

Community rules

Local rules can play an important role in ensuring a happy and harmonious lifestyle within a land lease community.

What can community rules be about?

As an operator you can make community rules about anything to do with the use, enjoyment, control and management of the community. There is no longer a list limiting what rules a community can have.

However, by law all community rules must:

- be fair, reasonable and clearly expressed
- apply uniformly
- be consistently enforced
- not conflict with the Residential (Land Lease) Community laws or any other laws
- not invalidate anything that has already occurred. For example, if a community rule is brought in banning pets this will not apply to any pets already in the community at the time the rule is made.

Model community rules

NSW Fair Trading has developed and published a set of model community rules that can be adopted by a community. Download a copy of the Model community rules in PDF format from the Forms page of the Fair Trading website.

What is the status of community rules?

It is not mandatory to have a set of community rules. They are similar in many respects to by-laws in a strata scheme. Community rules can no longer form part of a site agreement and should be about matters not already covered by the site agreement. If rules are inconsistent with anything in a site agreement, then the agreement prevails.

How are community rules made or amended?

You must give each resident at least 30 days' prior written notice before introducing a new rule or changing or deleting an existing rule. If the community has a residents committee, it must be advised and consulted with about the proposed change in the rules before notice is given to each resident. If this process is not

followed, the change will have no legal effect. Residents are not required to vote on, or agree to, a change in the community rules. However, it would be a good idea for you to take into account the views of residents.

If a new land lease community is being established, you can make a set of rules prior to signing up any residents. Otherwise the process for amending rules as set out above must be followed.

You may receive suggestions for changes to the community rules from individual residents or the residents committee, if you have one.

Who do the community rules apply to?

Community rules apply to:

- all residents (including both home owners and tenants)
- any people living with a resident
- yourself and any of your employees and agents
- the community owner
- any people invited into the community (such as guests or tradespeople)

Prohibited community rules

A community rule cannot be made requiring a home owner to replace or remove an older home or to make any upgrades or improvements to a home unless for health or safety reasons.

What do I do if somebody breaks a community rule?

If you believe a community rule has been broken, you may issue the person with a written notice to remedy the breach within a period of at least 30 days. The Notice to comply with community rules form in PDF format can be downloaded from the Forms page of the Fair Trading website.

If the breach has not been remedied in that time, you can then apply to the NSW Civil and Administrative Tribunal (the Tribunal) within 30 days for an order. The Tribunal has the power to:

- order that a person comply with the rule

or

- if the Tribunal thinks that the breach is sufficient to justify, terminate a site agreement or tenancy agreement.

What will the Tribunal consider in cases where a rule has been breached?

If an application is made to the Tribunal it may consider anything relevant to the particular case, such as:

- the nature of the breach
- any previous breaches of the rules
- any steps taken by the person to remedy the breach
- action taken by you about the breach
- the previous history of the matter so far as it is relevant
- whether the community rule is being enforced and interpreted consistently and fairly.

Can I be served with a notice to take action?

Any resident can give you written notice asking you to take action over a breach of the rules by another person, within 30 days. If you fail to take appropriate action within that time, the resident can apply to the Tribunal within 30 days for an order. The Tribunal can make any order it feels appropriate in the circumstances, such as requiring you to ensure compliance with the rule by the person concerned.

Can a resident dispute a community rule?

Yes. A resident can apply to the Tribunal if they believe a community rule does not comply with the laws or if they believe the procedure for making or amending a rule was not followed correctly. The Tribunal has the power to amend or strike out the rule if it agrees this is necessary.