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EXPLANATION OF HOA GOVERNING DOCUMENTS

Declaration of Covenants, Conditions and Restrictions (“CCRs”):

CCRs are recorded with the Register of Deeds in the initial phase of development of a townhome or planned community. CCRs govern the use of the real estate. In the CCRs you will typically find:

- A description of the property covered by the CCRs
- Language establishing an HOA
- Protocol for levying annual and special assessments for common expenses
- A description of the common areas and amenities
- Easements for the HOA and utility companies across common areas and lots for maintenance of common property, landscaping, drainage areas, and utilities
- Restrictions on lot and home size
- Architectural restrictions and provisions for the establishment of an Architectural Review Committee
- Restrictions on use, such as:
 - Building set backs
 - Limitations on fences
 - Storage of commercial vehicles, trailers, boats, RV
 - Pets (e.g., vicious or dangerous animals)
 - Keeping of livestock
 - Placement of storage sheds or outbuildings
 - Placement of signs, flags, or “yard art”
 - Restrictions on rental of homes

In sum, the CCRs govern what an owner may, may not, or must do with respect to the *real estate*. Because they impact the use of real property, they must be recorded, and must appear in the “chain of title” to the property in order to be effective and enforceable against a property owner.

Bylaws:

Most HOAs are set up as non-profit corporations. Like any other corporation, an HOA needs bylaws to set forth how the corporation will be run. In the bylaws you typically will find:

- Description of the various classes of membership and their voting rights (lots owned by a developer are often in a different class, with different voting rights)
- Provisions for calling and holding annual and special meetings of the members.
- Provisions setting forth the number, terms, and qualifications of directors
- Powers and duties of directors
- Provisions setting forth the number, terms and qualifications of officers
- Powers and duties of officers.
- Protocol for calling and holding meetings of the directors
- Provisions for the establishment of fiscal policies (budget ratification, establishment of reserve accounts, authority to hire accountants and attorneys)
- Indemnification provisions for the directors
- Protocol for amending the bylaws
- Financial provisions, such as the establishment of reserve accounts for capital projects

Rules/Regulations

The purpose of rules and regulations typically is to interpret, clarify, and assist in the administration of the CCRs. Rules/regs cannot place additional restrictions on the use of real estate that do not already appear in the CCRs; in other words, rules/regs cannot be any more restrictive than the CCRs. Sample rules/regs include:

- Regulations on Use of Common Areas
- Architectural Guidelines
- Landscaping Guidelines
- Exterior Maintenance Guidelines
- Parking Regulations
- Pet Policies

HOAleader.com thanks [Michael S. Hunter](#) and Horack Talley for contributing this explanation.

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