

BANDANNA RANCH HOMEOWNER'S ASSOCIATION – PROPOSED AMENDED DECLARATION AND BYLAWS, APRIL 2021

Dear Members,

The Bandanna Ranch Homeowner's Association (HOA) Board has been working for several months to amend the Covenants, Conditions, and Restrictions (CC&Rs) and Bylaws that govern our community. The primary purpose of this proposed Second Amended Declaration is to update the existing 2003 Declaration to ensure compliance with current Utah law regarding HOAs (Community Association Act, 2004). We are now asking you, the members, to vote on the proposed declaration.

We provide this summary description of the proposed declaration for convenience of reference only and it shall in no way alter, modify, define or be used in construing the text of the declaration. Before voting, we encourage all our members to review the proposed declaration also available on this website.

Thank you,

Rick (Sneez) Senese, President

Covenants, Conditions, and Restrictions (CC&R's)

Article 1 is a list of definitions that are helpful in understanding the context and meaning of each item in the CC&Rs. Many definitions were updated to provide clarification.

Article 2 states that since you own a lot within an HOA, you have to follow the conditions and restrictions in the CC&Rs.

- It states that the common areas are to be used by property owners, their families and their invited guests to enjoy but each owner is responsible to make sure they, their families, and their guests don't create any problems for other owners. Common areas include the roads, the Rough Hollow green space, and dumpster locations, etc.
- It states there is a utility easement on each lot for utilities, water, and drainage where you can't place any structure or plant anything that would interfere.

Article 3 provides the restrictions each lot owner must follow for their lot(s) to keep the community quiet and attractive.

- The lots have been zoned as residential/recreational by Duchesne County. Any use of your lot must be within that regulation. Each lot is intended for single-family dwelling or recreational purposes
- You can't operate a business on your lot
- You can't sell a portion of your lot
- Only one residence (single-family) can be constructed/placed on each lot
- Building Requirements have been updated for clarification.
 - Approval - You must get approval before you build, place, erect, improve, or change any building or structure.
 - Bandanna Ranch HOA Architectural Committee (always). See Article 4 for more information.
 - Duchesne County Dept. of Building Safety (building permit if required)
 - Tri-County Health Dept. (if required for septic or other needs)
 - Location - Establishes restrictions for building locations along property lines
 - No structure within 30 feet of the front or back property line of the lot
 - No structure within 10 feet of the side property line of the lot
 - No structure within the 33 foot road easement of Bandanna Ranch roadways (measuring from the center of the roadway)
 - Common Areas are not to be used for any purpose except as originally described unless a written agreement between owner and HOA is provided.
 - Only two (2) farm/livestock animals are allowed per lot and owners must ensure they keep the area clean and maintained so they don't cause problems with other owners.
 - ATVs/UTVs/Off-highway Vehicles – all types of vehicles are allowed to be used on HOA roads or your own lot(s). While riding:
 - You may not travel onto another owner's lot without written permission
 - You must operate all vehicles within Utah State law. The speed limit for all vehicles in a residential zone is **25 MPH** unless otherwise posted.
 - Owners are responsible for their family and guests to make sure they follow the rules and speed limit and don't cause problems with other owners.
 - You can be warned or fined for a violation by the HOA or area law enforcement

- Problem activities (offensive, nuisance, etc.) - If you create problems with other owners by the activity on your lot the HOA or other owners can take legal action to remedy the situation. Examples include:
 - Excessive noise
 - Littered/trashy lots
 - Lack of control of pets and livestock
 - Illegal activities
- Trash – Your lot must be kept maintained and cannot be kept as a dumping ground for trash, old vehicles, old appliances, etc. As much as possible, keep vehicles and mechanical equipment out of site of the roadways. The HOA provides dumpsters for the use of Lot Owners for household trash.
 - All Owners are responsible to keep the dumpster area clean, not just the board members.
 - No furniture, large household items, construction materials, or hot coals are allowed in the dumpsters.
 - The HOA Board has the option to discontinue dumpster service in the future, if needed.
- Culverts and drainage –
 - If you build a new entrance roadway onto your lot, you are required to install a culvert (at least 18 inches) for water drainage to prevent erosion and minimize the cost of road maintenance. The Architectural Committee may grant a variance to this requirement if requested by the lot owner.
 - Lot owners must keep the culvert clear of dirt, rocks, weeds, etc. so it works properly
- Fire Safety and Fireworks – All Lot Owners are responsible for fire safety in the community.
 - **The Board may impose additional fire restrictions based on seasonal fire conditions.** These will be posted on the Bandanna Ranch website, www.bandannaranch.com and on signs at various places on the ranch.
 - No fireworks are allowed on Bandanna Ranch
 - Only small recreational fires are allowed between June 1 – Oct. 31
 - Nov. 1 – May 31 recreational fires as well as burning of agricultural brush is allowed with Duchesne County approval
 - Recreational fires must be in an improved fire pit, outdoor fireplace, or barbeque unit.
 - Fires must be at least 15 feet from structures or burnable materials (trees, bushes, log piles, etc.).
 - Only burn dry, natural materials
 - Fires must be **constantly attended** until completely put out
 - You must keep a method close by to put out the fire such as **running water**.
 - Trees, shrubs, bushes, and other natural foliage should not be removed from lots except for fire prevention and construction improvement.
- Speed Limit – The speed limit in the community is **25 MPH** except where otherwise posted. Some areas have a 15 MPH speed limit.
- Parking and storage –
 - No vehicle or trailer can be parked on roadways or at the dumpster locations.
 - As much as possible, vehicles should be parked/stored so they can't be seen from the roadway.
- Hunting and shooting is not allowed on the ranch
- Horseback riding is allowed on your lot or community roadways. You can't ride onto another owner's lot without written permission.
- Signs:
 - No commercial signs are allowed
 - Real Estate signs are allowed
 - Address, lot number, personalized signs are allowed
- Short term rentals – No owner shall rent/lease their lot/residence as a short-term rental or vacation rental for less than 30 days. Examples of short-term rentals are Airbnb, VRBO, and HomeAway.
- Oil and mining operations are not allowed on any lot in the community without express written approval from the HOA Board.
- Occasionally the Board may allow a lot owner to take an action that is against the regulations. This does not make the decision a precedent where they would have to allow the same for every request.
- Associations Rules and Regulations –
 - The HOA Board can make additional rules, change rules, or remove rules as needed to keep the community safe and problem free.
 - The HOA Board has the ability to fine lot owners for violations of community rules and regulations. A lot owner can be fined when their family members or guests violate community rules and regulations. A schedule of fines will be adopted by the HOA Board and will be posted on the Bandanna Ranch Website.

Article 4 provides information about what is allowable for building and lot improvement throughout the community.

- Architectural Committee
 - The HOA Board will appoint the committee members for a 3-year term.

- The Architectural Committee approval request form is available on the Bandanna Ranch website. Completed forms can be mailed to HC 63 Box 270201 Fruitland, UT 84027 or given to any member of the Architectural Committee or HOA Board Member.
- For any building project that, by Duchesne County regulations, requires a building permit, you must have the approval from the Architectural Committee prior to applying for a building permit. You must provide a copy of the building permit to the Architectural Committee before starting work on the building project.
- Owners **must get approval** before starting any item listed below:
 - Moving a building to your lot
 - Placing a building on your lot
 - Erecting a structure
 - Building a structure
 - Improving a structure or area on your lot
 - Modifying a structure or area of your lot
 - Construction of footings
 - Construction of buildings
 - Construction of a home
 - Construction of a garage
 - Construction of a corral
 - Construction of a wall
 - Alteration of a stream
 - Clearing shrubs and trees for buildings, driveways, or parking, etc.
- Buildings and Fences:
 - These are the materials allowed for buildings and fences which must be in earth-toned colors in harmony with the surrounding area
 - Stone/Stone Veneer
 - Brick/Brick Veneer
 - Wood
 - Cement board
 - Vinyl
 - Plastic
 - Log
 - Stucco
 - Metal
- Reflective materials are not allowed as a building material except for gates/entryways where approval by the Architectural Committee is required.
- Colors allowed must be earth-toned. Some colors that are not allowed are blue, purple, pink, fluorescent colors, silver, stainless steel, raw metal, or other colors not in harmony with the surrounding area.
- Outdoor lighting – This is a new section and is intended to limit light pollution in the community.
 - Lighting should be shielded or louvered so light extends downward and not outward.
 - Lighting not attached to a structure should not be mounted above 15 feet from the ground.
 - Lighting should not be on a ‘dusk to dawn’ timer unless it is motion sensor activated
 - Lighting with motion sensors should not be triggered by motion outside of your lot perimeter.
- Fences
 - Barbed wire fencing is **not allowed** in Bandanna Ranch
 - Fencing along the front of the lot can be of wood, brick, or stone.
 - Fences along roadways must be 33 feet from the center of the roadway
 - Perimeter fencing (around the edges of the lot) must not be higher than **four feet** and built so that wildlife can still travel through the lot.
 - Chain link or concrete block walls are only allowed where they can’t be viewed from roadways.
- Mobile / Manufactured Homes – the difference between a Mobile Home and a Manufactured Home is a difference in both building materials and building codes.
 - Mobile Homes were constructed prior to 1978
 - Mobile Homes are not permitted to be brought and placed on any lot in Bandanna Ranch. Those Mobile Homes already on Bandanna Ranch will be allowed to remain but can’t be replaced with another Mobile Home.
 - Improvement, modifications, or additions to Mobile Homes must be approved by the Architectural Committee
 - Manufactured Homes were constructed after 1978 when laws changed regarding the materials and code required for residential buildings.
 - Per Duchesne County regulations, all manufactured homes must be placed on a permanent foundation.
 - Manufactured homes in Bandanna Ranch must measure at least 24 feet by 24 feet in size.
- Trailers, motorhomes, RVs are not allowable as a permanent residence and should not be wired permanently to power or plumbed permanently to septic tanks and water supplies. Additionally, trailers should be in good repair and of natural colors.
- Building time – in general, all building and modification projects are required to be completed within one year.

Article 5 states the maintenance obligations for the HOA Board and the owners.

- It is the responsibility of each owner to keep their lot clean and safe and keep all buildings and property improvements in good repair.
- The HOA will maintain all Common Areas.
 - If a Common Area is damaged by an owner, their family, or their invited guest, the owner will be responsible for the damage.

- The HOA will provide snow removal in the winter months to the extent possible to provide access to Bandanna Ranch owners and fire protection and law enforcement personnel. Roads within the community designated as unimproved areas may not be subject to snow removal. Snow removal is not subject to budgetary restrictions.

Article 6 states the board will create an annual budget, a cash reserve account, and has the ability to assess several types of fees:

- Annual Common Assessments (HOA Dues)
 - Annual Common Assessments are based on the budget adopted by the board. Annual Assessments can't increase more than 20 percent per year.
 - If the board needs to change the amount of the Annual Assessment they must send notification within 20 days.
- Special Assessments
 - An additional fee charged to the owner of each lot when costs exceed the money in the budget for maintaining the common areas or other costs. For example, when there is a year with far larger amounts of snowfall, a special assessment may be charged to pay for additional snow removal.
- Individual Assessments – shall include but are not limited to:
 - Legal fees paid to bring the Lot or its Owner into compliance with the rules and regulations
 - Fines or other charges for violation of the rules and regulations of the Association
 - Expenses, other than common expenses, relating to the cost of maintenance, repair, replacement, and reserves of the Lots paid by the Association.
- If assessments are not paid within 30 days of the due date, a late charge will be added and 2% interest will be charged until the balance is paid in full. If still not paid, as allowed by Utah State law, the HOA board can place a lien on the property and can foreclose upon (take ownership of) the property and will charge you for the legal costs of taking these actions. If you refuse to leave the property after a foreclosure, the HOA Board will charge you rent.
- The board will, per Utah State Law, conduct a review of the need for and amount needed in the cash reserve account at least every six years and provide a copy of the review to the members.

Article 7 states the structure of the HOA as a nonprofit corporation and states that each lot owner is a member of the association with voting rights that are detailed in the Bylaws of the HOA. It states the HOA must pay any property taxes for property owned by the association. It allows the Board to hire a company to manage the HOA if necessary. It states the board can enter the exterior portions of any lot to execute HOA business including maintenance, clean up, or to remove any structure in violation of the CC&Rs. Except in emergencies, the Board is required to provide notice to the owner when it intends to enter the lot for such an action.

Article 8 allows for changes to the rules without having to rewrite and file a whole new CC&R document. However, the Board is required to notify the members when they are considering a change and allow an open forum for discussion unless there is imminent danger to the common area, a lot, or a person. The Board would then be required to notify the members within 15 days of the change.

This article also describes the owners' responsibility to follow the rules in the CC&Rs and the steps the board can take if the rules are not followed. Owners are allowed to appeal each of the following actions if taken by the Board:

- Written warning
- Initial fine
- Subsequent fines for the same violation
- Membership rights suspended

Owners can also take legal actions against other owners if needed, but must take the dispute before the Board for mediation before taking legal action.

Article 9 is about insurance requirements for the owners as well as the Board and states the Board, if needed, may repair or reconstruct uninsured, damaged buildings at the owner's expense, if not repaired timely.

- The Board shall keep liability insurance on the common areas of the community and any other insurance the board thinks may be required.
- Each owner is required to keep liability insurance on their lot and adequate insurance for any structures on their lot.

Article 10 states this document can be amended at any time and must be approved by 67% of the lot owners. An amended document is not in effect until it is recorded with Duchesne County. The CC&Rs remain in full force unless 100% of the membership vote and approve their termination.

Article 11 covers some miscellaneous items:

- Any conflicts in this document and any other documents will be satisfied by the document with highest priority in this order:
 1. The Act (the law)
 2. This Declaration and Property Plat
 3. The Articles of Incorporation
 4. Bylaws
 5. Rules and Regulations
- The Board has the authority to charge any owner the costs it paid for enforcement of any of the rules and regulations.
- If one part of this document is found to be invalid it does not make all or any other parts of this document invalid.

- Joint owners of a lot are jointly and individually responsible to follow the rules. If joint owners wish to separate their vote they must deliver written notice to the Board.
- If damage or waste happens on the common areas by someone who has been invited to the community whether as a guest or a renter/lease holder, the owner will be held responsible for the violation as if they had committed it themselves.
- If the Board fails to provide enforcement on a violation it does not mean they can't later enforce it on a same/similar violation.
- No Board member can be held personally liable for legal actions taken against the Board (you can't sue a Board member or try to hold them financially responsible)
- If you sell, rent, or lease your lot(s) you must provide the Board with the name and address of the person who will own/occupy the lot.

Bylaws

The Bylaws are a second document incorporated with the CC&Rs that contains articles with the rules for how the HOA will operate.

Article 1 – This states the same definitions for terms listed in the CC&Rs will be used in the Bylaws

Article 2 – This states that electronic communications and signatures will be treated the same as live, written communications and signatures.

Article 3 – This article states the rules for meetings and voting.

- It states the Association membership will meet annually on a date and time specified by the board within the State of Utah.
- It states that special meetings can be called by the President of the Board, the Trustees on the Board. Special meetings can also be called if the Board receives one or more written demands for a meeting which includes the purpose for the meeting and is signed by at least 30% of lot owners who are eligible to vote.
- For voting, each lot is allowed one vote. The Board will get to vote for any lot owned by the board except for votes toward the election of Board members.
- In order to vote, a member must be eligible at least 10 days prior to the day votes are due. No lot gets to vote on any issue or in any election if there is a lien filed due to unpaid dues or is more than ninety days past due on payment of any dues or assessments.
- You can vote in person, by proxy, or by absentee ballot. Proxy (asking someone else to vote in your absence) must be given in writing to the Board secretary prior to a meeting. A proxy is only valid for 11 months. If you want to remove your proxy, you must notify the board. Any proxy will become void if you sell your lot.
- At any meeting of the lot owners, in order to hold a vote, 50% of eligible owners must be present or represented by proxy. This is considered a Quorum (enough of the population to have a valid vote). If enough eligible voters are present during the meeting but some leave before the vote, the Quorum is still met.
- If the Quorum is met, any voted decision, whether it passes or fails with a majority of votes, is binding to all other lot owners except for the election of trustees or where the document or the law requires a certain percent of owners agree on passage.
- At the annual meeting, the agenda will be set by the President. Any member who is eligible to vote may ask for an item of discussion to be added to the agenda. If that person won't be attending the meeting, the request must be in writing.
- The President will conduct the meetings according to the procedure they choose. But the Board has the option to set rules of order if they choose.
- Any action normally taken at the annual meeting can be taken without a meeting if all Board members agree in writing to take a vote or an action without a meeting. Any action taken without a meeting must have unanimous consent of the Board (all Board members must agree)

Article 4 – This article says how the Board will be populated.

- It states the Association will be governed by the Board of Trustees made up of five lot owners, one elected for each phase of Bandanna Ranch (by the eligible lot owners in that phase) and one Trustee at Large.
- Each Trustee will serve a two year term and is eligible to serve three consecutive terms. No Trustee can serve another term if they don't attend at least 50 % of the Board meetings during the previous term.
- A Trustee must be a lot owner, spouse of a lot owner, or designated representative of a lot owner or the entity owning the lot.
- No Board member will receive payment or other type of compensation for serving on the Board but may be reimbursed for actual expenses for performing official duties of the Board.

Article 5 – This article says how meetings will be called and held.

- The Board must meet at least twice annually. If a date is set monthly or other regular occurrence, no further notice is required. If no regular occurrence is set, the Board can determine the time and place and provide notice to the members.
- Special meetings can only be held after 48 hours of notice to the Board Members.

- All meetings of the board are open to lot owners and their families. The board may adopt policies governing meetings to meet Utah State law which will take priority over the current Bylaws. Meetings can be in person or through electronic, real-time communications (video or conference call) to take binding action.
- The President will conduct all meetings. Formal rules of order can be used.
- A Board Member can state in writing that they don't want/need notice of Board Meetings.
- If the Board takes action without a meeting, it must have unanimous agreement of all board members to take the action.
- For a Board meeting, there must be at least three Board members present for a Quorum to be met. Board members can provide a written proxy which counts towards the Quorum.

Article 6 – This article states the powers, rights, and duties of the Board.

- The Board has the power to administer the affairs of the Association and has the power to take any action an owner should take.
- The Board may not borrow any money on behalf of the Association or its property without approval of 67% of eligible voting owners.
- Board members will conduct business in the best interest of the Association, using all reliable information available to them at the time.
- Board members will avoid conflicts of interest except where the conflict is fair to the Association and the Board has voted to allow the conflict of interest.
- A Trustee may resign at any time by providing written notice to the Board.
- A Trustee may be removed from the Board by a majority vote of the Board members, by a majority vote of the Owners at a meeting of the Lot Owners, or by a petition of 66.67% (2/3) of the lot owners.
- A Trustee who misses more than 50% of Board meetings is considered to have resigned.

Article 7 – This article states what Officers must be in the Board and their duties.

- The Officers will be a President, Vice-President, Secretary, and Treasurer. One person can hold the offices of both the Secretary and the Treasurer. But the President cannot also be the Treasurer. The Officers will be elected by the Board from the Board members. The Board may elect or appoint other officers as needed. The Board will elect officers to fill any vacancy. No Officer will receive payment or other compensation for acting as an Officer unless the compensation is voted for by the owners.
- The President is the chief executive officer (CEO) of the Association. The President will conduct all meetings and have the power to sign any official Association documents and amendments to the CC&Rs/Bylaws.
- The Vice-President has the power to act for the President in their absence including the power to sign any official Association documents.
- The Secretary maintains records of all Board and Association meetings and any other documentation required by the Board and Utah State Law.
- The Treasurer is responsible for all the Associations funds, receipts, deposits, and payments. All payments must be approved by the Board before payment is made by the Treasurer.

Article 8 – This article states that each Board member, officer, and committee member will be protected legally and financially if sued while doing their official Association duties.

Article 9 – This article states that all records, resolutions and rules adopted by the board, a membership roll with an account for each member and other documents or records must be maintained and kept in the State of Utah.

Article 10 – A vote of 67% of eligible votes in the Association is required to amend the Bylaws. The President must certify the vote and record it with Duchesne County before the amended document takes effect.

Article 11 – This states that no restrictions or conditions included can be forced to be waived by one person or situation just because it was waived for another person or situation or the Association failed to enforce an issue. It also states that if one portion of the document is found to not be valid, it doesn't make the entire document or other parts invalid. If there are any conflicts in the Association documents, the document with the highest priority, listed below, takes precedence:

1. Articles of Incorporation
2. Declaration (CC&Rs)
3. Bylaws