Restrictions on Declarations, Covenants, and Bylaws as of June 6, 2005

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]

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(1)(a)]

3. An association must allow the display of the American flag on a unit owner’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 political signs on a unit owner’s property or window at least 45 days before and 7 days after an election, subject to regulations no more restrictive than applicable local ordinances. If no ordinances apply, an association may not prohibit the display of at least one political sign per political office or ballot issue with maximum dimensions not less than 36 x 48 inches per sign. [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’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(e)]

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 must allow unit owners to replace flammable roofing materials with inflammable roofing materials, subject to reasonable standards for color, appearance and material contained in the association’s declaration or bylaws. [38-33.3-106.5(e)]

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%. [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** (methodology and standards to be used by board in deciding how to invest and manage association reserve funds)
   b. **Enforcement Policy and Procedures** (fine schedule, notice and hearing procedures, process for complaint submissions and investigation)
   c. **Collections Policy and Procedures** (process used in collecting delinquent assessments, including time frames of notices, late fees and interest, indicate when an account gets turned over to legal counsel, and how payments are applied etc.)
   d. **Handling Board Member Conflicts of Interest** (process for directors to disclose conflicts and the criteria to be used by the board in determining if a conflict exists)
   e. **Conduct of Owner and Board Meetings** (process and procedures for assigning proxies, use of secret ballots, rules for owner participation at board meetings, and process for providing notices of meetings)
   f. **Examination, Inspection, and Copying of Association Records** (procedures to be used by owners when requesting to inspect/copy association records; how requests will be processed, and how cop costs will be calculated. Includes a form to be completed by owners to request examination of records. Identifies what records are to be kept by the association and for how long.)
   g. **Adoption and Amendment of Policies, Procedures, and Rules Procedure** (procedures board uses to review, adopt, repeal and amend policies, procedures, and rules) [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 owner meetings
   d. Allow owners to speak at board meetings before board takes a vote on issue under consideration, subject to reasonable regulations on such owner participation [38-33.3-310]

3. An association must make all decisions concerning approval or denial of unit owner’s application for architectural or landscaping changes in accordance with standards and procedures in the declaration, rules and regulations, or bylaws. [38-33.3-302(3)(b)]

4. 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)]

5. An association must keep the following as records available for owner copying and inspection at principal office:
   a. Articles of Incorporation
6. An association may charge unit owners the “actual cost” for copying records, which includes personnel and equipment used for the search, retrieval, and copying of the records.

7. An association must have an audit or review at least once every two years using generally accepting auditing standards. If an association chooses an audit, it must be done by a CPA. Must have audit if:
   a. Association has annual revenues or expenditures of at least $250,000 AND
   b. One-third of owners request an audit.

8. An association must use secret ballots for the election of board members and for any other issue being voted on at the request at least one owner. [38-33.3-310(1)(b)(1)]

9. Any board member with a conflict of interest must disclose that conflict in an open meeting. Then, an association may allow that board member to participate in the discussion, but the board member with a conflict may not vote on the issue. [38-33.3-310.5]

Annual Association Disclosures as of January 1, 2006

1. An association must annually provide to its owners a written notice that states: 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 provide all owners with an amended written notice 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 any financial 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’s major provisions and is not intended to provide a full overview of all that SB 100 covers. Please consult your attorney with any questions about the full scope of SB 100 and how it affects your association.

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