

Fontainebleau Homeowners Association Architectural Guidelines

The following architectural guidelines have been approved by the Board of Directors of the Fontainebleau Homeowners Association (“the Association”). The guidelines shall be looked upon as protective rather than restrictive because they are designed to enhance the quality of life for individuals living in the Association by protecting the property values and safety of all residents and owners.

The handbook addresses a broad range of rules and regulations as well as exterior modifications for which homeowners must submit an application to the Architectural Review Committee (“the Committee”). The guidelines are not intended to create, nor shall it be construed to constitute a contract between the Association and owners or residents. The policies and procedures apply to all owners and residents without regard to race, color, religion, national origin, age, sex or citizenship. Applicable State or Federal law will prevail where such laws conflict with any provision of this handbook.

While it would be impossible to address each specific modification or addition, these guidelines present the principle factors, which shall be considered when developing a design. More specifically, these guidelines attempt to define the standards by which all applications will be considered regarding size, quality, location, materials and color of any architectural modification, which of course must take into consideration the intended use and relationship of adjoining properties. Modifications not specifically addressed in this document shall not be presumed to be outside the auspices of the architectural guideline review process and may require an application.

Finally, while precedence will have a bearing on the Committee/Association decisions, the Committee/Association is not held to a final decision based solely upon precedence, but upon the individual merits of each application.

MISSION STATEMENT

It is the goal of the Committee to represent the common interest of the homeowners in achieving and maintaining architectural compatibility and continuity, enhancing the overall quality and value of our neighborhood. The Committee strives to supervise compliance with the rules in a fair, reasonable and equitable manner, while maintaining the integrity, aesthetic quality and value of the community.

AMENDMENTS TO THE GUIDELINES

The Board of Directors (“the Board”) and the Committee will periodically conduct an evaluation to determine if the guidelines need to be amended. We anticipate that the majority of changes primarily would be additive and would not involve substantive changes of existing rules and regulations.

APPLICATION REVIEW PROCEDURES

The following require an application to be submitted to the Committee IN ADVANCE on the Architectural Review form which is located on the eNeighbors web site, <https://www.eneighbors.com>. This form should be accompanied by complete plans and specifications: any proposed exterior addition or modification requiring an Overland Park building permit; any change in the home’s exterior colors’, any fences, solar panels, hot tubs and spas, basketball backboards, exterior air conditioners or heat pumps, patios or ground level decks, storage sheds, modifications to driveways, or major landscaping. The committee shall review and approve all additions and modifications, which comply with the guidelines, set forth in this handbook.

Approval for a proposed exterior addition or modification, not specifically addressed in the guidelines shall not be unreasonably denied. Any resident with current HOA violation(s) showing on their record cannot submit a new Architectural Review application until they have satisfied removing the violation(s) on their residence. No new reviews will be conducted on property with open projects. All projects must complete the close out process as indicated in this guideline.

Plans for the construction of decks, patios, pools, sheds and other structures must meet Overland Park building codes and appropriate building permits must be obtained before beginning any construction. A copy of all city permits, and inspections must be submitted to the Committee. All Projects shall be completed in a timely manner. The failure to complete a project within twelve (12) months of approval by the Committee (or the Board) and the failure to complete a project within three (3) months of commencement will require an application to the Committee for an extension of time to complete the project. Homeowners must notify when the project commences and when it completes and submit any city inspections.

The modification form must be completed in full, or it will be returned to be resubmitted. Upon receipt of the request, the Committee shall either approve or deny the request within thirty (30) days after the full and completed application is received.

If the applicant disagrees with the Committee's decision, an appeals procedure is provided by the Fontainebleau Homeowners Association Board. A written request must be sent to the HOA board within ten (10) working days. The applicant's appeal will be put on the agenda of the next monthly board meeting for a hearing. The written documents regarding the application and appeal provided by the homeowner will be given to the Board prior to its meeting by the Committee. The Committee will be notified of the appeal and asked to submit any comments not already made on the Architectural Modification Form.

The applicant shall be present at the next monthly HOA board meeting to present his or her appeal to the HOA board members. After the appeal is heard during the public portion of the monthly board meeting, the Board will discuss the matter later in executive session. A decision will be made as soon as the Board has all the information to make a decision. When the Board reaches a decision, a disposition letter will be written to the applicant by the Committee.

The Committee is required to make a decision within thirty (30) days of the receipt of the application by the homeowner. The Committee is NOT required to notify the applicant within thirty (30) days. If you have not received a written decision from the Committee within thirty (30) days, it is the homeowner's responsibility to contact the Committee to confirm whether a decision has been finalized. If the Committee fails to make a decision within the thirty (30) day period, approval shall be automatic but shall not be deemed to be a waiver of any provision of the Declaration of Covenants, Conditions, or Restrictions. You will note on the application form that you may be required to obtain signatures from adjacent homeowners on your Modification Application to ensure that they are aware of the modifications and thus allow them the opportunity to discuss your proposed modifications to the Committee or the Board. Those specific rules which require Neighbors acknowledgment are noted on each rule that the notification is required and only on those rules.

AUTHORITY, DISCOVERY AND ENFORCEMENT OF THE RULES AND REGULATIONS

AUTHORITY: The Architectural Review Committee is authorized by the Association Board of Directors to achieve its stated mission in compliance with:

(1) The Fontainebleau Homeowners Association (HOA) Declarations of Rules and Bylaws; (2) The Restrictive

Covenants which accompany the property deed

DISCOVERY: It is the responsibility and the initiative of the Association Board of Directors through its appointed Architectural Review Committee to be apprised of any record transactions and modifications occurring within its jurisdiction requiring compliance with the Association's rules and bylaws, restrictive covenants, and state law. The means employed by the Committee to achieve discovery are: (1) Periodic walk through inspections of the Community; (2) project compliance inspection; (3) member observations and complaints; (4) governmental and quasi-governmental agencies; and (5) any other.

ENFORCEMENT: The Association shall notify the homeowner in writing of any violation of the procedures for obtaining approval of any addition or modification, of any violation of the guidelines, or of any violation of the plans approved by the Committee and/or the Board which are not covered in the guidelines and covenants. Such notice shall be in writing and delivered by first class mail within thirty (30) days after the Association is made aware of the violation.

In any instance where the violation presents a health or safety hazard, the Board may direct the Committee to immediately notify the owner and/or tenant in writing to take corrective action at the owner's expense within the time frame specified in the notice.

All notifications of violations appealed by the homeowner and reviewed by the Board will include a statement of the Board's findings and conclusions, and the appropriate sanction, relief or denial thereof. A copy of each decision when issued shall be sent to the parties of the proceeding and the Committee.

In the event the homeowner does not bring the violation into compliance within the time frame specified in the notice or submit a request for an appeal within ten (10) days of receipt of the violation notice, legal action may be taken by the Association. The owner may be held liable for any and all costs, including legal expenses, in connection with the correction of the violation.

A letter notifying a homeowner of a proposed legal action under the Declaration of Covenants, Conditions and Restrictions shall contain the following:

- 1) The estimated cost of repair, as determined by the contractor who the Board proposes will do the work if the homeowner fails to take corrective action.
- 2) A statement that the Board will have the work done if the homeowner does not correct the problem within a specified period of time or if the homeowner fails to provide the Board with acceptable evidence that corrective action has been initiated.
- 3) A statement that any funds expended by the Association, including legal and estimated expenses, will become a part of the owner's assessment and that such assessment may constitute a lien upon the property.
- 4) A statement that a majority vote from the Board supporting the position being taken has the concurrence of the Association's attorney.

The Association reserves the right to impose monetary assessments for non-compliance with established Guidelines in accordance with the Kansas statute 2012, Article 46.

THE FAILURE OF THE BOARD TO ACT TO ENFORCE ANY RIGHT, PROVISION, COVENANT, CONDITION, RULE OR REGULATION SHALL NOT CONSTITUTE A WAIVER.