

Fellow Black Mountain Ranches Owners,

At our Annual Meeting on August 16, we will be discussing the Board's proposed changes to the Declaration of Covenants, Restrictions, Easements, Charges and Liens for Black Mountain Ranches. We ask that you go to the BMR website (<https://www.blackmountainranches.org/>) to review the proposed Amended and Restated Declaration of Covenants and that you review the frequently-asked questions below.

If you have additional questions or comments, please provide them to Board President, Stuart Morse, at smorse26@comcast.net in advance of the Annual Meeting.

Frequently-Asked Questions

July 29, 2025

1. Why are we doing this?

The Board has undertaken this significant task for two main reasons:

- a. While the 1983 Declaration is currently providing the framework within which the Association operates, it is no longer in compliance with current state law governing homeowners' associations;
- b. It also no longer reflects how the HOA operates. For example, the existing Declaration has references to the original Developer and their ability to annex property, which expired in 1993. The Proposed Amended and Restated Declaration of Covenants ("A&R Declaration") incorporates more detail on the Architectural Review process and on how assessments are determined and collected, which were previously included in the Rules and Regulations.

2. What happens if we do not change the Declaration?

If the Proposed A&R Declaration is not approved, the Association would continue to operate using the old documents and would be in violation of State law, exposing the Board of Directors and the Association itself to liability. While State law does not currently specify an explicit enforcement mechanism, the law could be amended at any time to add such a provision.

3. Is it even *legal* to change the Declaration?

Yes, The existing 1983 Declaration states in part that "the owners of sixty-five percent (65%) of the tracts which are subject to these covenants may change or modify any one or more of said restrictions...by executing and acknowledging an appropriate agreement or agreements in writing for such purposes and recording the same in the office of the County Clerk and Recorder of Park County, Colorado."

4. Didn't we vote on this last year? Why are we doing it again?

Last year, after spending nearly \$14,000 in legal fees and hundreds more in administrative expenses, the A&R Declaration fell just 9 votes short of passage, which requires the affirmative vote of 65% of all BMR HOA members. Since there are 100 lots in the Association, 65 affirmative votes are required. In 2024, 67 ballots were received,

with 56 (83.5%) voting “yes. Because most ballots cast in 2024 favored approval, the 2024 – 2025 Board believes that the A&R Declaration can be approved if the 67% return rate can be improved.

5. How was the proposed A&R Declaration developed?

The 2023 - 2024 Board worked for nearly 6 months with Altitude Community Law to draft the A&R Declaration. Altitude Law has over 35 years of experience working with community associations such as ours. The Board’s goal was to draft an A&R Declaration that maintained the basic principles of our existing Declaration while modernizing and revising it to be in compliance with the law. Owners were invited to comment on the draft and the document was revised to incorporate many of the concerns expressed.

6. What are the specific statutes that require this change?

The Colorado Common Interest Ownership Act (CCIOA) and the Colorado Revised Nonprofit Corporation Act both impose restrictions on HOAs such as ours. The CCIOA was adopted in 1993, and originally did not apply to Associations such as BMR, which was incorporated in 1982. However, subsequent amendments made the statute binding on all HOAs.

- The most recent version of the CCIOA can be reviewed at <https://altitude.law/wp-content/uploads/2024/08/CCIOA-Updated-8-7-24.pdf>
- The Colorado Revised Nonprofit Corporation Act can be reviewed at <https://altitude.law/wp-content/uploads/2020/11/Nonprofit-Act-OFFICIAL-Updated-8-9-22-07075948xA12BD.doc-Read-Only-Compatibility-Mode.pdf>

7. What are the next steps?

- a. Owners may submit written comments on the A&R Declaration to Stuart Morse (smorse26@comcast.net) before the Annual Meeting
- b. The A&R Declaration will be discussed at the BMR Annual Meeting on August 16
- c. Approximately 2 weeks after the meeting, a final version will be distributed to all owners, along with a ballot (one per lot owned) and a stamped return envelope
- d. Voting will be open for 30 days from the date of mailing