

Know Your Docs! A Quick Guide to Governing Documents

In Colorado, the law treats your relationship with your homeowners association as a contractual relationship. The terms of that contract are your governing documents, supplemented by certain statutes, such as the Colorado Common Interest Ownership Act ("CCIOA") and the Colorado Revised Nonprofit Corporation Act ("CRNA"). Accordingly, it is important for members of an association to thoroughly understand each of these documents and get professional advice on anything they do not understand.

Declaration - also known as a Declaration of Covenants or CC&Rs (Covenants, Conditions and Restrictions)

CCIOA defines a declaration as any recorded instruments however denominated, that create a common interest community, including any amendments to those instruments and also including, but not limited to, plats and maps. Section 38-33.3-205 of CCIOA sets forth the complete list of what must be included in the declaration. Generally, it should contain broad protective standards and restrictions for the community for which the rules, regulations and policies are intended to explain, clarify and define in greater detail. The declaration should also provide how the association will allocate the allocated interests of each unit; specify the purpose and goals of the association; and, address any formalities regarding the transition from developer to owner control.

Articles of Incorporation

Section 7-121-401 of the CRNA defines articles of incorporation as meaning not only the original articles, but also "amended articles of incorporation, restated articles of incorporation, and other instruments, however designated, on file in the records of the secretary of state that have the effect of amending or supplementing in some respect the original or amended articles of incorporation..." The articles of incorporation must define the legal name, address and corporate status of the HOA. Section 7-122-102 of the CRNA provides for what else must be contained in the articles of incorporation. Articles of incorporation may also contain provisions that define some of the functions of the association as well as setting forth the general power and authority of the association. Nearly all homeowner associations in Colorado are registered as non-profit corporations.

Bylaws

The Bylaws are terms that define how the association is going to function as a corporation. Bylaws will determine the number of directors, frequency of elections, and any other procedures that are specific to the HOA. Those other procedures include procedures for providing notice, holding meetings and election, as well as defining the roles and authority of the board.

Rules, Regulations and Policies

As mentioned, the rules, regulations and policies of an association are intended to explain, clarify and define the broad protective standards and restrictions contained in the declaration, in greater detail. Section 38-33.3-209.5 of CCIOA requires associations to have policies regarding certain matters. They are collectively referred to as the responsible governance policies and they are as follows:

- Collection Policy
- Enforcement of Covenants Policy
- Conflict of Interest Policy
- Conduct of Meetings Policy
- Adoption of Rules and Policies Policy
- Investment of Reserves Policy
- Alternative Dispute Resolution Policy
- Inspection of Records Policy
- Reserve Study Policy