a quorum as a ... [Read more»](#)

19. **A Sex Offender Has Moved Into Your HOA ... What Now?**

If you're like most homeowners, your first thought when you learn that a sex offender has moved into your community is: What can we do to get the offender to leave? Here's what you must know about your association's—and the offender's—rights. [Read more»](#)

20. **Tax Day: What Your Board Must Know about Homeowners Association Taxes**

Homeowners associations have to file tax returns like the rest of the corporations in the United States. Here's a primer on the rules associations must follow when they file and advice on minimizing the stress of tax day for your HOA. [Read more»](#)

21. **Discussion Forum Follow-Up: What's a Common Area in My HOA?**

A reader on the HOAleader.com discussion board asks a question many associations end up grappling with: What's a common area? A handful of owners in our reader's townhome have decks, rather than concrete slabs, which everybody else has. The governing documents don't reference maintenance for decks. Our reader wonders: Who's responsible? [Read more»](#)

22. **Definition: Declaration of Covenants, Codes & Restrictions (CC&Rs)**

The declaration of covenants, conditions, and restrictions (CC&Rs) are recorded with the register of deeds in the initial phase of development of a townhome or planned community. [Read more»](#)

23. **HOA Governance: How to Change Your Homeowner Association's CC&Rs**

Whatever the reason, at some point you'll need to amend your HOA's covenants, conditions and restrictions (CC&Rs). Here's how to make the changes by the book and deal with the inevitable political tension that arises from taking such an action. [Read more»](#)

24. **The Pros and Cons of Keyless Access in HOAs**

A HOAleader.com reader reports that his HOA is considering keyless access—like swipe or insert cards—for elevators to help increase building security. His board is particularly concerned about those who may have avoided proper screening or requested additional keys to allow unauthorized access for friends. [Read more»](#)

25. **Helping Owners Fund a Special Assessment**

Here, we hear how condominium and homeowner association boards crafted creative financing that helped them pass a special assessments and offer tips for funding your own special assessment. [Read more»](#)

26. **Robert's Rules for HOAs: What You Need to Know**

Robert's Rules of Order is a more-than-100 year old guide that provides governing bodies procedural rules to keep their deliberations orderly. What are the pros and cons of following Robert's Rules? If your association decides to follow it, what are the most important rules everyone should know? Here's a summary. [Read more»](#)

27. **HOA Legal Compliance: A Primer on the Fair Housing Act for Homeowners Associations**

The Fair Housing Act prevents many types of discrimination in housing. Here's a basic overview of how it affects your homeowners association. [Read more»](#)

28. **HOA Elections: What's Cumulative Voting, and Should You Use It?**

Most people don't even know what cumulative voting is and probably couldn't tell you if it's allowed in their state or their association. Here, we explain the procedure, discuss its pros and cons, and offer insight as to whether to change your bylaws to include or exclude it. [Read more»](#)

29. **HOA Board Member Behaving Badly? Know How and When to Discipline**

You may be surprised to learn that you and your fellow volunteers can be disciplined for your behavior as members of the board of directors of your homeowners association or condominium association. Here we explain when it's appropriate for boards to consider disciplining their fellow board members, along with the possible range of action they can take. [Read more»](#)

30. **How Far Does an HOA President's Power Extend? Discussion Forum Follow-Up**

Can a president sign a landscape contract without the board's approval? And did the president of this reader's HOA have a conflict of interest here? Our experts provide answers. [Read more»](#)

31. **HOA Management Fees: Beware These Questionable Fees; How Your Association Can Address Them**

Here, White and other attorneys who represent associations reveal fees they've seen slipped into their clients' management contracts and invoices. They also offer tips for addressing them. [Read more»](#)

32. **HOA Governing Documents Explained**

HOA gurus freely banter about the terms "CC&Rs," "bylaws," "rules and regs," and "governing documents." But what exactly are those documents, and which are the most and least powerful? In this article, we lay out what constitutes each governing document and sort out which ones have more authority than others. [Read more»](#)

33. **Definition: Reserve Accounts**

Reserve accounts (also referred to as "reserve funds" or simply "reserves") are funds set aside by the homeowner association to pay for the replacement ... [Read more»](#)

34. HOA Board Members: Ensure that You're Personally Insured

You may think that since your homeowner association has general liability insurance, you'll be protected if a member sues you and your fellow HOA board members. Not so. That's where directors and officers (D&O) insurance comes in. Here's what to look for in a policy to make sure you're protected. [Read more»](#)

35. HOAs and Parking: What Your Homeowner Association Board Should Know About Towing

Here's what you need to know about creating a towing policy that complies with your local laws and provides owners proper notice before their car gets hauled away. We also provide tips if you're entering into a contract with a towing company. [Read more»](#)

36. Handicap Parking: What Your Homeowners Association Must Know

Is your condo or homeowners association required to provide handicapped parking for residents and visitors? If so, how many spaces do you need, and where must they be? What if an owner requests handicapped parking? Can you require proof, and where must you locate the spot? When can you legally deny the request? Here, we answer those questions. [Read more»](#)

37. New Cases Scrutinize HOA Architectural Committee Decisions—Part 3

Three recent court cases are a reminder that your board is responsible for oversight of its architectural review process and can be held liable when it fails to meet that duty. In this final installment of a 3-article series, we discuss a Washington case where an architectural committee overstepped. [Read more»](#)

38. HOA Board Recalls, Part II: If You Must Do a Recall Vote, Read This First

In November 2008, a California appellate court held invalid an association's requirement that director recalls required a 60 percent supermajority of the association's total voting power. Here's what you need to know about that case even if your association isn't in California, along with tips on how to properly conduct a recall vote. If you're a board member who has gotten wind of a potential recall effort in your community, you'll find advice for you too. [Read more»](#)

39. HOA Rules: Which Political Signs Can You Regulate?

While a campaign-issued two-foot by two-foot Barack Obama or John McCain sign might look just fine on owners' lawns, would you feel as comfortable with a 10-foot by 10-foot sign? What if the sign promoted a White supremacist running for local office? The answer may be a rule banning political signs in your homeowners association. Before you enact such a rule, however, make sure you know whether your state permits you to do so and understand the Pandora's box you may be opening. [Read more»](#)

40. HOA Boards: Four Ways to Prevent and Ease Board Burnout

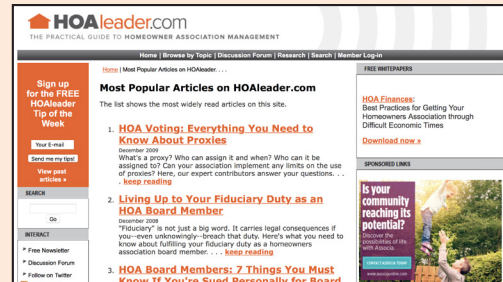
Let's face it. In many condo and homeowners associations, a handful of people carry the load for the rest of the community. Those heavy lifters can sometimes become burned out. What can you do to prevent burnout? And what can you do to ease the burden when HOA board members are feeling drained? Here are four suggestions. [Read more»](#)

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