



Mark Wedemeyer, Director

To: MBIA, Review Agencies and the General Public

From: Jenny Dempsey, Planning and Zoning Officer *JBD*
Mark Wedemeyer, Director, Inspections and Permits *MRW*

Subject: Checklist- HOA Documents

Date: July 25, 2024

Background

A developer is required to submit and the County is required to review Homeowners Association (HOA) documents, pursuant to the County Code § 17-3-301(c)(10) (all subdivisions consisting of 6 or more lots), § 17-6-111(f) (open space, rec areas), and 17-6-103(j) (private roads).

County staff met with various representatives from the development community which includes design professionals, contractors, developers, HOAs, and County agencies to discuss on-going issues with the design, construction and maintenance of stormwater Best Management Practices (BMPs). One piece of feedback the County received from several HOAs is that the HOA documents do not clearly articulate the obligations of the HOAs and this can cause issues with costs, budgets and that the HOA docs do not have the necessary information about the infrastructure including Best Management Practices (BMPs) they will be owning and maintaining.

Purpose – Checklist for Review of HOA Documents

The HOA documents shall be submitted for review during the final plan application review process and approved by the Department of Inspections and Permits, the Office of Planning and Zoning and the Office of Law prior to final plan approval. To help with the County's review and ensure HOAs have basic information regarding the documents, obligations, cost information, a checklist has been created and attached to this notice. The applicant will be required to submit an affidavit in a form provided by the County confirming the inclusion of the required components and the page(s) of the language in the documents.

The Purpose of this memo is to provide notice that, at a minimum, items from the checklist, shall be included and flagged in the HOA Document package and submitted to the County.

Timing and Applicability

The Checklist for review of HOA Documents applies to all projects with a final plan or site development plan application, as applicable, submitted on or after the date of this memo. The County strongly encourages developers to use the HOA checklists even if this memo does not specifically apply due to the timing of the submission of the final plan application.

CHECKLIST FOR REVIEW OF HOA DOCUMENTS

For developments with six or more residential lots or units, a developer is required to submit (HOA) documents, pursuant to the County Code § 17-3-301(c)(10) (all subdivisions consisting of 6 or more lots), § 17-6-111(f) (open space, rec areas), and 17-6-103(j) (private roads). The County will confirm the HOA documents meet the minimum requirements of this checklist and the County Code by review of the affidavit submitted with the documents.

The HOA documents shall be submitted for review during the final plan application review process and approved by the Department of Inspections and Permits, the Office of Planning and Zoning and the Office of Law prior to final plan approval. The following shall be included and flagged in the HOA Document package:

1. Articles of Incorporation (to include any Amendments), Certificate of Good Standing from the State Department of Assessments and Taxation, and any other document required to verify that the proposed HOA to which common areas and maintenance responsibilities will be transferred has been established and is currently authorized to do business in the State of Maryland.
2. Declaration of Covenants, Conditions, and Restrictions; Bylaws; Rules and Regulations for the proposed HOA for the primary development and all related developments, phases, or subareas, demonstrating the following:
 - a. The HOA has clear legal authority to maintain and exercise control over such common areas and facilities shown on the final plat and a facilities inventory (to be included in this package, see #5 below);
 - b. The HOA has the power to compel contributions from residents of the development to cover their proportionate shares of the costs associated with the maintenance and upkeep of such common areas and facilities; and
 - c. The HOA is obligated to maintain legal operating status under the laws of the State of Maryland in perpetuity, unless and until a decision to dissolve/wind up is made in accordance with the Declaration.
 - d. When residential garage spaces are used to meet the minimum parking requirements for a project, the HOA docs shall clearly state that garages may only be used for parking and may not be converted to any other use.
 - e. AGE RESTRICTION (BOTH ON PLAT AND IN DOCUMENTS)
Notwithstanding any provision of this declaration to the contrary, and subject to the requirements of federal and state law, including 42 USC 3607 (b)(2), and Article 49B, MD ANNO CODE (1998 Repl. Vol.) ("Fair Housing Acts"), as may from time to time be amended, all occupied dwelling units must be occupied by at least one person who is 55 years of age or older and occupancy by minor children is prohibited.

AMENDMENT OF DECLARATION (DOCUMENTS ONLY)

Notwithstanding anything in this declaration to the contrary, neither this provision governing Amendment of the Declaration nor any provision restricting the age of residents may be deleted or amended without the prior written approval of Anne Arundel County, Maryland.

3. The initial estimated proposed or actual annual budget for the HOA, including a description of the replacement reserves for common area maintenance and improvements, and a copy of the projected budget for the HOA based upon the development fully expanded in accordance with any expansion rights contained in the Declaration.
4. A facilities inventory including an itemized list of all parcels, stormwater conveyance systems, stormwater Best Management Practices (BMPs), private roads, curbs, gutters, sidewalks, entrance monuments, retaining walls, fences, noise suppression walls, benches, recreational areas (included but not limited to picnic areas, beaches, piers, playground equipment, hard or soft surfaced athletic courts, swimming pools, sauna or exercise rooms, meeting rooms, clubhouses, hiker/biker/fitness trails, greenways, or linear parks) and any other physical aspect of the project which is to become the responsibility of the HOA.
5. An operation and maintenance plan (and schedule) for all private stormwater management systems, including expected operation and maintenance costs; in addition to operation and maintenance plan and costs for required landscaping, forest retention areas, open space, and private roads.
6. Copies of the draft deeds shall be provided with the final plan application, and copies of recorded deeds conveying all open space and other common areas to the HOA shall be included in the Plat Mylar submittal.
7. The plat mylar submittal package must be accompanied by an affidavit of the owner or representative certifying that the HOA documents recorded and referenced on the plat mylars accurately reflect the draft HOA documents approved with final plan application and meet the minimum requirements of this checklist and the County Code.