

HOW DOES A HOA KNOW WHAT THEY CAN AND CANNOT DO?



NO TWO HOMEOWNERS ASSOCIATIONS ARE ALIKE...

The South Carolina Department of Consumer Affairs (SCDCA) often gets questions from homeowners and homeowners association (HOA) boards about the rights and responsibilities of associations and their members. These include whether dues can be increased, what constitutes a forum and meeting notice requirements. The majority of the questions can be answered by one or more of the following:



Generally, the **rules and regulations** (commonly referred to as the covenants, conditions and restrictions or CC&Rs) limit how a homeowner can improve or use their property. Topics often covered in the rules are related to landscaping, home/building standards, guests and pets.

The HOAs **declaration, master deeds and bylaws** cover rights and responsibilities of members and the HOA, but mainly set out how the homeowners association will operate. This includes information on meetings, dues, special assessments, elections and collection policies. Certain provisions in the rules and other governing documents may be superseded by state law.

WHICH LAW(S) APPLY TO THE NEIGHBORHOOD THAT I LIVE IN?

While South Carolina does not have a state specific law detailing how a homeowners association must operate, several South Carolina laws may apply. The most common laws are:

The Nonprofit Corporation Act applies to HOAs that have filed its nonprofit articles of incorporation with the Secretary of State. The law provides details on meetings (including notice & quorum requirements), rules for the board of directors and homeowners access to records. To find out if a HOA is registered as a non-profit visit the SC Secretary of State's website: <https://businessfilings.sc.gov/BusinessFiling/Entity/Search>.

The Horizontal Property Act applies to apartments/condominiums. This law provides details on how to set up a horizontal property regime, what must be included in the master deed/ lease and bylaws, record keeping requirements and allocation of expenses.

The Homeowners Association Act applies to communities and horizontal property regimes requiring homeowners to pay assessments. (Does not include timeshares). The law requires governing documents to be filed, provides certain meeting notice requirements and access to budget and membership lists. The law also requires DCA to collect specific data on HOA complaints, which are compiled and shared with the Governor and the General Assembly each year.

Other state laws referencing HOAs may be found on our [HOA education webpage](#).

