

PROCEDURES AND POLICY FOR THE  
ARCHITECTURAL CONTROL COMMITTEE  
SMOKY RIDGE MAINTENANCE ASSOCIATION, INC.  
Effective: January 1, 1995

**PURPOSE:**

- A. To review and approve/disapprove** (a) any improvement upon the real property of the Smoky Ridge Maintenance Association, Inc. ("Association") (lots and common area) and (b) any addition, change or alteration of a residence PRIOR to the commencement, creation, alteration, movement, removal or maintenance.

**PROCEDURE:**

1. Submit complete plans and specifications for any desired improvement, addition, change or alteration. It shall be the sole determination of the Architectural Control Committee ("Committee") whether or not additional information is required.
2. The Committee shall approve or disapprove all requests for approval within thirty (30) days after the complete submission of all plans and specifications, and other materials and information which the Committee may require.
3. A majority vote of the Committee is required to approve a request for architectural approval.
4. Any owner shall have the right to request that the Committee reconsider its decision by sending a written request for a hearing to the Committee within thirty days after denial by the Committee. The Committee may, but is not required to, hold a hearing to reconsider its decision. If the Committee chooses to hold such a hearing, it shall either affirm or overrule its prior decision and advise the owner of its decision within ten days of the date of the hearing. The decision of the Committee shall be final.
5. The Committee may grant reasonable variances or adjustments in order to overcome practical difficulties or prevent unnecessary hardships from arising. Variances shall be granted in writing only where such variance shall not be materially detrimental or injurious to the other property or improvements of the neighborhood. To assist the Committee in making such determination, an owner may, but shall not be required to, provide the signatures of the owners of adjoining lots approving the variance requested.
6. The Committee, and not the Board of Directors, is the forum for inquiries. All questions, concerns and requests for approval must be in writing. Submit complete plans, specifications and requested material to:

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Smoky Ridge Maintenance Association, Inc.

Architectural Control Committee  
Smoky Ridge Maintenance Association  
P.O. Box 4318  
Englewood, Colorado 80155-4318

All materials submitted shall be date-stamped upon receipt.

PURPOSE:

- B. To enforce the Association's restrictive covenants** as detailed in the Declaration of Covenants, Conditions and Restrictions (Articles VI, IX and X) and such Rules and Regulations and Resolutions as are adopted by the Committee in accordance therewith.

PROCEDURE:

1. **Assurance of due process.** The Committee shall ensure due process in cases where a question of compliance with the provisions of the Declaration of Covenants, Conditions and Restrictions, By-laws of adopted rules, regulations or resolutions published from time to time by the Committee arises.
2. **Notice of violation.** Notice of potential violation shall be documented by the submission by any owner of the Association of a completed Complaint Form or other such written and signed document. The complaint shall specify the provisions in the covenants and/or rules which the respondent owner is alleged to have violated supported with facts and specifics as to time, date, location and person involved. The Committee will determine if the information is sufficient and if not, will contact the complaining party for additional information or to amend the complaint to make it sufficient. If it is determined by the Committee that the complaint is still insufficient, the matter shall be dismissed.
3. **Informal resolution - WARNING NOTICE.** After determining from the complaint and its own investigation that a violation appears to have been committed, and prior to the initiation of any formal action, the Committee shall mail a written request (**WARNING NOTICE**) to the owner asking that the owner cease or correct any act or omission which appears to be in violation of the restrictive covenants and/or rules. A reasonable time shall be stated for the cessation or correction to occur.
4. **Formal written complaint - FINE PROCEDURES.** If, after a reasonable time, the action described in § 3 above proves unsuccessful, the Committee shall notify the Board of Directors, which shall initiate the fine process as

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promulgated by the Board of Directors. In addition, the Committee shall mail a formal written complaint to the owner containing a notice that the respondent owner may request a hearing before the Committee. Such request for hearing must be made within thirty (30) days of service of the formal complaint and notice.

5. Service of the complaint. Informal and formal complaints will be served upon the respondent owner within thirty (30) days of the receipt of the complaint, by both first class mail and certified mail, return receipt requested, and addressed to the respondent owner at the current address appearing in the Association books and records. Service by mailing shall be deemed to be effective four (4) days after such mailing in a regular depository of the United States mail. Failure to serve notice correctly shall only affect that notice and shall not prohibit subsequent service of the complaint.
6. Decision. After all of the information at the hearing has been presented, the Committee shall vote upon the matter, with a majority of the Committee controlling. The decision may be made at the conclusion of the hearing or may be postponed to no later than ten (10) days following the hearing. The Committee shall prepare written findings and recommendations to be served by the Committee upon the Board of Directors and each party to the matter. The Committee shall record in the minutes of its meeting its decision and a summary thereof.

In the event that the Committee determines, after compliance with the procedures specified above, that the respondent owner has violated any provision of the Declaration, Articles of Incorporation, By-laws or Board- or Committee-adopted rules and regulations governing use of the lots, the Committee may recommend to the Board and the Board may pass a resolution assessing a fine or penalty, suspending the voting rights of the owner for a period not more than sixty (60) days or adopt any variation of the remedies available. A copy of said resolution shall be served on all parties to the complaint in the manner prescribed by the Board-adopted fine procedures.

7. Constraints on the Committee. It shall be incumbent upon each member of the Committee to make a determination as to whether he is able to function in a disinterested and objective manner in consideration of the case before the Committee. Any member incapable of objective consideration of the case shall disclose such and shall remove himself from the proceedings and have it so recorded in the minutes. Any member of the Committee who has a direct interest or conflict of interest in the case must disqualify himself in that case.

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8. Further action. Any party may request a rehearing from the Committee within ten days after the Committee's final written decision has been served on the party. The written request shall clearly and concisely state the reason for the request. Notice of the request for hearing shall be served on the other parties by the party requesting it in the manner described in "Service of Complaint" within seven (7) days of the filing of the request., The Committee shall determine within thirty (30) days after the request is filed whether to grant a rehearing. If the Committee denies a rehearing, the decision of the Committee shall be final. If the Committee grants a rehearing, it shall be held before the Committee within thirty (30) days. A decision by the Committee shall be made as described in "Decision."

Any individual owner or the Association must exhaust all available remedies of the Association as contained in these procedures before that owner or the Association may resort to a court of law for relief with respect to any alleged violation by a owner of any provision of the Association documents.

If the Association declines to take action, this shall in no way waive the right of any person or entity to bring an action at law or equity to recover damages or seek any other remedy as provided by the Declaration. If a court finds the owner to be in violation of the Declaration, Articles of Incorporation, By-laws or Board- or Committee-adopted rules and regulations, the owner shall be liable for any costs and expenses, including reasonable attorneys' fees, incurred by the Association to enforce the Association documents.

9. a. The procedures detailed above may be expedited or waived in the case of an emergency as declared by resolution of the Committee. The Committee may, by resolution, provide for procedures or remedies applicable to specified types of violations which differ from those stated herein.
- b. An owner is responsible and liable for any violations of the Declaration, Articles of Incorporation, By-laws or Board- or Committee-adopted rules and regulations committed by such owner's family, guests, cohabitants, tenants or invitees. An owner must be included as a respondent in any complaint involving such owner's family, guests, cohabitants, tenants or invitees and must be provided with all notices required.
- c. The terms "owner," "Association" and "Committee" are used in these Procedures as defined in the Declaration.