

Article 4 – Rights and Obligations of the Association

What is the function of the Board of Directors? (CCR, Article 4.1, p. 617)

1. Maintain the common areas,
2. Administer and enforce the Architectural Restrictions,
3. Enforce the Declarations and Use Restrictions.

Does the Board have to enforce the CCRs? (CCR, Article 4.43 para.4, p.618)

1. No. *The Association shall not be obligated to take action...*
2. However...*Any such determination does not waive future action...*

Does the Board have to ask (i.e., vote of Owners?) (CCR Article 4.5, p.618)

1. No. *Except as otherwise specifically provided...all rights and powers of the Association may be exercised by the Board without vote of the membership.*

Article 9 - Architecture Restrictions

Who administers the Design Guidelines? (CCR Article 9.2, p. 629)

1. The ARB. *Responsibility for administration of the Design Guidelines...shall be handled by the ARB,*
2. However, ... *the Board shall appoint the members of the ARB, who shall thereafter serve and may be removed at the Board's discretion.*

Are the Design Guidelines the law? (CCR Article 9.3(a), p. 629)

1. No. *The Design Guidelines are intended to provide guidance...The Design Guidelines are not the exclusive basis for decisions of the ARB...*

What if the rules change after I built my (___)? (CCR Article 9.3(a) p. 630)

1. Nothing. *Any amendments are prospective and shall not require modification or removal of structures previously approved ... once work has started...*

Can the Design Guidelines be changed? (CCR Article 9.3(a) p. 630)

1. Yes. *The ARB is expressly authorized to amend the Design Guidelines to remove requirements previously imposed or otherwise make the Design Guidelines less restrictive...*
2. ...*the ARB by resolution may exempt certain activities from the application and approval requirements of this Article, provided...[they] are in strict compliance with the resolutions...*

How fast must the ARB act? (CCR Article 9.3(b) p. 630)

1. ...*In the event that the ARB fails to approve or disapprove any application within ten (10) business days...the application is deemed approved...*
2. However, ... *no [automatic] approval shall be inconsistent with the Design Guidelines ... unless ...granted in writing...*

Article 10 - Use Restrictions

What is the "General Use Restriction"? (CCR Article 10.1, p. 633)

1. ... *The properties shall be used only for residential, recreational, and related purposes...*

Can I operate a home business? (CCR Article 10.2, p. 633)

1. No. BUT...*an owner may conduct business from home so long as... i) no one can tell, ii) it doesn't violate zoning restriction, iii) you don't have much traffic, iv) and it is consistent with the neighborhood and not a nuisance...*

Can the Board change the "Use Restrictions"? (CCR Article 10.4, p. 633)

1. Yes. ... *the Board, may from time to time, without consent... promulgate, modify or delete [additional] regulations [but not these Declarations]...*
2. ...*UNTIL and unless overruled, cancelled or modified in a regular or special meeting by a Majority of the Members, ...*

What about my (RV, boat, golf cart, ...)? (CCR Article 10.5(b), p. 634)

1. *RVs (boat, minibike, scooter, etc.) shall be parked only in the garage,*
2. *Any vehicle parked ...more than two (2) days is a nuisance and subject to removal*

So what if I don't mow my lawn? (CCR Article 10.6, p. 634)

1. *It shall be the responsibility of each Owner and occupant to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her property...*

Article 14 – General Provisions

Can we terminate the Declarations (CCR Article 14.1(b), p. 643)

1. ...*Within the first twenty (20) years, it takes 90% written approval of Owners,*
2. ...*After twenty (20) years, it takes 51% written approval of Owners*

Can the Board amend or change these Declarations (CCR Article 14.2(b), p. 644)

1. No. *The Board shall be authorized to amend this Declaration without consent of the Members for purposes of submitting the Properties to the Georgia Property Owners' Association Act (...) and conforming this Declaration to any mandatory provisions thereof.*

Can the Members amend or change these Declarations (CCR Article 14.2(c), p. 644)

1. *Except as otherwise provided, this Declaration may be amended only by ... an affirmative vote of...at least 67% of the [Owners]*

So, do we live in "law suit city"? (CCR Article 14.4, p. 645)

1. *It is the intent of the Association...to encourage the amicable resolution of disputes...and to avoid the emotional and financial costs of litigation if at all possible...*

Bylaws

I can't make the meeting. Can someone vote for me? (Bylaws Art.2.9 p. 653)

1. *Yes. All proxies shall be in writing...must specify the address...must be signed...must be filed with the Secretary prior to any meeting...and is presumed to cover all votes the proxy is entitled to cast...*

So, how many Board members are there? (Bylaws, Art.3.5(c) p. 655)

1. *... Not later than the first annual meeting...the Board shall be increased to five (5) directors...*

Initially, how long does each Board member serve? (Bylaws, Art.3.5(c) pp. 655-656)

1. *...[3] Directors shall serve a term of two (2) years, and two (2) shall serve a term of one (1) year, as such directors determine among themselves.*
2. *Each year, elections are held to fill expired terms...successors serve for two years...*

Can we remove a Director? (Bylaws, Art.3.6 p.656)

1. *Yes. Any director... may be removed, with or without cause, by Members holding a Majority of the votes entitled to be cast for his or her election.*
2. *Any director whose removal is sought shall be given notice prior to any meeting called for that purpose...*
3. *Upon removal...a successor shall be elected by the Members...to fill the vacancy for the remainder of the term...*

How often must the Board meet? (Bylaws, Art. 3.7, p. 656)

1. *The first meeting must be held with ten (10) days of election at the annual meeting,*
2. *Regular meetings of the Board must be held at least once during each quarter,*
3. *Special meetings may be called by the President or by the Vice President or by any two directors.*

Who can go to Board meetings? (Bylaws, Art. 3.16, p. 658)

1. *...All meetings of the Board... shall be open to all Members,*
2. *...Members other than directors may not participate ... unless permission to speak is requested on his or her behalf by a director. In such case, the President may limit the time any Member may speak.*
3. *...The President may adjourn any meeting of the Board, reconvene in executive session, and exclude persons other than directors to discuss matters of a sensitive nature.*

What about Officers of the Association? (Bylaws Art.4.1, p. 662)

1. *The officers shall be President, Vice President, Secretary, and Treasurer.*
2. *President and Secretary shall be elected from the Board, other officers need not be directors, and may be appointed by the Board.*
3. *Any two offices may be held by the same person, but the President and Secretary must be different people.*

Suggestions for the Board

1. At each meeting, each speaker should introduce himself or herself before giving a report or making a statement for the first time.
2. Prepare an agenda before each meeting. Copies of the agenda need not be provided to all attendees, but should be available for review upon request. Preferably, the agenda should be posted on the web site.
3. If action by the board or a committee of the board is desired, all complaints should be provided in writing. At the discretion of the board, portions of the complaint may be redacted before distribution to the public. The Board should keep register of complaints by issue, and be able to provide tally's of the pros and cons upon request.

Suggestions for the Newsletter

1. The newsletter should be published quarterly at a minimum.
2. The newsletter should contain a calendar of events including upcoming meetings of the Board and other committees, pool closings, common area reservations, etc.
3. The newsletter should contain enumerations of recent ARB activities. Each item in the list should include at a minimum: address (name not necessary,) description of request, and record of vote (e.g., 3-2 in favor, request approved; or 3-2 against, request denied.)

Background for the Survey

What documents govern our neighborhood?

1. Declaration of Covenants, Conditions and Restrictions (CCR pp. 606-646),
2. Bylaws (Exhibit C of the CCR, pp.649-665), and
3. Design Guidelines (separate document).

Documents 1 and 2 are "official" and were filed and recorded with the Fayette County Clerk, 12/23/1996. Document 3 is maintained by our ARB, can be amended by simple vote of the ARB, and does not need to be recorded with the clerk.

What happens when these documents conflict? (Bylaws, Article 6.2 pp 663)

1. If there are conflicts between the provisions of Georgia law, the Articles of Incorporation, the Declaration of CCR, and these Bylaws, the provisions of Georgia law, the Declaration, the Articles of Incorporation, and the Bylaws (in that order) shall prevail. *(Note that the Design Guidelines didn't even make the list!)*

What's the purpose of the Design Guidelines? (DG pp.1)

1. *The intended purpose of these guidelines is to assure that all dwellings, other building and landscaping constructed, erected, placed or installed in the community shall be substantially the same in terms of quality of workmanship, materials and appearance.*

Who administers the Design Guidelines? (CCR Article 9.2, p. 629)

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Survey of the Neighborhood

Thanks for agreeing to complete this survey! The ARB is very interested in hearing what neighborhood has to say about the Design Guidelines. This survey is not a "vote" of the neighborhood. Rather, results of this survey will provide guidance to the ARB and Board on how to interpret and enforce the Design Guidelines.

Please note the following: 1) *The Design Guidelines are not the exclusive basis for decisions of the ARB.* 2) *According to the Declarations, the ARB has "sole and full" authority to amend the Design Guidelines.* 3) *Further, the ARB may exempt certain activities from the application and approval requirements described in the Declarations, Bylaws, and Design Guidelines.*