

The Purpose of HOA Covenants, Bylaws and Variances

The Declaration of Covenants and the HOA Bylaws are two of the most important documents governing daily operations in Georgia's community associations. However, these governing documents serve two very different purposes.

Covenants

The Declaration of Covenants regulates owners' use and maintenance of their property and establishes the obligation to pay assessments to fund the community. The declaration also assigns maintenance responsibilities for common areas and individual lots or units and controls what owners may do in the community, impacting the exterior appearance of their property. These types of use restrictions serve as the legal foundation for maintaining community standards, protecting property values, and ensuring neighborhood consistency. Because declarations are recorded in the county land records and bind title to each owner's property, they automatically transfer to new owners when properties are sold. Covenants carry significant legal weight through both administrative and judicial enforcement processes. The HOA membership as a whole has authority to amend the Covenants.

Bylaws

HOA Bylaws establish policies and procedures for the governing of an association. They set qualifications for the election of directors, their number and term of office, their powers and duties, the appointment of officers, when and how meetings are held, quorum and voting requirements, the appointment of committees, etc. Bylaws are not recorded by the County Clerk, nor are they filed with the Secretary of State. The Board of Directors has authority to amend the Bylaws.

Variances

While HOA Covenants maintain a consistent and cohesive aesthetic within a community, occasionally an Owner may request a variance, a formal request to deviate from the established rules or standards due to a significant hardship or needs that prevents them from fully complying with the Covenants. Unfortunately, the 2020 Covenants do not authorize the Board to grant variances of any kind.