

Westcliff Homeowners Association Inc

Proposal to update governing documents.

July 14th, 2025

GOVERNING DOCUMENTS DEFINITIONS AND PURPOSE:

Governing documents are, in essence, the constitution, law, and regulations that explain how a community is governed. They establish how the HOA is run and set expectations for residents and the association.

HOA governing documents are the official rules of a community agreed upon by homeowners in the community and HOA board members.

These documents detail what homeowners and board members can and cannot do.

The Hierarchy of HOA Governing Documents

1. Law of the Land – TN Horizontal Property Act governs how HOAs are administered. The Federal Housing Authority and HUD (Department of Housing and Urban Development) provide regulation to ensure fair housing practices and prevent discrimination in housing.
2. Master Deed
3. Bylaws
4. Rules and Regulations

Master Deed: It establishes and describes the Property. In general, it identifies private Apartment vs Common Area, creates rights of owners to use the Common Area; establishes the assessment obligation for owners to pay dues; creates various easements; establishes occupancy and use rights. Defines HOA / common property responsibility vs. owner responsibility for repair/ remediation costs.

Bylaws: The Bylaws set forth procedures for operating the association and the power and duties of the board. The Bylaws will include specific provisions addressing board of director meeting procedures, member (apartment owner) meetings, voting requirements, elections of officers and directors, budget process, establish the process for assessments and address maintenance responsibilities.

Rules and Regulations: Rules and Regulations establish rules and procedures for the association. Rules and Regulations govern the use of common areas and amenities and address and clarify such issues as leases, pets, parking, occupancy, balcony and patio use, pool use, holiday decorations and trash disposal, and fee and fining schedule.

PROPOSED CHANGES:
BYLAWS
MAJORITY VOTE REQUIRED 66 ⅔%

Section 5.2. Place of Meeting.

COMMENTS: Add ability to hold meetings electronically using Zoom, Microsoft Teams or other meeting technology. This provides flexibility for board members who are traveling or ill to participate in meetings with ease, and for apartment owners who don't live in Knoxville or are traveling to be available to more readily attend meetings. In general, HOAs struggle to get large participation of members, and adding convenience of electronic means helps participation.

UPDATED PARAGRAPH: All meetings of the Membership shall be held at the principal office of the HOA or such other place or places in the City of Knoxville, Tennessee, as the Board of Directors may from time to time determine. The Board of Directors shall have the discretion to hold any and all meetings electronically using Zoom, Microsoft Teams, or similar teleconferencing platform technology. Any Member wishing to attend any meeting via teleconferencing technology shall be required to register their phone number or email address with the Board of Directors at least twenty-four (24) hours prior to the meeting they wish to attend.

Section 5.3. Annual Meetings.

COMMENTS: Provides flexibility to hold Annual Meeting anytime in February or March. Exact time of meeting flexible. Adds requirement to share year end financial report and budget with members.

UPDATED LANGUAGE:

The Annual meeting of Members shall be held each February at a date and time to be determined by the Board of Directors. If the annual meeting cannot be held in February, then it shall be held at the first available opportunity in March at a date and time to be determined by the Board of Directors. At each such meeting, the Board of Directors shall be elected in accordance with the provisions of Section 6 of these Bylaws, and the Members shall transact such other business as may properly come before them. The yearend financial report for the prior year shall be available to Members at the Annual Meeting along with the Budget for the current year.

Section 5.5. Order of Business.

COMMENTS: Old language from 1992 spells out 11 steps for holding a meeting. Instead, we propose to refer the procedure to Robert Rules of Order. Robert's Rules of Order is America's foremost guide to parliamentary procedure. It is used by more professional associations, fraternal organizations, and local governments than any other authority. Robert's Rules of Order spell out and recommend a broader set of meeting procedures than a current list of following steps. Robert's Rules of Order provide more details about how to make a motion, conduct debates, etc...<https://robertsrules.com/>

UPDATED PARAGRAPH: As far as practical, the order of business at all annual or special meetings of the membership or at all substitute annual meetings shall follow Robert's Rules of Order Newly Revised.

Section 5.7. Quorum.

COMMENTS: This section defines what constitutes a Quorum for members to vote at a meeting. Current language states 50% of the members. For example, to re-elect and vote for new board members during annual meetings, currently the documents require 50% of owners present (either in person or by mailing a proxy statement for another owner to vote on their behalf). Historically, Annual Meeting attendance is very low, and it's almost impossible for ~38 apartments to be represented. It's a significant risk to the association if the matters that require vote of the members during the meetings cannot even be proposed for vote if less than ~38 (out of total 76 apartments) apartments are represented.

Current TN State Law declares 20% of members present to represent a quorum to vote at meetings. We propose to change Westcliff's requirement to 20% to be in line with TN law.

Note: 20% quorum threshold refers only to the number of owners present at a meeting available to vote during a regular meeting. Much higher thresholds of majority is required to make changes to the governing documents. Last sentence also provides for apartment owners / members to attend any meeting via electronic means.

UPDATED PARAGRAPH: Except as otherwise provided in these Bylaws or by the laws of the State of Tennessee governing corporations, the presence, in person or by proxy, of members holding more than twenty percent (20%) of the total vote of the membership as determined by Section 5.8 hereof shall constitute a quorum at all meetings of the members. If a quorum is not present or represented at any meeting, the members entitled to vote at such meeting shall have the power to adjourn the meeting from time to time without notice other than an announcement at the meeting until a quorum is present or represented.

The members at any meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum of members present at the meeting unless a higher percentage of votes is required on any matter presented to the meeting.

All members attending the meeting virtually either by phone or by other electronic methods shall be counted as part of the quorum so long as they can communicate with one (1) board member at all times during the meeting.

Section 5.9. Proxies

COMMENTS: Limits Proxy expiration to 11 months or to specify limit. Current language allows for Proxy to expire after 10 years. There is no reason why an owner should have such a long proxy. Board members change, owners change, and updating such lengthy proxy creates administrative issues and room for error and fraud.

UPDATED LANGUAGE: (removed “but no proxy shall be valid after ten (10) years from the date of its execution)

Members may vote either in person or by agents duly authorized by written proxy executed by the member or by his duly authorized attorney-in-fact. A proxy shall not be valid after the expiration of eleven (11) months from the date of its execution unless the proxy specifies the length of time which it is to continue in force or limits its use to a particular meeting. In order to be effective, all proxies must be filed with the Secretary prior to the meeting in question.

Section 6.2. Number, Term, and Qualification

COMMENTS: Removes maximim term limit of two consecutive terms. Institutional knowledge of board members is invaluable for continuous smooth operation of the building. If a board member desires to run for renewal term and is elected by the members, it's much more beneficial for the building vs frequent board turnover due to term limits.

Section 6.10. Meeting of Directors

COMMENTS: Section (c) allows for board meetings to be conducted via electronic platforms.

Section 13.3. Special Arrangements.

COMMENTS: In order for the HOA to govern effectively, it must have the ability to impose fines for violations. Without such authority, HOA is only left with the ability to sue in court. State law requires HOAs to be represented by a legal counsel in a court of law. Any legal action can be very costly and often cost prohibitive. As a result, either the community may be stuck with an owner who is breaking the community rules and creating problems for other residents or damaging common elements, or significantly increased monthly HOA dues that will need to cover excessive legal fees. In 2024 HOA incurred legal fees to address a few instances of violations.

A fine is a very effective way to deter owners from breaking agreed upon community rules. This new paragraph introduces the definition of a fine as “Special Assessment” to an individual owner and gives the HOA authority to fine an owner.

Some of the examples of violations that can be deterred by a fine:

Asking an owner to remove a pet or face monthly fines.

Asking an owner to not make unauthorized architectural changes to exterior of the building or face weekly or monthly fines until violation is remedied.

Asking an owner to repair interior faucet that has a stream of water and wastes water for which all owners pay collectively via HOA fees.

Asking an owner to remove a sign from balcony, or hanging unauthorized bright lights or other equipment on the balcony that create nuisance to other residents.

Thankfully, most of the violations are resolved very quickly without even a written notice, as they are mostly misunderstanding by an owner willing and ready to abide by community rules. But some require formal process to resolve.

UPDATED LANGUAGE: Special Assessments may also include, but are not limited to, penalty fees for violation(s) of the Master Deed, these Bylaws, and any and all Rules or Regulations currently in effect. In the event of a penalty fee, written notice shall be given specifying the violation(s) and the time allowed to cure said violation(s). If the violation(s) are not cured within the time stated in the written notice, or other measures approved by the Board, then the owner of that Apartment shall be charged a penalty fee in accord with the Schedule of Fees adopted by the Board. Each violation is subject to a separate penalty fee and each day a violation continues after the expiration of the cure period constitutes a separate violation.

Any and all remedies as permitted by law shall be also accessible to the Board of Directors including the option to file a lien against an Apartment for any and all unpaid assessments and/or penalty fees, costs, interest, and attorney's fees incurred for enforcement of and filing the lien. The Owner shall also be responsible for any and all fees and costs including all attorney's fees associated with enforcing this provision whether through litigation or other enforcement.

Section 17: Rules and Regulations

COMMENT: Added a paragraph that explains that if Rules and Regulations are violated, penalties will be assessed in the form of Special Assessment and in accordance with the Fee Schedule.

UPDATED PARAGRAPH: Any violation of the rules and regulations shall be enforceable by a penalty fee which will be assessed as an annual assessment but payable within thirty (30) days of the written notice of the assessment. The Board of Directors will adopt a schedule of fees for violation of the various rules and regulations. Such fees will also include the cost of the administration and enforcement of said violation. Collection of any late fees or assessments shall be enforceable as a lien against the Apartment and notice of such shall be recorded with the Knox County Register of Deeds the same as any other assessment lien set forth herein.

PROPOSED CHANGES

MASTER DEED - MAJORITY VOTE REQUIRED 75%

Section 5. Changes to Apartment / Approval by HOA Board

COMMENTS: Added clarifying language that specifically mentions laundry, doors, patio doors and windows, patios, steps, ladders, ramps to the elements requiring HOA Board Approval.

UPDATED LANGUAGE: Owner may make structural changes, plumbing (including changes or additions related to laundry or drainage), A/C and heating, and/or alterations to an Apartment or do anything to the exterior of an Apartment (including, but not limited to, doors, patio doors, and windows) or to the General Common Elements without the prior written consent of the HOA Board of Directors.

The addition of any approved steps, ladders, and/or ramps, to the exterior of an Apartment by the Owner shall be the responsibility of the Owner to construct, install, maintain, replace, and repair, and shall not thereafter become the responsibility of the HOA to do so.

Section 8. Property Rights.

COMMENTS: clarified language regarding Leasing, Parking and Assigned Parking, Nuisances, and clarified Prohibition Against Subdivision.

UPDATED LANGUAGE:

(a) Leasing.

- (1) No Apartment may be leased for the first twelve (12) months of ownership by an Apartment owner.
- (2) A lease can only be made with a person or persons constituting a single-family unit who will be using the Apartment for single-family residential purposes.
- (3) Any Apartment owner who desires to lease the Apartment to any person shall first obtain from the proposed lessee a written offer setting forth all the terms and conditions of said proposed lease. The Apartment owner shall also obtain a background check for the proposed lessee(s) and any adult who will be residing in the Apartment during the lease period. The Apartment owner shall then provide written notice to the HOA Board of Directors of the intent to lease the Apartment, providing therewith a copy of the background check(s) and the written proposed lease terms and conditions.

Section 9. Use and Occupancy Restrictions.

COMMENTS: Added section b; Section (c) included in list of not permitted pets: birds, mice and other rodents; Nuisance – added last sentence to clarify penalties for nuisance situations.

(b)Parking. Each Apartment shall be assigned one parking space available strictly to the Apartment Owner or the Owner's invitee.

(c) Animals. No animals, livestock, fowl, birds, poultry, mice or other rodents, dogs, or cats of any kind shall be raised, bred, or kept in any Apartment or in the Common Elements, including emotional support animals. Other household pets are subject to the Rules and Regulations adopted by the HOA. No pets shall be kept, bred, or maintained for any commercial purpose; and any pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the property upon three (3) days written notice from the HOA.

(d)Nuisances. No noxious, offensive, or unlawful activities shall be conducted in any Apartment or in the General Common Elements nor shall anything be done therein which may become an annoyance or nuisance or cause harm to any other Owner. Any Owner causing a nuisance shall receive a written notice and failure to remedy the nuisance will result in any and all penalties as defined under the Bylaws.