



Proposed Governing Documents FAQ

Working document updated 6.16.22

- 1. Q: If the proposed governing documents are approved by the membership, will I have to seek permission from the HOA to continue to park my RV, boat, or large truck?**

A: The answer is **NO**, you will not have to seek permission if your existing parking surface was approved at the time of its construction.

- 2. Q: Does the language stating "...the Board shall have the authority to adopt further reasonable Rules and restrictions regarding vehicles and parking within the Development as the Board may deem prudent and appropriate" mean that the Board can change the CC&Rs at will without vote from the membership?**

A: No, the only way CC&Rs can be changed is through a membership vote.

- 3. Q: What, then, does it mean where it says, "the Board shall have the authority to adopt further reasonable Rules and restrictions regarding vehicles and parking within the Development as the Board may deem prudent and appropriate"?**

A: The HOA Rules and Restrictions is a separate document where more detail around guidelines may be adopted. As defined in California Civil Code Section 4340, a board may do so, regardless of the language that is redundantly stated in the proposed CC&Rs.

The authority to create rules is not without limits. California law, Civil Code 4350, defines what makes a rule "valid and enforceable." For example, the New Rule must be in writing, it can't contradict the governing documents or the law, it must be reasonable and adopted by the Board using the formality found in the California Civil Code.

The two basic Rule Change procedures are found in Civil Code Sections 4360 and 4365; provides specific procedures for the board of directors to follow when proposing and adopting rule changes. Civil Code 4365 provides a process where members of the association may call a special meeting to reverse a rule change made by the board of directors of the association.

The process for making rule changes, as set forth in Civil Code §4360, are as follows:

- The board shall provide general notice pursuant to Section 4045 of a proposed rule change at least 30 days before making the rule change. The notice shall include the text of the proposed rule change and a

description of the purpose and effect of the proposed rule change. Notice is not required under this subdivision if the board determines that an immediate rule change is necessary to address an imminent threat to public health or safety or imminent risk of substantial economic loss to the association.

- A decision on a proposed rule change shall be made at a board meeting, after consideration of any comments made by association members.
- As soon as possible after making a rule change, but not more than 15 days after making the rule change, the board shall deliver general notice pursuant to Section 4045 of the rule change. If the rule change was an emergency rule change made under subdivision (d), the notice shall include the text of the rule change, a description of the purpose and effect of the rule change, and the date that the rule change expires.
- If the board determines that an immediate rule change is required to address an imminent threat to public health or safety, or an imminent risk of substantial economic loss to the association, it may make an emergency rule change, and no notice is required, as specified in subdivision (a). An emergency rule change is effective for 120 days unless the rule change provides for a shorter effective period. A rule change made under this subdivision may not be readopted under this subdivision.

Because members do not "vote" on rule changes, there is no mechanism to stop a rule change before it takes effect. However, the law allows members to reverse a recent rule change. As long as members act promptly - within 30 days of the association's delivery of the new rule for review - members may use a process for calling a special meeting to reverse a rule change. If the members are successful, the board cannot introduce the rule again for one year.

4. Q: Why did the CC&R committee and GDRA Board decide to add the guidelines around watercraft/RV/large vehicle storage into the CC&Rs if they already exist in the Rules and Restrictions document?

A: The Board thought it would benefit the membership to have these guidelines in the CC&Rs to make sure there was explicit language allowing these types of vehicles on a member's property. While it does come with restrictions to maintain the community standards and address environmental impact, it does allow homeowners to have them. As described above, a Board would more easily have the power to restrict these types of vehicles if it were only expressed in the Rules and Regulations document.

5. Q: Will the new guidelines regarding Short Term Rentals affect my current STR?

A: No, as per Civil Code § 4740, an owner of a separate interest in a common interest development shall not be subject to a provision in a governing document or an amendment to a governing document that prohibits the rental or leasing of any of the separate interests in that common interest development to a renter,

lessee, or tenant unless that governing document, or amendment thereto, was effective prior to the date the owner acquired title to their separate interest.