

# Fountain Village Estates Homeowner Association

## Guidelines for Architectural Review Committee (ARC) on construction/improvement requests May 15, 2020

### 1. Approval Required.

- a. HOA Declaration and Covenant & Restrictions established since the formation of Fountain Village Estates Homeowners Association community, any construction on, or alteration to, a structure on a member's property requires the approval of the HOA.
- b. Failure to obtain approval from the HOA may result in the member having to take down their structure down.
- c. Structures erected after March 1, 2020 (3/1/2020) without HOA approval may also be subject to fines as outlined in the HOA's payment policy.
- d. HOA CCRs, paragraph 13: No building shall be erected, placed or altered on any lot until the construction plans and specifications, and plans showing the location of the structure, have been approved by the City or County.
- e. HOA CCRs, paragraph 13: The board shall approve the design, quality of workmanship, harmony of design to existing structures, location with respect to topography and finish grade elevations.
- f. Submittal of a property alteration request constitutes permission from the Homeowner to the HOA to inspect the site of the proposed alteration before, during and after construction.
- g. HOA CRs, paragraph 16: "The failure on the part of any of said parties affected by these restrictions, at any time to enforce any of the provisions herein shall in no event be deemed a waiver thereof, or of any existing violations thereof, nor shall the invalidation of any of said agreements and covenants by judgment of court order affect any of the other provisions hereof, which shall remain in full force and effect. Should any suit or action be instituted by any of said parties to enforce any of said conditions, agreements and covenants, or to restrain the violation of any thereof, after demand for compliance therewith or for the cessation of such violation, and failure to comply with such demand, then and in either of said events and whether such suit of action shall be entitled to recover from the defendants therein such suit or action, in addition to statutory costs, attorneys fees and disbursements."

### 2. Homeowner Accountability.

- a. **Compliance with County Regulation.**
  - i. Approval of the HOA does not imply compliance with all county building regulations and permit requirements. It remains the responsibility of the homeowner to ensure compliance.
  - ii. Failure of the homeowner to obtain the appropriate permissions from the county will be subject to corrective actions or fines, as defined by the county.
- b. **Compliance with HOA decision and rules.**
  - i. Construction of an attached or detached structure in the Fountain Village Community implies agreement with the rules and guidance provided by the HOA.
- c. **Cost of Compliance**
  - i. The cost of ensuring compliance with both county and HOA requirements is the responsibility of the homeowner, including costs incurred by the HOA in enforcing requirements.

- d. **Documentation.** The homeowner is accountable for maintaining all documentation, including but not limited to HOA approval documents, county permits, etc
3. **Good Neighbor Communications.**
    - a. As part of their due diligence review, the HOA’s ARC committee will notify all adjacent neighboring properties that there has been a request for property alteration.
    - b. All homeowners of adjacent properties are allowed to provide feedback to the ARC and the HOA during the evaluation and review period.
4. **Guiding Principles for HOA Decision-Making.** When considering a request from a community member for construction on a lot, the HOA board will keep in mind the following principles in their decision making:
    - a. **Community First.**
      - i. The board will seek to find a compromise between individual requests and community objectives. Where these goals are in opposition, it is the fiduciary accountability of the board to consider the good of the community over the good of the individual property owner.
      - ii. The job of the HOA is first to protect the property value of **ALL** homeowners. This supersedes consideration of individual wishes.
      - iii. Any structure must be sized, placed, and oriented to have the least impact to all adjacent neighboring properties, even if this causes an inconvenience to the requester.
      - iv. The HOA is responsible for maintaining a consistent aesthetic quality to the neighborhood, also referred to as “common look and feel.”
    - b. **Exclusions and Inclusions.** With this document, the HOA is doing its best to foresee different events and scenarios and to establish guidelines that create consistency and fairness for all community members. However, knowing that it is impossible to foresee all scenarios, the failure to exclude or include a feature in this document, does not obligate the HOA to approve a homeowner request. Loophole does not equal approval.

The HOA will consider many factors in making their decision, and will sometimes be required to request additional information from the homeowner. (Example: The guiding principle is that when new questions arise, the board will consider these and apply their decisions fairly to all homeowners).
    - c. **Plat Map Review and Onsite Inspection/Measure of Proposed Plan.** The ARC Committee will not make a decision on an alteration request without physically viewing the property and verifying the proposed measurements as indicated in the application. The ARC committee should review the plat map for any obvious easements, etc. that may impact their recommendation on the request.

## 5. Appropriateness.

- a. Regardless of any guidelines outlined below, and because the size and configuration of each homeowner's house and lot differs from the next, the final decision of the HOA will ensure appropriateness of the structure to the homeowner's lot and to the location in the community.
- b. This can sometimes be a subjective subject, but the HOA has final authority to make this decision.
- c. If there are unapproved structures on the property, those will need to be reviewed and applied for before the new application can be further considered.

## 6. Number.

- a. **Detached structures.** Each homeowner may request to have one (1) detached structure erected on their property. Example: storage shed
- b. **Attached structures.** Each homeowner may request to have one (1) attached structure erected on their property. Example: patio cover
- c. **Total number of structures.** Each homeowner may request to have a total of one (1) detached and 1 (one) attached structure erected on their property for a total of two (2) structures. Approval of two structures is not guaranteed.

## 7. Size.

- a. **Detached structures.** Based on precedent at the time of writing of these guidelines, the maximum size of any detached structure will be eight feet by twelve feet (8' x 12'), with:
  - i. side walls being no more than six feet (6') in height as measured from the floor level to the bottom of the roof joist/rafter.
  - ii. overall structure being no more than eight and a half feet (8.5') in height at the peak of the roof.
  - iii. floor height being no more than twelve inches (12") off the ground at any point.
  - iv. These size guidelines are consistent with the largest detached structure the HOA has approved to date.
  - v. The largest size detached structure is not guaranteed to any requestor
- b. **Attached structures.** The size and design of attached structures will be evaluated for appropriateness by the ARC committee as outlined throughout this document.
- c. **Maximum Build Limitations.** The size of any structure may also be subject to county requirements. Based on urban residential zoning, the total hardscape on any lot may not exceed 50% of the square footage of the lot.

## 8. Design/Roof

- a. The design of any detached structure shall include a gable style roof.
- b. The roof should have a pitch of no more than 4/12.
- c. Roofing material must be of like kind, quality and color as the home.
- d. All roof drainage must be contained on owner's lot (county requirement)
- e. The roof may not overhang the structure by more than 6 inches

## **9. Materials**

- a. Construction materials must be of like quality to the home and be painted in a neutral color that matches the home.
- b. HOA CCRs, paragraph 13: Any outbuilding or other structures of any kind built or placed on the lot for any reason will have an exterior finish equal to the approved plans and/or dwelling.

## **10. Use**

- a. Per already established guidelines in the HOA CCRs, detached structures may not be used:
  - i. For commercial purposes.
  - ii. Living space, as with a guest house or casita.
- b. No utilities may be connected to the detached structure (county requirement)

## **11. Location on Lot**

- a. As already established in HOA requirements, any detached structure cannot be visible from the street when facing the house. (Example: This means most likely appropriate placement of the structure will be the back fence line of the property).
- b. Any detached structure must be placed on the lot and oriented so as to impose on the fewest number of adjacent neighbors, even if this imposes an inconvenience on the requesting homeowner. (Example: May have to locate a shed on the side of a yard opposite the existing gate to the yard).
- c. The offset of any structure must be a minimum of three feet (3') from any fence line/property line in all directions. (NOTE: County codes for placement may exceed HOA limitation guidelines based on zoning).
- d. If the structure is located within a utility easement, it is the responsibility of the homeowner to obtain a waiver letter from all applicable utilities prior to application submittal.

## **12. Placement and Orientation of a Detached Structure.**

- a. The placement and orientation of any requested detached structure may be impacted by the placement and orientation of existing structures
  - i. Example: the location of a shed in your neighbor's yard may dictate the location that is approved for your shed, since the responsibility of the HOA is to maintain a common aesthetic in the community.
  - ii. Example 2. The shed was approved for placement in the NE corner of their Lot 37. A future request from the homeowner on Lot 50 would have to be placed and oriented in the SE corner of their lot. This placement is based on at least three (3) of the following principles:
    1. Preexisting structure in neighboring yard,
    2. Impact to fewest number of adjacent neighbors, and
    3. HOA responsibility to maintain the aesthetic of the community.

## **13. Fountain Village Estates ARC Request Form.**

- a. FVE formation paperwork as sited in the CRs, in paragraph 13 of the Convents and Restrictions specifies that all improvements as defined and must be approved in writing by the Architectural Review Committee before the improvement begins

- b. The plans and specifications will not be considered complete without the following detailed items as outlined on the ARC Request Form.
- c. During the ARC review process homeowners may be requested to provide additional information in order for the ARC to make a recommendation. This request will come in the form of a letter specifying that additional criteria is required.

///