

# Proposed *Revised* CC&R Amendment Initiative

## Frequently Asked Questions

- Question: What is an Amendment Initiative and what does it do?
- Answer: The initiative is a proposal to change the process for amending our CC&Rs from the **written consent** of 75% of eligible homeowners to a practical lower vote number requirement that is more likely to be acquired.
- Question: What are the CC&Rs?
- Answer: 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 in Westbrook Village. The Association Bylaws, Architectural and Environmental Standards, Board resolutions, Rules etc. are under the umbrella of the CC&Rs.
- Question: When were the Westbrook Village CC&Rs created?
- Answer: The developer of Westbrook Village (Westbrook Village Venture) began development in the early 1980s. The CC&Rs were first recorded on October 1, 1982, over 37 years ago.
- Question: How many changes have been made to the CC&Rs since they were created?
- Answer: The developer made changes to the CC&Rs 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.
- Question: Why change now? Are the CC&Rs old and outdated?
- Answer: The CC&R's were poorly drafted by the original developer's attorneys and do not comply with current state law in several circumstances. There are also numerous ambiguities, inconsistencies, and "loopholes" that need to be addressed.
- Question: What future changes might be proposed if the Amendment Initiative passes?
- Answer: The Board of Directors can only propose changes, and then all proposals must be voted on by homeowners. Possible considerations are:
- Removing "loopholes" in the current Preservation Fee clause to require 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.

Question: What parts of our documentation may need to be changed or have outlived their useful life to date?

Answer: LEGAL:  
CC&Rs language that is contrary to laws that have been repealed or amended  
Revisions necessary because of new legislation

MANAGEMENT:  
Association governance structures evolve  
Financial practices are modified  
Management and compliance mechanisms change  
Technology advances

FACILITATING COMMON AREA IMPROVEMENTS:  
Homeowners seek enhanced amenities due to demographic and activity interests shifts and our current documentation limits our ability to do that.

Question: What does it NOT do:

Answer: **It would not give the Board of Directors any additional authority or power.**

Question: How do homeowner's associations keep their documents up to date over time?

Answer: They amend the governing documents, as we are suggesting with an amendment initiative.

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

Answer: Amending the CC&Rs requires the written consent of 75% of all of the homeowners in Westbrook. This is too high of a hurdle and lowering that required number of votes will enable the association to operate in a more contemporary and effective manner.

Question: Why is 75% required to approve amendments to the CC&Rs in Westbrook Village?

Answer: It is required by our governing documents, the CC&Rs.

Question: What is being proposed in the "amendment initiative"?

Answer: The proposed amendment initiative for Westbrook Village homeowners involves "amending the amendment clause" in the CC&Rs. 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.**

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

Answer: Yes. Every single homeowner in Westbrook Village will always have the opportunity to vote on all proposed CC&Rs amendments 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. Keep in mind, this amendment proposal gives the Board of Directors no additional powers.

Question: What happens if the initiative passes?

Answer: Future proposed changes will be voted on under the new rules.

Question: How will we be able to vote on future proposed amendments?

Answer: As usual, homeowners will have the opportunity to attend the annual meeting and vote in person. Homeowners who cannot attend or do not wish to attend, may vote via absentee ballot (mail-in 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.

To remain informed, all homeowners are encouraged to attend board of director's meetings, town hall meetings, committee meetings and club meetings in order to learn of future proposed amendments.

Question: What are the benefits of amending our CC&Rs?

Answer: There are several benefits:

- A practical amendment clause that allows the Association to update its CC&Rs to comply with the law. This helps avoid the confusion that occurs when CC&Rs contain provisions that conflict with the law
- Updated CC&Rs 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, including fee increase calculations, are required to be approved by vote of the homeowners..**
- The future is unpredictable. There will likely be situations that arise that we cannot contemplate at this time. Having a practical CC&R amendment clause, will allow the Association to adapt to changing circumstances.

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

Answer: 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. **The Board of Directors is currently seeking homeowner input to determine the viability of a revised Amendment Initiative.**

Question: What is the minimum number of homeowners required to approve the proposed amendment?

Answer: There are 3910 homes (including casitas and condos) in Westbrook Village. The current CC&Rs 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 and the written consent must be signed by the homeowner of record on that given date. 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.

Question: What is a written consent and why are we using it?

Answer: Written consent is a signed acceptance by the homeowner of the proposed change. **We are using the written consent to vote on our documents because it is required by our CC&Rs.**

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

Answer: Yes. Please contact the General Manager, Karen Jones at [KarenJ@WestbrookVillage.org](mailto:KarenJ@WestbrookVillage.org) or call her at 623-561-0099 to make arrangements.