

2020 CC&R Amendment Initiative
Frequently Asked Questions

1. What is the Initiative and what does it do?

1A. The initiative is a proposal to change the process for amending our CC&R's: From the written consent of 75% of eligible homeowners. To at least 60% of those voting by ballot (with a required minimum of 40% of eligible homeowner voters casting ballots).

2. What does it NOT do?

2A. It does not give the Board of Directors any additional authority.

3. What are the CC&R's?

3A. The CC&R's are the Covenants, Conditions and Restrictions relating to the homeowner's association. They are the "Master Document" and constitute a contract between the Association and each individual homeowner within Westbrook Village. The Association Bylaws, Architectural and Environmental Standards, Board resolutions, Rules etc. are under the umbrella of the CC&Rs.

4. When were the Westbrook Village CC&R's created?

4A. The developer of Westbrook Village (Westbrook Village Venture) began development in the early 1980s. The CC&R's were first recorded on October 1, 1982, over 37 years ago.

5. How many changes have been made to the CC&R's since they were created?

5A. The developer made changes to the CC&R's prior to turning over the authority from Westbrook Village Venture to the Westbrook Village Homeowners Association. In 2001, the CC&R's were amended to include the preservation fee clause.

6. Why change now; Are the CC&R's old and outdated?

6A. The CC&R's are out of date. In addition to being old and outdated, the CC&R's were poorly drafted and do not comply with current law. There are numerous ambiguities, inconsistencies, and "loopholes" that need to be addressed. They also restrict the ability to increase revenue, if needed, to prevent relying on special assessments for long-range implementation.

7. What future changes are anticipated?

7A. The Board of Directors can only propose changes. Then all proposals must be voted on by homeowners. Possible considerations are:

☐ Removing "loopholes" in the current Preservation Fee clause to ensure investors and or "flippers" pay the preservation fee on every purchase.

☐ Consider a modest change in the cap on annual assessment increases if needed, to prevent relying on special assessments for long-range implementation.

•Bring documents in line with current law.

☐ Remove redundant language and ambiguities, for example, references to the original developer.

8. What would be an example of the items that may have changed over time or outlived their useful life to date?

8A. Laws are repealed or amended, and new laws are adopted;
Home buyers seek enhanced amenities;

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Community demographics shift;
Association governance structures evolve;
Financial practices are modified;
Management and compliance mechanisms change, and;
Technology advances

9. How do homeowner's associations keep their documents up to date over time?

9A. They amend the governing documents, as we are suggesting in this initiative.

10. Why doesn't Westbrook Village just propose amendments to the CC&Rs as necessary and keep them up to date?

10A. Amending the CC&Rs, requires the written consent of 75% of all of the homeowners in Westbrook. This is too high a hurdle. There is no way that an Association can effectively operate, improve facilities or move forward in this case.

11. Why is 75% required to approve amendments to the CC&R's in Westbrook Village?

11A. It is required by our governing documents (the CC&R's).

12. What is being proposed in the "amendment initiative"?

12A. The proposed amendment initiative for Westbrook Village homeowners involves "amending the amendment clause" in the CC&R's. Assuming that this initiative passes, any future proposed CC&R amendments would be subject to the new amendment clause requirement. This proposal gives the Board of Directors no additional powers.

13. If the proposed "amendment to the amendment clause" passes, will homeowners still have a vote on future proposed amendments moving forward?

13A. Yes. Every single homeowner in Westbrook Village will always have the opportunity to vote on every proposed CC&R amendment in the future. Any proposed amendment will be discussed at an open Board of Directors meeting(s), town hall meetings and committee meetings before going out to the homeowners for a vote. Moreover, the vote itself on a future amendment, would take place by ballot at a formal homeowners meeting. Remember, this amendment proposal, gives the Board of Directors no additional powers.

14. What happens if the initiative passes?

14A. Future proposed changes will be voted on under the new rules.

15. How will we be able to vote on future proposed amendments?

15A. Homeowners will have the opportunity to attend and vote in person and homeowners who cannot attend or do not wish to attend, may vote via absentee ballot. We are also considering the option to vote electronically and are currently reviewing all methods of a secure and safe way to do so.

In addition, we always encourage all homeowners to attend board of director's meetings, town hall meetings, committee meetings and club meetings in order to learn of future proposed amendments.

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16. What are the benefits of amending our CC&Rs?

16A. There are several benefits:

First, having a workable amendment clause allows the Association to update its CC&R's to comply with the law. This helps avoid the confusion that occurs when CC&R's contain provisions that conflict with the law

Second, having updated CC&R's increases the Association's financial security allowing for modification of fees in order to conduct the Association's business in a financially responsible manner. All proposed amendments will be put to a vote to the homeowners.

Third, no matter how diligent we are, there will be errors, inconsistencies, conflict and ambiguities in the CC&R's. Having the ability to amend the CC&R's to address these types of issues not only provides clarity, but can go a long way in preventing potential disputes.

Fourth, the future is unpredictable. There will likely be situations that arise that we cannot contemplate at this time. Having a workable CC&R amendment clause, will allow the Association to adapt to changing circumstances.

17. Will this new proposed amendment give the Board of Director's additional powers?

17A. The proposed "amendment to the amendment clause" gives the Board of Directors no additional powers.

18. So... tell me again what we are striving to do with the current CC&R amendment clause?

18A. We are seeking to "amend the amendment clause". The current original amendment clause in the 1982 CC&Rs requires the approval of a supermajority of 75% of all homeowners in Westbrook Village.

Under the proposed "amendment clause" any proposed change would need a "yes" vote from at least 60% of those voting, instead of a supermajority of 75% of all homeowners, as currently exists.

In addition, we need to ensure that a reasonable representation is achieved. We are therefore proposing at least 40% of homes must vote for any ballot to be valid. There is no upper limit on how many can vote. The more who do vote, the better, regardless of the result. If you vote, you have a voice, if you do not vote, you do not have a voice.

19. What is a typical quorum currently in a homeowner's association?

19A. The quorum requirement currently in a typical homeowner's association is 10%-15% of eligible homeowners. Having a higher quorum requirement helps protect the homeowners of Westbrook Village from an amendment that is only favored by a small portion of the community.

20. Is 40% too high a number to obtain?

20A. Predictably, there are some who feel this is too high a hurdle, and some who feel it is too low. The important thing to remember is that if this new amendment clause change becomes effective, all homeowners will have the opportunity to vote on any future proposal, and only those who vote, will impact the result. Again, this new proposal gives no extra authority to the Board of Directors.

21. What is the minimum number of homeowners required to approve the proposed amendment?

21A. There are 3910 homes (including casitas and condos) in Westbrook Village. The current CC&R's

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require that 75% of all homeowners (supermajority vote of 2933 homeowners) must vote for the proposed “amendment to the amendment” clause. The votes will be collected via a written consent form to be signed by current homeowners (one vote per home). When using written consent forms, there is a record date for determining who is entitled to vote. The record date is the date when the first written consent form is signed. The consent forms will be mailed to all homeowners and made available at each recreation center, the administration office, Board of Director’s meetings, committee meetings and club meetings.

22. What is a written consent and why are we using it?

22A. Written consent is a signed acceptance by the homeowner of the proposed change. We are using the written consent in this initiative because it is required by our CC&R’s.

23. When can I sign the written consent?

23A. Our plan is that the formal paperwork for approval will be mailed to all homeowners in January, 2020. It then can be signed and returned to the association.

24. Will there be anyone available to explain or present the proposed amendment to individual sub-division meetings, neighborhood meetings and club meetings?

24A. Yes. Please contact the General Manager, Karen Jones at karenj@westbrookvillage.org or Jerry Johnson at JerryJohnsonWVA@gmail.com for your request.