



Homestead Farm II

HOA Governing Documents Update
Community Questions & Answers

PREPARED BY

Your HFII HOA Volunteer Board

Purpose

The purpose of this document is to address community feedback regarding the proposed updates to the Homestead Farm II HOA governing documents. The updated documents include our Articles of Incorporation, Declaration of Covenants, and Bylaws.

The document is organized based on the governing document name and section number from which the feedback was generated. If not possible, we've tried to group by theme.

Please recall the documents are still in draft form, however, the intent is to address substantive issues through the revision process. We have not included every question or comment raised but have tried to address the most common questions. If you still feel there are important issues to discuss beyond those listed here, please email hoa-board@hfii.org.

Declaration of Covenants, Section 2.6- Easements for the Association

Question: Doesn't this section allow the Board to come onto my property whenever it wants and is too broad?

Response: This provision provides permission for the Association to come onto your property if necessary to fulfill its obligations under the Declarations. For example, if the perimeter fence falls down into your yard. The Association is allowed to come onto your property to fix it. This Section does not authorize the Association to enter your private residence at any time.

Declaration of Covenants, Section 4.3- Annual Assessment

Feedback:

Section 4.3 suggests we eliminate CPI as a cap to annual assessments and relies on homeowners to allow the Board to set a budget and approve whatever is deemed necessary. This offers way too much variation year to year and exposes those among us who may be of lesser financial means to face significant unplanned expenses at the whim of the Board. Some sort of pre-agreed cap needs to be in place on a per annum basis. If there is a big shortfall (current or projected), then let's address it through the assessment process.

There should be a requirement for 67 percent of homeowners to approve an annual or special assessment.

Response: The original documents had a cap on the annual assessments to CPI. This cap has allowed our annual HOA dues to be hundreds of dollars below those of comparative neighborhoods. However, the CPI cap on annual assessments has resulted in restricted ability to sufficiently maintain the financial integrity of the neighborhood and protect and plan for future large maintenance expenses. HFII has an aging infrastructure with increasing annual maintenance costs. The Board is evaluating alternative caps to propose in the final documents.

Declaration of Covenants, Section 4.4- Special Assessments

Feedback:

Section 4.4 removes a special quorum to allow assessments. The special quorum is there for a reason... If there is an issue requiring serious attention, the Board needs to advise the community and history has demonstrated they will attend. We now have access to paper mail, door knocking, email, "NextDoor", the HOA website, phone numbers, and various social media that can be used to let us know of a pressing issue. It's a pain to have to get people involved, but it's part of the job. And if we as homeowners don't engage... We get what we deserve.

There should be a requirement for 67 percent of homeowners to approve an annual or special assessment.

Response: The special assessment in our neighborhood process presently requires 75% of the neighborhood to approve . CCIOA now states a majority of homeowners are required to veto a special assessment (in our case 201). The Board continues to evaluate revised language for this provision.

Declaration of Covenants, Section 4.5- Supplemental Assessments

Question: Can you clarify this section and why an individual Owner would have an additional Assessment.

Response: This provision allows for an individual Owner to be charged back for expenses that are directly attributable to the Owner and where he/she receives the benefit. For example, if the Association were to repair a portion of the fence that only backs up to one lot, it would not be fair for all owners in the community to pay such expense and this section would allow the benefitted owner to be solely responsible for the repairs.

Declaration of Covenants, Section 4.9- Borrowing

Question: Why allow the Association to take out a loan? We have never needed one in the past.

Response: Colorado law allows an Association to take out a loan which is a valid funding option for an Association along with annual assessments and special assessments. Under the current documents, the Board could take out a loan without the knowledge or approval of the Owners. The purpose of this section is to require notice and a vote of the Owners.

Declaration of Covenants, Section 5.8- Restrictions on Pets

Question: This provision say that no more than two pets may be kept on a Lot. What if we have fish and two hamsters?

Response: This provision is also contained in the current documents. The Board has no legal authority (or desire) to enter an Owner's home and look for more than two pets. The purpose of this provision is to prevent situations where the existence of the pets is creating a nuisance to other Owners. Enforcement of the provision is up to the Board (reasonable judgment).

Declaration of Covenants, Section 6.6 - Reply and Communication

Feedback: The current language says that if the committee fails to take action within 30 days, the request is deemed approved. Having no response deemed a denial doesn't seem right.

Response: The change puts the responsibility on the Owner to follow up on an architectural review request. Design review is doing a great job addressing requests. However, we do not want a wholly undesirable request to be approved because it gets inadvertently overlooked for 30 days.

Declaration of Covenants, Section 6.8 - Commencement and Completion of Construction

Feedback: The timeline for completion of construction should be flexible. The Owner must exhibit active progress but the one year deadline for completion shouldn't be set in stone.

Response: The proposed language allows the Committee to provide a written extension to the one year deadline which will provide flexibility for the construction project that is underway but had unforeseen delays.

Declaration of Covenants, Section 9.5- Amendment by Declaration by Owners

Feedback:

Section 9.5 proposes to reduce future amendments from a 75% super-majority vote to a simple 51%. Amendments represent a serious change to our covenants. That is why a super-majority is the threshold. While 75% is no longer supported by state law, a super-majority still makes sense. Questions here are:

Other than the issue with the perimeter fence, when was the last time we needed to look at an amendment?

Why do we need to reduce the threshold now?

Is there an issue the size of the fence that we need to get ready for that is about to be brought up and the change will help it through? Something doesn't make sense here....

Take a look at Washington where a similar super-majority was required to overcome a filibuster in the Senate (until recently when the Democrats voted to take it down to 51% for political expediency.... They are now sorry they did!)

Response: This recommended change would reduce the voting requirements of future amendments from 75% to 51%. This change is on the recommendation of counsel and consistent with CCOIA. 75% is no longer supported by Colorado law and is automatically reduced to 67%. A simple majority requires the vote of 201 homeowners. A vote by 201 homeowners is a significant threshold to any future amendments.

Declaration of Covenants, Section 9.6- Amendment of Articles of Incorporation by Owners

Feedback:

Section 9.6 reduces the requirement of 2/3 of homeowners to approve an amendment to JUST A SIMPLE MAJORITY OF THOSE AT A DULY CONSTITUTED MEETING! A recommendation to allow a handful or two of board members or neighbors to take the place of what has required 2/3's of our attention. A simple majority of the neighborhood, maybe, but attendees to a meeting???? This opens the neighborhood up to the potential of a small group of owners ramming or blocking initiatives. Questions here are:
Why the need for change?
If there is a demonstration of need, why not 51%?

Response: This section allows the Articles of Incorporation, only, to be amended by an affirmative vote of the majority of members present. The Articles of Incorporation are different than the Bylaws or Covenants. The Articles of Incorporation establish an association's corporate structure and are filed with the Colorado Secretary of State. The rights of the individual homeowners are not impacted by this document and therefore, the Board was comfortable with reducing the amendment requirement to that allowed by Colorado law.

Articles of Incorporation, Section 10- Amendment

Feedback: This section should require 67% of all members to approve changes.

Response: Colorado law permits amendments to the Articles to be approved by a majority of the Members present and voting, in person or by proxy, at a duly constituted meeting of the Members. This only applies to amendments to the Articles, and has nothing to do with assessments or other procedures. This Section is the same as Covenant section 9.6. See that response above.

Bylaws, Section 4.3- Special Meetings

Feedback: The language allows for a Special Meeting to be called by Owners if there is a petition signed by 20% of the Owners. This requirement should be reduced to 2%.

Response: The Board is comfortable with the proposed language which is consistent with Colorado law. A Special Meeting can also be called by the president or a majority of the members of the Board of Directors. In addition, the Board holds monthly meetings which are open to all Owners.

Bylaws, Section 5.5- Removal of Directors

Feedback: The proposed language allows one of more directors of the Board to be removed by a vote of the majority of the total Association (201 votes). This requirement is too high and it should be a vote of the majority of members presents at a meeting.

Response: The Board is not proposing a change in this provision and is comfortable with requiring 201 votes to remove a member of the Board.