



Orchard HOA Governing Documents - Summary

Over the past year, your HOA Board has worked with Altitude Community Law to modernize and streamline our governing documents — the **Articles of Incorporation, Bylaws, and Declaration (CC&Rs)**. These updates bring us into compliance with Colorado law, simplify confusing provisions, and address issues that have come up in our community over the years. Here are the **key changes homeowners should know about**:

How the HOA is Governed

- **Board of Directors**

- Size set at 5 members (with flexibility to adjust in the future).
- Directors must be in good standing (no major delinquencies or lawsuits against the HOA) and are expected to attend meetings regularly.
- Directors encouraged to complete HOA education each year (paid for by the Association).

- **Meetings**

- Notices may now be sent by email.
- Virtual/online participation is officially allowed.
- Owners will have more opportunity to speak before Board votes.

- **Amendments**

- Articles of Incorporation: approval threshold lowered from 67% of all owners → majority of owners present at a meeting.
- Declaration (CC&Rs): still requires 67% owner approval, as state law requires.

Money & Assessments

- **Budgets & Assessments**

- Annual budgets and any special assessments must be presented to owners; owners can veto by majority vote.

- **Supplemental Charges**

- Owners may be billed directly if damage is caused by their Lot (e.g., tree falls on fence, pet damage, negligence).

- **Collections**

- 45-day grace period before late fees/interest apply.
- Interest capped at 8% per year.

- **Borrowing**

- HOA may borrow funds, but only with majority owner approval.

Use of Homes & Lots

- **Rentals**

- Short-term rentals (<30 days) prohibited unless the HOA grants approval.
- Leases must be in writing and tenants must follow HOA rules.

- **Home-Based Businesses**

- Allowed by Colorado law, as long as they don't create nuisances (noise, traffic, parking).

- **Pets**

- Allowed, but must not be dangerous or a nuisance.
- Must be leashed in Common Areas; owners must clean up after pets.

- **Vehicles & Parking**

- Maximum of 5 vehicles per Lot.
- Oversized vehicles, RVs, trailers, and boats restricted unless stored in garages or approved by the HOA.
- Towing/booting rules clarified for violations.

- **Lot Maintenance**

- Owners responsible for keeping landscaping neat, including barrow ditches.
- HOA may step in after 15 days' notice and bill costs back to the owner.

New Restrictions for Community Health & Safety

- No marijuana growing or distribution.
- No smoking or vaping in Common Areas.
- Hoarding or unsafe storage conditions are prohibited.
- Rain barrels allowed (max 2, 110 gallons, must be screened and in backyards).
- Commercial signs prohibited; non-commercial signs and flags allowed with reasonable size/placement rules.

Architectural & Design Review

- Committee may have as few as 3 members (instead of 5, for flexibility).
- Repainting with the same approved color no longer requires approval.
- Mailbox approvals removed.
- Shed rules clarified: one shed per Lot allowed (existing sheds grandfathered).

Legal & Insurance

- Directors and volunteers protected from personal liability except in cases of fraud/bad faith.
- HOA required to carry more robust insurance (liability, fidelity, D&O).
- HOA must provide annual education opportunities for owners (as required by Colorado law).

Why These Changes?

- **Compliance:** Updates bring us in line with Colorado laws (CCIOA, HB22-1137, SB24-134).
- **Clarity:** Outdated developer language removed; confusing sections simplified.
- **Protection:** Stronger financial, legal, and insurance safeguards.
- **Flexibility:** Easier to amend Articles, flexible Board structure, streamlined design review.
- **Community Standards:** Clear rules on rentals, pets, vehicles, marijuana, smoking, and more.

👉 Next Steps

- Review the full documents (with notes) available on the HOA website and attached to this email.
- Send questions or feedback to **president@orchardhoa.org** (include article/section).
- Join us at the **upcoming informational session** to learn more and ask questions.

Specific Changes to the Second Amended & Restated Declaration of Covenants, Conditions, and Restrictions (CC&Rs)

This update modernizes the Declaration by removing outdated developer language, clarifying Owner vs. HOA responsibilities (fences, drainage, landscaping), expanding Board authority to enforce rules, integrating CCIOA compliance (education, budgets, business use, antennas, rain barrels), and introducing new prohibitions (short-term rentals, marijuana, smoking, hoarding).

Article 1 – Defined Terms

- Streamlined and clarified definitions.
- Ensures consistency with CCIOA (Colorado Common Interest Ownership Act).

Article 2 – Property, Easements & Liability

- Declarant rights removed.
- Easements clarified: Owners must be notified if a Common Area closure exceeds 72 hours.
- Disclaimer of liability: Association not responsible for injury/damage in Common Areas.
- Utility and plat easements added for clarity.
- Encroachment easements (construction errors, settling, repairs) carried forward.

Article 3 – Association

- Fence maintenance clarified: Association maintains perimeter fence, but Owners responsible for damage caused by their Lot.
- Managing agent contracts capped at 3 years, cancellable with 30 days' notice.
- New indemnification for directors, officers, volunteers.
- Security disclaimer: HOA not a security provider.
- Annual HOA education required.

Article 4 – Assessments

- Lien expanded to include late fees, attorney fees, fines, and collection costs.
- Budgets and special assessments must be submitted to Owners, who may veto by majority vote.

- Supplemental assessments expanded to cover Lot-specific issues.
- Payment application rules updated.
- 45-day grace period before late fees/interest; interest capped at 8%.
- Board may borrow funds, but only with majority Owner approval.

Article 5 – Restrictions

- Home-based businesses allowed under state law; HOA may regulate nuisances.
- Short-term rentals (<30 days) prohibited unless HOA approves.
- Lot and landscaping maintenance clarified; HOA may step in after 15 days' notice and charge costs back.
- Pet rules updated (removal if nuisance/danger, leash and cleanup rules).
- Antennas must follow FCC standards and be placed inconspicuously.
- Parking limited to 5 vehicles per Lot; oversized/commercial vehicles restricted.
- New prohibitions: marijuana cultivation/distribution, smoking/vaping in Common Areas, hoarding, mining/drilling.
- Rain barrels allowed (2 max, 110 gallons, backyard only).
- Signage and flags must follow CCIOA (content-neutral restrictions only).
- Sheds: one per Lot, existing sheds grandfathered.
- HOA may contract for community-wide trash removal.

Article 6 – Design Review

- Committee may have as few as 3 members.
- Repainting in same color and rebuilding to original plans does not require approval.
- Mailbox approval requirement removed.
- Application requirements clarified.

Article 7 – Insurance

- Broader insurance requirements: liability, fidelity, workers comp, D&O, annual review.
- Clarifies Owner vs. HOA insurance responsibilities.

Article 8 – General Provisions

- Declaration remains perpetual.
- Amendment procedures clarified under CCIOA.
- Challenge provisions added (time limit to contest amendments).
- Non-waiver clause added.
- Declaration controls in case of conflict.

Removed / Relocated

- Developer/Declarant boilerplate eliminated.
- Outdated references deleted.
- Architectural guidelines consolidated under Article 6.

Specific Changes to the Amended & Restated Articles of Incorporation

The Articles have been streamlined to simplify governance, add protections for directors, align amendment thresholds with state law, and move operational details into the Bylaws.

Article 1 – Name

- No change.

Article 2 – Duration

- Remains perpetual.

Article 3 – Definitions

- References Declaration directly.

Article 4 – Nonprofit

- Confirms nonprofit status; unchanged in substance.

Article 5 – Purposes & Powers

- Simplified language; detailed powers moved to Bylaws.

Article 6 – Elimination of Liabilities

- New limitation of liability for directors and uncompensated agents (except fraud/bad faith).

Article 7 – Membership

- Simplifies provisions; one membership per Lot; transfers automatically with sale.
- Detailed membership/voting provisions relocated to Bylaws/Declaration.

Article 8 – Principal Office & Registered Agent

- Updated to reflect current office and registered agent.
- Board may change without amendment.

Article 9 – Board of Directors

- Removes names of initial directors.
- Sets range of 3–5 directors; Bylaws set exact number.

Article 10 – Amendments

- Approval threshold lowered from 67% of all Owners to a majority of Owners present and voting at a meeting with quorum.
- Must remain consistent with Declaration.

Article 11 – Dissolution

- Follows state law; unchanged.

Article 12 – Interpretation

- New: Declaration controls over Articles in case of conflict.

Removed / Relocated

- Detailed membership, voting, and powers moved to Bylaws.
- Articles are now high-level and concise.

Specific Changes to the Amended & Restated Bylaws

The Bylaws are modernized to align with CCIOA and the Colorado Nonprofit Act, expand owner rights, tighten Board qualifications, clarify amendment powers, and strengthen financial/records policies.

Article 1 – Introduction & Purposes

- Principal office details removed (covered in Articles).

Article 2 – Membership & Voting

- One vote per Lot; no fractional/cumulative voting.
- Board may suspend voting rights for covenant violations or unpaid assessments.
- Clarifies voting for multiple/corporate owners.
- Transfers require proof of ownership.

Article 3 – Meetings of Members

- Annual meeting timing made flexible.
- Budget approval process added (with owner veto).
- Special meeting petition process clarified.
- Notices may be sent by email or posting; must be 10–50 days in advance.
- Quorum remains 25%.
- Proxy rules expanded (revocation, expiration, fraud safeguards).
- Secret ballots required only when law requires.
- Mail-in ballots permitted with clear procedures.
- Virtual attendance allowed.
- Board may reject invalid votes in good faith.
- Ballot counting must be by neutral third party or volunteer committee.

Article 4 – Board of Directors

- Board set at 5 members (flexible under Articles).
- Expanded qualifications: must be in good standing, not in litigation with HOA, limited absences, annual education encouraged.
- Resignation rules formalized.
- Removal requires 67% member approval; replacement chosen by Members.

Article 5 – Meetings of Directors

- Special meeting notice reduced from 3 to 2 days.
- Notices may be by email/fax.

- Meetings open to Members except executive sessions.
- Attendance counts as waiver of notice.
- Directors may vote by proxy (must specify vote).
- Action without meeting procedures updated.
- Owners allowed to speak before votes.

Article 6 – Powers & Duties

- Expanded list of powers/duties to match CCIOA & Nonprofit Act.
- No waiver clause added: failure to enforce covenants does not waive them.

Article 7 – Officers

- Vice President must also be a Board member.
- Officers' duties may be delegated but responsibility remains.
- Added financial safeguards if funds are delegated (insurance, separate accounts, annual statements).

Article 8 – Committees

- Committees formally authorized; chairs must meet qualifications.
- Meetings must be open to Members.

Article 9 – Books & Records

- Establishes Owner inspection rights.
- Allows Board to withhold certain records.
- HOA may recover costs of copies.

Article 10 – Amendments

- Member approval required for changes to quorum, Board qualifications, Board powers, or terms.
- Board may amend unilaterally only to comply with law.

Article 11 – Indemnification

- New: directors, officers, and committee members indemnified when acting in good faith.

- D&O insurance required.

Article 12 – Miscellaneous

- Fiscal year flexibility.
- Notice provisions simplified.
- Conflict clause added: Declaration controls over Bylaws; Articles control over Bylaws.
- Outdated sections (Declarant control, proof of ownership, corporate seal) removed.