



HindmanSanchez

## SB 100 & SB 89's REQUIREMENTS 'AT A GLANCE'

*\*Amendments by SB 89 indicated in bold italics*

### Restrictions on Declarations, Covenants, and Bylaws

1. An association may not enforce a restrictive covenant that restricts or limits xeriscaping or requires the primary use of turf grass. [37-60-126(11)(a)]
2. An association may not bring enforcement actions against owners who allow their grass to die during water use restrictions and must give owners a reasonable and practicable time to revive dead grass before requiring them to re-sod. [37-60-126(11)(c)]
3. An association must allow the display of the American flag on a unit owner *or occupant's* property, window, or balcony, subject to reasonable regulations on size and location as long as those regulations do not prohibit the installation of a flag or flagpole. [38-33.3-106.5(1)(a)]
4. ***An association must allow the display of at least one political sign per candidate or ballot issue on a unit owner or occupant's property or window at least 45 days before and 7 days after an election. An association may regulate the size of the sign, but must allow the lesser of the size allowed by any applicable local ordinance or 36 x 48 inches.*** [38-33.3-106.5(1)(c)]
5. An association may not prohibit the parking of an emergency vehicle on its streets, the unit owner's driveway, or its guest parking spaces when the vehicle is required by an owner *or occupant's* employment and 1) the employer is an emergency service provider; 2) the vehicle weighs 10,000 lbs or less; 3) the vehicle has an official emblem; and 4) parking the vehicle does not block emergency access or interfere with other owners' use of association streets and driveways. [38-33.3-106.5(d)]
6. An association must allow unit owners to clear vegetation following a written defensible space plan (38-33.3-106.5(e))
7. ***An association may not require the use of cedar shake or other flammable roofing materials.*** [38-33.3-106.5(2)]
8. The percentage of affirmative votes needed to amend an association's declaration may be no higher than 67%, with any higher percentage to be deemed to be read as 67%. ***Phased-communities, declarant controlled communities, and communities whose declaration allocates 67% or more of the vote to one owner are exempted.*** [38-33.3-217]

### General Governance Requirements as of January 1, 2006

1. An association must adopt and maintain at least the following written policies and procedures:
  - a. Investment of Reserve Funds Policy
  - b. Enforcement Policy and Procedures
  - c. Collections Policy and Procedures
  - d. Handling Board Member Conflicts of Interest
  - e. Conduct of Owner and Board Meetings
  - f. Examination, Inspection, and Copying of Association Records
  - g. Adoption and Amendment of Policies, Procedures, and Rules Procedure
  - h. ***Procedure to Address Disputes Between Association and Owners\**** [38-33.3-209.5]
2. An association must follow SB 100's meeting notice and owner participation requirements:
  - a. Physically post notice of owner meeting in conspicuous location if at all feasible, in addition to any notice provisions contained in bylaws and any electronic notice the association chooses or is required to give
  - b. If association has electronic means, e-mail notice of meetings to all owners who request such notification and provide association with e-mail address
  - c. Allow owners to speak at board meetings before board takes a vote on issue under consideration, subject to reasonable regulations on such owner participation [38-33.3-308]
3. An association must keep the following as permanent records:
  - a. Minutes of all owner and board meetings
  - b. Record of all actions taken by owners or board by written ballot or consent in lieu of meeting
  - c. Record of all actions taken by committee of the board on behalf of association
  - d. Record of all waivers of notices of owner, board, and committee meetings [38-33.3-317(1)(b)]
4. An association must keep the following as records available for owner copying and inspection at principal office:
  - a. Articles of Incorporation
  - b. Declaration

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\* Associations must adopt this policy by January 1, 2007.  
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- c. Covenants
  - d. Bylaws
  - e. Resolutions adopted by the board that affect owners
  - f. Minutes of owner meetings and action taken by owners without meeting for the past three years
  - g. All written communications within the past three years to owners
  - h. A list of the names and business or home addresses of current board members
  - i. Most recent annual report, if any
  - j. All financial audit or reviews conduct pursuant to 38-33.3-303(4)(b) during preceding three years [38-33.3-317(5)(a)-(j)]
5. An association may charge unit owners *in advance* the “actual cost” for copying records, which includes personnel and equipment used for the search, retrieval, and copying of the records.
  6. An association must have an audit by a CPA if:
    - a. Association has annual revenues or expenditures of at least \$250,000 AND
    - b. One-third of owners request an audit.
  7. ***An association must have a review by an independent and qualified individual if requested by one-third of owners.***
  8. An association must use secret ballots for *contested* elections of board members and for any other issue being voted on at the request at least twenty percent of the owners present in person or proxy. [38-33.3-310(1)(b)(I)]
  9. ***Any board member with a conflict of interest must disclose that conflict in an open meeting. After disclosure, the board member with a conflict may vote on the issue.*** [38-33.3-310.5]

#### **Annual Association Disclosures as of January 1, 2006**

1. 90 days after transition, an association must provide *on request* the following information: 1) association’s name; 2) the name of any designated agent or management company, if any; 3) the physical address and telephone number for the association and any designated agent or management company; 4) the name of the common interest community; 5) the initial date of the recording of the declaration; and 6) the declaration’s reception number or book and page where the declaration is located. [38-33.3-209.4(1)]
2. An association must make amended information available within 90 days if the association’s address, designated agent, or management company changes. [38-33.3-209.4(1)]
3. An association must compile and disclose the following through one of the four allowable means within 90 days after assuming control from the declarant and within 90 days after the end of each fiscal year commencing January 1, 2006 and for each year after that:
  - a) The date the association’s fiscal year begins;
  - b) The association’s operating budget for the current fiscal year;
  - c) A list – organized by unit type – of the association’s current regular and special assessments;
  - d) The association’s annual financial statements – including any money held in reserve for the fiscal year immediately preceding the current annual disclosure;
  - e) The results of *its most recent available* audit or review for the fiscal year preceding the current annual disclosure;
  - f) A list of all association insurance policies, including – but not limited to – property, general liability, association director and officer professional liability, and fidelity policies;
  - g) The insurance company names, policy limits, policy deductibles, additional named insureds, and expiration dates of all policies listed;
  - h) The association’s bylaws, articles, and rules and regulations;
  - i) The board meeting and member meeting minutes for the preceding fiscal year
  - j) The association’s seven responsible governance policies and procedures [38-33.3-209.4]
4. An association may make the above disclosures in one of four ways: 1) posting the information on a website with notice of the web address sent either by first-class mail or e-mail to all owners; 2) maintaining a literature table or binder at the association’s principal place of business; 3) mailing the information to all owners; or 4) personally delivering the information to all owners. [38-33.3-209.4]

#### **Board Member and Owner Education**

1. An association’s board of directors may reimburse board members for the actual and necessary expenses incurred in attending educational classes and seminars specific to Colorado and applicable sections of CCIOA. [38-33.3-209.6]
2. An association must provide education to their owners at least once a year and at no individual cost to unit owners. This owner education must relate to the general operations of the association and the rights and responsibilities of owners, the association, and its board members. An association’s board has the discretion to determine how to comply with this provision. [38-33.3-209.7]

*This sheet outlines SB 100 and SB 89’s major provisions and is not intended to provide a full overview of all that they cover. Please consult your attorney with any questions about the full scope of these acts and how they affect your association.*

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