

Marshall Fire Response - Policyholder Guidance

HOMEOWNER ASSOCIATIONS (HOA) AND HOMEOWNERS' INSURANCE

Many of the policyholders affected by the Marshall Fire are community members of a homeowner association (HOA). HOAs are governed by their Covenants, Codes and Restrictions (CCRs) and the property owners, and their insurers, are bound by these CCRs, as well as by applicable statutes covering HOAs, such as the Colorado Common Interest Ownership Act (CCIOA).

HOAs in Colorado are required to obtain and maintain certain insurance. Per the [Colorado Common Interest Ownership Act \(C.R.S. 38-33.3-313\)](#), associations must maintain property insurance coverage on the common elements (e.g., clubhouse, patio, shared roofs) and general liability insurance claims arising in connection with these common elements.

Condominium/Townhomes

The CCRs will determine both the HOA and the unit owner's responsibility for insurance coverage. Therefore repairing or replacing damages to the unit (not personal property) may be directly affected by the pace of the HOA's repair or replacement of the structure. We encourage unit owners to remain actively involved in and aware of the HOA's repair or replacement claim developments.

Most condominium/townhome homeowner policies cover the policyholder's unit from the "walls in." This means anything attached to the drywall (e.g., cabinets and carpet) may be covered under your personal condominium/townhome policy. And, typically anything from the walls out (e.g., shared walls and shared roofs) may be the responsibility of the HOA. Again, you should refer to your HOA CCRs to understand how the responsibility is allocated between the HOA and the homeowner.

If your HOA refuses to file a claim with the property insurer for smoke or other related damages, the unit owner has the right to file the claim. Colorado law (Section 10-4-110.8 (5)(a), C.R.S.) allows the unit owner to file a claim as if he or she were the named insured under the HOA policy. Certain conditions must be met before filing the claim, which include:

- Contacting the HOA executive board in writing regarding the claim
- Allowing the board fifteen days to respond to the request and, if necessary, allowing them to inspect the property; and,
- The claim must be within the HOA's insurance responsibilities.



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Community or shared property that is damaged (e.g., exterior walls, attached roofs, shared carports/covered parking) is insured under the HOA's property policy. However, unit owners may be responsible for their share of the deductible and any losses that are not covered under the policy.

These additional costs will be assessed to the individual unit owners. This assessment may be covered under your "loss assessment coverage" under your homeowner policy.

Loss Assessments and Loss Assessment Coverage

Loss Assessment coverage is an additional coverage under your homeowner policy. The coverage is available to policyholders when they receive the loss assessment notification from the HOA. The policyholder should submit this to their insurer for consideration.

It is very important for consumers to understand how their own policy's loss assessment coverage is triggered. Some policies cover loss assessment if the actual loss event occurs during the policy period even though the actual assessment is made much later. For example, it may take two years to complete repairs. Therefore, the assessment is made two years after the loss event. The insurer would pay the assessment only if they were the insurer on the date of loss.

Other policies cover loss assessment according to the date the policyholder receives the actual loss assessment notice/invoice from the HOA without consideration of the actual date of loss.

Before you make any changes to your homeowner insurance coverage please review your current policy to ensure the loss assessment coverage will remain applicable to your loss and that there is not a subsequent gap in coverage due to the policies handling loss assessment coverage differently.

Individual, Single Family Homes

Single family homes that are a part of a HOA are subject to their Association's CCRs as recorded with the County Clerk and Recorder. The CCRs set forth specific property requirements, which may include, but are not limited to, roofing material, fences and landscape designs, as well as local ordinances, regulations and building codes.

For those who have suffered a total loss of their home, it is important to communicate with your HOA throughout the rebuild process to ensure the architectural design of the home meets their requirements. The HOA should be in contact with the municipality as well as Boulder County regarding items such as debris removal, large-scale rebuilding efforts and other neighborhood, city-wide or county-wide efforts.



Community property that is damaged, such as a clubhouse, park or swimming pool would be insured under the HOA property policy. However, such a policy will have a deductible that may be shared across all homeowners, and so homeowners may be responsible for their share of the deductible and any losses that are not covered under the policy. These additional costs may be insured under your loss assessment coverage, as discussed above, under your homeowner policy.