

October 16 - Document Committee Update:

The included two documents highlight the changes made to the prior Covenants and the ballot from 2019.

Here is the current status of the Covenants update, the work that has been done by the Governing Documents Committee and the Board of Directors since the July 2019 ballot process, and the next steps.

The goal of the Covenants update is to bring the Bannockburn Homeowners Association (BHA) into compliance with the Colorado Common Interest Ownership Act ("CCIOA") and the Colorado Revised Nonprofit Corporation Act, add definitions and clarify provisions to improve interpretation and governance consistency, and add protections for BHA homeowners, board of directors, and committee members with updated indemnifications and insurance requirements.

- CCIOA was reviewed and the provisions applicable to common interest communities created before July 1, 1992 were noted. [The BHA was incorporated in 1974 and therefore only pre-July 1, 1992 CCIOA provisions are applicable to the BHA.]
- The draft Covenants were then reviewed to determine which updates are applicable to pre-July 1, 1992 communities and which are not.
- Updates applicable to post-July 1, 1992 provisions were discussed and removed if they had no applicability or benefit to the Bannockburn community.
- A second opinion of whether you must be a Member in Good Standing (current on dues) in order to vote on Covenant related matters was obtained from Orten Cavanagh Holmes & Hunt. Their opinion was that an owner of a lot in Bannockburn is a Member and is entitled to vote on Covenant related matters.
- Key changes made throughout the draft covenants:
 - The Recitals were updated to explicitly state that the CCIOA pre-July 1, 1992 provisions are applicable and the post-July 1, 1992 provisions are NOT adopted.
 - Significant parts of CCIOA include provisions related to "Common Elements". These are typically real estate, parks, buildings, roads, parking areas, etc. owned by the community. Bannockburn has none of these and so text related to "Common Elements" was removed or reworded to make it applicable to "Common Property" (e.g. the Bannockburn entry signs and the "sandwich boards" used to advertise community events).
 - Two separate sections were created, one for Membership and Voting and one for Dues, to make it clear that being current on dues is not a requirement to be able to vote on affairs related to the Covenants.
 - Indemnifications and Waivers were updated to make them applicable to Bannockburn functions and activities instead of Common Elements.
 - A "Fees, Fines, Penalties, Late Charges and Interest" provision was added to state the reasons when fees, fines, etc. can be collected and that a written policy, pursuant to homeowner notification and comment, is required to be adopted and followed in order to impose fees, fines, etc.
- Next steps:
 - BHA board to post draft Covenants for a 30-day review and comment period by homeowners.
 - BHA board to invite homeowners to a community meeting (if possible) to ask questions and provide feedback. Date and time TBD. Or provide a summary of comments and inputs.
 - Governing Documents Committee and BHA board to review and disposition homeowner comments.
 - BHA board to obtain legal review of the draft Covenants by Orten Cavanagh Holmes & Hunt.

- Governing Documents Committee and BHA board to review the legal comments and update draft Covenants as appropriate.
- BHA board to mail out updated covenants and ballot items to be voted on.

Governing Documents Committee Update on Covenant Balloting

October 17, 2020 (11:00 AM) – Zoom Conference

➤ Ballot results from last failed Ballot

Results of all votes received (126):

➤ For Category 1 questions:

- Question 1 - 82% Yes; 18% No (Goats)
- Question 2 - 94% Yes; 6% No (Metal Roofing Materials)
- Question 3 - 90% Yes; 10% No (Composite Roofing Materials)
- Question 4 - 92% Yes; 8% No (Siding Materials – residence)
- Question 5 - 92% Yes; 8% No (Siding Materials - outbuildings)

➤ For Category 2 questions,

- Question 1 - 88% Yes; 12% No (Internet voting)
- Question 2 - 46% Yes; 54% No (Outside management)
- Question 3 - 81.6% Yes; No or N/A 18.4% (Board latitude in approving certain materials)

➤ For Category 3 question:

- HOA statutory updates recommended by VF Law:
- 83% Yes; 17% No or blank (1)

➤ Overwhelming support for all Ballot items was received except for the use of an outside management firm, however the Ballot failed due to homeowners not getting ballots returned in time (within 21 day timeframe as required by existing Covenants).

➤ HOA conducted a Homeowners Informational Meeting to address certain Homeowner concerns with the current draft of the ballot in order make the next one better. The major elements of this discussion are as follows:

- Concerns that the current draft included stipulation to adopt all CCIOA provisions instead of only those for pre-

1992 Communities – GDC/Board agreed, changes made. New draft specifically adopts only the pre-1992 CCIOA provisions. Any language required by CCIOA Post 1992 communities was stricken, unless it was determined to be in the best interest of the community.

- Concerns were raised that the Board was given some discretion to allow certain things that are not in the Covenants, without the Variance Process, for things considered non-material to the overall well-being of the neighborhood (non-materials related). Certain Homeowners objected to any variance from the language of the Covenants themselves, so that language was stricken in the new draft.
 - Specify difference between Common and Special Assessments – GDC/Board agreed, changes made.
 - Allow Board to increase charges for Variance requests as long as increases are justifiable – GDC/Board agreed, changes made.
 - Modify language for exterior paint choices. – GDC/Board agreed, changes made.
 - Strike Landscaping, Drainage, Vegetation, language from requiring HOA approval – GDC/Board agreed, changes made.
 - Modify language for Vehicle storage – GDC/Board agreed, changes made.
- Each Homeowner will receive a copy of the Covenants with “changes marked” (Red strikeout for deletions, and blue text for additions) to quickly highlight all changes made from the last Ballot draft to the current one. Each homeowner will also receive a clean copy for review without changes marked for those who wish to review in that manner.
- As was the case during the last Ballot process, we will again publish the proposed Covenants (both marked up and clean) on

the website for a period of at least 30 days to provide for Resident input. Residents are encouraged to respond during this commenting period with their concerns so that we may address them before balloting begins.

- After website comments are received, and changes deemed by the GDC and the Board to be appropriate made, the draft will be sent for final Attorney review.
- After Attorney comments are received and any required changes are made, the final Ballot will be presented to the Homeowners for Ballot vote.
- Note: Ballots not returned at all, or those returned after the 21day voting deadline, will result in an automatic "No" vote (in all categories). Homeowners are encouraged to return all Ballots (within the 21 day timeframe) with either "Yes" or "No" to all categories, so that even in the event this Ballot initiative fails, it will give the Board and the Governing Documents Committee valuable information as to which parts in particular are objectionable to our residents. Our goal is to receive a properly executed Ballot from ALL of our Homeowners BEFORE the 21day deadline.