# Bannockburn Homeowners Association Covenant Amendment Ballot 2019

**Background:**

At the suggestion of the legal counsel of the Bannockburn Homeowners Association (BHOA), the Board recommended to the homeowners that the BHOA engage a law firm specializing in HOA Law to review and suggest changes to our Covenants to bring them into compliance with current Colorado Law.

Accordingly, by ballot request, the Board solicited and received an approval by a voting majority of the homeowners, to engage a law firm to perform these services. The BHOA engaged the law firm of VF Law to review the Bannockburn Covenants and comment as to their consistency, applicability, and compliance with current Colorado Law. Accordingly, VF Law drafted the changes necessary to update the BHOA Covenants to be in such compliance as well as, in some cases, add clarification to existing language.

In addition to this effort, the Board sent out a survey to all homeowners soliciting input into potential changes that homeowners would like to see in the existing Covenants. The Board summarized these results and where there appeared to be substantial interest in modifying our Covenants to add certain items, the Board has included such items in this ballot for your approval or disapproval as well.

**Ballot Organization:**

Per the existing Covenants and Bylaws, any and all changes to the Covenants must be approved by at least 66 and 2/3% vote of our Resident Homeowners in Good Standing. Because of the large number of changes made to the Covenants as a result of the legal review described above, it is impractical to have each homeowner vote on each paragraph or sentence of change. Therefore, the Board has organized the voting into three voting categories as follows:

1. **Voting Category 1:** Individual votes on all items identified in the recent Homeowners Survey that indicated interest by the community to potentially make the subject change. (e.g. the allowance of goats as an approved animal)
2. **Voting Category 2:** Individual votes on certain items that alter the way the BHOA Board can conduct business. (e.g. allowing Internet voting as an alternative, rather than only paper ballot)
3. **Voting Category 3:** One Vote on ALL other changes recommended by VF Law.

**NOTE: Complete the ballot questions on both sides the paper.**

**Voting Category 1.** Items chosen from Homeowners Survey that solicited adequate approval to include in a Ballot for change to the BHOA Covenants.

1. Are you in favor of including Goats to our list of acceptable animals listed in the Covenants, as long as they are limited in number to two (2)?

1. Are you in favor of adding the following language to acceptable Roofing Materials:

No/Disapprove

Yes/Approve

Should the metal roofing restriction be generalized to allow a broader range roofing styles (remove the stricken language below and add new language):

1. ~~A minimum thickness of 26 gauge~~
2. ~~Have minimum ¾” trapezoidal ribs on 9” centers~~

1. Non-glare metal roofing must be Class 4 impact resistant, certified to 115 mph wind gusts, and must have rust inhibitive prime paint or baked enamel finish.

Yes/Approve

No/Disapprove

1. Are you in favor of adding the following language to acceptable **other** Roofing Materials:

Composite roofing materials must be Class 4 impact resistant, Class A fire resistant, certified to 115 mph wind gusts, a solid product with color throughout (no cavity on back), and ¾” standard thickness.

No/Disapprove

Yes/Approve

1. Are you in favor of adding the following language to acceptable Siding Materials:

Multilayered synthetic stucco siding with foam insulation board (typically polystyrene), a coat of the synthetic stucco, fiberglass mesh, and then a top coat.

No/Disapprove

Yes/Approve

1. Are you in favor of adding the following language to acceptable Siding Materials for Outbuildings:

Aluminum, steel, stainless steel, and copper metal lap siding must include shop applied coatings and sealant replacement must be greater than 10 years. Durable finishes shall include fluoropolymer, powder, or anodized coatings.

Roofing and siding panels for greenhouses shall be non-glare with a clear surface and made of polycarbonate, acrylic or fiberglass materials.

Yes/Approve

No/Disapprove

**Voting Category 2.** Language added by Legal Counsel that in the opinion of the Board should require Homeowner approval to include in a Ballot for change to BHOA Covenants. The Board has created Voting Category 2 to ensure that any potentially controversial items added by VF Law are able to be voted on separately by the Homeowners.

1. Shall the BHOA include an option for Internet Voting by Email or other electronic voting means to allow the BHOA to more cost efficiently conduct Voting? If allowed, this option will be utilized strictly at the option of the Board, whether some, or all ballots are issued and collected by electronic means.

No/Disapprove

Yes/Approve

1. Due to an apparent declining interest in Homeowners desiring to become a member of the Board of Directors of the BHOA, and due to the increasing amount of paperwork and other duties required of HOA’s under Colorado Law, are you in favor of increasing the Dues of the Organization up to $150 per year, instead of the current $25 per year, to allow for the hiring of a professional management company to manage the administrative affairs of the BHOA organization (i.e. Financial services/reporting, board meeting minutes, document retention management, newsletter preparation, event planning/organizing, etc.)?

Yes

No

No/Disapprove

Yes/Approve

No/Disapprove

1. Should the Environmental Committee have the authority to allow or disallow other materials for their proposed use in fencing, roofing, and siding, without the need for a Variance, based strictly upon whether the proposed materials meet the overall aesthetic intent of the Bannockburn Protective Covenants? The purpose of this proposal is to limit the number of variances required of homeowners for minor variances to the Covenants. The intent is not to give the Board excessive powers of approval, but rather to give them the ability to grant proposed materials that certainly meet the aesthetic guidelines of our Covenants, but that don’t quite meet the exact language of the Covenants. Currently even minor differences from the Covenant language require Homeowner Variances to be sought.

The language inserted for the Fencing, Roofing, Siding sections shall read as follows:

“The Environmental Committee shall have the authority to allow or disallow other proposed materials for their proposed use, without the need for a Variance, based strictly upon whether the proposed materials meet the aesthetic intent of the Covenant Declaration.”

No/Disapprove

Yes/Approve

**Voting Category 3:** All other changes necessary to bring Bannockburn HOA Covenants in Compliance with Colorado Law, and other changes recommended by VF Law.

The Homeowners voted to spend the HOA funds to engage legal counsel to make these changes to update our Covenants and bring them into compliance with Colorado Law. We have made the investment, but to ratify the changes made, we must obtain approval by 66 2/3% of the Resident Owners in Good Standing. In the event we don’t receive the 66 2/3% approvals to make the required changes, our investment in terms of dollars and in terms of Board time spent, will be in vain, and our Covenants will still not be in compliance with Colorado Law.

Yes/Approve

Summary of Changes in Voting Category 3

* Article II (Definitions) used throughout Covenants – Added and expanded definitions to make the covenants clear and free of interpretation for homeowners, board members, prospective homeowners, building contractors, real estate agents, and anyone else needing to understand them.
* Article III (Bannockburn Homeowners Association Filings 1-6)
  + Added and updated descriptions for Membership and Voting. Note: The term “Association” is used frequently throughout the Covenants. All homeowners are members of the Association. The Association is not the Board of Directors. The Board of Directors role is to perform functions and manage the operations of the Association on behalf of the members.
  + Added Address of the Association
  + Added descriptions of what the General Purposes and Powers of the Association are.
  + Added Indemnifications and Waivers. Due to the litigious climate today, legal counsel strongly recommends this section be added.
  + Added description of Covenants Enforcement.
  + Added section on Right to Notice and Comment. The Board must notify the Owners of governing documents amendments and Owners may provide comment on the amendments.
  + Sections added that are related to Common Expenses and Assessments. Even though our annual dues are currently only $25.00 we still need to comply with Colorado law to define Association expenses and assessments.
* Article IV (Environmental Committee and Procedures)
  + Added section defining when approval needed.
  + Added section to define Enforcement of Environmental Committee procedures.
  + Added section to define actions taken when an Improvement is not in compliance with Covenants.
  + **IMPORTANT**: Expanded indemnifications to the Association (you the homeowners) for Environmental Committee actions. In the current version of the Covenants only the Environmental Committee has legal protection for disputes related to Environmental Committee actions.
* Article V (General Restrictions on all Lots and Tracts)
  + Added section to define the purpose of the Covenants.
  + Added section to define Owners’ Acknowledgement of the Covenants.
  + Added section to define Rights of Owners.
  + Added or expanded definitions throughout Article.
  + Added restrictions for:
    - Nuisances
    - Single Family Use Only
    - Noxious or Offensive activity
    - Annoying Sounds or Orders
    - Hazardous Activities
* Article IX added to define Insurance requirements and Condemnation. The Association does carry Liability and Officers and Directors insurance, however the requirement to carry insurance is not currently documented in any of the BHOA governing documents.

Condemnation is governed by Colorado law CRS 38-33.3-101 *et seq.* (the “Act”).

**Voting Category 3:** One Vote on ALL other changes recommended by VF Law

No/Disapprove

Yes/Approve

Do you agree to allow the changing of all language included in the current draft of the Proposed Covenants, **subject to** the voting on individual issues in Voting Category 1 and Voting Category 2 as addressed herein? This vote is necessary to ratify all other changes and recommendations made by our legal counsel to be in compliance with Colorado Law. **The Board of the BHOA recommends that Homeowners vote YES on Voting Category 3.** If the Association does not receive enough participation in the voting process which causes the proposed Voting Category 3 changes to fail, the HOA may be forced to file an application with the Court and have the Amended Documents approved by a Judge. This will cause additional and unnecessary expense to the Association. Again, we hope that we can count on your participation, and your affirmative vote to approve these important changes to avoid additional cost to the Association.

Yes/Approve

No/Disapprove

================================= **End of Ballot** =====================================

We, the Board of the BHOA, sincerely thank you for the time and effort you have put into the completion of this Ballot, and of your interest in keeping Bannockburn a strong and vibrant community, protecting the intent to keep its rural atmosphere and its aesthetic beauty.

There are currently four positions open in the Board of Directors for the BHOA. Are you interested in joining the BHOA Board and helping us maintain the beauty of Bannockburn?

Uncertain

No

Yes

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Print Name

No

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Signature

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date

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Address

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Lot Number (if known)

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Email Address

The above information must be filled out in total for your vote to be valid and counted.

RETURN ONLY THIS COMPLETED BALLOT IN THE PREPAID POSTAGE, PREADDRESSED ENVELOPE.

RETURN ENVELOPE MUST BE POSTMARKED NO LATER THAN JULY 31, 2019.