

Nebraska HOA Laws

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In Nebraska, certain planned communities are governed by a homeowners association (HOA). Their powers and responsibilities vary based on the property type and governing documents.

Who Regulates HOAs in Nebraska?

In Nebraska, HOAs are regulated by a specific statute governing HOAs. Most HOAs are registered as nonprofit corporations that are governed by the Nebraska Nonprofit Corporation Act found in Chapter 21 of the Nebraska Statutes. This act governs all nonprofit corporations in the state of Nebraska.

HOAs traditionally have documents that regulate themselves. Every HOA is different however, the governing documents typically include: Articles of Incorporation, Bylaws, Declaration of Covenants, Conditions and Restriction, and other rules.

HOAs in Nebraska may be subject to applicable federal laws such as:

- The Americans with Disabilities Act of 1990
- The Fair Housing Act
- Code of Federal Regulations

HOAs may be subject to certain state laws such as:

- Nebraska Condominium Property Act
- Nebraska Condominium Act
- Nebraska Fair Housing Act

How to Find HOA Regulations in Nebraska

HOA governing documents are not public records in Nebraska and are kept with the HOA. The only exception is if the HOA seeks a certain tax exemption which requires filing the bylaws with the IRS.

Documents filed with the Nebraska Secretary of State can be accessed online by conducting a Business Search. Viewing any document can be completed by paying a fee after searching for the name of the business.

HOA Powers in Nebraska

In Nebraska, HOAs have the power to:

- Regulate common areas
- Foreclose on a home for unpaid liens
- Collect payments for common assessments
- Levy reasonable fines

Also, HOA governing documents can grant more powers such as restrictions on exterior paint colors, fencing, membership, and parking requirements.

Can an HOA Impose Fines on a Homeowner in Nebraska?

In Nebraska, HOAs can impose fines on a homeowner for late payment of assessments and violation of its rules. Before imposing fines, HOAs must provide homeowners a proper notice of the fine and an opportunity to be heard. Notice and hearing requirements are determined by the HOA's governing documents.

An HOA cannot fine a homeowner for (or generally prohibit) any of the following:

- Installing solar energy devices
- Installing satellite dishes and antennas
- Displaying the American flag as long as it is consistent with federal law

Reasonable rules and regulations about the placement, manner, and display of the American flag, solar panels, and satellite dishes and antennas may be included in the HOAs governing documents.

Can an HOA Take a Homeowner's House in Nebraska?

An HOA in Nebraska can foreclose on a home within its community. HOAs have the power to place a lien on a property when the owner neglects to pay their dues. If a lien goes unresolved, the HOA can foreclose on the house.

There are two ways an HOA can foreclose on a home:

- **Judicial Foreclosure.** The HOA files a lawsuit against the homeowner to obtain a court order granting permission to sell the home and settle the HOA lien.
- **Nonjudicial Foreclosure.** The HOA would not go through state court but simply follow specific procedures listed in their governing documents.

There is no state statute on if an HOA can evict a homeowner or tenant. If an HOA directly leases a residence to a tenant, they may be able to evict the tenant.

For example, an HOA may be able to evict a tenant if the lease was not properly authorized by the HOA. In addition, the HOA may have other powers or restrictions regarding rental properties in its governing documents.

Can an HOA Enter a Homeowner's Property in Nebraska?

HOAs in Nebraska can enter a homeowner's house as reasonably necessary to maintain the units, common elements, or shared utilities.

Units are solely used by the property owners but have certain spaces that require maintenance by the HOA, such as balconies. Common elements are the shared spaces in and around the house that are collectively owned by the HOA, such as a pool. Shared utilities may include water or sewage that are provided directly through the HOA.

Before entering a property, except in the case of an emergency, an HOA should give prior notice to the homeowner. Typically, an HOA will give 1-2 weeks' notice, but notice requirements are determined by the governing documents.

Where Do Homeowners File Complaints Against Their HOA in Nebraska?

The appropriate agency to file a complaint against an HOA depends on the type of complaint.

If a homeowner feels they are a victim of housing discrimination, they can file a complaint with the Nebraska Equal Opportunity Commission, the U.S. Department of Urban Housing, or file a private lawsuit in Nebraska state or federal court.

For complaints concerning HOA fees, a homeowner can file a complaint with the Nebraska Real Estate Commission, the Federal Trade Commission, or the Consumer Financial Protection Bureau. Under the Fair Debt Collection Practices Act, homeowners may also file in state or federal court within one year of the violation date.

A homeowner can bring all other complaints to state court in the appropriate jurisdiction by filing a claim.

Joining and Leaving an HOA in Nebraska

In Nebraska, **no** state provision governs joining or leaving an HOA. These processes are outlined in the HOA's governing documents. Documents explaining the HOA and its membership rules should be presented at the closing for a new owner's home purchase.

Typically, there are two types of HOAs that regulate joining and leaving clauses:

- **Mandatory HOAs.** When a person buys a home, they automatically become a member required to abide by any HOA rules listed in the governing documents. This usually includes that a homeowner is not able to leave the HOA freely.
- **Voluntary HOAs.** When a person buys a home, membership is a choice for each homeowner. If they choose to become a member, they may leave at any time by stopping their payments with the HOA.

To leave a mandatory HOA, a homeowner can sell their house or try to petition the court to have their home removed. However, there is no guarantee the petition will be granted.

How to Dissolve an HOA in Nebraska

The process for dissolution of an HOA in Nebraska may be set forth in the HOA's governing documents. If it is not, dissolution is authorized if it is approved by all three requirements:

- The board
- HOA members by $\frac{2}{3}$ or majority vote
- Each person whose approval is required by the governing documents for dissolution must approve the plan in writing

HOAs must give notice to members before voting with a copy of the plan for dissolution. The plan for dissolution is used for distributing assets and debts of the HOA.

An Articles of Dissolution must be filed by the HOA with the Nebraska Secretary of State. Once filed, the HOA is considered fully dissolved.