

Abrams Pointe Homeowners Association

Architecture Guidelines and Procedures for Home Improvement Projects

Effective: February 22, 2022

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Policy Statement

Virginia Code § 55.1-1819 and the Corrected Deed of Subdivision, Dedication, Easement and Declaration, December 1, 2010, (the "Corrected Deed") covering Lots in the Abrams Pointe Subdivision, Phase I, gives the authority to the Board of Directors of the Abrams Pointe Homeowners' Association (the "Board") to approve or reject proposed home improvements projects, consistent with the restrictive covenants (the "Covenants") contained in the Corrected Deed of Dedication and related Deeds. The Board strives to work with lot owners to insure the successful completion of projects within the limits of the Covenants. The Board may receive several requests for approval during a year and the Architecture Guidelines and Procedures for Home Improvement Projects (the "Guidelines") have been adopted by the Board to provide a consistent and transparent process. By following the steps outlined below, lot owners can expedite the construction/improvement approval process.

Lot owners who seek project approval should first review the Corrected Deed, Article VI, Section 17, which states:

"Until such time as development is complete, no building, structure, or addition or exterior alteration (including basketball backboards, rims and nets) or improvements of any kind shall be constructed, installed, or maintained on any Lot or dwelling unit located thereon unless a plan of construction that specifies in detail of workmanship, design, colors and materials shall have been approved in writing by the Declarants."

The Declarant's responsibility shifted to the Abrams Pointe Homeowners' Association (the "HOA") with the transfer of operational control in 2020 (see Article X, Section 1 of the Corrected Deed). The Guidelines are intended to provide clarity and consistency to the process for seeking approval of home improvement projects and to ensure compliance with the restrictive covenants in the Corrected Deed.

Limitations of Board's and the HOA's Responsibilities

The primary objective of the Board is to review the plans and materials submitted and to determine if those plans and materials conform to the Covenants and the Guidelines set forth in this document. Notwithstanding, with any approvals granted by Board, neither the Board, nor the HOA assume any responsibility for the following:

- Structural adequacy, capacity, or safety features of the proposed improvement, modification, or new structure.
- Soil erosion, unstable soil conditions or site/drainage issues. It is the responsibility of the applicant to address these issues with professional guidance where warranted.

- Compliance with building codes, safety requirements, and any other local, county, State or other governmental laws, regulations or ordinances.
- Performance or quality of work of any contractor.

Architectural Review Committee

The Board established the Architectural Review Committee (the “ARC”) during 2022 to review home improvement project requests from lot owners. The ARC consists of three members and their review ensures that projects meet the standards of the neighborhood, are compliant with the Covenants, and are compliant with the Guidelines. The ARC communicates a recommendation of approval or denial to the Board. The Board will consider the recommendation for approval, denial, or request for more information from the ARC and/or lot owner.

The Application and the Design Review Process

The applicant must fill out and sign the [Application for Project Approval](#) (the “Application”). To ensure a timely response, the completed Application with required documentation is required to be submitted to the ARC via email at abrams-pointe-hoa-arc@googlegroups.com.

The Application and following should be submitted:

- For any new or modified sheds or other outbuildings, fences, walls, decks, patios, enclosures, walkways, pools, driveway entrance structures, or other structures, indicate on a copy of the property/lot plat the proposed location of the new structure. For fences, indicate the type and height of the fence as well.
- A copy of engineering plans, if any, and, where possible, a picture or illustration of the project should be provided. Such plans should provide the specifications of any and all materials to be used in full compliance with Frederick County, Virginia (the “County”) building codes.
- Show all setbacks from the property lot lines as well as all drainage and grading modifications.
- Show all existing trees that are to be removed, associated with the proposal.
- For sheds, outbuildings and other structures, show the planned exterior elevations in a diagram.
- The Board and ARC will need sufficient details of the type of roof, exterior fascia, trim, and details of all exterior colors, finishes, and materials in order to perform its review. The Board and ARC may request product or paint samples to aid in the visualization of the proposed structure/modification/improvement.
- Confirmation that any required governmental permits have been obtained in advance.
- A date by which approval is required or sought. The Board will move as promptly as possible to make a decision.

Any pricing/cost information related to the proposal need not be submitted and may be redacted from the documents submitted by the applicant.

The Application also requires several written assurances including:

- A written assurance that any and all permits required by the County have been obtained, if applicable.
- A written assurance that the construction will be within the setback lines on the lot.
- A written assurance, that the lot owner accepts responsibility for any damage that might be caused to adjoining lots or the HOA's common areas as a result of the construction.
- A written assurance from the lot owner and the construction contractor (if applicable), that the construction will have no impact on the flow of storm water through the lot owner's property or on any other drainage and utility easements referred to in the Corrected Deed and related deeds applicable to the HOA.
- A written assurance from the lot owner and the construction contractor (if applicable), that the construction, when completed, will have no adverse environmental impact on the land and all required environmental assessments have been obtained.
- A written assurance that no excavation or construction has been or will be initiated unless and until the Board has approved the Application for the project.
- A written assurance that the construction, modification, or improvement will not violate any of the Covenants.
- A written assurance that regarding any construction initiated without approval or modifications made to the plans without further approval of the Board, or contrary to any of the representations contained herein, the lot owner accepts financial responsibility for corrective actions that might be required by the HOA.
- A written assurance that the lot owner has reviewed the Covenants in the Corrected Deed and the Guidelines.
- A written assurance that the lot owner has been in contact with the homeowners of adjoining properties about the planned project and the construction project maintains the existing harmony of the neighborhood. Adjoining property homeowners do not need to approve the project – they only need to be informed of the proposed project.

The time to complete the review process will begin upon submission of the Application and all supporting documentation to the ARC.

Timeline for Decision. Once a completed Application has been submitted, the ARC will communicate their recommendation to the Board within seven days. The Board will then make their decision within seven days. However, the review process may take longer due to the complexity of the proposed project and delays, if any, will be communicated by the Board to the lot owner. If expedited consideration is required, the request should be made at the time the Application is submitted to the ARC and the Board. While not obligated, the ARC and the Board will try to meet the timing needs of the applicant.

Modifications After Application Submitted. Once final approval is received from the Board, no deviation from the approved proposal will be permitted without the submission of an amended Application containing sufficient details to the ARC. Further written approval will be required from the Board before construction of such modification can be initiated.

Start of Construction. The applicant will not initiate any construction, modification or remodeling associated with the proposal until after the applicant receives final written approval from the Board, which will be communicated via email. If there is any premature

construction, the applicant may be liable for any restoration required by any subsequent Board denial of a proposal or component thereof. The Board and ARC wants to work closely with the applicant in order to avoid this outcome.

Onsite Inspections. The Board and/or ARC may require an onsite inspection of the lot in question by a representative of the Board and/or ARC in order to understand and to visualize the proposed project before, during, and after the construction/modification/remodeling is initiated in order to insure consistency with the proposal and compliance with the Covenants and the Guidelines.

Architecture Guidelines

The Guidelines are not intended, nor should they be construed, to contradict the Covenants contained in the Corrected Deed. Rather, they are intended to add clarity and to guide lot owners in planning exterior construction/maintenance/remodeling projects. They are also intended to provide standardized guidance to the Board in reviewing and determining if proposed projects should be approved. The Guidelines are a starting point for Board review recognizing that each project is different and the Board will endeavor to work with lot owners to achieve their objectives.

The Scope of Board Review for Construction and Improvement Projects

Construction includes, but is not limited to, all houses (exterior), sheds of any kind, other outbuildings, fences, pergolas, trellis', decks, patios, pools, entrance ways, porches, pavements, drive ways, solar collection devices, play equipment (including basketball backboards and basketball hoops), outside antennas and satellite dishes, as well as flag poles (limited to no more than 25 feet in height), and any other physical structure appurtenant to the foregoing. In addition, large outside decorative objects such as sculptures and large fountains would require an application.

Routine maintenance such as replacing existing porch lights, porch railings, and any fence repairs will not require the submission of an application. Additionally, no approval is required for the replacement of an existing item with an item that has similar characteristics. These characteristics include but are not limited to materials, finishings, colors, aesthetics, quality, size, footprint, and/or shape. Some examples are exterior light fixtures, roofing shingles, siding, masonry & stone work, and replacement of driveways & walkways. If the characteristics of the item are changing such as replacing a wood fence with a vinyl fence, please submit a project application to get prior approval.

Before submitting an application to the Board for approval of a project, the lot owner should review the Covenants set out in the Corrected Deed under Article VI, Sections 1-40. While additional Covenants may be applicable and should be followed by lot owners, the Board has focused on the ones most likely to arise with exterior home improvement projects. The Board cannot approve any proposed project that would violate any of these Covenants. Accordingly, certain of these Covenants are set forth in italics below with Guidance where appropriate:

- *Section 1. All Lots shall be used for single-family residential purposes only. No detached garage, carport, utility, or other outbuilding shall be permitted in the front or side yards of any Lot unless constructed of the same materials as the primary dwelling.*

No brick or masonry mailboxes may be constructed on or appurtenant to any Lot.

Guidance: The Board will not approve any detached garage, carport, utility, or other outbuilding in the front or side yards of any Lot as such a structure would be contrary to Section 14 of the Covenants (see Section 14 below) and wholly inconsistent with the declared intent of the Corrected Deed “...in order to provide for the preservation and enhancement of the property values, amenities, and opportunities in the subdivision.” (Corrected Deed, page 2.)

- *Section 3. No commercial vehicles owned or used by Lot Owners (vehicles which are larger than normally used for noncommercial purposes), trailers, campers, recreational vehicles, boats, and other large vehicles, may be parked or used on any front or side yard of any Lot, except if such a vehicle is in connection with construction activities.*

Guidance: The Board acknowledges that many lot owners within the HOA own trailers, campers, RV's, boats, and other recreational vehicles and recognizes the convenience of temporarily parking these recreational vehicles in a driveway to load/unload, clean, and perform routine maintenance on them. Therefore, the Board has interpreted the restriction set by the covenant above as only applying if the recreational vehicle remains on the owners lot for more than five days (as approved by the Board in the October 18, 2022 meeting). This restriction is only applicable to recreational vehicles that are within public view and does not apply to recreational vehicles that are stored within a garage.

- *Section 4. Every Owner shall provide his or her Lot with off-street parking containing an area sufficient to park two (2) vehicles of the type permitted on Lots in Abrams Pointe, which area may include all area in any driveway located on the Lot itself or in any garage attached to a dwelling unit. The parking area is to be used by the inhabitants of the dwelling unit located on said Lot. All driveways are to be constructed of concrete, asphalt, crushed stone, or other suitable material.*

Guidance: The Board recognizes that new building materials are constantly being developed that can enhance the appearance of a Lot. Manufactured bricks and stamped concrete are two examples that could be approved. Driveways constructed with asphalt are not encouraged but, at the same time, are not prohibited. However, the Board will not approve asphalt for a driveway unless it is of high-grade material and with sufficient thickness; not a thin film of tar-based paint-like substance which could have a negative impact on neighborhood values.

- *Section 5. The maintenance, keeping, boarding, or raising of animals, livestock, poultry, or reptiles of any kind, regardless of number, is prohibited on any Lot, with the exception of guide animals and a reasonable number of orderly and traditional domestic pets are permitted; provided, however, that such pets are not kept or maintained for commercial purposes or for breeding.*

Guidance: The Board will not approve the construction of any kind that is intended to be used in violation of this Section.

- *Section 6. No fence shall be installed in a side or front yard. Fences may be installed in a rear yard. Rear fencing and hedges shall not exceed six feet (6') in height. All fencing shall be constructed of wood, composite lumber (e.g., TREX), masonry, iron*

or PVC material. No chain link fencing shall be allowed.

Guidance: The Board will not approve any fence construction that would violate this Section.

- *Section 7. No noxious or offensive activities shall be permitted on any Lot, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to any Owners. No Owner, occupant, or invitee on any Lot shall cause any unreasonably loud noise (except for security devices) anywhere on a Lot, nor shall any Owner, occupant, or invitee on any Lot permit or engage in any activity, practice, or behavior for the purpose of causing annoyance, discomfort, or disturbance to any other Owner, occupant, or invitee on any other Lot.*

Section 30. No exterior lighting shall be directed outside the boundaries of any Lot.

Guidance: Approval will not be granted for any construction that would facilitate a violation of these Sections. For example, the construction of an outdoor speaker system that has the capacity to become noxious or offensive to neighbors in adjacent properties would likely be denied without safeguards. Outdoor lighting is another example that could become noxious or offensive in violation of this Section. Environmental degradation is still another category of potential noxious or offensive activity. These examples are not intended to define or limit the other kinds of noxious or offensive activity that might be determined by the Board to be prohibited, in denying an application or, alternatively, approving it with conditions.

- *Section 11. No exterior clothes lines or clothes hanging devices, shall be permitted on any Lot, except for retractable umbrella-type devices with a diameter not to exceed seven feet (7') or a retractable clothesline not extending over twenty-eight feet (28'), provided; however, that the same may only be used in the rear of any dwelling unit constructed on said Lot and the clothes line or device is stored within the dwelling unit when the clothes line is not in use.*

Guidance: Approval will not be granted for any construction that would facilitate a violation of this Section.

- *Section 13 (as amended on December 1, 2012). No dwelling, exclusive of garages, basements, and other unfinished areas, shall be constructed on any Lot with a footprint (the ground level of the dwelling) of an aggregate finished square footage amount of less than One Thousand Seven Hundred Fifty (1,750) square feet of finished space on the ground floor of the dwelling for one-story dwellings; One Thousand One Hundred (1,100) square feet of finished space on the ground floor of the dwelling for two-story dwellings; and for all other house configurations, such as, but not limited to, Cape Cod, Saltbox, Multi-Level and Tri-Level, Two Thousand (2,000) square feet of finished space on the ground floor computed outside foundation measures.*
Section 14. Sheds are permitted only when constructed in accordance with the codes and regulations of all governing authorities. Sheds may not be constructed in side or front yards.

Guidance: Approval will not be granted for any construction that would facilitate a violation of these Sections.

- *Section 15. Garages shall be attached to or part of the main structure on the Lot, unless in compliance with Section I of this Article. A garage must be constructed with materials similar to that which are used on the main structure and must be constructed in accordance with all rules and regulations of all governing agencies. No garage on a Lot shall be converted to a living space or altered or used for purposes that would prevent the use of the garage for the parking of the intended number of vehicles for which it was constructed.*

Guidance: Approval will not be granted for any construction that would facilitate a violation of this Section.

- *Section 16. The exterior finish materials on any dwelling, garage, or shall be brick, stone, EIFS, hardiplank or hardipanel (or other like quality cementaceous siding), cedar or other wood siding, log, vinyl siding, or stucco. No offensive or atypical colors may be used on any exterior visible surfaces.*

Guidance: The Board recognizes that new building materials and products are constantly being developed that provide quality construction and the Board may find that newer products of the same, or better, quality can be considered for approval. Whether colors are offensive or atypical involves a subjective judgment call. Notwithstanding, the Board will not review it as a question of good taste; rather, the Board will consider its possible impact on the home values of neighboring properties and whether it complements the color schemes of the community.

- *Section 20. No structure of a temporary character, and no trailer, tent, shack, pen, kennel, run, or temporary accessory buildings shall be erected, used, or maintained on any Lot except in connection with construction activities.*

Guidance: Approval will not be granted for any construction that would facilitate a violation of this Section.

- *Section 22. Except for hoses and the like which are reasonably necessary in connection with construction activities or normal landscape upkeep, and satellite mini-dishes, limited to one per Lot, no water pipe, sewer pipe, gas pipe, drainage pipe, television or telephone cable, electric line, or other similar transmission line shall be installed or maintained upon any Lot above the surface of the ground.*

Guidance: Approval will not be granted for any construction that would facilitate a violation of this Section. Outside antennas and satellite dishes shall be placed as inconspicuously as possible and screened from view; provided, however, that this guideline shall not unreasonably delay installation, interfere with reception or increase the cost of installation, consistent with Virginia Code.

- *Section 23. No kiddie pools, play equipment, sandboxes, toys, verandas, gazebos, or other similar appurtenances may be used or kept in any front or side yard.*

Guidance: Approval will not be granted for any construction that would facilitate a violation of this Section.

- *Section 25. No Lot shall be subjected to or used for any timesharing, cooperative, licensing, or other arrangement that would entail weekly, monthly, or any other type of revolving or periodic occupancy by multiple Owners, cooperators, licensees, or timesharing participants.*

Guidance: Approval will not be granted for any construction that would facilitate a violation of this Section.

- *Section 31. No Lot or dwelling or improvement located on a Lot shall be used for any business, commercial, manufacturing, mercantile, storage, sales, or other similar; provided, however, that an Owner may maintain an office or home business in the dwelling on such Owner's Lot if: (i) such office or home business is operated by the Owner or a member of the Owner's household residing on the Lot; (ii) there are no displays or signs indicating that the Lot is being used other than a residence, (iii) such office or business does not generate significant traffic or parking usage by clients, customers, or other persons related to the business; (iv) no equipment or other items related to the business are stored, parked, or otherwise kept on such Owner's Lot; (v) such Owner has obtained any required approvals for such use from the appropriate local governmental agency; (vi) the activity is consistent with the residential nature of the Lot and complies with local ordinances; and (vii) the dwelling is used primarily as a residence.*

Guidance: Approval will not be granted for any construction that would facilitate a violation of this Section.

- *Section 32. This section shall not be construed as forbidding any work involved in the construction or upkeep of any portion of any Lot so long as such work is undertaken and carried out in accordance with all applicable restrictions and regulations. Any Owner, contractor, or builder undertaking development or construction activities on any Lot shall take all steps reasonably necessary to prevent damage to adjacent Lots or streets and shall restore any land or improvement disturbed by such development or construction activities to a condition at least as good as the condition existing prior to the undertaking of such work. The Owner, contractor, or builder shall be responsible for the cleanliness of all construction vehicles working on any Lot during the site's development or construction, particularly on any public roads, and such Owner, contractor, or builder, at its sole cost and expense, shall promptly remove the same.*

Guidance: Note that the Application submitted by the lot owner will also require acceptance of financial responsibility for violations of this Covenant.

- *Section 36. If a Lot Owner uses a builder other than the Declarants or a builder approved, in writing by the Declarants, their successors or assigns, to construct a dwelling on the Lot, such Lot Owner must post a bond to the Declarants in the amount of Five Thousand Dollars (\$5000.00) for potential impact to the roads. The bond shall be refunded in the amount posted less amounts expended to repair impact to the roads resulting from the builder.*

Guidance: This is most likely to apply where an entire house must be replaced due to serious fire or other major damage.

Other Limitations Consistent with the Covenants

Solar Energy Collection Devices: No solar energy collection device shall be placed on any Lot without the expressed written permission of the Board. Generally, solar energy collection devices may only be installed on the rear roof of the house and cannot be seen from the front of the house. However, the power of the Board to regulate the placement of solar energy collection devices is limited by the Virginia Code 55.1-1820.1 in that its recommendation or decision cannot reduce the performance of the system by 10% or more, or add more than 5% to the cost of the installation as originally proposed. The Board will work with lot owners requesting to install solar energy collection devices to determine their placement while remaining in compliance with both the Covenants and Virginia Code 55.1-1820.1.

Flagpoles: In addition to a height limitation of 25 feet, approval will be conditioned on an assurance that the flags to be flown will not contain any obscene language or images. There is no prohibition against a lot owner who wishes to display the flag of the United States as per Federal law.

Future Amendments: From time-to-time, the Board may amend these Guidelines based on changing attitudes in the Abrams Pointe community, improvements in construction and product technology, and the experience developed in the Board's review of various projects.