

Architectural Review Questions and Answers

Homeowners (“Owners”) who own residences in the Fountain Greens Subdivision (the “Subdivision”) automatically are members of Fountain Greens Homeowners Association, Inc. (the “Association”). When they plan to make major repairs or changes to the exterior of their residences or to the landscaping around their residences, they need to submit their construction and landscaping plans to an architectural review. The following frequently asked questions and answers may help Owners understand their obligations.

1. **Why are Owners subject to architectural review?** All homes in the Subdivision are subject to certain “covenants.” When the Subdivision was created in the late 1970’s, the developer recorded some covenants in the Boulder County Recorder’s office. This put every buyer of a Lot in the Subdivision on constructive notice that if they purchased a Lot, they were automatically bound by those covenants. Colorado law permits a developer to do this so that future buyers of homes in the Subdivision can be assured that the neighborhood will be preserved as a good place to live. The covenants are a form of contract among the Owners. When a new Owner records the deed to the Owner’s residence, that Owner automatically agrees that the Owner will not make major changes to the exterior of the Owner’s residence or landscaping on the Lot unless the plans for that construction and landscaping first are reviewed by a committee of neighbors (an “Architectural Review Committee” or “ARC”). The new Owner also will be deemed to have agreed not to proceed with construction or landscaping that is not approved in advance.

2. **Who reviews construction or landscaping plans?** Construction plans are necessary for a building permit. Boulder County reviews construction plans before a building permit is issued for all of the homes in the Subdivision other than those located in Block 9. Block 9 is in the city limits of the City of Boulder, and the City reviews construction plans for homes in Block 9. Also Block 9 does not have a separate architectural review procedure established by the Association’s covenants and does not have any applicable ARC. All other lots in the Subdivision (other than those in Block 9) are subject to an additional review procedure for construction and landscaping projects as prescribed in the covenants and rules of the Subdivision. There are nine (9) separate review procedures that apply to different areas within the subdivision. For some of these areas, a separate “Sub-Association” has jurisdiction (there are six of these). There is a separate ARC for homes in Block 3, a separate ARC exists for homes in Blocks 4 and 8; and a separate ARC for homes in Blocks 5, 6, and 7. The procedures for appointing or electing members of the boards in the six Sub-Associations are prescribed in the six separate covenants that govern these Sub-Associations. The other three groups of homes that are located in Blocks 3 through 8 are governed by separate covenants that require the creation of ARC’s for those areas. All of these complex documents are recorded in the Boulder County Recorder’s office and are available to anyone with a computer connected to the internet. However, some of these documents are on the Association’s website, along with other valuable information. You are encouraged to visit that website at: <https://www.fountaingreenshoa.com>. Attached to these questions and answers as “Exhibit A” is a current listing of each Sub-Association, the Block in the Subdivision governed by that Sub-Association, the name and contact information of each Sub-Association’s chairperson, and the name and contact information for each Sub-Association’s manager. Also listed on Exhibit A are the names and contact information of the Association’s Board of

Directors and the Manager of the Association. Finally, Exhibit A contains a listing of the names and contact information for each of the Chairpersons of the ARC's for Block 3, Blocks 4 & 8, and Blocks 5, 6, and 7.

3. How do I know if my plans must be approved before I can proceed? Not every landscaping or construction project requires a review. No change to just the interior of a residence requires a review by an ARC but may nevertheless require a review by a Sub-Association. The safest way is to ask the ARC or Sub-Association which has architectural review authority over the Block in which your home is located. Minor repairs usually don't require a review, but if exterior colors will change, or if a new roof is to be installed, a review is necessary. The chairpersons of each ARC and each Sub-Association are familiar with architectural review procedures and will be happy to answer your preliminary questions about the review process.

4. What keeps an ARC or Sub-Association review from being arbitrary? Members of an ARC, members of the Board of Directors of the Association, and members of the governing boards of each Sub-Association are homeowners and neighbors and have agreed to serve without compensation for the best interests of the Subdivision in general and the jurisdictional area of their ARC or Sub-Association in particular. They strive to make decisions which are consistent and free from any conflicts of interest. Their goal is to preserve and enhance property values in the Subdivision and harmony among all residents. If, nevertheless, an Owner believes a decision by one of these boards or committees was improper, certain appeal rights exist (discussed below).

5. Assuming I have plans to modify my residence or landscaping, how do I proceed? You first need to verify which ARC or Sub-Association has jurisdiction over your home and Lot. If you live in Block 9, you don't need to worry about this review process. Otherwise you need to submit your application for review to the correct ARC or Sub-Association. For ARC's, you can submit your application for review either to: (i) the Chairperson of the pertinent ARC; or (ii) the Manager of the Association. For Sub-Associations, you can submit your application to the manager of the pertinent Sub-Association. The contact information for all of these is listed on Exhibit A.

6. Is there a specific form I should use when I make my application for review? Attached to this Q & A list is Exhibit B, the form you should use when applying to an ARC for a review of your plans. The Sub-Associations all have their separate procedures and forms, and you should consult the manager of the appropriate Sub-Association before filing your application to be sure you are in compliance.

7. Do my immediate neighbors have the right to veto or block my application? No. In the past, applicants were asked to obtain the consent of their immediate neighbors to their plans before filing an application. However, there is no requirement for this consent in any of the Sub-Association covenants or in the Association's covenants. Nevertheless, you are required to explicitly notify your immediate neighbors of your plans before you file your application. In doing so, you will be giving those neighbors a "heads-up" and an opportunity to communicate any objections to—or support of—your application to the pertinent ARC or Sub-Association in a

timely manner. For this purpose, another Owner whose residence is within a 150 foot radius of your residence is considered an “Adjacent Owner” entitled to this separate and specific notice. The notice you are required to give to these Adjacent Owners is attached to this Q & A as Exhibit C.

8. What am I supposed to attach to my application? You should attach to your application copies of any documents that will give the committee a clear idea of what you propose. If you have architectural plans or a schematic of what you intend to install, a copy of same should be attached. Exhibit B lists the required attachments. The goal is that after you have completed your project, no one is surprised by the result and it is consistent with the plans you submitted.

9. How do I “attach” a color, shingle, roofing tile, or plant to my application? You can attach samples or give the committee samples. Some ARC’s and Sub-Associations have “color palettes” or lists of approved colors which are referenced by industry standard codes. Some of these are on the Association’s website (see, e.g., the “Color Board” for Block 3). Boulder County has a list of “noxious weeds” that aren’t allowed to be planted or grown, and that list is attached to the Association’s Policy #11 (Maintenance Standards). Landscapers can provide you with the proper name for plants, trees, and shrubs. You need to describe what you plan to do in sufficient detail so that there’s no confusion about what you intend.

10. What if I need to modify something shown on my plans after I get started? It depends upon how major of a change is involved. Inconsequential (very minor) changes do not require ARC or Sub-Association approval (moving some improvement a few inches or exchanging one type of flower for another). But changes in color, size, height, etc., do require approval if the ARC or Sub-Association considers them to be a material deviation from your previously approved plan. You should immediately check with the Chairperson of the ARC or the Sub-Association before proceeding with a major change.

11. What if my plans are not approved by the ARC or Sub-Association? Can I appeal? Yes. The Association’s Policy # 12 (posted on the Association’s website) allows appeals from ARC disapprovals to the Board of the Association. However, before you file an appeal, you should first talk to the Chairperson of the ARC or the Sub-Association to find out why your application was not approved. Perhaps you can amend your plans and thus change the result. That would get your (now modified) plans approved. That would be quicker and easier than appealing the committee’s decision. However, if you want to appeal, you should review Policy #12 for how to do so. There are time limits on an appeal specified in Policy #12 (must be filed within 30 days after final denial by the ARC). [See Article III, Paragraph E of Policy #12].

12. How long does it take for my plans to be approved or disapproved? The pertinent ARC or committee is required to consider an application within 30 days of the date it is filed. Usually it takes less time than that.

13. What if the ARC or Sub-Association just “sits” on my application and doesn’t do anything with it? Can I proceed without approval? No. However, there is a procedure described in Paragraph F of Article III of Policy #12 for giving the ARC or Sub-Association notice that you filed an application that hasn’t been acted upon. After the expiration of the time periods

described in Policy #12, you may be entitled to treat your application as approved in spite of no actual approval by the ARC.

14. What if I ignore the above described requirements? Some people think that “it’s better to ask forgiveness than permission.” That isn’t the case here. Any failure to get the required approval of an ARC or Sub-Association before proceeding with material changes to your residence or landscaping will require that you pay a minimum fine. The Association can force you to restore your property to the condition it was in prior to making the improvements for which you should have sought permission to install or construct. You might be forced to pay the Association’s legal fees and court costs for enforcing the covenants and the Association’s Policies against you. Please do not consider such an approach—you will regret it.

15. If I need further information, where do I look? Your first step should be to review the relevant documents on the Association’s website: <https://www.fountaingreenshoa.com>. You can ask questions of virtually anyone listed on Exhibit A, and if they don’t know the answer, they will direct you to someone who can do so.

The answers stated above are summaries of the requirements of Policy #12. In the event of any conflicts between the language of Policy #12 and these answers, the language of Policy #12 governs.

Exhibit B to Questions and Answers Concerning Policy #12

**APPLICATION FOR REVIEW BY *[Name of]* ARCHITECTURAL REVIEW
COMMITTEE ("ARC")**

[Date Filed with ARC: _____ (For ARC use only)]

Name(s) of Owner/Applicant: _____.

Property address where Improvements will be located if Application is approved:

_____.

General Description of Proposed Improvements: _____

_____.

Approximate commencement date of construction/installation: _____.

Approximate date when the proposed Improvements will be completed: _____.

If known, the name and address of the general contractor, landscaping firm, or other service provider who will be constructing or installing the proposed Improvements _____

_____.

The colors of exterior paint, shingles, or other architectural features that will be incorporated in the proposed Improvements: _____.

[Note: If the ARC has an Approved Paint Palette, then the Applicant may refer to the proposed colors by the name, number, or label utilized by the ARC on the Approved Paint Palette. Otherwise, the Applicant should attach conformed copies of samples of the colors of exterior paint, shingles, or other architectural features that will be incorporated in the proposed construction.]

[If the Application relates to proposed landscaping] The nature and description of the plantings and landscaping features proposed: _____

Required Attachments: This Application will not be considered unless and until all required documents are attached, to wit:

--Names, addresses, and contact information for all Adjacent Owners (Owners of Lots which are within a 150' radius as well as in the ARC's jurisdictional area);

--Copies of architectural plans or landscaping plans depicting the proposed Improvements;

--Description of plants, bushes, trees, etc., proposed to be planted; and

--Any other documents necessary to describe and disclose the nature and extent of the proposed Improvements.

Required Certifications: By the Owner/Applicant's signature(s) below, the following representations and certifications are being made to the best of his/her/their knowledge and belief:

--That the "Notice to Adjacent Owners" (Exhibit B to Policy #12) was given to all Adjacent Owners more than 48 hours prior to the date this Application was filed with the ARC; and

--That all Owners of the Lot on which the Improvements will be installed have signed this Application.

Signature(s):

OWNER/APPLICANT

OWNER/APPLICANT

Date: _____

Date: _____

[For ARC Use Only]

APPROVED BY ARC ON: _____

DISAPPROVED BY ARC ON: _____

Chairperson, [Name of] Architectural Review Committee