

"KNOW YOUR ASSOCIATIONS GOVERNING DOCUMENTS"

Property owners associations derive their basic legal authority for their existence, activities, and actions from North Carolina state statutes (laws) and certain legal documents:

- **Articles of Incorporation**
- **Declaration of Covenants, Conditions and Restrictions**
- **By-Laws**
- **Rules & Regulations**

Articles of Incorporation:

- Bring the corporation into existence
- Define the basic purpose and powers of the corporation
- Indicate there will be a board of directors and may, identify the initial board

Declaration of Covenants, Conditions and Restrictions:

The underlying document of a property owners association, apart from state law, is the Declaration, also referred to as Covenants, Conditions, and Restrictions (CC&Rs). The Declaration is the constitutional law of the association. The Declaration defines the limits and inclusions of ownership for the owners and the association. As a legal entity the association is better prepared to pursue certain business needs, such as entering contracts, raising funds, filing liens, and collecting fees in a foreclosure.

The Declaration may contain:

- Definitions of the physical elements of the property
- The method for determining the share of interest in the common area for each property owner
- A list of the responsibilities for the association and individual owners and permitted uses of common areas and individual units
- Responsibilities for care of the association and the common areas
- Restrictions on the use or enjoyment of properties in the association and common areas

Bylaws:

The Declaration forms the constitutional foundation of the association; Bylaws define the laws and operating procedures of the association. Bylaws detail the framework for governing the association that is authorized in the Declaration. They address the association's structure, the board, the officers, definition of a quorum, ability to enter into

contracts, etc. Bylaws provide reliable guidance for board members at meetings in addition to:

- Requirements of membership meetings
- Voting rights of property owners
- Procedures for electing the board of directors
- Procedures for the board of directors to elect officers
- General powers and duties of the board

Rules & Regulations:

Rules and regulations are the operational and behavioral laws that apply directly to association residents and their guest. They state acceptable and/or unacceptable conduct for all Owners, their guests, visitors and renters. Rules and regulations may generate conflict between the board and the owner(s) since they may provide restrictions regarding noise, pets, use of the property or common areas, and fining procedures, however, good rules serve the interests of the entire association and protect the common areas.