

MHOA Regulations Committee
P.O. Box 123
Jefferson, Co 80456

April 2, 2012

Dear Members of Michigan Hills Owners Association, Inc.,

On Saturday, April 14th at 10:00 a.m., the MHOA Board will be having an important meeting to consider a motion to approve “Nine Required Policies” which have been posted on our website (www.mhhoa.com) since March 13th. Many of you have asked for clarification concerning these policies. So, we would like to offer some background on the policies, their purpose, and how they relate to other governing documents.

First of all, the issue of “compliance” with state laws has been an agenda item for previous MHOA Boards who have also taken important steps. If you have access to our website, you will see that a “Compliance Plan” was passed by a previous Board and became effective on January 1, 2006. Please refer to: “1. General Governance b. Written Policies and Procedures (i-viii), and you will notice that eight of the policies listed are the same policies we now have on-line for your review.

More recently, on August 28th 2011, the Board passed a motion “to formally establish a Regulations Committee with the following duties and responsibilities: Revise and improve the current Declaration of Covenants, Bylaws, Guidelines and other applicable Association documents to be in compliance with all of the applicable requirements and standards set forth in the Colorado Common Interest Ownership Act (CCIOA), specifically those items set forth in Colorado Senate Bill 2005 – 100 and Senate Bill 2006-89 and subsequent legislation. (Again, see our website for full details in the minutes.) Mark Matulik was appointed Committee Chair; Sallie Baker was appointed MHOA Board Delegate and Project Manager. At the August 28th meeting, the Regulations Committee, which had been initially established on July 16th, submitted motions to the Board some of which have later become the basis for the “Collection Policy” (motion 6) and “The Enforcement Policy” (motion 5). Then, at the December 10th Board meeting, a motion was passed to enlist the services of Hindman Sanchez Law Firm to draft a package of Nine Required Policies that would give MHOA Boards the needed tools for management.. Without these needed tools, it is difficult to enforce Bylaws we currently have or to fulfill our duties as members of the MHOA Board of Directors.

David Firmin from Hindman Sanchez Law Firm offers seminars to HOA board members and management companies all over Colorado. He is an expert in the field of HOA law. These notes, from meetings led by David, may help explain how our various governing documents are related:

An organization’s governing documents relate to two different spheres: (1) BUSINESS and (2) LAND:

(1) The ARTICLES OF INCORPORATION are filed with the Secretary of State's Office and bring the corporate organization into existence. The ARTICLES establish the BUSINESS side of the organization, as a non-profit corporation which is required by Colorado law. The BYLAWS function as an extension of this BUSINESS side of life giving specifics pertaining to membership, board functions, terms of service of board members, etc. The BYLAWS must comply with SB100 and SB89 and establish operational policies. The "Nine Required Policies" are also referred to as "The Homeowner's Bill of Rights" since they are tools for management, outlining lawful standards for maintaining the community.

(2) The second sphere is about the LAND. This document is called the DECLARATION OF COVENANTS, and tells us what can and cannot be done with the LAND. DESIGN GUIDELINES refer to the use of the land and relate to the DECLARATION OF THE COVENANTS; so the DESIGN GUIDELINES should be posted on our website, but not attached to the Bylaws. Most HOA's develop RULES AND REGULATIONS, which are like a "municipal code. Currently, MHOA does not have RULES AND REGULATIONS as a separate document, but our lawyer, David Firmin has suggested that we make this change.

A draft of the changes to the Bylaws is being prepared and will be introduced at the MHOA Board meeting on April 14th. The draft of Bylaws will be posted on our website for comment by Members for about sixty days before the Annual Membership Meeting. (See Dec. 2007 Bylaws: 12. Amendments: "The Bylaws may be amended by the Board of Directors as the need shall arise..." However, "voting rights and procedure Bylaws can only be changed by a two-thirds (2/3) majority of votes cast at a regularly called MHOA general membership meeting..." "The amendments to Bylaws must be approved by a majority vote of those members present and represented by proxy at the next annual meeting or they will become ineffective as of the date of the annual meeting."

This is a lot to digest in one letter. Please send your comments and questions to Sallie Baker, Mark Matulik or any member of the Board, and attend our Annual Membership meeting on June 16th, if possible. If you cannot attend, please fill out and send in your PROXY to Carol Smusz, MHOA Secretary at P.O. Box 123, Jefferson, Co 80456. We want each of your views to be represented, and we also need a Quorum.

Have a beautiful spring!

Sallie Baker, MHOA Board
Mark Matulik, Chair, Regulations Committee