

Article IX, Architectural Committee
Recommendations to the Board

9.01 Approval Required

~~No improvement, building, fence, wall or other structure shall be commenced, erected, repaired, altered, added to or maintained~~ **Approval of the Architectural Committee ("Committee") is required for all new construction of homes or out-buildings of any kind that are 200 square feet or larger and require a building permit, as well as for fence types and permanent fence placement, exterior material types and colors, landscaping plans, and any other Improvement specifically mentioned herein that requires the Committee's approval.** ~~until the~~ Owner shall submit any Plans and Specifications for any proposed Improvement which requires Architectural Committee approval to the Architectural Committee for review, as further described in Section 9.04 (Review of Proposed Improvement), showing the nature, kind, shape, height, materials, floor plans, exterior color scheme and location of such structure, and the grading plan and finished grade elevations of the Lot to be built upon. The Architectural Committee's approval or denial shall be provided to the Lot Owner in writing, and a copy of such approval or denial shall remain permanently with said Committee pursuant to the provisions of this Article. ~~All subsequent additions to or changes or alterations in any building, fence, wall, or other improvement, including exterior color scheme~~ **Any substantial* changes in exterior colors, materials, or construction shall be subject to the prior approval of the Architectural Committee. Approval by the Architectural Committee does not imply adherence to or compliance with city, county, or state codes or ordinances.**

* Intent is to maintain consistency with as much flexibility to individual homeowner as possible, eliminating the need for lot owners to reapply for approval on repainting or restoring the currently approved plan. Seek advice of legal counsel for wording to reflect this intent.

9.02 Members of the Committee

The Cedar Pass Ranch Architectural Committee shall consist of not less than three members, nor more than five members. ~~The following persons are hereby designated as the initial members of the Committee:~~

~~_____ Phillip Nolen
_____ Grant E. Marsh
_____ Scott Kirkland
_____ Debbie Hooge~~

Committee members' names and contact information will be kept current and listed on the Cedar Pass Homeowners Association (CPRHOA) web page.

Each member of the Committee shall hold office until such time as he has resigned or has been removed or his successor has been appointed as provided herein. Members of the Committee may be removed at any time with or without cause by the Board. **The Board shall have the right to appoint and remove all members of the Committee.**

SECTION 9.03, Members, has been deleted in its entirety.

9.03 Review of Proposed Improvement

Whenever in this Declaration the approval of the Architectural Committee is required, it shall have the right to consider all of the Plans and Specifications for the improvement or proposal in question and all other facts which in its sole discretion are relevant. Prior to ~~Commencement of any construction~~ of any improvement on any Lot **for which Architectural Committee approval is required in this Declaration**, the Plans and Specifications therefore shall be submitted to **a member of the Architectural Committee at 65 North 920 East, Orem, Utah 84057, utilizing the Project Application Form found on the CPRHOA website, following the instructions for completion and submission of the Project Application Form. A description of required documentation and the step procedure used by the Architectural Committee can also be found on the website and may be updated from time to time as permitted within this Declaration. Other arrangements for Project Application Form submission can be made by discussion with a member of the Committee, whose telephone numbers and emails are listed on the website. All applications must include the Lot owner name, address, lot number, phone number, and email.** and ~~Construction~~ thereof may not commence unless or until the Committee has approved such plans and specifications in writing. The Committee shall consider and act upon any and all Plans and Specifications submitted for its approval pursuant to this Declaration, or as from time to time shall be assigned to it by the Association, including inspection for construction in progress to assure its conformance with Plans and Specifications approved by the Committee. The Committee shall approve Plans and Specifications submitted for its approval only if it deems that the construction, alterations, or additions contemplated thereby in the locations indicated will not be detrimental to the surrounding area or Lots as a whole, and that the appearance of any structure affected thereby will be in harmony with the surrounding structures. The Committee may condition its approval of Plans and Specifications or on other information prior to approving or disapproving the material submitted. The Committee may also issue rules or guidelines regarding anything relevant to its function, including but not limited to minimum standards and procedures for the submission of Plans and Specifications for approval. **See Section 14.7 for the process to appeal a decision from the Committee.** The Committee may require a fee, not to exceed ~~fifty dollars (\$50.00)~~ **the maximum allowed by State law**, to accompany each application. The Committee may require such detail in Plans and Specifications submitted for its review and such other information as it deems proper. Until receipt by the Committee of all required Plans and Specifications and other information, the Committee may postpone review of anything submitted for its approval. **Upon receipt of all required information, the Committee will have 14-16 full business days to make a decision on the application and respond to the applicant.**

9.04 Committee Meetings

The Committee shall meet from time to time as necessary to perform its duties hereunder. ~~The Committee may from time to time by resolution unanimously adopted in writing designate one of its members to take any action or perform any duties for and on behalf of the Committee. In the absence of such designation,~~ ~~†~~The vote of a majority of all the members of the Committee, or the written consent of a majority of all the members of the Committee taken without a meeting, shall constitute an act of the Committee.

9.05 Waiver of Consent

The ~~approval or consent of the Committee's~~ approval or consent to any Plans or Specifications for any work done or proposed or in connection with a matter requiring the approval or consent of the Committee, shall not be deemed to constitute a waiver of any ~~the Committee's~~ right to withhold approval or consent as to any subsequent or additional Plans or Specifications, or any other matter ~~whatever subsequently or additionally~~ submitted to the Committee for approval or consent by the same or a different person.

Recommend legal review of above re-numbered section 9.05 for compliance with the Community Association Act 57-8a-218.

9.06 Compensation

The members of the Committee shall be entitled to ~~reasonable compensation from the Association or services rendered,~~ together with reimbursement for expenses incurred by them in the performance of their duties hereunder.

9.07 A. Completed Work

Inspection of completed work ~~submitted to the committee under Section 9.01 of this Declaration~~ and correction of defects shall proceed as follows:

- i) ~~It is the responsibility of the Lot Owner to demonstrate that all work submitted for approval is completed according to the approved application.~~ Upon the completion of any improvement for which approved Plans or Specifications is required under this Declaration, the Owner shall give written notice of completion to the Committee ~~via electronic communication or such other means as previously arranged with the Architectural Committee.~~ This notification shall include photographs of the completed work that demonstrate compliance with the approved plan. If the Owner fails to notify the Committee of completed work, that work will not be considered compliant until such notification is given to the Committee and the Committee gives its final approval.
- ii) Within such reasonable time as the Committee may set but not to exceed ~~fifteen (15)~~ ~~thirty (30) days thereafter~~ ~~after notice of completed work is sent,~~ the Committee or its duly authorized representative may ~~inspect~~ ~~review~~ such improvement ~~completed work (including photos and submitted documents)~~ for compliance. If the Committee finds that such work was not done in strict compliance with all approved Plans or Specifications submitted or required to be submitted for its prior approval, it shall notify the Owner in writing of such non-compliance within such period, specifying in reasonable detail the particulars of non-compliance, and shall ~~give notice to the Owner and~~ require the Owner to remedy the same. ~~The remedy shall include an approved plan to remedy or remove non-compliant work.~~
- iii) If upon the expiration of thirty (30) days from the date of such notification ~~from the Committee~~ the Owner shall have failed to remedy such non-compliance, the Committee shall notify the Board in writing of such failure. Upon Notice and Hearing the Board shall determine whether there is a non-compliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If non-compliance exists, the Owner shall remedy or remove the same within forty-five (45) days from the date of the announcement of the Board's ruling. If the Owner does not comply with the Board's ruling with such period, the Board at its option, may

either remove the non-complying ~~improvement~~ improvement or remedy the non-compliance, and the Owner shall reimburse the Association upon demand for all expenses incurred in connection therewith. If such expenses are not promptly repaid by the Owner to the Association, the Board shall levy an assessment against the Owner and the Improvement in question and the Lot upon which the same is situated for reimbursement, and the same shall constitute a lien upon such land and improvement and be enforced as provided in this Declaration.

This Committee recommends the attorneys review this section to ensure it is compliant with applicable laws. We cannot make that determination.

iv) If for any reason after receipt of said written notice of completion from the Owner the Committee fails to notify the Owner of any non-compliance within the period provided in the above subparagraph (ii) of Section 9.08, the improvement shall be deemed to be in accordance with said approved Plans and Specifications.

9.07 B. Work in Progress

The Committee may inspect all work in progress and give notice of non-compliance as provided in subparagraph (ii) of Section 9.08. If the owner denies that such non-compliance exists, the procedure set out in subparagraph (iii) of Section 9.08 shall be followed, ~~except that n.~~ **If the Board shall find that such non-compliance exists, no further work shall be done, pending resolution of the dispute, which would hamper correction of the non-compliance.** ~~if the Board shall find that such non-compliance exists.~~

9.08 Non-liability of Committee Members

Neither the Committee nor any member thereof nor the Board nor any member thereof shall be liable to the Association or to any owner or any other person for any loss, damage or injury arising out of or in any way connected with the performance of the Committee's or the Board's respective duties under this Declaration unless due to the willful misconduct or bad faith of the Committee or its members or the Board or its members, as the case may be. The Committee shall take into consideration the aesthetic aspects of the architectural designs, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features, but shall not be responsible for reviewing, nor shall its approval of any Plans and Specifications be deemed approved thereof from the standpoint of structural safety, engineering, or conformance with building or other codes.

NOTES TO THIS SECTION:

The Architectural Committee, in September 2018, wrote its step procedure for submission of projects for approval. This information is currently posted on the HOA website.

We suggest that an Appendix to Article IX be created in a table format that lists items requiring Architectural Committee approval and referencing the applicable CC&R section/s.

We suggest a list of recommended trees be listed on the website. Eagle Mountain City has a list of trees likely to grow in our area. This information could be referenced on the CPRHOA website via a link to the applicable City document.

We also recommend that the Architectural Committee develop guidelines for Architectural Committee applications including, for example, photos and descriptions of items that have been approved in the past and would generally be approved consistent with the HOA vision statement.

In addition to the guidelines, we suggest that the Architectural Committee set up a system to monitor open applications to ensure that follow-up on work and responses to applicants are timely.

This Committee further recommends that the Board utilize the property management company or determine another cost-effective and consistent means to regulate compliance to the CC&Rs including the mechanics of enforcement, specifically to include inspection and documentation of noncompliant work, letters of notification and instructions for payment of fines and/or remedies.