

Bannockburn Homeowners Association Covenant Amendment Ballot 2021

Background:

At the suggestion of Bannockburn Homeowners Association (BHOA)'s legal counsel, the Board previously recommended to all homeowners that the BHOA engage a law firm specializing in HOA law to review and suggest changes to our Covenants in order to address extensive changes and revisions in Colorado law. Accordingly, by ballot request, the Board solicited and received approval by a voting majority of the Resident Owners, to engage a law firm to perform these services. In addition to changes related to Colorado law, the proposed Covenant changes also resolve ambiguities in the current governing documents and reflect the vision for the future of the community. The proposed Amended and Restated Declaration, which includes the Bannockburn Protective Covenants, is included on this ballot for your approval or disapproval.

In addition to this effort, the Board also sent out a survey to all homeowners soliciting input on approved Variances and Covenant-related topics raised on Nextdoor and to the BHOA Board, in order to gauge interest on additional amendments to the Covenants. The Board summarized the survey results and where there was substantial interest in amending the Covenants to add certain items, the Board has included such items on this ballot for your approval or disapproval as well.

The Bannockburn Governing Documents Committee, along with inputs from the survey, from individual Bannockburn homeowners, and from the BHOA Board of Directors, has drafted the proposed Covenants that are the subject of this ballot. The proposed Amended and Restated Declaration (Covenants) has been posted on the BHOA website (<https://bannockburnhoa.com>) for additional homeowner review and the comments received have been incorporated as appropriate.

The BHOA engaged the law firm of Orten Cavanagh Holmes & Hunt, LLC to review the proposed Amended and Restated Declaration and comment as to its consistency, applicability, and compliance with current Colorado law. Their recommended changes have been incorporated into the proposed Amended and Restated Declaration as appropriate.

General Information:

1. Pursuant to Article II, Section 3 of BHOA's Bylaws, the presence 30% of the members in good standing constitutes a quorum. Thus, the BHOA must receive ballots from at least 30% of the members in good standing in order to meet the quorum requirements.
2. Pursuant to Article X, Section 4 of the existing Protective Covenants, the proposed amendments will be adopted if at least 66 & 2/3% of the Resident Owners approve such action.
3. The Association may hold a vote by mail (written) ballot pursuant to C.R.S. § 7-127-109.
4. Members are entitled to vote for or against each ballot item.
5. **THIS BALLOT MUST BE RECEIVED NO LATER THAN MONDAY, OCTOBER. 11, 2021 TO BE COUNTED.**
6. This ballot may not be revoked.

Ballot Organization:

Per the existing Covenants, amendments to the Covenants must be approved by at least 66 & 2/3% of the Resident Owners in Bannockburn. Because of the large number of changes made to the Covenants as a result of the processes described above, it is impractical to have each homeowner vote on each paragraph or sentence of change. Therefore, the Board has organized the ballot into three voting categories as follows:

- 1) **Voting Category 1:** Individual votes on all items that received substantial interest in the Homeowners Survey (e.g. adding Goats as allowed animals). Approved items will be added to the current Covenants if Voting Category 3 is not approved. They will be added to the proposed Covenants if Voting Category 3 is approved.
- 2) **Voting Category 2:** Individual votes on items that alter the way the BHOA Board can conduct business (e.g. allowing internet voting as an alternative to paper ballots). Approved items will be added to the current Covenants if Voting Category 3 is not approved. They will be added to the proposed Covenants if Voting Category 3 is approved.
- 3) **Voting Category 3:** One vote on the proposed Amended and Restated Declaration to address extensive changes and revisions in Colorado law, resolve ambiguities in the current governing documents and reflect the vision for the future of the community. A Yes/Approve vote for the proposed Amended and Restated Declaration, which includes the Bannockburn Protective Covenants, is recommended by the Governing Documents Committee and the Board of Directors.

Voting Category 1: Items from the Homeowners Survey that received substantial interest to include on the ballot to amend the BHOA Covenants. Vote Yes/Approve or No/Disapprove for each item in this category. A blank vote for an item is the same as a No/Disapprove vote.

1. Are you in favor of including Goats (limited to the maximum number of two (2)) to the list of allowed animals in Article V (Animals)?

Yes/Approve

No/Disapprove

2. Are you in favor of adding the following proposed language to acceptable Roofing materials in Article VI (Roofing)?

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

~~1. A minimum thickness of 26 gauge~~

~~2. Have minimum 3/4" trapezoidal ribs on 9" centers~~

1. Non-glare metal roofing must be Class 4 impact resistant and certified to 115 mph wind gusts.

Yes/Approve

No/Disapprove

3. Are you in favor of adding the following proposed language as an acceptable **other Roofing material** in Article VI (Roofing)?

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 a minimum 30-year warranty.

Yes/Approve

No/Disapprove

4. Are you in favor of adding the following proposed language to acceptable Exterior Finish Siding materials in Article VI (Exterior Finish Siding)?

Multilayered synthetic stucco siding.

Yes/Approve

No/Disapprove

5. Are you in favor of adding the following proposed language to acceptable Exterior Finish Siding materials for out buildings in Article VI (Exterior Finish Siding)?

Aluminum, steel, stainless steel, and copper metal lap siding must include shop applied coatings and sealant replacement, and a minimum 25-year manufacturer's warranty.

Roofing and siding panels for greenhouses shall be rigid, non-glare materials.

Yes/Approve

No/Disapprove

Voting Category 2: Individual votes on certain items that either alter the way the BHOA Board can conduct business or the way the Board interprets the Covenant language. Vote Yes/Approve or No/Disapprove for each item in this category. A blank vote for an item is the same as a No/Disapprove vote.

1. Shall the BHOA provide an option for internet voting by email or other electronic voting means to allow the BHOA to more efficiently and cost effectively conduct voting? If approved, this option will be utilized strictly at the discretion of the Board, whether some or all ballots are issued and collected by electronic means. Homeowners that do not have email addresses will have the option to receive paper ballots by US Mail.

The language inserted in the General Provisions Article, Manner of Voting section shall read as follows:

“As an alternative to conducting voting through the United States Postal Service, the Board of Directors shall have the discretion to deliver and collect some or all ballots by internet means. The internet voting system shall support voter authentication, encrypted connection between voter’s electronic device and voting site, and secure data storage. Once a ballot is submitted it may not be revoked.”

Yes/Approve

No/Disapprove

2. Should the Environmental Committee have discretionary authority to allow or disallow other materials for their proposed use in fencing, roofing, exterior finish siding or other construction deviations, without the need for a Variance, based strictly upon whether the proposed materials meet the overall aesthetic intent and quality criteria of current fencing and construction materials documented in 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 and to permit greater flexibility to adapt to new industry products, standards, and materials. The intent is not to grant the Environmental Committee blanket powers of approval, but rather to give them the ability to grant approval for proposed materials that meet the aesthetic and quality guidelines/criteria of the Covenants, but that don’t quite meet the exact language of the Covenants. Currently even minor differences from the Covenant language require Variances to be requested.

The language inserted in the Fencing, Article V (4), and the Roofing, Exterior Finish Siding sections, Article VI (13), 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 and quality criteria of this Declaration.”

Yes/Approve

No/Disapprove

3. Shall the method of Voting for the BHOA be changed from allowing all Resident Owners of Bannockburn property being allowed to vote, to allowing “Members in Good Standing” (Bannockburn HOA Members who are current in payment of their HOA Dues) to be allowed to vote?

Yes/Approve

No/Disapprove

Voting Category 3: Do you approve the Amended and Restated Declaration (proposed Covenants)? Approval of this category will ratify the Amended and Restated Declaration with the only potential changes being the items within Voting Category 1 and Voting Category 2 that are approved by 66 & 2/3% of Resident Owners as stated

above. Vote Yes/Approve or No/Disapprove for this category. A blank vote for this category is the same as a No/Disapprove vote.

The complete Amended and Restated Declaration was mailed to you earlier this month and may be downloaded from the Bannockburn HOA website at: <https://bannockburnhoa.com/wp-content/uploads/2021/08/PDF-Final-Proposed-Bannockburn-Covenants-3-ChangesAccepted.pdf>

The following outline summarizes the key changes to the proposed Amended and Restated Declaration from the Bannockburn Protective Covenants dated September 18, 2012.

RECITALS (New section)

- Added statement that the Original Declaration created a “Pre July 1, 1992” common interest community subject to certain portions of the Colorado Common Interest Ownership Act (“CCIOA”) listed in C.R.S. § 38-33.3-117 and that other “Post July 1, 1992” provisions of CCIOA are not adopted by this Declaration.

ARTICLE I – PURPOSE OF THE COVENANTS

- No changes.

ARTICLE II – DEFINITIONS

Added new definitions and revised existing definitions to clarify meanings of terms used throughout the Declaration.

ARTICLE III – BANNOCKBURN HOMEOWNERS ASSOCIATION FILINGS 1 – 6

- Clarified Membership and Voting. Per Colorado law all Owners are permitted to vote regardless of residency.
- Added new sections on Enforcement, Right to Notice and Comment, Obligation to Pay Common Expense Assessments, Purpose of Assessments, Apportionment of Common Expenses, Annual Assessments, Special Assessments, Special Lot Assessments, Lien Priority, Reserves/Surplus, Effect of Non-Payment of Assessments, No Waiver of Abandonment, Recording of the Original Declaration was Notice, and finally, Fees, Fines, Penalties, Late Charges and Interest.
Note: The new sections address extensive changes and revisions to Colorado law and add transparency on why, how and when assessments are made.

ARTICLE IV – ENVIRONMENTAL COMMITTEE AND PROCEDURES

- Moved Approvals section from ARTICLE VI to ARTICLE IV. Article IV is a more appropriate location.
- Added new sections on Enforcement and Notice of Noncompliance.
- Changed “Resident Owner” to “Owner” in the Variances section. Per Colorado law all Owners are permitted to vote regardless of residency.
- Added statement to the Variance section noting that cost of the Variance mailing is to be paid by Variance requestor.
- Added clarifying text to the Bannockburn Homeowners Association and its Agents not Liable section. Expanded the list of those not liable for Environmental Committee approvals and disapprovals to the

Association, which includes all Association members, individual Board members, officers and committee members.

- Removed Written Records section. Records retention requirements are documented in the Records Retention Policy document as required by Colorado law.

ARTICLE V – GENERAL RESTRICTIONS ON ALL LOTS AND TRACTS

- Added sections on Plan of Development; Applicability; Effect, Owners' Acknowledgement, Rights of Owners.
- Animals: Revised section to improve readability only.
- Refuse and Rubbish: Expanded description of what is considered Refuse and Rubbish.
- Fencing: Revised section to improve readability only.
- Businesses: Updated text to match Douglas County Zoning Resolution.
- Added sections for Nuisances, No Noxious or Offensive Activity, No Annoying Sounds or Odors.
- Moved and expanded Single Family Use Only section from Article VI to Article V.
- Added No Hazardous Activities section and moved restrictions on discharging firearms and open fires from Article VI to this section.

ARTICLE VI – RESTRICTIONS ON RESIDENTIAL TRACTS

- Moved section on Approvals to ARTICLE IV.
- Building Location: Expanded location considerations for building and other Improvement locations.
- Tract Landscape Development: Added grass/wildflower mix as a reseeding option.
- Exterior Lighting: Added text to encourage Dark Sky Friendly lighting fixtures to minimize light pollution.
- Roofing: Revised section to improve readability only.
- Exterior finish siding: Revised section to improve readability only.
- Land Uses: Open fire and discharging of firearms restrictions moved to Article V.
- Single Family Dwelling: Section moved to Article V.
- Commercial Vehicle: Added definition of Commercial Vehicles. Added allowance of Commercial Vehicles that are parked within a fully enclosed structure.
- Moved Private Roads, Lanes or Driveways restriction from Article VIII to Article VI.

ARTICLE VII – RESTRICTIONS ON COMMON OPEN AREAS AND COMMUNITY TRACTS (Sep 18, 2012 version)

- This Article was removed because the Bannockburn Homeowners Association does not own any common open areas nor community tracts.

ARTICLE VIII – EASEMENTS (Sep 18, 2012 version)

- Removed Irrigation and Drainage Easements and Rights of Way. Blank restriction.
- Removed Easements on Common Area for Private Roads or Lanes. Bannockburn Homeowners Association does not own any common areas. Requirement for Environmental Committee permission to construct or use private roads or lanes moved to Article VI.

ARTICLE VIII – INSURANCE

- Added new Article to document required insurance policies and liability coverage amounts.

Note: Bannockburn Homeowners Association does carry liability insurance but requirements are currently not documented in any of the Governing Documents.

ARTICLE IX – ENFORCEMENT (Sep 18, 2012 version)

- Moved enforcement-related actions to Articles III and IV.

ARTICLE IX – GENERAL PROVISIONS (ARTICLE X in Sep 18, 2012 version)

- Changed “Resident Owner” to “Owner” in the Amendment and Manner of Voting sections. Per Colorado law all Owners are permitted to vote regardless of residency.

Yes/Approve

No/Disapprove

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

Printed name, signature and date must be filled out in order for your ballot to be valid and counted.

Print Name: _____

Signature: _____

Date: _____

Address: _____

Lot Number (if known): _____

Email Address: _____

USE ONE OF THE OPTIONS BELOW TO RETURN YOUR COMPLETED BALLOT:

- RETURN YOUR COMPLETED BALLOT IN THE PREPAID POSTAGE, PREAMDRESSED ENVELOPE; or
- SCAN AND EMAIL YOUR COMPLETED BALLOT TO THE BHOA SECRETARY AT mrozeboom@bannockburnhoa.org; or
- PHYSICALLY DELIVER YOUR COMPLETED BALLOT TO THE BHOA SECRETARY AT 10148 Tanglewood Road.

THIS BALLOT MUST BE RECEIVED BY THE BHOA SECRETARY NO LATER THAN MONDAY OCTOBER 11, 2021 TO BE COUNTED.