

Glossary of Important HOA Terms

OUR GUIDE TO UNDERSTANDING COMMON HOA TERMS.



KEYSTONE

HOA living is full of specialized jargon. As the industry progresses, more terms emerge, and old terms evolve. Not knowing for certain what specific language means can restrict your understanding of a particular document, which can get frustrating fast.

Here's a handy guide to some of the most important association management terms you need to know as well as an explanation of your governing documents.



Important HOA Terms

Management Company

A management company is a third party that is hired by an HOA's board of directors to carry out all of the decisions made by the board. The management company is not the HOA, nor is it the board. The management company cannot directly make any decisions on behalf of the association. They can only act as the association's agent and as explicitly directed by the board.

The management company is represented by a property manager or team of managers who act as the interface between the board and association members.

Board of Directors

The board of directors (or sometimes, “board”) is a group of volunteers that have been elected by the members of the association. They are the “face” of the association and their primary function is to act as fiduciaries of the corporation and within the authority of the governing documents.

Just like the board of any corporation, all decisions require a vote. All actions must be recorded and — with the exception of the executive session meeting — a record of all of the board’s actions and decisions is available to the membership.



Member/ Membership

This is another term for a homeowner within the community who is not on the board. All members have a stake in the association, since the direction of the association is an influencing factor on property values. Members implement their influence by exercising their right to vote for the board of directors, or by voting for allowed items under their governing documents. All members should take this responsibility seriously.



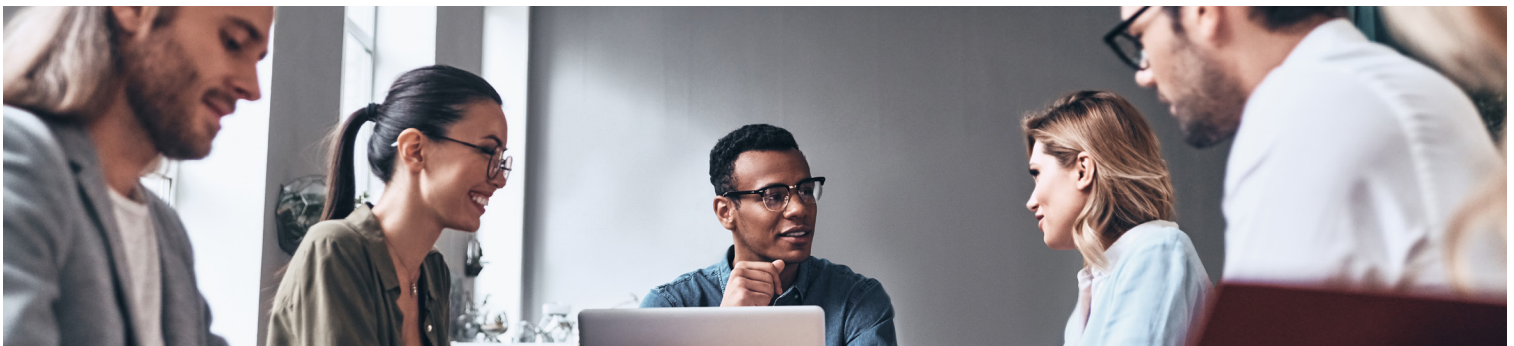
Board Meeting

There are two types of board meetings, one public and one that takes place in a closed session.

REGULAR SESSION – This is normally what is thought of as a “board meeting”. Open to all members of the association, the regular session is where all of the HOA’s operational decisions are made. The regular session usually includes an open forum, where members (homeowners) are given the opportunity to speak freely on any topic related to the association. It’s important to note that all board meetings are agendized; therefore, if a topic isn’t part of the agenda before the commencement of the meeting, a decision will not be made during that meeting. However, during the open forum, a member may request that a particular topic be added to the next regular session agenda.



EXECUTIVE SESSION – This is a private meeting of the board that is not open to the membership. Details of the executive session are not recorded in the general session minutes — only the subjects that were discussed. Topics that are covered during the executive session include sensitive subjects such as legal issues, contract reviews and HOA personnel problems.



Assessments

“**Assessment**” is the official term for “**dues.**” To understand what your dues cover, think of it this way: if you draw a map around the perimeter of your own property, your dues pay for everything in your HOA that falls outside of that line, called “common area.” These are things like: trees, landscaping, irrigation, pools, recreational centers, sports complexes, street lights, entry gates, trails, main office supplies and utilities, and community events. These responsibilities are covered in your association’s governing documents.

Every HOA is different, so assessment amounts — and their applications — will vary. HOAs are non-profit mutual benefit corporations, which means that all monies collected must be disbursed back into the association. By law, the membership is entitled to review the association’s annual budget.

This is just the tip of the iceberg regarding HOA vocabulary. The most comprehensive set of HOA management resources can be found at Davis-Stirling.com, named for the Davis Stirling Common Interest Development Act. This is the section of California Civil Code that outlines the rights and responsibilities of homeowners associations within the state.



Covenants, Conditions & Restrictions (CC&Rs)

The Declaration of Covenants, Conditions & Restrictions (“CC&Rs”) is the detailed outline of your community’s development and configuration, along with the operation of your homeowners association. This document covers the rights and obligations of each member, as well as those of the association itself. Separate from your HOA’s Bylaws and Rules & Regulations, CC&Rs articulate the legally-binding fine points of your particular association. Because a copy is filed with the state, amendments to CC&Rs require a vote by your HOA’s membership.

Here are more detailed definitions of the types of issues that are covered in this legally-binding document:



“Property-use restrictions” – We’ll be honest, this is the piece of the document that everyone hates when they want to make changes to their own home, but loves when their neighbor is trying to paint their house purple. It’s the part that states that a homeowner has to care for their landscape and can’t leave a broken car in the driveway for months. Remember, property use restrictions aren’t meant to be punitive. They’re meant to preserve property values by maintaining a set of standards to ensure the community’s beauty.

“Maintenance obligations for the HOA and individual members”

– This articulates the aspects of maintenance that the HOA is responsible for versus what you as a homeowner are required to cover.

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“Mechanisms for rule enforcement and dispute resolution” – This section outlines exactly how enforcement of the various association rules will take place, including the exact process and timeline for warning letters, fines, etc. It will also articulate the role that your HOA management company plays in enforcement.

“Lender protection provisions” — This section details the protections the lender is entitled to, because lenders or mortgage holders are technically part owners in a community and therefore have an interest in how the association is run.

“Assessment obligations” – This is a fancy phrase for “monthly dues.” This section details when you pay and how your dues are calculated. Some associations have variable assessments. For example, some condos calculate assessments based on square footage, not a flat rate. So, if your neighbor pays more (or less) than you, there’s a reason why—and it’s in your CC&Rs.

“Insurance obligations” – These are requirements that associations and sometimes homeowners must meet to maintain adequate insurance. It also includes requirements for supplemental insurance, if required (for example, insurance that covers use of common areas during your private event, etc.)



How to Read Your CC&Rs

Your community's CC&Rs (Covenants, Conditions & Restrictions) are probably 100+ pages, which can be a lot to get through. However, there are really only two main sections that are likely to influence your day-to-day life in the community.

Association Maintenance Responsibility and Homeowner Maintenance Responsibilities

This section breaks down what homeowners maintain and which maintenance issues are the association's responsibility.

Every CC&R will explicitly delineate what you own and what you don't own, as well as what you are responsible for maintaining and what falls under the responsibility of your HOA. Believe it or not, these can be different. For example, you may own your front yard, but your CC&Rs stipulate that your HOA maintains it. Alternately, your CC&Rs might state that you own your roof and you are also responsible for it. Or, you own the building your unit is located in, but your HOA is responsible for painting it.



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In rare cases, there might be a slice of HOA common area that you might have some right to maintain. (For example, a flower bed or patio that the previous owner of your property has requested to maintain and was granted an exemption by the HOA). Items of this nature would be articulated as an “Exclusive Use Common Area”—i.e. though it’s technically common area, you may be responsible for maintenance if it only serves your home. Because this can get confusing, it is often best to ask your Community Manager about Exclusive Use Common Areas.

It’s important for you to have a clear understanding of who owns/is responsible for what so that you don’t end up making decisions about—or paying for—maintenance or upgrades that are the association’s responsibility.



Architectural Standards

Once you have determined what is within your right to change, the Architectural Standards section of your CC&Rs outlines the steps you will undertake for submission and approval of a potential change you would like to make to your home. Note: If the Architectural Standards section is not located in

your CC&Rs, look in your HOA’s Rules & Regulations, or ask your HOA management company. Though this section can vary by HOA, it usually stipulates the general guidelines regarding changes to aspects of your property that can be seen from common areas. To make a change to these areas, you must submit an application for an Architectural Variance.

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The Architectural Standard section of your CC&Rs will define the process of submitting your Architectural Variance application to your HOA's architectural review committee/board/HOA management company, the number of days for review, and what to expect upon approval or denial of your request.

Save yourself a ton of frustration by reviewing this section before you make any final decisions about changing any aspect of your property. If you're not sure where to obtain an Architectural Application, your HOA manager can provide you with one. Your manager will also review your application for completeness and explain what you can expect during the approvals process. Submitting a complete and correct form will increase the chances of speedy approval.

Understanding the two sections of your CC&Rs that address maintenance responsibilities and architectural changes can save you from the headache of inadvertently overstepping your bounds.



Bylaws

Bylaws outline day-to-day HOA management and administration. As a non-profit corporation, HOAs are required to abide by a clearly defined system of governance.

Here's a bit more detail about exactly what is in your association's bylaws:

“Frequency of HOA board elections”

– Every association has the right to structure the frequency of elections in a way that makes the most sense for them. For example, many associations choose to stagger elections (elections for certain seats take place on odd years, others on even years) to maintain continuity and ensure that there is never a full turnover of the board at one time.

“Process for nominating and electing new board members”

– This section establishes the protocols for the elections themselves: candidate nomination process, campaign restrictions, voting locations, absentee or proxy voting rules. Every association's election rules are different.



“Number of members that serve on the board at one time” — There is a set limit for the number of seats on an HOA board and there should always be odd number so as to avoid tie votes. This section of the bylaws may also state that if an association lacks sufficient candidates for board positions, the board may nominate members to fill open seats.

“Length of board member service terms”

– This guideline clearly articulates how long a board member is required to serve in their position. Most HOAs do not place a limit on the number of terms a board member can serve. As such, we have seen some HOA members serve on their boards for close to twenty years. It's rare, but it does happen.

“Meeting frequency and quorum requirements”

– This establishes requirements for meeting, as well as the number of board members that are required to be in attendance (“quorum”) for the meeting to be officially recognized.

“Duties and responsibilities of board members”

– This section is a must-read for anyone who is curious about what it's like to serve on the board of an HOA, as it outlines the board's obligations and authority. Remember, board members receive no special accommodations in exchange for their service. They must follow the same rules as the rest of the membership or risk being penalized equally.

Rules & Regulations

Rules & regulations cover anything that has not already been outlined in an association's CC&Rs or bylaws. As such, each community's rules & regulations will be entirely unique. Also, there is always a provision in the CC&Rs that allows for rules & regulations to exist in the first place.

One of the main benefits of including rules & regulations in an HOA's set of governing documents is to allow the community to be more dynamic in its governance. Depending on each HOA's specific structure, rules & regulations



can usually be amended by the board or membership. Meanwhile, changes to an HOA's CC&Rs require filing official documents with the state. For example, if an HOA wants to change parking restrictions, refiling the association's entire set of CC&Rs with the state may cause an undue burden. Therefore, it's best to include that type of provision in the rules & regulations, which are much easier to change.

Governing documents are a detailed description of life inside your HOA and your association's vision for the future. Take the time to read them. If you have any questions about where to find specific information or unclear about anything you read, reach out to your property manager.





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