

January 15, 2021

TO: All Homeowners and Residents

The Board has approved the proposed rewritten Declaration of Covenants, Conditions, and Restrictions (CCRs) and By-Laws for distribution, review and comment by the Community. The rewritten documents were developed by the Document Rewrite Committee (DRC).

All subscribers of our community emails will receive a digital copy of both documents via email for viewing, downloading and printing. Digital copies for viewing and/or downloading are also available on the website - <https://crestwoodvlg.net> on the "Rewritten Documents" page. Hard copies of both documents are also available at the front desk.

The following document provides information on the background, process, improvements, prior community comments, and summary of the changes to the CCRs and By-Laws.

We invite all Homeowners and residents to submit your comments on the rewritten CCRs and By-Laws either in writing to the office or by email to info@crestwoodvlg.net. The deadline for submitting comments is **Tuesday, February 23, 2021**. All comments will be reviewed and considered by the DRC for any changes needed.

A Community vote of Homeowners is expected in early April. If you have any questions, please contact a DRC member.

Document Rewrite Committee
Linda Bell, Doug Dawson or Sally Livingston

Proposed Rewritten Documents

Background: Our Declaration of Covenants, Conditions, and Restrictions (CCRs) and our By-Laws are in excess of 40 years old and were written by and for the developer. Much of what's contained no longer applies. Over the years many changes have been made that may, or may not, be contained in the document notebooks that all buyers should have been provided at closing. Many of the pages contained in some of the notebooks are practically illegible. It was determined by the Board of Trustees that the documents needed to be rewritten with updates and incorporating applicable state and Federal laws.

The Document Rewrite Committee (DRC) was appointed by the Board at their October 29, 2019 meeting to take on the task. Members of the DRC are Linda Bell, Doug Dawson, and Sally Livingston. A presentation of the rewritten documents was given to the Board at a Special Meeting on August 11, 2020 and permission was granted by the Board to have the rewritten documents reviewed by a law firm. The documents were subsequently reviewed by Ruth Katz, Esq., of the law firm, Lerch, Early & Brewer, located in Bethesda. Changes suggested by the lawyer were incorporated into the rewritten documents by the DRC. The final drafts of the By-Laws and CCRs were completed on December 22, 2020. The DRC and Board believe the rewritten documents are legally sound and ready to be considered by the community.

Current Documents:

Section I Declaration of Covenants, Conditions, and Restrictions (CCRs)

Section II Articles of Incorporation

Section III By-Laws

Section IV Rules and Regulations (updated in 2017)

Section V Architectural Guidelines (updated on an ongoing basis)

Section VI Financial Information

Section VII General Information

The DRC recommends:

That Section VI Financial Information and Section VII General Information be removed.

- Our budget changes yearly and the current budget is distributed each year to all Homeowners and remains on file in the office.
- "General Information" consists of a few maps and doesn't need to have a place in the documents.

The Articles of Incorporation are like the community's "birth certificate" and will remain as is.

Process:

- The rewritten documents must be approved by the Community.
- The requirement for approval shall be 60% of eligible voters actually voting as endorsed by the Board. This is based on the Maryland Homeowners Association Act, Section 11B-116(c), which states: “Notwithstanding the provisions of a governing document, a homeowners association may amend the governing document by the affirmative vote of lot owners in good standing having at least 60% of the votes in the development, or by a lower percentage if required in the governing document.”
- Digital copies for viewing/downloading are on the website.
- Hard copies are available at the front desk.
- All subscribers of community emails have received a digital copy via email for viewing, downloading, and printing.
- The window for Homeowner and resident comments and suggestions is from January 27, 2021 to February 23, 2021. Provide input in writing to the office or email info@crestwoodvlg.net.
- Based on comments and suggestions from the community, further changes may be in order.
- A community vote is expected the first part of April. Due to restrictions in place by the county and/or state, a Special Meeting of the Homeowners may not be possible.

Improvements:

- Past amendments and resolutions are incorporated into the new CCRs and By-Laws.
- The new CCRs and By-Laws will be available in paper format or digital format. The digital copies will be in PDF *and* word searchable.
- All households will possess the same CCRs and By-Laws.
- Current Federal and State laws are incorporated.
- Clearer language; improved readability.
- Table of Contents added.
- Consistent usage of terms.
- During the review process by the Board and Community, all major changes in the draft copies of the CCRs and By-Laws will be in italics.
- Italics will be removed once approved.
- The term “Declarant” has been removed. This term only applies to developers.

Suggestions From the Community:

- Require “public comments” regarding ARC requests. The DRC considered this overly intrusive and infringing on the private property rights of Homeowners. The DRC saw the potential for disputes between neighbors to create frivolous “public comments” resulting in delays on projects and undue administrative burdens on the ARC, Board, and management. If a modification is preapproved by the ARC Guidelines (Section III) or in compliance with ARC

Guidelines (Section IV) and approved by the Board (through the ARC and Board Liaison) then **our current architectural control is sufficient.**

- **In attempting to streamline verbiage, do not lose important content or intent.** The DRC took this advice seriously.
- **Do something to stop investors.** The only way to stop investors is to limit or abolish rental properties. Some HOAs don't allow rental properties or limit them to around 20 percent with waiting lists once the 20 percent limit is reached. The DRC decided this would be such a major change that it was beyond the scope of our effort. If the community wants to pursue the topic, we recommend that a special committee be formed whose sole focus is to investigate the viability and legality of limiting or abolishing rental properties. An amendment to the CCRs could be made via a Special Meeting and community vote regarding rental properties.
- **Divest Crestwood I from Crestwood II.** The builder originally built both as one community. Both sections currently enjoy the same services and benefits. Many years ago the Crestwood II Condo Council was abolished with the Board agreeing to take on the Council's responsibilities. Every owner in Crestwood II agreed to the current Documents. This is a complex issue and beyond the scope of the DRC.
- **Ensure that voting is confidential.** Confidential voting is not required by the Maryland Homeowners Association Act and our lawyer advised against the use of such language. Electronic voting is a certainty of the future (and permitted by the HOA Act) and the confidentiality of such voting cannot be assured. For those requiring confidential voting, they may vote in person or by absentee ballot. Our recently approved Election Guidelines require the confidentiality of absentee ballots.
- **Other suggestions from the community were primarily about Architectural Review Committee (ARC) Guidelines.** The ARC Guidelines are updated as needed by the ARC with Board approval. Suggestions to change the ARC Guidelines should be directed to the Board.

Summary of Changes to CCRs:

Completely removed:

- The requirement for Homeowners to first offer their home for sale to the HOA known as the "Right of First Refusal." (current Article III. Section 4. (t).)
- "Protective Provisions for the Benefit of Institutional Mortgagees." The entirety of this section has been removed. (current Article VI. Section 8.)

New or major changes to definitions (rewritten pages 4-6):

- Architectural Review Committee (ARC)
- CCRs or Declarations
- Documents
- Proxy
- Trustee
- Unit
- Vote

Specific Changes:

- References to the “All Adult Section” (Crestwood I) have been changed to “Housing for Older Persons” in accordance with Public Law 100-430.***
- Crestwood Village II is known as an “All Age Section.”
- Masculine and feminine pronouns are now used, i.e. his/her.
- In Homes without garages, there is no expectation to store recycle bins in the interior of the home.

***To correct a misperception, there is no requirement for “Housing for Older Persons” to have 20 percent of people younger than age 55. To maintain “Housing for Older Persons” status, at least 80 percent of residents must be age 55 and older. It could be 100 percent.

- No wild animals shall be fed with the exception of birds from authorized bird feeders as described in the ARC Guidelines.
- Fines may be up to \$50 per day (up from \$10).
- The Board shall have the final say where there are questions, where annoyances or disturbances occur, or in cases not addressed.
- Homeowners may avail themselves of an Appeals Committee that acts in an advisory capacity to the BOT.
- The Board may levy Special Assessments. No community vote is now required.
- Additional Services may be approved by 60 percent (down from 2/3) of the community. The DRC felt that this better reflects current Maryland HOA Law which only requires a 60 percent affirmative vote to change governing documents.
- Any proposed additional services by either the Board or Homeowners that fails to be approved by a vote of the HOA may not be proposed again by either the Board or Homeowners for a minimum of three (3) years after the failed vote. However, if 50 percent of eligible Homeowners provide a petition to the Board for a sooner consideration of previously-failed proposed services, another vote may be taken at another Special Meeting of the HOA.
- Converting an existing sports type of facility or area to another type of sports activity is not considered an additional service and the conversion may be done by Board approval alone.
- Installation of a facility/feature required by law or to accommodate disabilities is not considered an additional service subject to a vote of the HOA.
- Our Documents have a life of 21 years (down from 40). With no action, they extend automatically.
- Amendments to the CCRs and By-Laws be made at any time by a vote of at least 60% (down from 2/3 to reflect Maryland HOA Law).

Summary of Substantial Changes in the By-Laws (in order of appearance):

- Prohibits family members from serving on the Board together as Trustees.
- Only resident Homeowners in good standing (i.e., no outstanding rule and/or architectural violations and current in assessments) may run, be nominated, or serve on the Board.

- Reduced the meeting (Annual or Special) quorum from a “majority of votes” to 25 percent. The HOA law is silent on the issue of quorum but 25 percent is now widely used by HOAs. If we don’t have 25 percent at a meeting initially, then we are allowed to adjourn the meeting and reconvene. *Those present will be considered a quorum.* This should make things a little easier. This is basically in line with Maryland Code, Corporations and Associations.
- New language regarding voting: To the extent permitted by Maryland law, all votes may be cast in person or by absentee ballot or, if authorized by the Board, by electronic transmission.
- A majority of all those votes entitled to be cast in person or by absentee ballot shall be sufficient on those matters which are to be voted upon with the following exceptions:
 - a. Approval of Additional Services. (rewritten CCRs, Article V, Section 1) 60% approval, down from 2/3.
 - b. Amendment(s) to the Governing Documents which include the CCRs and By-Laws (rewritten CCRs, Article VI, Section 1 and Section 4). 60% approval based on HOA Act. Down from 75% (current By-Laws) or 2/3 (Articles of Incorporation).
 - c. Reduction of public liability insurance coverage. (rewritten By-Laws, Article IV, Section 9) Remains at 75%.
- Deleted the requirement for the community to approve a land/real estate acquisition and makes it a Board decision and responsibility. (Down from a 75 percent community vote.)
- Referenced specific Maryland HOA law for Board closed sessions.
- Added Trustee general responsibilities.
- Changed the requirement for 90% of the community to remove a Trustee. Added this: “A Trustee may be removed by the Board by an affirmative vote of ~~five (5) Trustees~~ a majority of Trustees.”
- Added language regarding the replacement of a Trustee.
- Added a section on committees including removal and replacement of committee members.
- Clarified that only Homeowners in good standing can serve on the Board, Nominating Committee, and Elections Committee.