



COLORADO

Department of Regulatory Agencies

Division of Real Estate

Association Governing Documents

Thank you for joining us, the presentation will begin shortly.

HOA Information & Resource Center

Division of Real Estate
Department of Regulatory
Agencies

1560 Broadway, Ste. 925
Denver, Colorado 80202



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Disclaimer:

The information provided during this presentation is for educational purposes only and is not meant to provide, nor should it be construed as legal advice.

Any legal questions should be directed to a qualified Colorado attorney.



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What Is the HOA Information & Resource Center?

Created in 2011, as a part of the Division of Real Estate, the HOA Information & Resource Center's Vision Statement is to navigate the landscape of real estate regulation through collaboration, transparency and equity.

- What the HOA Information & Resource Center does:
 - Provides information to homeowners regarding their basic rights and responsibilities under the Colorado Common Interest Ownership Act ("CCIOA").
 - Gathers, analyzes, and reports information through complaints and HOA registrations;
 - Creates resource materials;
 - Provides education and forums;
 - Provides a website with information for the public;
 - Registers HOAs pursuant to §38-33.3-401(1), C.R.S.;
 - Provides an Annual Report to the Legislature.
- What the HOA Information & Resource Center does not do:
 - Is **not** a regulatory program.
 - Does **not** mediate/arbitrate.
 - **Cannot** provide legal advice.
 - Does **not** act as an advocate.
 - **Cannot** assess fines or penalties.
 - Does **not** enforce an HOA's failure to register.



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Association Governing Documents

The purpose of this presentation is to provide a summary of the required documents (and some documents that are not) by associations in the State of Colorado



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Who Is this Presentation For?

- Homeowners
- Board Members
- Community Managers
- Prospective Homeowners



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Colorado HOAs Generally

-In Colorado, the law recognizes Common Interest Communities: A Common Interest Community (“CIC”), which is the formal name for a homeowner’s association, is real estate described in a declaration with respect to which a person, by virtue of such person's ownership of a unit, is obligated to pay for real estate taxes, insurance premiums, maintenance, or improvement of other real estate described in a declaration. Colo. Rev. Stat. § 38-33.3-103(8).

-Two principal laws governing CICs:

1. Colorado Common Interest Ownership Act, Colo. Rev. Stat § § 38-33.3-101, *et seq.*

-Abbreviated CCIOA, thus the nickname which is pronounced like Kiowa, the Colorado city and Native American tribe.

2. Colorado Nonprofit Corporation Act, Colo. Rev. Stat. § § 7-121-101, *et seq.*

-Most associations in Colorado are organized as nonprofit corporations.



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Types of Colorado HOAs

- Cooperatives:** A Cooperative is a type of CIC in which the HOA owns the real estate and homeowners are granted exclusive possession of a unit based on ownership in the HOA.
- Condominiums:** A condominium is a type of CIC in which real estate that is not designated for separate ownership by homeowners is owned in common by those homeowners.
- Planned Communities:** Planned Communities are a type of CIC that is neither a condominium nor a cooperative; however, a planned community may contain condominiums or cooperatives. Generally, CICs registered as planned communities encompass many single-family houses, each of which is equivalent to a single unit; the structure of the house and a small surrounding area are owned exclusively by the homeowner.
- Timeshares**



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CICs In Colorado

- In Colorado alone, there are more than 10,000 different CICs.
- Colorado law requires that CICs register with the Division of Real Estate
- With no enforcement authority, the Division of Real Estate does not have 100% compliance with registration.
- Accordingly, the number of CICs is inevitably more than the 10,634 CICs in our registration system at the end of 2021.
- Those CICs in our registration system comprise more than 1,000,000 units (households).
- Amounting to an estimated population of persons living in CICs: 2,670,042
- Accordingly, about 46.24% of Colorado's population lives in one form of CIC or another.



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Common Types of Governing Documents

1. Declaration of Covenants, Conditions, and Restrictions

-Nicknames: “Decs”, “CCRs”, “CC&Rs”, “Plat Map”, “Condo Map”

2. Articles of Incorporation

3. Bylaws

4. Governance Policies

5. Rules & Regulations



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Document Hierarchy (Generally)

Declaration of Covenants, Conditions, and Restrictions (Recorded Plat Map)

(supersedes)

Articles of Incorporation

(supersedes)

Bylaws

(supersedes)

Governance Policies

(supersedes)

Rules & Regulations



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Declaration of Covenants, Conditions, And Restrictions

Declaration of Covenants, Conditions, and Restrictions are:

- **Mandatory:** Every association must have one!
- **Subject to Change:** The Declarant, or the community can amend it. While the Declarant can change them easily, it is a high standard for the community to change them (and sometimes, expensive too!)
- **Recorded:** Filed in the Clerk and Recorder's Office for the county (or counties) where the association is located anytime it is amended.



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Declaration of Covenants, Conditions, And Restrictions

EVERY Declaration is different and should be tailored to the community, but generally, the Declarations include the following:

- Defines the goals for the association;
- Defines the difference between personal property and association's common elements (general common elements, limited common elements);
- Includes a drawing or map of the property showing property lines (in the Plat Map or Condominium Map);
- Provides some guidance on the governance of the community;
- Defines how assessments are calculated (all units equal?, by square foot?);
- Defines how voting rights are calculated (all units equal?, by square foot?);
- Defines Maintenance/Repair responsibilities; and
- Explains the Transfer of Control Process from the Declarant to owners



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Articles of Incorporation

Articles of Incorporation are:

- **Mandatory:** Every association must have one!
- **Subject to Change:** The Board of Directors can amend it, but, in practice, this does not happen very often
- **Filed With the Colorado Secretary of State:** *Board members, do not forget that there is a requirement to file annually with the CO SOS-a Periodic Report.*



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Articles of Incorporation

Generally, the Articles of Incorporation sets forth:

- The establishment of the corporation. In Colorado, most, but not all, associations are created as nonprofit corporations (see the Colorado Nonprofit Corporation Act, Colo. Rev. Stat. § § 7-121-101, *et seq.*);
- The powers of the corporation *very* generally; and
- Guidance on what the board does and how it does it.



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Bylaws

Bylaws are:

- **Mandatory:** Every association must have them.
- **Subject to Change:** The Board of Directors can amend most provisions on their own. Community input, yes, but NOT an owner vote (with a few exceptions)
- **Private:** Most communities do not file the Bylaws with the CO SOS or the county Clerk & Recorder. There is no requirement to file them with these entities. They MUST be shared with Unit Owners upon request.



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Bylaws

What do the Bylaws do? The Bylaws set forth:

- Day-to-day procedures and rules for how the board governs the association;
- Requirements to be a board member (live in the community?, current owner?);
- Procedures for how owner meetings and board meetings are run;
- Notice requirements for owner meetings and board meetings, other notices; and
- Board of director election procedures (voting by mail, secret ballot, etc.).



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Governance Policies

Governance Policies are:

- **Mandatory:** CCIOA § 38-33.3-209.5(1)(b):
 - ~*Collection of Unpaid Assessments*~
 - ~Conflicts of Interest Involving Board Members~
 - ~*Conduct of Meetings*~
 - ~Procedures for the adoption/amendment of policies, procedures and rules~
 - ~Procedures for addressing disputes arising between the association and unit owners~
 - **Subject to Change:** The Board of Directors can amend policies on their own. Community input, yes, but NOT an owner vote
 - **Open to Review By Owners**
- Note: Additional policies are allowed, but not required. Example: Architectural Design Review, Communications*

* For the latest, see HB22-1137 regarding communication with owners, opportunities to cure violations, foreclosure counseling, and executive sessions



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Rules & Regulations

Rules & Regulations are:

- **NOT Mandatory:** These rules are usually designed to interpret directives from the Declarations, Bylaws, and Policies and translate them into what to “Do” and “Not Do” in the association
- **Subject to Change:** The Board of Directors can amend Rules & Regs on their own. Community input, yes, but NOT an owner vote
- **Open to Review By Owners**



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Pro-Tips

These documents can be long, complicated and full of legalese, especially the Declarations and Bylaws. Here are a few tips to make it easier:

-Read the Definitions Section, if the document has one. This is always a great place to start.

-Boards: review and revise these documents regularly or as needed. Publish them to the Owners so that the rules are out there, known, and, MOST IMPORTANTLY, understood by the community.

-Owners: request these records from the association and review them...understand them.



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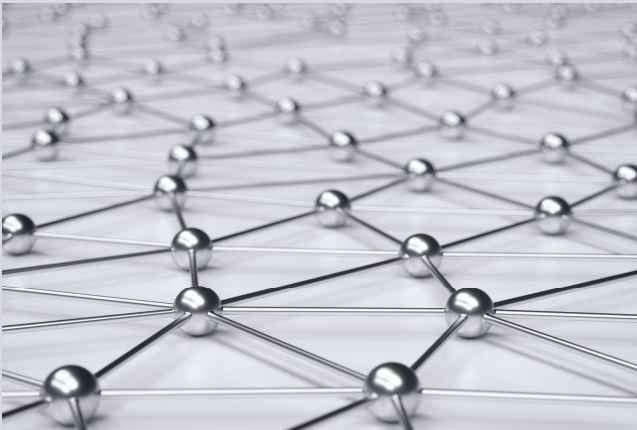
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**Know your Documents: A Quick Reference
on the HOA Information & Resource
Center's Website:**

<https://dre.colorado.gov/division-notifications/know-your-docs-quick-guide-governing-documents>



Questions?



HOA Information & Resource Center

Check Out HOA Resources For Yourself At:

- Web: <https://dre.colorado.gov/hoa-center>
- Send Inquiries Via E-mail To: dora_dre_hoainquiries@state.co.us



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