

Background Information regarding the rationale for the creation of a proposed Declaration and Bylaws.

1. What are the required steps to change a community covenant for the state of Delaware?

1. PROPOSAL OF AMENDMENT

The first step consists of a proposal describing the changes to the bylaw or covenant. The board will receive this proposal and then submit it for review.

2. MEETING TO DISCUSS

The board will then discuss the proposed amendment at a board meeting. During this meeting, the board must allow homeowners [to provide their input](#) on the proposal. In some cases, the board may call a special meeting to confer.

3. VOTING

Following review, the entire membership will then vote either for or against the amendment. Certain requirements may apply here, too. For instance, in California, HOAs [must use secret ballots](#) to vote for these changes. The process for changing HOA covenants will also need secret ballots. Some associations may have trouble with voter turnout. In that case, the HOA board may extend the voting period.

4. COUNTING OF VOTES

The next step in the process of how to change HOA bylaws and covenants is counting the ballots. The tallying of the votes usually takes place during an open meeting. This way, homeowners can watch their votes being counted. Doing this not only ensures transparency but also gives members peace of mind.

5. APPROVAL OF THE AMENDMENT

Homeowners associations require a majority vote from the membership to approve the amendment. What counts as a majority will depend on your governing documents. Usually, though, HOAs need two-thirds or three-quarters of members to approve the change.

6. RECORDING AND EFFECTIVITY

After approval, changes to the CC&Rs must be recorded with the county recorder's office. Bylaws, on the other hand, don't need recording. Instead, bylaws become effective when notice is given to the membership of the change. Of course, that does not mean the board can skip the notice when it comes to covenant changes.

2. What community members brought this action forward?
3. What date was this action brought forward?
4. Who brought this action forward?
5. What was the board vote to move the action forward?
6. What was the date of this vote?
7. What was the outcome of this vote?

The history of this issue is relevant to answering this question: On August 8, 2020, a Board meeting was held with the new Board members: R. Gallagher, President, Ron Phillips, Vice President, R. Leshner, Treasurer, M. Foulke, Secretary. At this meeting Ron raised the issue of the legality of the 2011 covenant, filed with Sussex County, Delaware, as there was no official record of it having been voted on by the membership. He said we had to return to the original Declarations of 1996 and void the 2011 document.

All four members of the Board agreed*. When Gallagher checked in with Ron on his progress with this action, he said he hadn't been able to get around to it.

In 2022, the 3 Board members (R Gallagher raising the issue again with the new Board members, K Fluharty and A Janney) and they agreed it should be readdressed.

*Board member meetings are not required by law to be recorded. We do not have the secretary's notes from this meeting, but I can contact Melissa and ask if she still has any record.

8. When was the community notification to move this action forward sent?
9. Can I see a copy of this notification?
10. When was the community meeting to move this action forward notification sent?
11. Can I see a copy of this notification?
12. When was the community meeting held to vote on moving this action forward?
13. Can you please send me a copy of all board meeting/community meeting minutes regarding this action?

In the annual member meeting of October 2020, the issue of covenant legality was raised. No formal voting took place, but R Gallagher reiterated that the original 1996 document was the only legal covenant. A member raised the issue of that one being outdated and no longer applicable to the current state of the Highview development; Lingo was no longer involved, and therefore, parts were null, and bylaws were left undefined. No motion was made.

In the July 2022 annual member meeting, the announcement was made of a new draft being put forward for the vote. Minutes for that meeting are posted to the website (highviewhoa.org)

NOTE: The HOA board may identify an issue and move forward to rectify the said issue, following all legal requirements. Member notification of an issue is not required. Please reach out to Melissa Foulke for meeting minutes, as none were posted to the website (Highviewhoa.com) for community access.

14. Dealt with separately
15. Who drafted this document?

R. Gallagher drafted this document, with several reviews and changes proposed by fellow Board members K Fluharty and A Janney. ARC member Mike E. asked for extensive changes after reviewing an earlier version, most of were implemented. The last draft was sent to the legal firm of Whiteford, Taylor & Preston for legal review, prior to sending the proposal to the membership for consideration.

16. How much money was spent for this action to date?

Legal fees total \$1513.00

Mailing total \$218.00

