

# **Creekside HOA Town Hall Frequently Asked Questions**

for the Consolidated Covenants, Conditions, and Restrictions (CCRs)

June 15, 2022

## **Town Hall - FAQ**

### **Questions**

- 1) Why do we need an HOA?
- 2) Why are we doing this 'Consolidation'?
- 3) What is different from what we had previously?
- 4) What Filing am I in?
- 5) What is the 'Common Property' that is owned by the neighborhood?
- 6) How is this to be enforced?
- 7) Can I remove grass from my front yard?
- 8) What happens if my Filing does not pass the Consolidated Covenants?
- 9) What happened to the architecture, design and landscape requirements?

## Town Hall - FAQ

- Why do we need an HOA?
  - HOAs are intended to maintain property values and promote peace and harmony within a neighborhood. In the distant past, more Americans lived in rural environments where their use (or misuse) of their property had little effect on their neighbors. Increasing urbanization and therefore housing density results in more and more conflicts over property use and appearance. HOAs generally exist to mitigate these conflicts.\*
  - Every year, more and more Coloradoans live in homes that are part of a homeowners' association ("HOA"), also known as a common interest community or community association. New homes are especially likely to be part of an HOA – this was true for 59% of the 620,000 single family homes completed in 2014 in the United States. However, many buyers, sellers, and others involved in home transactions do not truly appreciate what it means to be part of an HOA.\*
  
- Creekside I HOA owns common property within the subdivision and therefore is required to exist, in some form, by state law.

\*Source: Website posting by Jeffrey Cullers; Herms & Herrera, LLC Fort Collins and Norther Colorado (Full posting is shown in Appendix A)

## Town Hall - FAQ

- Why are we doing this 'consolidation'?
  - When the Creekside neighborhood was being built over the years, it was done in six sections, referred to as filings.
  - There were five different covenants associated with the six filings. (Filing 1 and Filing 2 were done at the same time with the same covenants.) The covenants were similar but not the same.
  - This consolidation effort is overdue, but will bring all the filings within Creekside to have the same controlling documents to reduce confusion and bring consistency throughout the neighborhood.
  - Long established differences (especially with Filing 1 and 2) will be accommodated within the consolidated covenants.

## Town Hall - FAQ

### • What is different from what we had before?

- This all depends on the filing in which you live.
- While there are many details, the overview is:

#### Original

- Recitals (Background Info – Sec 2)
  - Primarily focused on the filing information.
- Definitions (Sec 3)
  - 10 items defined
- (Does not exist)
- Homeowners' Association (Sec 5)
  - Brief statement that all the filings will be part of the same HOA and detailing the two classes of membership (and voting rights).

#### Consolidated

- Recitals
  - Greatly expanded to cover the history of the filings and why the consolidated are being proposed.
- Definitions
  - 17 items defined
- Names & Descriptions of Property/Easements (Art 2)
  - Describes the Homeowner's and HOA's authority and responsibilities with regard to the Common Areas and Easements.
- The Association (Art 3)
  - Overviews the Purposes, Powers and Authority of the Homeowners' Association.

## Town Hall - FAQ

### • What is different from what we had before? (cont'd)

#### Original

- Assessments (Sec 7)
  - Explanation of the responsibilities of the Homeowner as to the financial support of the neighborhood via the HOA.
  - Defines the different types of Assessments
    - Annual
    - Special
  - Defines the ramifications for Homeowner's non-payment of assessments.
- (Does not exist)

#### Consolidated

- Assessments (Art 4)
  - Explanation of the responsibilities of the Homeowner as to the financial support of the neighborhood via the HOA.
  - Defines the different types of Assessments
    - Annual
    - Special
    - Supplemental
  - Defines the ramifications for Homeowner's non-payment of assessments.
- Restrictions (Art 5)
  - Largely and new section which does several things:
    - Moves and updates/clarifies a number of items from the previous Design Guidelines into the CCRs.
    - Includes new language regarding occupancy and leasing – i.e. no AirBnB
    - Addresses commercial enterprises – pets, marijuana, signs and other advertising devices.
    - Addresses 'hoarding' when it becomes a danger.
    - Allows rain barrels with restrictions (per city).

## Town Hall - FAQ

### • What is different from what we had before? (cont'd)

Original

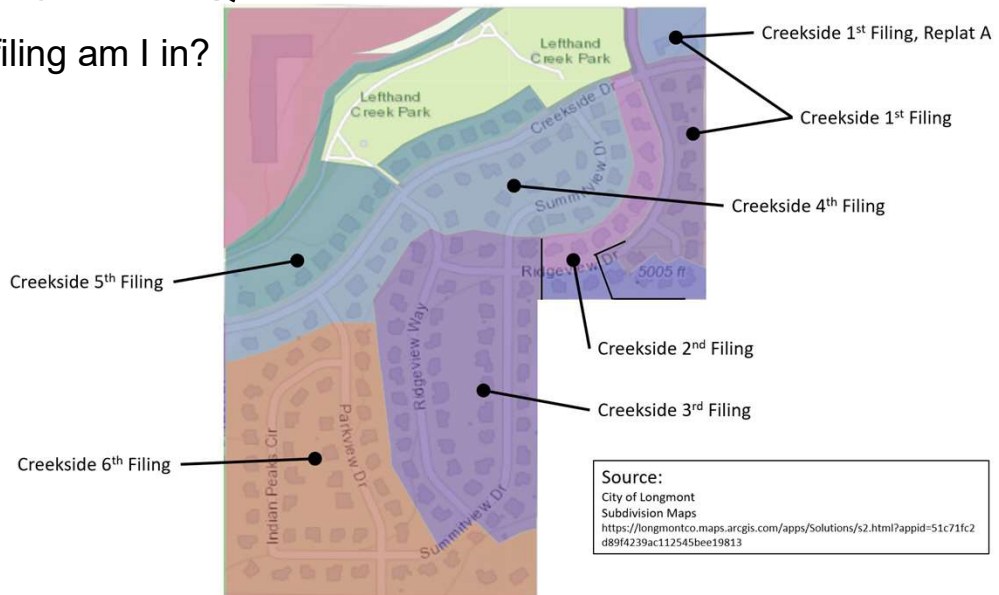
- Architectural Review (Sec 6)
  - Establishes the existence of the Architectural Control Committee
  - References the existence of the Design Guidelines
  - Speaks to the obligations of the HOA and the Homeowner with regard to the commonly owned fence and sign easement property.
- (Does not exist)

Consolidated

- Architectural Review (Art 6)
  - Establishes the Architectural Review Committee
  - Describes the plan submission, approval, rejection, and appeal processes as previously detailed in the original Design Guidelines document.
- Insurance (Art 7) - new
  - Details insurance requirements for both the Homeowner and the HOA.
  - A lot of boilerplate.
  - Requires HOA to promptly repair or replace any commonly owned items.

## Town Hall - FAQ

### • Which filing am I in?



## Town Hall - FAQ

- What is the 'common property' that is owned by the neighborhood?
  - Property around the subdivision signage
    - Pike Road and Ridgeview Drive
    - Sunset Street and Creekside Drive
    - Sunset Street and Plateau Road
  - Perimeter fencing along Sunset Steet and Plateau Road
  - Green area in cul-de-sac on Ridgeview Drive (our very own 'grassy knoll').
  - South side of Pike Road from Ridgeview Drive to the Lefthand Creek bridge.

## Town Hall - FAQ

- How is this to be enforced?
  - The enforcement procedure is detailed in excruciating legalese in the updated policies adopted by the Board in September of 2021.
    - Covenant and Rule Enforcement.
  - Please read the policy for all the details, but basically:
    - 1) A violation is reported to the Board.
    - 2) Board appoints an individual or committee to investigate.
    - 3) If violation is deemed to exist, a courtesy letter is written requesting the Homeowner resolve the violation in 10 days or the Homeowner may request a 'hearing' with the Board within those same 10 days.
    - 4) If no hearing is requested and the violation is resolved – end of issue.
    - 5) If no hearing is requested and the violation is not resolved – a 'fine threat' letter is sent.
    - 6) If still no resolution, a letter notifying the Homeowner of a fine is sent. Subsequent letters and fines to increase if the violation continues without resolution.
    - 7) If a hearing is requested, it is scheduled and the alleged violation will be discussed.
    - 8) Board will then have 10 days to communicate via letter the decision of the Board.
    - 9) If the hearing finds for the Homeowner – end of issue
    - 10) If the hearing finds against the Homeowner, resolution of the violation will be required or the above detailed fine sequence is initiated.

## Town Hall - FAQ

- Can I remove grass from my yard?
  - The previous covenants have been quite restrictive on what can be planted in the yard.
  - One of the notable changes in the consolidated covenants is the recognition that drought and ever-increasing water cost (along with a change in Colorado state law), have made non-turf more appealing.
  - Board discussions with the Architecture Design Committee have resulted with the Creekside HOA is open to the replace of Kentucky Bluegrass with Xeriscape. Since the ADC has waiver authority relative to the Design Guidelines, these requests will be reviewed and can be signed off provided they meet the Xeriscape objective.
  - Please note that Xeriscape is not Zeroscape. More description is provided in Appendix B.

## Town Hall - FAQ

- What happens if my filing doesn't pass the consolidated CCR?
  - Our intention is to work hard enough to get all six Filings to pass this consolidated CCR, making sure everyone in the Filing is fully informed and able to vote.
  - Should a Filing not pass, that Filing would continue to have the original CCR in effect.

## Town Hall - FAQ

- What happened to the architecture, design and landscape requirements?
  - The governing documents for the HOA consist of the following:
    - [Articles of Incorporation](#) – updated in 2021 by a vote of the Homeowners
    - [Bylaws](#) – updated in 2021 by a vote of the Homeowners
    - Covenants, Conditions, and Restrictions (CCRs) – to be voted on in 2022 by Homeowners
    - Plat/Map – included in the CCRs vote of 2022
    - Design Requirements – to be updated and voted on by the HOA Board in 2023.
  - There is one more document to be updated after the consolidated Covenants. It has been called the Design Requirements (DR) document.
  - A number of the process steps from the original DRs (there were five of them, and all slightly different) have been moved into the consolidated CCRs.

## Definitions

### Hell Strip

- The strip of dirt between the sidewalk and the street, notoriously hard to grow plants of any kind in due to several factors: lack of water, heat reflected from paved surfaces, foot traffic, trash, dog crap, and salt from winter snowmelt. Also called a tree lawn, inferno strip, devil strip and verge.
- Most hell strips are public property that must be maintained by the property owner. That means the city can do whatever it wants to your hell strip – put in water and sewer lines or bus benches, pile snow on it, tear it up during street repairs and widening. In some cities you can be fined for not maintaining your hell strip, and in some HOA communities you must plant trees and grass in it and keep it watered.
- The term is most often attributed to garden writer Lauren Springer, who popularized the practice of planting tough, drought-tolerant plants (including cactus) on hell strips. Now there are "planned" hell strip gardens offered by many nurseries.

# Appendix A

## Basics of Colorado Homeowners' Association (HOA) Law

Every year, more and more Coloradans live in homes that are part of a homeowners' association ("HOA"), also known as a common interest community or community association. New homes are especially likely to be part of an HOA – this was true for 59% of the 620,000 single family homes completed in 2014 in the United States. However, many buyers, sellers, and others involved in hometransactions do not truly appreciate what it means to be part of an HOA. Accordingly, this post is intended to answer common, basic questions about Colorado HOAs.

**1) What is the purpose of an HOA?**

HOAs are intended to maintain property values and promote peace and harmony within a neighborhood. In the distant past, more Americans lived in rural environments where their use (or misuse) of their property had little effect on their neighbors. Increasing urbanization and therefore housing density results in more and more conflicts over property use and appearance. HOAs generally exist to mitigate these conflicts. This is why in modern subdivisions; you are unlikely to find houses painted lime green or junk cars in front yards. Many modern HOAs also own and/or maintain amenities for the neighborhood, such as pools and landscaping, and some HOAs are devoted exclusively to such purposes.

**2) What is an HOA?**

The HOA itself is a legal entity that is usually organized as a non-profit corporation and is charged with carrying on the HOA's business. That business generally includes managing finances, enforcing covenants, etc.. The HOA will be run by a board of directors, who are usually homeowners that have volunteered for the job.

**3) What are the covenants?**

The covenants (also known as a "declaration" or "covenants, conditions, and restrictions / CCRs") is a set of obligations and restrictions on all properties within the HOA and is recorded in the real property records.

**4) Can I opt out?**

No. If set up correctly, the HOA and the covenants "run with the land," meaning that they are binding on all owners subsequent to the original neighborhood developer. As an owner, you will be subject to the HOA obligations (such as assessments) and covenants whether you knew about them or not when you purchased the home.

**5) What if I disagree with decisions made by the HOA board members?**

As long as the board members are acting reasonably, in good faith, and within Colorado law and the HOA governing documents, there is not much you can do to oppose their decisions. Often the best solution for problem board members is to vote them out of office at an annual or special meeting.

**6) Do I have to pay dues/assessments?**

As long as the HOA is following its own rules and Colorado law, you have an obligation to make these payments. If you don't, the HOA may impose fines, add interest, hire lawyers (which you likely will have to pay for), and even put a lien on your house.

# Appendix A (cont'd)

## Basics of Colorado Homeowners' Association (HOA) Law (cont'd)

**7) What if my neighbor is violating a covenant?**

If talking to them won't help, you can ask the HOA to enforce the covenants. However, there may be legitimate reasons why the HOA would decide not to enforce a covenant in certain situations. In Colorado, you have the right to enforce the covenant yourself in court if you so choose.

**8) How can the HOA control how I use my own property – isn't that against the law?**

By purchasing the property, you have agreed to abide by the rules, even if they are burdensome. There are many possible defenses to a covenant enforcement lawsuit, but simply disagreeing with the covenant is not one of them.

**9) What are HOA managers?**

Some HOAs hire professional management companies to perform many of the HOA functions. In 2015, Colorado enacted licensing requirements for these managers.

**10) I'm considering buying a home that is in an HOA. What should I do?**

You should get a copy of the covenants, rules, bylaws, and any other such documents and make sure you can live with them. Talk with neighbors or board members to determine whether the HOA is dysfunctional or conflict-ridden. Ask for the HOA's finances to see if it is adequately funded for the foreseeable future, in order to avoid a surprise special assessment down the line.

**11) What is CCIOA?**

CCIOA is an acronym for "Colorado Common Interest Ownership Act" and is pronounced "Kiowa" (like the Native American tribe). The Colorado Legislature enacted CCIOA effective in 1992 to regulate Colorado HOAs, however, not all provisions apply to pre-1992 HOAs. CCIOA is a very long and complicated statute and has been amended over 30 times. A major amendment effective in 2006 imposes many governance requirements on HOAs and gives homeowners additional rights. Note that since many HOAs are organized as non-profit corporations, provisions of Colorado's non-profit statutes also apply to HOAs.

Posted by Jeffrey Cullers ©

Hermes & Herrera, LLC Fort Collins and Northern Colorado



# Appendix B

## Xeriscape

### What Xeriscape is

It's not a specific look or specific group of plants. Rather, it's a diverse combination of low-water plants and materials that create a beautiful and water-wise landscape. A thriving Xeriscape uses seven common-sense gardening principles to save water, time and resources.

### The Seven Principles of Xeriscape

- **Plan** for water conservation and beauty from the start. Create a **design** makes it easy to complete your project in phases.
- Create **Practical Turf** areas of manageable size, shape and grade. In areas that receive a lot of foot traffic, Kentucky Bluegrass is likely the best choice. Just keep those areas to a minimum. Make sure they're relatively flat so that you can irrigated efficiently.
- Use high-quality **Soil Amendments** as you plant. An organic, #1 or #2 Compost is the best choice. The number designation means it has fewer salts that could build up in the soil and harm your plants.
- Select **Low-Water Plants** and group them according to their water needs. This is also known as hydrozoning. Do some research on your plants to determine their water needs, then experiment with watering at home to see what works best for your landscape.
- **Use Mulches**, organic (like wood chip) or inorganic (like river rock) to reduce evaporation and to keep the soil cool. Some plants prefer one or the other, so be sure to do your research.
- **Irrigate efficiently** with properly designed systems and by applying the right amount of water at the right time. If you hand water, be sure to use a nozzle on the end of your hose.
- **Maintain** your Xeriscape properly by mowing, weeding, pruning and fertilizing according to each plant's needs. Most low-water plants, especially ones native to your area, don't need fertilization.

(continued on next page)

# Appendix B (cont'd)

## Xeriscape

### What Xeriscape is Not

- **Xeriscape is NOT anti-lawn.**
  - Even though Xeriscape landscaping can be spectacularly colorful, even lush, limited areas of more highly-watered landscape like grass lawns are often necessary. Kentucky Bluegrass turf is still the best option for an athletic field and other areas that get high foot traffic. Xeriscape means "less lawn landscaping" rather than "lawn-less landscaping."
- **Xeriscape is NOT just rocks and gravel.**
  - That would be called a **Zeroscape**. Plants are a vital part of a beautiful xeriscape. Rock gardens can be truly marvelous, they're still gardens with living plants.
- **Xeriscape is NOT just native plants**
  - Although there is a vast array of wonderful native plants, there are many low-water, non-native plants that are well-adapted to your climate. For example, iris, tulips, and even roses are examples of introduced plants that are well adapted to low-water landscaping in the Rocky Mountain region.
- **Xeriscape is NOT a monoculture.**
  - On the contrary, well-planned Xeriscapes are examples of beauty and diversity that make neighbors envious.

Source: Copied from the WaterWise Colorado website (<https://coloradowaterwise.org/>)