



Fernbrook Home Owners Association Policy Memorandum No. 3 ARCHITECTURAL DESIGN GUIDELINES AND RULES

Adopted by the Board – May 16th, 2022

This Policy supersedes version dated April 20th, 2021.

1. PURPOSE. The purpose of policy memos issued by the Board of Directors (“Board”) of Fernbrook Homeowners Association, Inc. (“HOA”) is to guide homeowners and members of the Architectural Review Committee (“ARC”) in interpreting the Declaration of Covenants, Conditions and Restrictions of Fernbrook Associates LLC (hereafter referred to as the “Declaration”) and communicating specific, enforceable rules in order to maintain and enhance the Fernbrook environment. The guidelines described herein address improvements for which homeowners must obtain Board approval and the enforceable rules by which Homeowners must abide if approvals are granted. They are not intended to be all-inclusive or exclusive, but rather to serve as a guide to what the Board and ARC consider permissible under the Declaration. The specific objectives of this policy memo are to:

- a. Provide uniform guidelines to be used by the ARC in reviewing homeowner applications.
- b. Assure consistent and architecturally appropriate exterior alterations made by owners so as to preserve the desirability and property values in Fernbrook.
- c. Describe the procedures involved with the Architectural Guidelines.
- d. Illustrate design principles that will aid residents in developing exterior improvements that are in harmony with the community.
- e. Assist Homeowners in preparing a complete application for submission to the ARC.
- f. Provide the Board with codified, enforceable guidelines and requirements for homeowners in order to protect and enhance the value of the community.

2. AUTHORITY. The authority for maintaining the quality of overall architectural design in Fernbrook is found in the Declaration. The Architectural Guidelines and Rules are intended to ensure that the design quality will be maintained throughout the

community in a manner that is consistent with the Declaration. This, in turn, protects property values and enhances the community's overall environment.

a. The guidelines and rules established in this Policy Memorandum represent the Board's interpretation of what is permitted under the Declaration. This Policy Memorandum does not, and is not intended to, amend or alter the Declaration and shall at all times be interpreted in harmony with the Declarations. To the extent there is an irreconcilable conflict between this Policy Memorandum and the Declaration, the Declaration shall control. If a Homeowner is concerned about whether certain policies and rules adopted by the Board are permitted under the Declaration, or whether certain construction is permitted under the Declaration, they are encouraged to bring their concerns to the ARC.

b. The authority to establish an ARC is granted to the Board by the Fernbrook By-Laws of the Fernbrook Homeowners Association.

3. RESPONSIBILITIES:

a. Architectural Review Committee: The role of the ARC is to review all homeowner requests for new appurtenances (i.e. pools, fences, sheds, etc), any structural changes contemplated for their lot, and/or any other modifications to the existing building or property and to make recommendation to the Board for approval or rejection of such requests. The Board must find, by majority vote, that the request is consistent with maintaining the architectural and aesthetic integrity of the community and promotes neat and consistent improvements, lots, and values.

b. Board of Directors: The role of the Board in this process is to receive and review recommendations from the ARC to approve or reject Homeowner applications. The Board must find, by majority vote, that the application is consistent with the Declaration as a prerequisite to approval. The Board must inform the applicant in writing that their request was either a) approved or b) rejected, with an explanation of the reason(s) for rejection. The Board is also responsible to and has the authority to enforce the applicable parts of the Declaration and the rules contained in this and other HOA policies.

c. Homeowners: The role of every Homeowner in the HOA is to maintain their individual lots in harmony with the Declaration and applicable policies and rules as well as in harmony with the design qualities of the community. It is the responsibility of every Homeowner to periodically review and understand the Declaration, By-Laws, and Policies adopted by the Board which govern the HOA.

4. GUIDELINES AND RULES. The guidelines and rules which follow address a broad range of exterior alterations for which homeowners frequently submit applications to the ARC for Board approval. This is not an all-inclusive guide to what is permissible, but an illustration of the principal factors homeowners should consider when developing a design. The Board will always consider the individual merits and circumstances of each application. The use of these guidelines and rules should assist the Homeowner in obtaining Board approval, but in no way guarantees approval. A blank application form

is attached to this memorandum and may be used by homeowners to submit requests to the ARC.

a. County Approvals. Many items require county review and permits. It is the Homeowner's responsibility to obtain all county approvals. James City County authorities should be contacted prior to beginning any work in order to verify what procedures must be followed and obtain required permits. County approval does not preclude the need for Board approval and vice versa, nor does approval by either the county or the Board guarantee approval by the other.

b. Specified Architectural Restrictions. Homeowners are responsible for maintaining their property in harmony with the Declarations. Specific architectural restrictions are listed in Article V (Property Restriction), Section 10 of the Declaration with the following exception:

Section 10(a) of the original Declarations states "No external antennas of any description". This has been superseded (made obsolete) by current overriding federal laws which permit the use of satellite dish antenna with reasonable restrictions on their installation and display. Pursuant to this Policy, the Board will not restrict satellite dishes of less than two feet (2') in diameter which are located entirely below all roof lines of the house on the affected lot, and which are not visible from the street(s) of the subdivision.

c. Supplementary Architectural Rules. Though not specifically addressed in the Declaration, the following rules have been approved by majority vote of the Board with input from current homeowners. This guidance will be re-evaluated by the Board at least tri-annually to ensure it is consistent with a) local, state, and federal laws, and b) the desires of the HOA so long as the Board interprets them to be consistent with the Declaration.

(1) **Fence Rules.** Fencing can be used to separate property, provide security, visual privacy, or to architecturally define space. In achieving any one of these goals, a barrier is created which has both a visual and a physical impact on the boundaries of common land and properties of adjacent homeowners. Careful consideration should be given to the basic fencing concept and the manner in which the concept is executed, giving due consideration to light, air, and viewshed of neighboring lots.

(a) Installation of fencing may not begin without both a) approval from the Board and b) all applicable construction permits.

(b) In selecting a fence, it is important to remember that the homeowner's functional or aesthetic needs must be balanced with existing fence styles in the neighborhood. Height, location, materials, and color are the primary factors which should be considered. Fencing should be compatible with the architectural characteristics of the applicant's home and the prevailing architectural characteristics in the adjacent homes. Continuity of style is preferred. All fences are to be made of natural wood or white vinyl (no metal fences/ no colored vinyl). Chain link fencing is not

allowed except around dog runs which are not visible from the street(s) of the subdivision and are limited to 120 square feet of run area.

(c) Pursuant to Section 10 of the Declaration, no fencing shall be constructed nearer to the street than the front of the residence and no fencing shall be erected prior to obtaining the approval of the Board. Applications must indicate the fence's exact proximity to the property line.

(d) Standard Fence Styles:

- Three to four foot high picket fence with a straight, arched, or scooped top, preferably "dog eared" pickets.
- Wood fencing may be treated only with a clear, natural wood color, or white waterproof sealant/stain. No other colors are authorized.
- Six-foot-high stockade style wooden or white vinyl privacy fences are required for yards with pools and allowed for homeowners seeking additional security and privacy.
- No fence shall extend beyond the home's front façade and fence height shall not exceed six feet.
- Fence post finials are acceptable when they are kept in scale with the style of the fence.

(e) Fencing will not "tie in" to existing fences on adjoining lots without the adjoining fence owner's express permission. A tie-in agreement should be referenced on any fence application to the ARC and evidenced by the signature of the owner of the applicable adjoining lot(s).

(f) Residents shall make every effort to coordinate with their adjacent neighbors prior to installation and to mitigate any concerns as best as possible before construction. However, permission from adjacent neighbors is not required if the fence does not tie into an existing fence and if it is constructed completely within the requesting Homeowner's property line.

(2) **Pool Rules.** In-ground and permanent above ground swimming pools will be considered for approval by the Board through the ARC if designed to be an integral part of the property. Seasonal use of temporary above ground pools is allowed in rear yards only from May to September, after which they must be completely deconstructed and stored. Regardless of the type of pool, it is the pool owner's responsibility to ensure the maintenance and upkeep of their pool and the surrounding decking and/or landscaping in accordance with this and HOA Policy #4. Failure to adhere to these rules (4.c.2.a-e) will result in enforcement action from the Board. Enforcement actions from the Board may include, but are not limited to, revocation of approval for the pool, which will require complete deconstruction / disassembly of the pool at the owner's expense or, in the

case of temporary / season pool use, cause a Homeowner to be temporarily or permanently barred from current and future pool use in the discretion of the Board.

(a) *Permanent Above Ground Swimming Pool Rules.* This type of pool is constructed of robust, weather resistant materials and intended to be left in place throughout the year. These pools consist of a rigid metal or resin pool wall and a separate pool liner. Most include a permanently wired filter and pump system and are bonded and/or grounded. Due to the robust nature of their construction, the pool walls are designed to remain in place year-round. Within sixty (60) days of the permit request approval, or such other time as the Board in its discretion may allow upon request from the homeowner, owners must provide the Board with a copy of the county inspection and approval of electrical bonding / grounding. Failure to provide a copy of such documentation will result in approval being revoked and the owner will be required to deconstruct the pool at their expense within 30 days of notification. In order to be considered for approval, permanent above ground pools must:

(i) Be of steel, aluminum, or resin construction with no less than a 20--year manufacturer's warranty covering at least the pool walls and liner.

(ii) Be integrated into the property by use of decking and/or landscaping so that it does not detract from the overall appearance of the neighborhood.

(iii) Be enclosed by a six-foot-high fence compatible with the design style outlined in this Policy and its rules and which shall enclose all pools and related pool equipment constructed after April 20th, 2021. Fences must comply with HOA rules and county guidelines.

(b) *Seasonal (Temporary) Above Ground Pool Rules.* This category of pool may only be used in rear yards and only from 1 May to 30 September. These pools usually consist of inflatable or soft sided, metal frame pools where the pool wall and the pool liner are one and the same. They are not intended to be left up year-round. These may be used without application through the ARC or approval from the Board. However, these pools (and their associated support equipment) must be completely emptied and completely deconstructed and stored no later than 7 October of each year.

(c) *Maintenance Rules.* Regardless of type of pool, it is the pool owner's responsibility to ensure the maintenance and upkeep of their pool and the surrounding decking and/or landscaping in accordance with these rules and HOA Policy #4. Improper maintenance creating a safety hazard or aesthetic determined by the Board to not be in harmony with the immediate neighborhood and the community as a whole may cause a homeowner's approval or authorization to be revoked by the Board through majority vote at which time the homeowner will be required to correct or deconstruct the pool at their expense.

(d) *Exemptions.* Above ground pools approved by the Board are exempt from changes made to this or future policies or the Declaration unless required by applicable law.

(e) Compliance: Failure to adhere to these pool rules (4.c.2.a-d) will result in notice from the Board to bring the pool into compliance with this policy and its rules by a specified date. Actions by the Board for continued non-compliance may include but are not limited to:

(i) Fines. The amount of charges so assessed shall not be limited to the expense or damage to the Association caused by the violation, but shall not exceed fifty dollars for a single offense or ten dollars per day for any offense of a continuing nature and shall be treated as an assessment against the Homeowner's lot.

(ii) Revocation of pool approval, requiring the complete deconstruction / disassembly of the pool at the owner's expense.

(iii) (Temporary / Seasonal Pool Use) Temporary or permanent suspension from temporary / seasonal pool use.

5. ARCHITECTURAL APPLICATIONS. All applications to the ARC must:

a. Utilize the Application for Architectural Change found on the Fernbrook HOA website at www.fernbrook.net and submitted to the ARC via email at fernbrookhoa@yahoo.com.

b. Include a site plan showing location, style, and dimensions of proposed appurtenances, other related equipment, fences, etc., in relation to the applicant's home, property lines, and adjacent dwellings.

c. Include detailed drawings and plans of the pool, deck area, lighting arrangements, walkways, fences, etc., and pertinent information concerning water supply system, drainage and water disposal system.

d. Include estimated start and completion dates.

e. FENCES ONLY: Include a "Tie In Agreement" as applicable.

6. This policy will be reviewed, re-validated, and re-approved tri-annually by the Board.

FERNBROOK HOA BOARD OF DIRECTORS

BJ Hennessey – HOA President
Dave Owens – HOA Vice President
Stephen Mitchell – HOA Secretary
Lisa Mahoney – HOA Treasurer
Chris Judkins – HOA Member at Large