

Vote to Amend Covenants

FAQ Page

Q. Why are homeowners voting to amend their covenants?

- A. The covenant documents of Dufferin Park were originally written to expire 30-years from filing date with the county. That 30-year expiration timeframe goes into effect beginning in 2022, and subsequent expirations by additions occur annually through 2029.

The vote is to maintain Dufferin Park addition by addition(s) as a HOA into the future.

Q. What are homeowners actually voting on?

- A. Homeowners are voting to amend their original covenant document for these primary reasons:
- a. Remove the 30-year expiration
 - b. Clean up of outdated, and no longer applicable language
 - c. Clarify and ensure that the Association has the same roles and responsibilities as homeowners

The full red-lined version of the proposed covenant amendment, with all of the proposed updates, can be found on the website [here](#).

Q. Why is the vote being conducted in its current manner?

- A. The 2023 voting process is being conducted using amended Minn. Stat. 515B.2-118, which added a new provision (515.2-118(a)(7)) for obtaining the deemed consent of owners. An easy to read summary of the statutes can be found [here](#).

Q. Why was the 2022 vote not conducted in this manner?

- A. The short answer is that the Board at that time did not know about the amended statute regarding homeowner consent. When a homeowner brought this to our attention, the Board researched it, met with other HOAs that have utilized the amended statute to update their covenant documents, met with our attorney and management company, and sought guidance from the Scott County Examiner of Titles before proceeding to ensure full compliance with the statute.

Q. When will my address/addition be eligible to vote?

- A. The amendment process will be conducted in 3 phases throughout 2023, *tentatively* scheduled for:
- a. February - April: Dufferin Park 3 - 5 additions
 - b. May - July: Dufferin Park 6 - 7 & 8 - 9 additions
 - c. August - October: Dufferin Park 10, 11, 12 & 13 additions

Exact dates may fluctuate given circumstances in timing, but the goal is to have the vote completed for all additions by the beginning of October at the latest. Communications will be sent out prior to the close of one vote and the beginning of the next.

If you are unsure what addition you are located within, refer to the address list located near the bottom of the Documents page on our [website](#), or email questions@dufferinpark.com.

Q. Why are there two voting instruments?

- A. Your certified mailed packet of materials contains both a *consent form* and a *refusal to consent form*.
- a. If you consent (agree) with the proposed amended and restated declaration, and want your addition to continue to be part of Dufferin Park HOA, then you will complete and return the signed and notarized consent form.
 - b. If you refuse consent (disagree) with the proposed amended and restated declaration, and do *not* want your addition to continue to be part of Dufferin Park HOA, then you will complete and return the signed and notarized refusal to consent form.

Q. How do I vote?

- A. During your scheduled phase of the vote, you will receive a packet of materials through certified mail. The voting form must be completed and signed by each property owner. If the property is owned by more than one person (wife and husband, multiple owners, part of a trust), all parties are required to sign the form. In addition, the voting form is **required to be notarized** in order for it to be valid.

You have 60 days from the date of being mailed to return your completed, signed and notarized instrument. For eligible voters in DP 3rd, 4th and 5th additions, It must be **received by April 18th**.

Return the notarized document using the prepaid return envelope; it will **only** be accepted by mail. If you no longer have the return envelope, please mail to:

Dufferin Park Association
% Gretchen S. Schellhas, Esq.

Chestnut Cambronne PA
100 Washington Avenue South, Suite 1700
Minneapolis, MN 55401-2138

Q. How do I find the legal description (lot, block, addition) and Certificate of Title No. to submit the completed, signed, and notarized consent/refusal to consent form?

- A. To find the legal description of your property, you can look up your address on the DP website [here](#). The legal description column is your addition number. Record the listed lot, block, and addition number on your form.

To find your certificate of title number, you will need to do this one of two ways. You can look this up on the Scott County [website](#). Once there, type in your house number and start of street address and select [search](#). In the View tab, scroll down to Documents. Scroll to the end of the documents and “open” the last document conveying title to you. Select the Certificates bar and the certificate number should be there. Your second option would be to call the Scott County office (952-445-7750) and ask them to provide it to you.

Q. Where can I find a notary?

- A. Dufferin Park will make notary services available during each phase of the voting in 2023. Watch for those announcements as they are scheduled.

Residents may have a document notarized at no cost by a notary public at Savage City Hall, Savage Police Station, or Savage Public Works building during normal business hours. You may also want to check with your local bank.

Q. When do I need to submit my vote by in order for it to count?

- A. A homeowners consent or refusal to consent form has to be received within the attorney’s office (specified above) no later than the date indicated in your letter.

Specifically:

- a. Dufferin Park 3rd, 4th, and 5th additions- **received by April 18, 2023**
- b. Dufferin Park 6th - 7th & 8th - 9th additions- tbd
- c. Dufferin Park 10th, 11th, 12th, & 13th additions- tbd

Q. What if I am eligible to vote, but do not vote?

- A. Under the updated MN Statute amendment 515.2-118(a)(7), any non-vote will be counted as a vote in favor of the amendment.

Q. What if current household status changes do not match what is on the Certificate of Title?

- B. What if the Certificate of Title only has one party listed, but the household is a married couple?
 - a. Just the person on the Certificate of Title should sign.
- C. What if the Certificate of Title has two parties listed, and then there was a divorce?
 - a. If the plan is to consent to the amended documents, then you can not submit your vote as a non-vote is considered a vote in favor of the amendment. If the plan is to refuse to consent to the amended documents, then you will need to get a divorce decree filed so as to fix the certificate of title to show only one party owns the property and then sign; or get the other owner on title to sign the same.
- D. What if the Certificate of Title has two parties listed, but there is a separation, or both parties do not live at the same address?
 - a. If the plan is to consent to the amended documents, then you can not submit your vote as a non-vote is considered a vote in favor of the amendment. If the plan is to refuse to consent to the amended documents, then you will need to get the other owner(s) on the Certificate of Title to sign the same (can be signed on different dates and/or with a different notary). The original must still be returned with all necessary notarized signatures.

Q. What happens to the properties within the addition once the vote is final?

- A. If 75% or more of homeowners vote in favor of the amendment, or do not vote, within the voting addition(s) of their given timeframe, then that addition(s) will continue to be part of Dufferin Park until otherwise amended or terminated. If the amendment does not pass, then that addition(s) will no longer be subject to the applicable Declaration effective the following day of their 30-year expiration date.

Q. If the vote fails for any addition(s), are you out of the HOA as of that time?

- A. If your addition(s) fails to meet the requirements to pass the covenant amendment, then your 30-year expiration date remains intact. As of the day after your 30-year expiration date, you will no longer be part of Dufferin Park HOA.

Q. If the vote fails for any addition(s), what happens to any monument(s) and/or cul de sacs within that addition(s) once the 30-year expiration date has been reached?

- A. Any monument that is on a homeowners property following the 30-year expiration date, assuming that the addition did not vote to amend their covenant documents, becomes the property of the owner. The homeowner becomes responsible for the maintenance and upkeep of the monument, or its removal. The same is true for cul de sacs; the HOA will no longer maintain the cul de sac areas.

Q. What homeowners are impacted by this vote?

- A. All Dufferin Park homeowners will be impacted by the outcome of the covenant amendment vote as it will determine the size, and landscape of Dufferin Park beyond 2023. This also will impact the “common areas,” landscaping needs/costs, and what the budget will be.

Q. If additions are no longer part of Dufferin Park HOA, how will that impact the annual assessment each year for remaining properties?

- A. The short answer is that there would be less properties to spread the total operational costs among. Budgeting is completed in the fall each year, so the actual amount will not be known until November each year. By conducting this vote for the remainder of Dufferin Park in 2023, this will allow us to have a clearer picture prior to setting the budget, and assessment, for 2024.

Q. Who should I reach out to if I have additional questions?

- A. Any questions can be directed to questions@dufferinpark.com