

DRAFT June 2023

# CCRs & Duty of Directors

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LAKE LIMERICK COUNTRY CLUB



# HOA Organization

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HOAs are governed by the members and the Board of Directors in accordance with the governing documents, specifically the **covenants, articles, and bylaws**.

The rules and expectations within the governing documents are for everyone in the community, and **adherence is to be respected and upheld by the Board and directors**.

# Covenants, Conditions, & Restrictions

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The CCRs are among the HOA governing documents.



Provisions of the CCRs are **legal** and to be enforced.

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The CC&Rs, or Covenants, Conditions, and Restrictions, on the other hand, define an HOA's rights and obligations to its members and vice versa. It includes property-use restrictions, covenant enforcement, and dispute resolution. It also covers maintenance, dues, and insurance obligations.

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Property use  
restrictions

# CC&R come in two forms:

## **AFFIRMATIVE USE**

“Shall”

“Will”

“Must”

“No”

“No more than...” /  
“No less than...”

*Cannot be selective in enforcement. These items are legally binding and recorded with the county.*

## **DISCRETIONARY USE**

“May”

“Can”

“Should”

*Discretion and selective enforcement are allowable when reasonably and equally applied.*

# CC&R come in two forms:

## AFFIRMATIVE USE

“Mobiles and trailers **will be** permitted in Division V...”

“**No** docks will be permitted.” (Lake Leprechaun)

“**No** horses, cattle, cows, sheep, rabbits, pigs or other animals, fowl or poultry **shall** be kept, raised, or permitted...”

*Cannot be selective in enforcement. These items are legally binding and recorded with the county.*

## DISCRETIONARY USE

“A shed, tent, garage, trailer, or other outbuildings **may** be used as a residence temporarily or permanently with the approval of Lake Limerick country club.”

“Outside fires **may** be built only as permitted by the governing authorities of Mason County...”

*Discretion and selective enforcement are allowable when reasonably and equally applied.*

# NOTICE

No matter what kind of language (affirmative or discretionary), **to change the CC&Rs requires a vote of the membership.** Covenants, Conditions, and Restrictions cannot be changed or amended by the Board or Committees alone.

## AFFIRMATIVE USE

“Shall”

“Will”

“Must”

“No”

## DISCRETIONARY USE

“May”

“Can”

“Should”

**Selective enforcement.** Basically, an HOA must enforce its rules and covenants with fairness and consistency. You cannot select some instances to enforce a covenant, and other instances to ignore that covenant.





An association has the duty to enforce the restrictions set forth in its CC&Rs. When it fails to do so, “a homeowner can sue the association for damages and an injunction to compel the association to enforce the provisions of the [CC&Rs].” (Posey v.



<https://findhoalaw.com> › failure-to-...



Failure to Enforce - FindHOALaw


# Covenants, Conditions, & Restrictions

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Ignoring and/or arbitrarily enforcing the property restrictions opens us up to litigation.



CCRs are **not** optional. They are required and shared rules that every lot owner consents to.

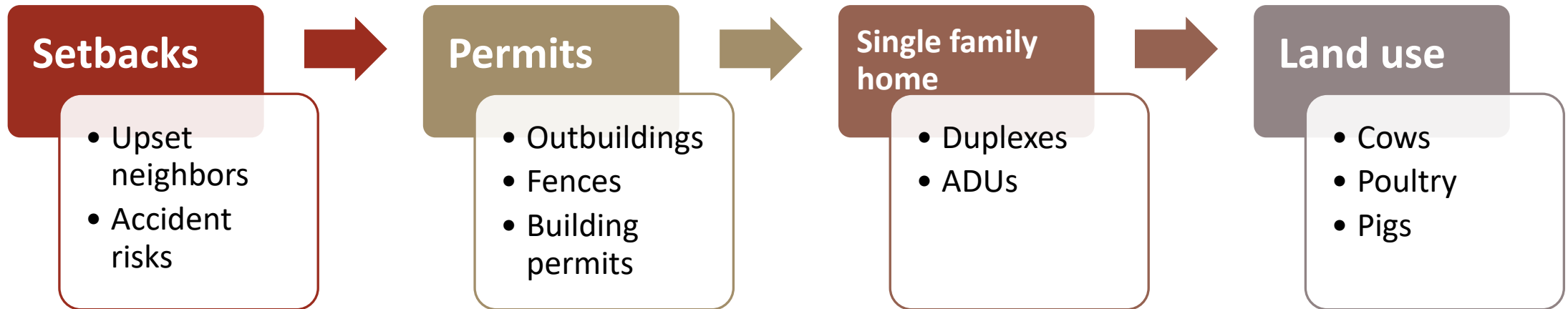


If the Board and/or committees selectively or capriciously **applies CCR requirements**, then enforcing the whole of the CCRs opens us to **risk and litigation**.

Special allowances **risk and ruin** the HOA.

# If we undermine the CCRs, we risk...

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[Just a few examples]

**LAKE LIMERICK COUNTRY CLUB  
COMMITTEE MEMBER APPLICATION**

1. My name is: \_\_\_\_\_

My address is: \_\_\_\_\_

My telephone number is: \_\_\_\_\_

My e-mail address is: \_\_\_\_\_

2. I would like to be a member of the \_\_\_\_\_ Committee.

3. I promise to uphold the Declarations, Articles of Incorporation, Bylaws, Committee Guidelines, and other Rules of Lake Limerick Country Club: to attend committee meetings and perform committee-related work on a regular basis: and to do so in a constructive, positive, helpful way. I have read, understand, and agree to the Committee Guidelines of Lake Limerick Country Club.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

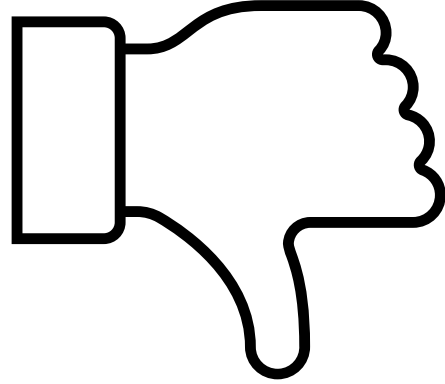
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The Committee voted on whether or not to accept this applicant as a member of its committee on \_\_\_\_\_. The results of the vote are as follows:

For: \_\_\_\_\_ Against: \_\_\_\_\_ Abstained: \_\_\_\_\_

All committee members actively consent to upholding covenants





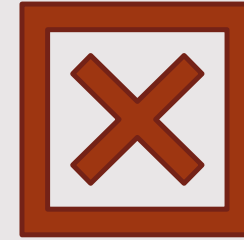
Selective Enforcement of CCRs is  
**against** our Governing documents

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Committees may suggest selective enforcement for *non-governing* elements of their review process.

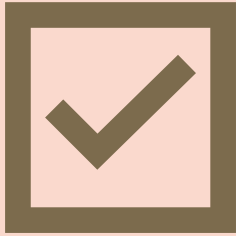
*Examples:* How much a fine might be.  
Maximum speed for boats on the lake.



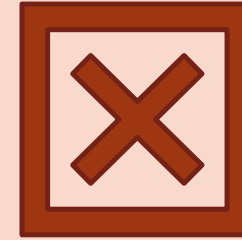
Committees **cannot** change the regulations outlined **in the CCRs**.

The procedures stated in CCRs are **non-negotiable**.

*Examples:* Septic tanks **must** be installed.  
LLCC **shall** establish boat speeds.



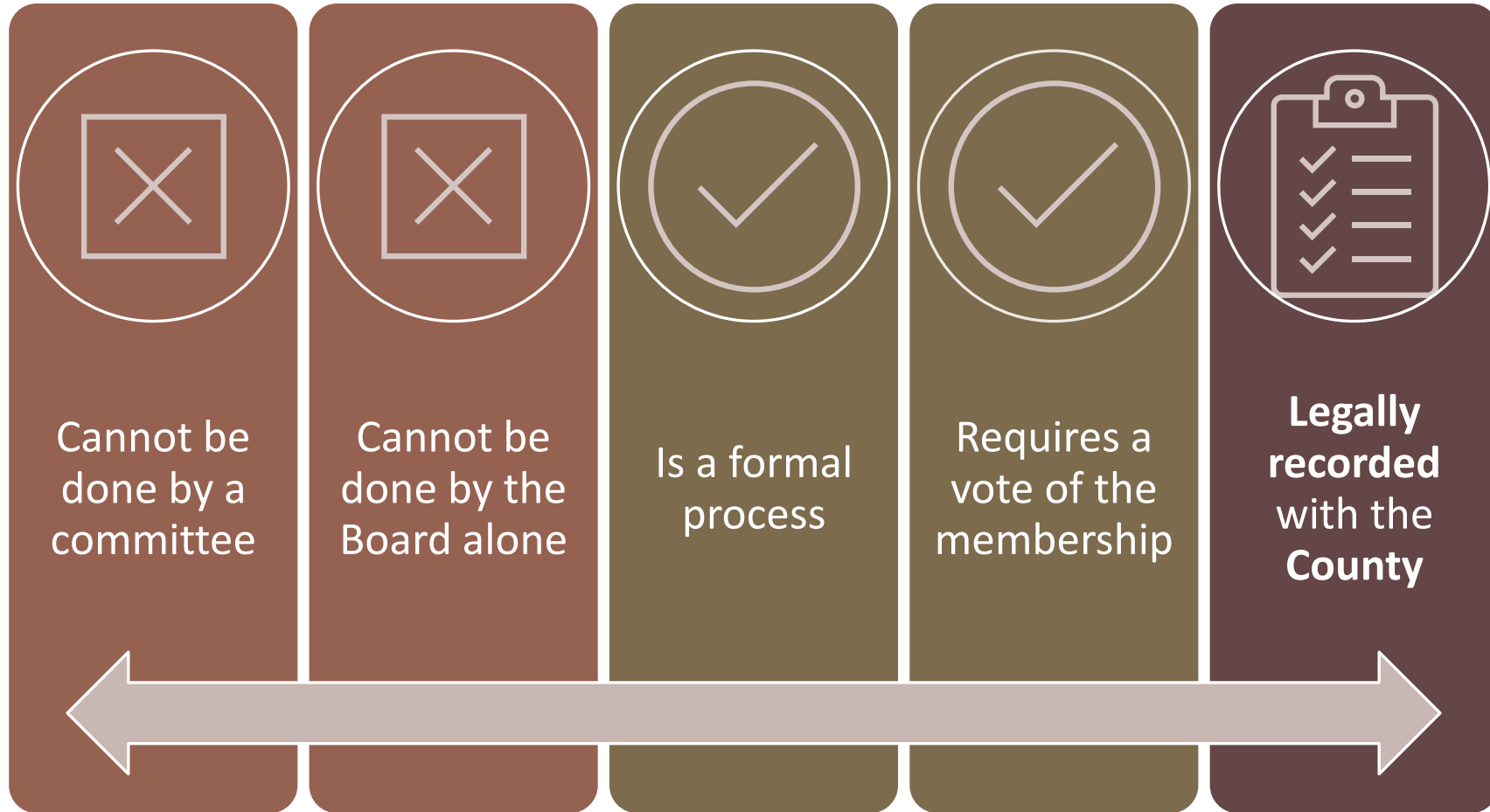
Board of Directors may propose and accept changes to *non-governing* elements of their review process.



The Board of Directors **cannot** change the regulations outlined **in the CCRs**.

The procedures stated in CCRs are **non-negotiable**.

# Changing CCRs...

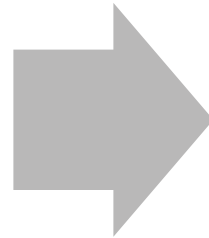




# Other risks

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Proposing /enabling selective enforcement is a cause for removal of “*member in good standing*” status.



Members “*not in good standing*” may not serve on the board or committees.