

EBOOK

HOA Governing Documents & Laws:

A Guide for Board Members



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CAMS PHILOSOPHY

At CAMS, we believe informed board members are the foundation of strong, successful communities.

Education [empowers boards to make confident decisions](#), reduce risk, and lead with clarity and consistency. When board members understand their governing documents and applicable laws, they're better equipped to serve homeowners and protect the association as a whole.



INTRODUCTION: WHY THIS GUIDE EXISTS

Serving on a homeowner's association (HOA) board comes with real responsibility. Every decision, whether it involves rule enforcement, budgets, architectural requests, or elections, must align with the association's governing documents and with applicable federal, state, and local laws. Knowing which authority applies, and when, is essential.

This guide is designed to take the confusion out of HOA governance by clearly explaining:

- › The purpose of each governing document
- › How those documents work together
- › How laws at different levels affect community associations
- › What to do when documents and laws don't align

Think of this as a practical reference you can return to whenever questions come up, because confident leadership starts with understanding what you're working with!

THE BIG PICTURE: HOW HOA DOCUMENT AUTHORITY WORKS

Not all rules carry the same weight. When there's a conflict, authority flows from the top down. If something higher up the chain says "no," everything below it must follow. Please note that these documents may be called something else depending on the state you're in.

Here's the general order:

1. Federal laws
2. State laws
3. Local laws and ordinances
4. Articles of Incorporation (if they have been recorded) and Plat maps
5. Declaration of Covenants, Codes, & Restrictions (CC&Rs)
6. Bylaws
7. Rules and Regulations

Keep this hierarchy in mind as you read; it's the backbone of smart, compliant decision making.

HOA GOVERNING DOCUMENTS EXPLAINED

Articles of Incorporation

The Articles of Incorporation are the foundational legal document that creates the association as a legal entity under state law.

They generally cover:

- › The association's legal name
- › Its purpose
- › Registered agent information
- › Initial board of directors
- › Basic corporate powers

Why they matter:

Articles of Incorporation formally create the HOA as a legal entity so it can operate, enter into contracts, and enforce its rights in court. However, Articles are not always required to be filed; some HOAs are created by declaration or statute alone, but the HOA is still recognized as a business entity with legal rights and obligations, such as filing corporate taxes.

Why incorporate? As with any business entity, incorporating an HOA provides limited liability protection, clearer legal authority, and easier access to banking, contracts, and insurance, whereas an unincorporated HOA operates with fewer formal protections and greater potential personal liability for volunteer leaders.

DECLARATION OF COVENANTS, CONDITIONS, & RESTRICTIONS (CC&RS)

The CC&Rs are the center of the association.

They're recorded with the county and automatically bind every current and future owner. Remember, CC&Rs govern property; rules and regulations address behaviors (e.g., taking up too many parking spaces). In many ways, this document defines what life in the community looks like.

The CC&Rs Contain:

- › Use restrictions
(residential use, leasing limits)
- › Maintenance responsibilities
(owner vs. association) and obligations (e.g., for stormwater permits)
- › Assessment obligations
- › Architectural standards
- › Enforcement authority
- › Owner and association rights and responsibilities

Why they matter:

The board can't ignore or override the CC&Rs. Even a unanimous board vote can't change them without the proper amendment process. Whether you realized it or not, each owner agreed to the contractual terms in the CC&Rs when you purchased your property.

Think of CC&Rs as:

The HOA's rulebook - written in ink, not pencil.

PLAT OR RECORDED MAP (IF APPLICABLE)

The plat is a visual document that defines the physical layout of the community.

It typically shows:

- › Individual lot or unit boundaries
- › Common areas
- › Easements
- › Rights of way

Why it matters:

Maintenance disputes often come down to one simple question: Who owns or has rights to use this area? The plat map usually has the answer.

BYLAWS

If the CC&Rs say *what* the HOA can do, the bylaws explain *how* it does it.

Bylaws govern internal business operations and board procedures, including:

- › Board size and qualifications
- › Officer roles
- › Election processes
- › Voting rights
- › Quorum requirements
- › Meeting rules

Why they matter:

Even good decisions can be challenged if the board didn't follow the bylaws when making them.

RULES & REGULATIONS

These are the most flexible (and most misunderstood) documents.

The board adopts rules to clarify everyday community standards. They're easier to change than CC&Rs, but they still have limits.

Common examples include:

- › Pool and clubhouse rules
- › Parking policies
- › Pet guidelines
- › Fine schedules

Important reminder:

Rules can clarify CC&Rs, but they can't contradict them or the law. Every rule must have a clear basis of authority granted by the CC&Rs for imposing and enforcing the rule.

LAWS THAT AFFECT COMMUNITY ASSOCIATIONS

Community associations operate within the broader framework of government regulations. Laws apply whether the association's governing documents mention them or not, so awareness of these overarching requirements is critical.

Federal Laws

Federal law applies to all community associations nationwide and always overrides governing documents, state, and local laws.

Common examples include:

- ▶ **Fair Housing Act (FHA):** Prohibits discrimination and [requires reasonable accommodations for disabilities](#).
 - Example: An HOA must allow an emotional support animal (with proper documentation), even if pets are normally prohibited.
- ▶ **Americans with Disabilities Act (ADA):**
 - May [apply to common areas open to the public](#), such as leasing offices or amenities used for public events.

Boards should be especially careful here - violations can be costly.



STATE LAWS

State laws regulating business and corporate entities must be observed, and additionally, many states have their own set of statutes governing community associations, condominiums, or planned communities.

State laws often address:

- › Open meeting requirements
- › Member notice periods
- › Election procedures
- › Record inspection rights
- › Limits on fines, fees, or foreclosure authority

Example:

If state law requires 30 days' notice for member meetings, a bylaw allowing 10 days is unenforceable.

LOCAL LAWS AND ORDINANCES

City and county regulations also play a role in HOA operations.

These may include:

- › Noise ordinances
- › Building codes
- › Fire and safety regulations
- › Landscaping or water use restrictions
- › Stormwater device maintenance and compliance

Example:

A city allowing a 10:00 pm noise ordinance overrides an HOA rule allowing a 12:00 am noise ordinance.

WHAT HAPPENS WHEN THERE'S A CONFLICT?

Here's the simple rule to remember:

Higher authority always wins.

If a rule conflicts with a bylaw, the bylaw wins.

If a bylaw conflicts with the CC&Rs, the CC&Rs win.

If any governing document conflicts with the law, the law wins every time.



BEST PRACTICES FOR BOARD MEMBERS

Strong boards don't just enforce rules; they understand them.

A few habits that go a long way:

- › Start with the highest authority when questions come up
- › Don't rely on "how it's always been done"
- › Revisit rules regularly, but amend CC&Rs carefully
- › When in doubt, consult legal counsel
- › Educate homeowners to reduce confusion and conflict



CONCLUSION

Community association governance doesn't have to feel overwhelming. Once you understand how governing documents and laws work together, board decisions become clearer and more consistent.

Most challenges can be resolved by stepping back, checking the hierarchy, and asking the right question: *What controls this situation?*

[Use this guide as a steady reference](#), not just when problems arise, but as a tool for confident, fair leadership. Informed boards make better decisions, reduce risk, and help create stronger, more cooperative communities.



At CAMS, our top priority is keeping all aspects of your community running seamlessly. We make leading and living in a managed community better and easier than ever.

Contact us to learn more today!



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For Community Associations Since 1991.**

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