

# Declaration and Bylaws Vs. Rules and Regulations-- What's What

The **Declaration** is the Big Dog or the Master of the documents, if you will. It is the document that, among other things, establishes the association, contains the use restrictions, the maintenance requirements, and defines the common elements.

**The Bylaws** set up the corporation and how it is to be run. It contains provisions on the board of directors, who is eligible, what the duties are, how they are elected, and what their powers are.

**The Rules and Regulations** set up guidelines and rules for owners to follow and reiterates the use restrictions set forth in the Declaration in simpler terms.

## Operations

1. The Declaration is the master document. If any of the other documents conflict with the Declaration, the Declaration controls. If you want to make any changes to the Declaration, an amendment to the document must be made. Any amendment must be voted on by the membership. The percentage required to pass an amendment will be specified in the Declaration. Any such amendment must be recorded with the County Recorder and distributed to the membership.
2. The Bylaws can be altered in the same way as the Declaration. They should not conflict with the Declaration. These are typically recorded along with the Declaration.
3. The Rules and Regulations are not recorded. It is much easier to change the rules and regulations. The other governing documents give the Board the authority to adopt reasonable rules and regulations that are in accordance with the Declaration and Bylaws. These rules must be distributed to the owners to be effective.

Therefore, to change or amend the rules and regulations, all that is required is a Board vote and a distribution of the changes to the membership.

All of the documents are enforceable in the same manner. The enforcement procedure should be set out in the documents. The types of enforcement include enforcement assessments, which would result in liens if unpaid; a lawsuit to require compliance with the documents, or in some cases, the Association is provided the ability to correct a violation once notice is given and charge the owner for the cost to correct the violation.