

The history of our documents

3/3/24

It all started with North Carolina creating laws regarding non-profit organizations, which we are. This subsection **55A**. Later on, the legislature realized that non-profit laws didn't adequately address the needs of Homeowner Associations so they created statutes in subsection **47F**. These laws were specifically aimed at Homeowner Associations but Sections of 55A do as well. Our Association was created when there was only 55A but a lot of 47F does as well. It sometimes takes an attorney to decide which applies.

Next, we have **Articles of Incorporation** which our developer created for us but, in our case, doesn't have anything that places restrictions on us though it does officially create the Association.

Because we live in a Planned Unit Development (PUD) the Flowers Organization created a document called a **Declaration** that places restrictions on all properties within the PUD. This is their way of ensuring that Associations don't go too far astray.

Next comes the **Restrictive Covenants** and the **By-Laws**. These also were created by the developer. 55A and 47F use language that is sometimes vague and this allows for each Association to tweak their Covenants and By-Laws to suit their needs. So now we have 2 more documents. The By-Laws mostly deal with how we run our business: meetings, quorums, offices, etc. The Covenants mostly deal with rules: where you can park your car, what kinds of animals you can have and how many, nuisances, maintenance, etc. These documents stipulate that the Association can add our own rules, but within reason (easier said than done).

To that list of governing documents, we add **Rules and Regulations, Policies and Procedures**. Rules and Regulations are more items which tell you what you can and can't do with your property. Because of all the documents we have had to have an attorney arbitrate what we can and can't do. Policies and Procedures are a place to capture how do we evaluate if a yard is overly "cluttered", do we require that people obtain burn permits, and how does the Sheriff apply "quiet hours", etc. We also place notes about legislation that has been enacted since the Association was created so future boards will know how to deal with these matters. Since these documents were created by the board, they can also be amended by this or any future board.

There are two more documents that were created by the board, **Common Area Rules** and **Design Guidelines**. Our other documents give us authority to create rules for the common area so those rules are contained in their own document. It has things about swimming in the lake, fishing, encroachments, etc. Our other documents also give us authority to create rules regarding our design guidelines: paint colors, fencing types, air conditioners, trees, water flow, etc. These can also be changed by current and future boards.