

WHAT ARE THE CC&Rs?

CC&R's (Covenants, Conditions and Restrictions) is a commonly used term often used interchangeably with the Declaration of Restrictions. In general, the CC&R's is a document containing restrictions on the use of lots and/or restrictions on changes to structures on lots in a development. The intent of the restrictions contained in the CC&R's is to preserve the character of the development.

When and how were the CC&R's for Bay Village created?

The developers of the 6 subdivisions comprising Bay Village drafted and recorded a Declaration of Restrictions for each subdivision as each subdivision was completed, beginning in 1973. In or about 1986, the homeowners of Bay Village approved a document entitled "Incorporation of Covenants, Conditions and Restrictions and Amendment to Declaration of Restrictions", which changed a portion of the Declaration of Restrictions, to revise the restrictions concerning who can live in Bay Village to those specified in Civil Code Section 51.3. For purposes of this article, the Declaration of Restrictions and the Incorporation of Covenants, Conditions and Restrictions and Amendment to Declaration of Restrictions, will be referred to as "CC&R's."

What Restrictions do the Bay Village CC&R's contain?

The best way to answer this question is to read the documents (" Bay Village Association Declaration of Restrictions" and "Incorporation of Covenants, Conditions and Restrictions and Amendment to Declaration of Restrictions"), themselves. To view these documents on-line, please go back to the "Documents" page and click on the download PDF document under the corresponding document.

However, in summary, the Bay Village CC&R's contain restrictions on the use of the homes and yards, and changes to the exterior of homes in Bay Village, who can reside in Bay Village, and levying assessments. The intent of the restrictions is to preserve the senior, retirement community character of Bay Village.

Restrictions concerning use of lots in Bay Village include:

1. Requirement that each lot be used for residential purposes only.
2. Restrictions concerning the age of residents.
3. Restrictions on use of lots to conduct commercial businesses, and prohibitions against keeping certain animals on the lots.
4. Restriction against operation of a well for water, oil or gas on any lot.
5. Prohibition against tents, shacks, trailers, basements, garages or other outbuildings being used as a residence.

Restrictions concerning who may live in Bay Village are based on Civil Code Section 51.3.

Restrictions concerning structures or changes to structures on lots in Bay Village include:

1. Provision in the CC&R's, stating that no building other than one detached single family dwelling (not to exceed one story in height) and a private garage is permitted on a lot.

2. Restrictions on changes to the exterior design of any structure on the lot, including the height of a dwelling, painting of structures, and posting of signs on lots, without prior approval of the Association's Architectural Committee.

Restrictions concerning the levying of annual assessments:

1. Levying assessments to pay for the enforcement of the CC&R's.

What should a Homeowner do Prior to Making any Changes to the Exterior of a Structure on Their Lot?

Prior to making a change to any structure (including, but not limited to, the home, fencing, and/or garage), the CC&R's require homeowners to obtain the written approval of the Association's Architectural Committee. The Architectural Committee has created a form that homeowners can use to request approval. To view this form go to the "Forms" page and click on the "download PDF document" under "Homeowners Architectural Form." Additionally, the CC&R's entitle the Architectural Committee to request documentation, such as plans, specifications, and drawings, further describing a proposed change to a structure. For more information, go back to the "Documents" page and click the "download PDF document" under "Architectural Change Approval Procedure."

What Authority does the Association Board and Its Architectural Committee Have?

The Association Board of Directors are homeowners of Bay Village, and are elected to the Board by the homeowners of Bay Village. The Architectural Committee, currently consists of at least three members from the Association Board of Directors. All Association Board members, including those also serving on the Architectural Committee, are uncompensated volunteers.

The Architectural Committee is authorized to enforce the Association's CC&R's for violation of the following types of restrictions: 1) use of lot (home and/or yard), 2) age of residents, 3) unapproved architectural changes, and 4) nonpayment of assessments. More specifically, the Architectural Committee is authorized to take action against any homeowner that is using a lot (home and yard) in a manner that is prohibited under the CC&R's. The Architectural Committee is authorized to take action against any homeowner who allows any one who does not meet the criteria of Civil Code Section 51.3 to reside in the home. The Architectural Committee is authorized to reject a homeowner application for exterior changes, if the Architectural Committee determines that the proposed change is specifically prohibited by the CC&R's, or is inconsistent with the character of the community. (See paragraph 18 of the CC&R's.) The Architectural Committee has the authority to record a lien against a homeowner's property when the homeowner fails to pay the annual assessment.

The provisions of the CC&R's are to be liberally construed to effectuate the purpose of creating a uniform plan for the operation of the community. (See paragraph 18 of the CC&R's.) The Board and its Architectural Committee have and will continue to use their best efforts to enforce the restrictions of the CC&R's in a reasonable and fair manner, serving the interests of the Bay Village Community as a whole.

What is the Legal Process for Enforcement of the CC&R's?

When the Architectural Committee determines that a homeowner is either using a lot in a prohibited manner or has made a change to a structure on the homeowner's lot in violation of the CC&R's, the Architectural Committee may take legal action against the homeowner. For more information on the enforcement process, please go back to the "Documents" page and click the "download pdf document" under "Procedures for Enforcing the Terms of the Declaration of Restrictions When Alleged Violation (Except Delinquent Assessments)."

Additionally, individual homeowners can take legal action using the Association's funds to do so, as long as in the opinion of the Association's Attorney, such action as merit. If not, the question of merit may be arbitrated.

Except for collection of Delinquent Assessments, the Architectural Committee currently includes the requirements of Civil Code Sections 5910, 5925, 5930, and 5935 in an attempt to resolve enforcement matters before filing Civil Litigation with the Court. Per those sections party initiating an enforcement action begin by giving written notice to the other party. The notice must request that the enforcement issue be submitted to "informal dispute resolution" and if necessary to "alternative dispute resolution." The form of alternative dispute resolution may be either arbitration or mediation.

Only if the other party does not agree to informal dispute resolution, and if necessary, alternative dispute resolution, or the enforcement issue is not resolved through informal dispute resolution and/or alternative dispute resolution, may the initiating party file a lawsuit with the Court.

When a homeowner does not pay an assessment, the Architectural Committee may record a lien for the amount of the assessment interest and other fees, against the homeowner's property in Bay Village. Before filing such lien, the Architectural Committee follows the proceeding outlined in Civil Code Sections 5650 through 5685 to give the homeowner notice and opportunity to pay before the homeowner incurs the substantial fees associated with preparing and filing the lien. For more information, go back to the "Documents" page under "Enforcement Procedure for Delinquent Assessments".