

Can homeowners get rid of unreasonable, unconstitutional HOA rules?

By Deborah Goonan, Independent American Communities

This chart provides references to the specific constitutional rights or legal provisions mentioned in the article and provides examples of HOA rules that may violate these rights.

Constitutional Right	Location in Constitution	Examples of Violating HOA Rules
Freedom of Speech	First Amendment	<ul style="list-style-type: none">▪ Prohibiting residents from displaying flags, political campaign signs, or religious decorations.▪ Restricting residents from speaking freely with neighbors or addressing concerns and complaints about HOA decisions at board meetings▪ Threatening legal action against owners for critical social media comments about HOA board members or management.
Freedom of Assembly	First Amendment	<ul style="list-style-type: none">▪ Preventing residents from peaceably assembling, such as limiting gatherings or meetings within the community.
Freedom of Religion	First Amendment	<ul style="list-style-type: none">▪ Prohibiting residents from displaying religious decorations.▪ Restricting religious freedom within the community.
Property Rights	Fifth Amendment	<ul style="list-style-type: none">▪ Enforcing unreasonable restrictions on property use without a basis for public health, safety, or preventing a measurable public nuisance.▪ Attempting to amend Covenants and Restrictions to override state laws and enact new unconstitutional rules.
Fair Housing Act (1968)**	Federal Law (Not in Constitution)	<ul style="list-style-type: none">▪ Enforcing discriminatory rules based on race, color, national origin, religion, sex, familial status, or disability.▪ Ignoring complaints of housing discrimination, resulting in penalties and attorney fees for HOAs.▪ Discriminatory behavior by HOA board members or managers leading to individual accountability.

** The article challenges the claim that homeowners give up their Constitutional rights when living in HOA communities, citing instances of legal challenges and penalties for HOAs violating the Fair Housing Act and First Amendment rights.

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