

Rocky Mountain HOA Law Center Quick Guide

HOA Governing Document Hierarchy

Colorado

<p>US CONSTITUTION</p> <p>The document against which all legal matters in the United States is judged</p>
<p>FEDERAL LAW</p> <p>Such as the Fair Housing Act, and rules promulgated thereunder</p>
<p>STATE CONSTITUTION</p> <p>Since homeowner associations are created pursuant to state statutes, the state constitution is the document against which all state statutes are tested</p>
<p>STATE LAWS</p> <p>C.R.S. 38-33.3-101 – Colorado Common Interest Ownership Act C.R.S. 38-33-101 – Colorado Condominium Ownership Act C.R.S. 7-121-101 – Colorado Revised Nonprofit Corporation Act</p> <p>Generally, the Colorado Condo Ownership Act and the Colorado Common Interest Ownership Act will govern interpretation of the other project documents. However, in some cases the Acts specifically defer to the declaration and bylaws. Counsel should be consulted before conclusions are drawn about those conflicts.</p>
<p>PLAT (Condo or Subdivision)</p> <p>The plat (and floor plans for older condominiums) define physical boundaries and may contain language about who is responsible for maintaining particular portions of the real property</p>
<p>COUNTY AND CITY ORDINANCES</p> <p>Zoning codes, conduct codes and development codes are the most common types of ordinances applicable to HOAs. Often an individual ordinance is passed in connection with a specific development. These must be understood and reviewed by the homeowner association. If a restriction of the homeowner association is more restrictive than the municipal code, the HOA restriction will apply</p>
<p>DECLARATION (CCRs, Master Deed, etc.)</p> <p>The declaration is the document that defines the rights and liabilities of each owner. The declaration, like the plat, is recorded in the property records of county where the property is located</p>
<p>DEED (Unit or Lot)</p> <p>The deed to the individual unit or lot may contain language which supplements the declaration as to that unit or lot in terms of the rights and liabilities of the owner of the unit or lot</p>
<p>ARTICLES OF INCORPORATION</p> <p>While not always a legal requirement, HOAs should be incorporated to limit the liability of any individual owner. In Oregon, the articles of incorporation merely bring the corporation into existence</p>
<p>BYLAWS</p> <p>The document which governs the administration and management of the HOA. In the Bylaws we find out how people may vote, whereas in the declaration we find out who may vote</p>
<p>PROPERLY ADOPTED AND COMMUNICATED RULES, REGULATIONS, RESOLUTIONS, ETC.</p> <p>Subject to all other documents, properly adopted rules (when published to the owners) are binding</p>