

# **Starting a Homeowner's Association** *(Revised 9/14/2025)*

Use this handy checklist to ensure that your new HOA in Delaware conforms to all the laws

## **Once your community has made the decision to establish an HOA, the following steps will need to be taken:**

1. There will have to be a minimum of five (5) acting officers appointed. These acting officers will include the President, Vice President, Secretary, Treasurer, and one (1) Board of Directors. The individuals appointed to these positions will be in an interim capacity until your HOA is established and the community can schedule and hold a regular election meeting.
2. Create a set of community by-laws to govern the operation of your HOA. A good example of a by-law template that conforms to state requirements can be provided by the Delaware Manufactured Home Owners Association (DMHOA). This template can be modified to suit any nuances of your community.
3. A Certificate of Incorporation/Non-Stock Corporation must be completed. This form can be obtained at <https://corp.delaware.gov/corpformscorp09/> under the [Non-Stock Corporation](#) -Incorporation Forms. Print the form, complete it, and mail it to the following:

DE Division of Corporations  
401 Federal Street, Suite 4  
Dover, DE 19901

There is a one-time charge of \$139.00 (\$89.00 filing fee and \$50.00 Certified Copy Fee) that must be included with the completed form.

4. Upon completion of your by-laws, they must be faxed, emailed or mailed to the Delaware Relocation Trust Authority (RTA). This is required for the proper registration of your HOA. There is no fee required for this action.

**Fax # 302-674-7768 Attn: Executive Director**

5. To apply for your non-profit HOA Employee Identification Number (EIN), go to [www.irs.gov](http://www.irs.gov). There is no fee for this action.
6. You will receive, via the email address you provided to the State, a State of Delaware Annual Franchise Tax Report. This is a report that your HOA responds to annually. There is a \$25.00 fee for exempt domestic corporations.
7. Your HOA is required to file an annual US Income Tax Return for Homeowners Associations with the IRS for your non-profit HOA. You can get Form 1120 H or 990 tax forms by going to <https://www.irs.gov/forms-instructions>.

8. Your HOA will have twenty-seven (27) months from the date of the filing of the Certificate of Incorporation (See #3) with the State of Delaware to file Form your non-profit 501(c)(4) classification. You only need to complete Parts I through III and Section B (See Part IV of the 1024 instructions for an explanation of the filing deadline requirements). This classification is specifically for HOAs. It can be completed on-line at: [www.irs.gov](http://www.irs.gov), but it must be signed and mailed back. There is a one-time \$400.00 fee that must be attached to a short Form 8718.

Explanation of 501(c)(3) vs 501(c)(4) is provided below for your information.

Overall, a 501(c)(4) is generally cheaper to establish than a 501(c)(3) because its application process is simpler and carries a much lower IRS filing fee. However, a 501(c)(3) can provide long-term financial advantages through its ability to accept tax-deductible donations, which is a major benefit for fundraising.

9. With the completion of the above steps, you will be properly incorporated, registered, and certified as the official HOA representing your community.

10. Your next actions are to schedule meetings, build your membership, determine your annual membership dues, hold general elections for officers, set up a committee of volunteer members to make any revisions needed to your by-laws, plan activities, address problems, and most importantly enjoy and support your HOA.

11. Important: Remember that if your HOA has an election and officers or board members change, or if your HOA makes any revisions to its by-laws, you must provide the updated information to RTA (See #4).

12. Important: Build on the strength of your HOA by [joining the Delaware Manufactured Home Owners Association \(DMHOA\)](#). DMHOA is a state-wide organization that advocates for all manufactured home owners on leased land. DMHOA's ability to affect positive change for your community depends on the support of your community. The cost is minimal, and the benefits are priceless!

Your HOA can join DMHOA for a one-time \$25.00 membership fee plus your HOA's annual DMHOA dues of \$4.00 per HOA member household. FOR EXAMPLE: if you have 50 homes in your community and 30 are dues-paying members of your HOA; your annual DMHOA dues would be \$120.00.

When an HOA is a DMHOA member and pays its annual dues, then each member-household is automatically a DMHOA member. DMHOA holds regular monthly General Membership meetings, and members are encouraged to attend. The meetings cover many critical issues, invite open discussion, and allow any member who wishes to speak an opportunity to be heard. There are often guest speakers who discuss a variety of topics.

The Delaware DOJ's Consumer Fraud Division has more information and access to a number of useful pamphlets about HOAs at this address:

<https://attorneygeneral.delaware.gov/fraud/cpu/ombudsperson/hoa/>.

For more information on DMHOA, please visit [www.dmhoa.org](http://www.dmhoa.org).

## Comparison: 501(c)(3) vs. 501(c)(4)

Feature	501(c)(3) organizations (Charities)	501(c)(4) organizations (Social Welfare Organizations)
<b>Purpose</b>	Must operate "exclusively" for charitable, religious, educational, or scientific purposes.	Must operate "primarily" for the promotion of social welfare and the common good.
<b>Tax-deductible donations</b>	Contributions are tax-deductible for the donor.	Contributions are generally <b>not</b> tax-deductible for the donor.
<b>Political and lobbying activity</b>	<ul style="list-style-type: none"><li>• <b>Political campaigns:</b> Are strictly prohibited from participating or intervening in any political campaign for or against a candidate.</li><li>• <b>Lobbying:</b> Can engage in limited lobbying activities, but it cannot be a "substantial part" of their overall activities.</li></ul>	<ul style="list-style-type: none"><li>• <b>Political campaigns:</b> Can engage in some political campaign activities, including endorsing candidates, as long as it does not become their <i>primary</i> purpose.</li><li>• <b>Lobbying:</b> Can engage in unlimited lobbying as long as it is related to their mission.</li></ul>
<b>Donor disclosure</b>	Public charities must disclose donors who meet certain thresholds on Schedule B of their	Do not need to publicly disclose donor information to the IRS. This has led to the rise of so-called "dark money" in U.S. politics.

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annual Form 990, though donor information is typically redacted for public inspection.

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**IRS recognition**

Must file an application (Form 1023 or 1023-EZ) and receive recognition from the IRS to be considered tax-exempt.

Can "self-declare" their tax-exempt status by simply operating as a 501(c)(4) and filing Form 8976 with the IRS. Many still opt to seek formal IRS recognition.

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**Related organizations**

Many organizations maintain both a 501(c)(3) arm for charitable work and a 501(c)(4) arm for more extensive lobbying. The two must operate as separate legal entities with strict separation of assets and funding.

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