

BEAR CREEK OAKS PROPERTY OWNERS' ASSOCIATION, INC

**NOTICE AND AGENDA
SPECIAL MEETING OF PROPERTY OWNERS
FOR CONSIDERATION AND VOTE
ON PROPOSED AMENDMENTS TO BEAR CREEK OAKS
RESTRICTIONS**

Location: [REDACTED]

Date: _____

Time: _____

AGENDA

- I. Call to Order;
- II. Proof of Notice of Meeting or Waiver of Notice,
- III. Discussion of Proposed Amendments
- IV. Member Vote on Proposed Amendments
- V. Counting of Ballots
- VI. Announcement of Results
- VII. Adjournment.

Bear Creek Oaks Property Owners Association, Inc.

**2022 Special Meeting of Property Owners for Vote on Proposed Amendments
To Bear Creek Oaks Restrictions**

Date: _____, 2022

Time: _____

Location: _____

PROXY OR ABSENTEE BALLOT

Purpose: To Vote on proposed amendments to the Restrictions applicable to Bear Creek Oaks subdivision in order to clarify and update certain provisions of the Restrictions to (1) change the name of the "Restrictions" to the "Declaration of Covenants and Restrictions for Bear Creek Oaks", (2) incorporate into the restrictions the existence and authority of the Bear Creek Oaks Property Owners Association, Inc. created in December of 1980, but not mentioned specifically in the Restrictions, (3) to establish and authorize an Architectural Control Committee to perform the construction review and approval duties set out in the current paragraph 5 of the Restrictions and for certain other purposes as set out on the proposed amendments attached hereto.

If you cannot attend the Special Meeting of the Members, you may sign and return this form as a **proxy or absentee ballot**. If used as an absentee ballot, this form must be returned. By selecting proxy below, you are designating a proxy holder, who must be present at the meeting, to vote on your behalf to exercise your vote as directed. By selecting absentee ballot below, you are actually voting in the Board election by submitting this form. IF YOU ATTEND THE SPECIAL MEETING YOUR PROXY OR ABSENTEE BALLOT WILL NOT BE COUNTED.

SELECT EITHER PROXY OR ABSENTEE BALLOT, BUT NOT BOTH, BY MARKING THE BOX BELOW REFLECTING YOUR CHOICE. IF YOU CHECK BOTH THE PROXY BOX AND THE BALLOT BOX, THIS FORM WILL BE CONSIDERED AN ABSENTEE BALLOT. THIS FORM IS TO BE USED IN CONNECTION WITH THE CONSIDERATION OF PROPOSED AMENDMENTS TO THE BEAT CREEK OAKS RESTRICTIONS AS PROVIDED HEREIN.

_____ Option 1 of 2: **Proxy**. By selecting this proxy option, the undersigned owner of a Lot or Tract in Bear Creek Oaks subdivision (the "Association") hereby appoints the following individual as my proxy with full power of substitution to represent and cast my votes at the 2022 special meeting of the members for such business as may properly come before the meeting. **(Select one of the following. Write in your proxy holder if appropriate.)**

_____ **Secretary or President of the Association**

OR

_____ **(Print name)**

By this proxy, the undersigned hereby directs my proxy holder to vote as indicated below with respect to the question of amendment of the Bear Creek Oaks Restrictions as proposed. *If no votes for candidates or the proposed advisory guidance are designated below, then my proxy holder shall have the discretion to cast my vote concerning the proposed amendments to the Restrictions in the manner that my proxy holder deems appropriate.*

NOTE: AS APPLICABLE THE FOLLOWING BALLOT WILL BE USED TO INSTRUCT PROXY HOLDER OR AS ABSENTEE BALLOT

BALLOT

Proposed Amendment of Article 4.02 of the Master Declaration of Covenants, Conditions and Restrictions for Bear Creek oaks Single Family Residential ("Residential Declaration")

Proposed Amendments:

As shown on the Exhibit attached hereto.

_____ **For amendment of the Bear Creek Oaks Restrictions as proposed.**

_____ **Against amendment of the Bear Creek Oaks Restrictions as proposed.**

Submitting Proxy or Absentee Ballot:

Complete the proxy/ballot form above and **submit** it as indicated below.

i. **Vote electronically** submitting your proxy or absentee ballot as follows:

a) Send your absentee ballot or proxy **by fax to** _____ **on or before 5:00 p.m.**
on _____ **, 2022;**

OR

b) Send your absentee ballot or proxy as an attachment to an **email and send to**
_____ **on or before 5:00 p.m. on** _____ **, 2022;**

Printed Name

Address

Signature

Date: _____

The submittal of an owner's vote on the question of amendment of the Bear Creek Oaks Restrictions by Proxy or Absentee Ballot will be deemed presence at the special meeting for the purposes of establishment of the required quorum pursuant to the governing documents of the Association.

Bear Creek Oaks Property Owners Association, Inc.

**2022 Special Meeting of Property Owners for Vote on Proposed Amendments
To Bear Creek Oaks Restrictions**

Date: _____, 2022

Time: _____

Location: _____

Purpose: To Vote on proposed amendments to the Restrictions applicable to Bear Creek Oaks subdivision in order to clarify and update certain provisions of the Restrictions to (1) change the name of the "Restrictions" to the "Declaration of Covenants and Restrictions for Bear Creek Oaks", (2) incorporate into the restrictions the existence and authority of the Bear Creek Oaks Property Owners Association, Inc. created in December of 1980, but not mentioned specifically in the Restrictions, (3) to establish and authorize an Architectural Control Committee to perform the construction review and approval duties set out in the current paragraph 5 of the Restrictions and for certain other purposes as set out on the proposed amendments attached hereto.

**A SINGLE VOTE FOR OR AGAINST THE PROPOSED AMENDMENTS AS A WHOLE
SHALL BE CAST**

_____ **For amendment of the Bear Creek Oaks Restrictions as proposed.**

_____ **Against amendment of the Bear Creek Oaks Restrictions as proposed.**

Property Owner Name (Printed)

Property Owner Signature

Owner Address

ATTACHMENT TO BALLOT
SPECIAL MEETING OF PROPERTY OWNERS
BEAR CREEK OAKS PROPERTY OWNERS' ASSOCIATION

Proposed Amendments to Restrictions

1. The Bear Creek Oaks "Restrictions" shall be known as the "Declaration of Covenants and Restrictions"
2. The existence and authority of the Bear Creek Oaks Property Owners Association, Inc. (the "Association") as provided in the Articles of Incorporation originally filed with the Texas Secretary of State on December 18, 1980, and in the Restated Articles of Incorporation filed April 24, 1995 is confirmed. The Association shall have all the powers of a Texas non-profit corporation, as such powers may exist from time to time, subject only to such limitations upon the exercise of such powers as may be expressly set forth in this Declaration, and the Articles of Incorporation and Bylaws. It shall further have the power to do and perform any and all acts that may be necessary or proper for or incidental to the exercise of any of the express powers granted to it by the laws of Texas or by this Declaration, Articles of Incorporation or Bylaws. Without in any way limiting the generality of the two (2) preceding sentences, the Association and the Board acting on behalf of the Association, shall have the power and authority to perform the following functions:
 - A. The Association shall have the power to take any and all actions necessary to enforce all covenants, conditions and restrictions affecting the Properties and to perform any of the functions or services delegated to the Association in any covenants, conditions or restrictions applicable to the Properties, Articles of Incorporation, Bylaws or Rules and Regulations, including, without limitation, those contained within this Declaration and as set forth in any amendment.
 - B. The Association shall conduct the business of the Association, including, but not limited to, administrative services such as legal, accounting, financial and communication services. The Association shall have the right to enter into management agreements with companies affiliated with Declarant in order to provide its services and perform its functions and to retain professionals necessary or proper in the operation of the Association.
 - C. The Association shall operate the Association's Architectural Control Committee in accordance with the terms of this Declaration and the applicable provisions of the Texas Property Code.
 - D. The provisions of the Bylaws of Bear Creek Oaks Property Owners Association Inc. as previously adopted by the Association with respect to the operations, powers and authority of the Association are hereby incorporated herein.
 - E. All references in the currently recorded Bear Creek Oaks Restrictions, not otherwise specifically amended herein, to the "Bear Creek Oaks Protective Committee" or the "Committee" shall be changed to the "Board of Directors of the Bear Creek Oaks Property Owners Association, Inc." or the "Board" as appropriate.

3. Establishment of Architectural Control Committee. An Architectural Control Committee for the subdivision is hereby established, which shall be operated and maintained in accordance with this Declaration and applicable law. ACC shall consist of three (3) members appointed by the Board of Directors and shall have the following powers and authority.
- A. Term of Office. Each member of the ACC, shall hold office from the date of his appointment until January 31 of the succeeding calendar year, and thereafter until such time as a successor has been appointed, unless such member sooner resigns or is removed.
- B. Approvals Required. No Improvements shall be constructed, erected, removed, planted or maintained on any Lot or Tract nor shall any addition to or any change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, floor plans, color scheme and the location of same shall have been submitted to and approved in writing by the ACC as provided herein. Any change in the outward appearance of any Improvement, including, but not limited to, repainting the same in a different color, adding decorative sculptures or artwork, wrought iron grills, changing in any manner the exterior appearance or the like, shall also require approval in writing by the ACC before any work is commenced. No Owner shall do any act or any work that will impair the structural soundness or integrity of another residence or impair any easement or do any act or allow any condition to exist which will adversely affect other Lots, Improvements or Owners.
- C. "Improvements" as used herein shall mean and refer to any buildings, structures, underground installations, slope alterations, lights, driveways, flatwork of any kind, utility facilities and lines, parking areas, fences, barriers, curbs, retaining walls, stairs, decks, windbreaks, plantings, planted trees and shrubs, statues or sculptures, poles, signs, loading areas and all other structures, landscaping or improvements of every type and kind.
- D. Plan Approval. The ACC shall have the right of specific approval or veto of all architectural, engineering, platting, planning and landscaping aspects of any Improvement, as well as the general plan for development of any individual Lot within the Properties. All construction and development within the Properties is subject to local government control; provided, further, that the ACC may, in its sole discretion, impose standards of architectural and landscaping design, Setback Lines or a plan for development, which standards are greater or more stringent than standards prescribed in applicable building, zoning, planning or other governmental codes. Such approval may be subject to special conditions or requirements, including, without limitation, the date upon which all Improvements are to be completed. The Architectural Control Committee shall be the sole authority for determining whether proposed structures and modifications of proposed structures comply with applicable covenants, conditions, and restrictions and are in harmony of external design with existing structures and the overall plan of development of the Properties.
- E. Disapproval. The ACC shall have the right to refuse to approve any plans and specifications which are not suitable or desirable, in its sole opinion and absolute discretion, for aesthetic or any other reasons. In approving or disapproving such plans and applications, the ACC shall consider the suitability of the proposed Improvements and materials of which the same are to be built, the site upon which it is proposed to be erected, the harmony thereof with the surrounding area and the effect thereof on adjacent or neighboring Lots.

F. Operations. A person may not be appointed or elected to serve on an architectural review authority if the person is: **(1)** a current board member; **(2)** a current board member's spouse; or **(3)** a person residing in a current board member's household. **(d)** A decision by the architectural review authority denying an application or request by an owner for the construction of improvements in the subdivision may be appealed to the board. A written notice of the denial must be provided to the owner by certified mail, hand delivery, or electronic delivery. The notice must: **(1)** describe the basis for the denial in reasonable detail and changes, if any, to the application or improvements required as a condition to approval; and **(2)** inform the owner that the owner may request a hearing under Subsection (e) on or before the 30th day after the date the notice was mailed to the owner. **(e)** The board shall hold a hearing under this section not later than the 30th day after the date the board receives the owner's request for a hearing and shall notify the owner of the date, time, and place of the hearing not later than the 10th day before the date of the hearing. Only one hearing is required under this subsection. **(f)** During a hearing, the board or the designated representative of the property owners' association and the owner or the owner's designated representative will each be provided the opportunity to discuss, verify facts, and resolve the denial of the owner's application or request for the construction of improvements, and the changes, if any, requested by the architectural review authority in the notice provided to the owner under Subsection (d). **(g)** The board or the owner may request a postponement. If requested, a postponement shall be granted for a period of not more than 10 days. Additional postponements may be granted by agreement of the parties. **(h)** The property owners' association or the owner may make an audio recording of the meeting. **(i)** The board may affirm, modify, or reverse, in whole or in part, any decision of the architectural review authority as consistent with the subdivision's declaration.