

**FALL CREEK VILLAGE SUBDIVISION**  
A Colorado Common Interest Community  
Located in Section 13, T43N R11W, and Section 18, T43N R10W, N.M.P.M  
San Miguel County, Colorado

**DESIGN REVIEW PROCEDURES**  
**for the**  
**FALL CREEK VILLAGE HOMEOWNERS ASSOCIATION, INC.,**  
A COLORADO NONPROFIT CORPORATION  
© 2023 Erin J. Johnson Attorney at Law LLC. All rights reserved.

**TABLE OF CONTENTS**

<b>ARTICLE 1: OBJECTIVES AND AUTHORITY</b> .....	1
1.01 Objectives and Policy Statement .....	1
1.02 Authority .....	1
1.03 Definitions .....	1
1.04 Powers and Duties .....	1
<b>ARTICLE 2 APPLICABILITY</b> .....	1
2.01 Improvements to Parcels .....	1
<b>ARTICLE 3 DESIGN STANDARDS</b> .....	2
3.01 Covenants, Conditions and Restrictions .....	2
<b>ARTICLE 4 INFORMAL REVIEW OF PROPOSED IMPROVEMENTS</b> .....	3
4.01 Improvements Eligible for Informal Review .....	3
4.02 Informal Introductory Meetings .....	3
4.03 Informal Meeting Submittals .....	3
4.04 DRC Action .....	3
<b>ARTICLE 5 FORMAL REVIEW SUBMITTALS</b> .....	3
5.01 Final Submittals .....	3
5.02 Form of Submittal .....	4
5.03 Fees .....	5
5.04 External Design Professional .....	5
5.05 Damage Deposit by Primary Contractor .....	5
5.06 Review Procedure .....	5
5.07 Conditions of Approval .....	6
5.08 Final Plan Approvals .....	6
5.09 Final Dispositions .....	6
<b>ARTICLE 6 CONSTRUCTION INSPECTION SUBMITTALS</b> .....	6
6.01 Construction Inspection .....	6
6.02 Inspections .....	7
<b>ARTICLE 7 VARIANCES AND APPEALS</b> .....	7
7.01 Variances .....	8
7.02 Variance Request Submittals .....	8
7.03 Extension Request Submittals .....	8
7.04 Variance and Extension Review Procedure .....	8
7.05 Variance or Extension Review Criteria .....	8
7.06 Appeals .....	9

<b>ARTICLE 8 GENERAL PROVISIONS</b> .....	9
8.01 Severability .....	9
8.02 Non-Waiver .....	9
8.03 Amendment .....	9
<b>CERTIFICATION</b> .....	9
<b>SCHEDULE 1 - SUBMITTAL FORM</b> .....	10

**FALL CREEK VILLAGE SUBDIVISION**  
A Colorado Common Interest Community  
Located in Section 13, T43N R11W, and Section 18, T43N R10W, N.M.P.M  
San Miguel County, Colorado

**DESIGN REVIEW PROCEDURES**  
**for the**  
**FALL CREEK VILLAGE HOMEOWNERS ASSOCIATION, INC.,**  
A COLORADO NONPROFIT CORPORATION  
© 2023 Erin J. Johnson Attorney at Law LLC. All rights reserved.

**THESE DESIGN REVIEW PROCEDURES** (“Design Review Procedures”) for the Fall Creek Village Homeowners Association are effective this \_\_\_ day of \_\_\_\_\_, 2023, and promulgated in accordance with the Governing Documents of the Association.

**ARTICLE 1**  
**OBJECTIVES AND AUTHORITY**

**1.01 Objectives and Policy Statement.** The Design Review Committee of the Fall Creek Village Homeowners Association (the "DRC") was established to facilitate the purposes and intent of the Declaration, to assist Members during the design review and inspection processes as described in the Governing Documents, to make determinations that maintain harmony with surrounding Parcels, and to prevent the construction of Improvements which may be detrimental to the Fall Creek Village Subdivision and the surrounding area. The Design Review Procedures have been established by the Association for the purpose of defining certain aesthetic guidelines, architectural designs, placement of buildings, site plans, landscaping, color schemes, exterior finishes and materials, and similar features. These Design Review Procedures are meant to insure overall compatibility within the Property for the benefit of all Members.

**1.02 Authority.** The Act, and the Declaration and Bylaws of the Association provide that all construction of Improvements and any material alteration to the exterior appearance of any Improvement on a Parcel shall require written approval of the Design Review Committee (“DRC”) or the Board in the absence of the action of the DRC, for the purposes of ensuring compliance with the Declaration and Governing Documents.

**1.03 Definitions.** All capitalized terms used in these Design Review Procedures shall have the same meaning as set forth in the Declaration of Covenants, Conditions and Restrictions for Fall Creek Village Subdivision, and amendments and supplements thereto. These Design Review Procedures are supplemental to the Declaration, and to the extent they are inconsistent with said Declaration, the Declaration shall govern.

**1.04 Power and Duties.** The DRC shall have the powers and the duties granted to it by the Board to review all proposals for the construction or alteration of Improvements on any Parcel in accordance with the Governing Documents. Decisions concerning the approval or denial of an application construction of Improvements shall be made in accordance with standards and procedures set forth in the duly adopted Governing Documents of the association, and shall not be made arbitrarily or capriciously.

**ARTICLE 2**  
**APPLICABILITY**

**2.01 Improvements to Parcels.** All construction of Improvements on a Parcel and any alteration to the exterior appearance of any existing Improvement on a Parcel shall require written approval of the Design Review Committee for the purposes of determining compliance with the Declaration and Governing

Documents, in accordance with these Design Review Procedures. The Board may act in the same capacity in the absence of the action of the DRC.

- (a) *Duties.* With regard to the construction of Improvements, the DRC shall:
  - (i) Review all proposals for Improvements within Fall Creek Village Subdivision;
  - (ii) Issue written statements for approved proposals; and
  - (iii) Monitor and inspect the construction of any approved Improvements to the extent necessary to determine compliance with the Association's Governing Documents.
- (b) *Scope.* The DRC review shall be limited to compliance with the Fall Creek Village Subdivision Declaration and all applicable Governing Documents including the Design Review Procedures.
- (c) *Limitation.* The DRC does not consider, and assumes no responsibility for, the following:
  - (i) The structural capacity or building code and local government regulation compliance of the proposed improvement;
  - (ii) Whether or not the location of the proposed improvement on the building site is free from possible man-made or natural hazards occurring either on or off the Property. Such hazards shall include but are not limited to flooding, avalanche, geologic or soil conditions; or
  - (iii) The internal operation or functional integrity of the Improvement.
- (d) *Definition of Improvement.* "Improvement" means the exterior aspects of any building, structure or other improvement (including, without limitation, all fixtures and improvements contained therein), either new or existing, and all things constructed upon, above, or below the surface of any Parcel, including Driveways, and exterior aspects of any appurtenances thereto of every type and kind. Improvement shall specifically include any alteration, excavation, or fill of any part of the surface of a Parcel for any purpose. Other than as specifically excepted in the Governing Documents, all Improvements on Parcels require advance approval of the DRC to ensure compliance with the Governing Documents.
- (e) *Other Applicable Laws.* The restrictions contained in the Governing Documents of the Fall Creek Village Subdivision are IN ADDITION TO all other land use restrictions, zoning ordinances, laws, rules, and decisions of other governmental and judicial authorities including San Miguel County. The Member shall be separately responsible for compliance with any applicable federal, state, county or local laws, rule and regulations, including applicable building, plumbing and electrical codes, health department regulations, and all other regulations and laws outside of the Governing Documents. Such responsibilities include obtaining any permits or approvals of other governing entities. This Declaration does not supplant any such land use restrictions and other governmental approvals must be obtained separately from these Design Review Procedures.

### **ARTICLE 3 DESIGN STANDARDS**

#### **3.01 Covenants, Conditions and Restrictions.**

- (a) *Declaration Article 9.* The Covenants, Conditions and Restrictions included in Article 9 of the Declaration shall be applied to the review of proposals by Members to construct Improvements on Parcels in the Fall Creek Village Subdivision. All proposals for Improvements within the Fall Creek Village Subdivision shall be made in compliance with the provisions of the Declaration applicable to Improvements on Parcels and these Design Review Procedures.
- (b) *Member/Applicant Responsibilities.* The Member shall be responsible for reviewing and understanding the Covenants, Conditions and Restrictions contained in Article 9 of the Declaration. The Member is responsible for consulting and involving all third party professionals as may be necessary or prudent regarding the development of a proposal for Improvements submitted to the DRC. All safety, structural, performance, natural hazard, etc., issues should be evaluated and designed by qualified professionals and such matters are the sole responsibility of the Member.

### **ARTICLE 4 INFORMAL REVIEW OF PROPOSED IMPROVEMENTS**

**4.01 Improvements Eligible for Informal Review.** The following elements of development may be reviewed informally by the DRC:

- (a) Driveway and entrance features, including signs.
- (b) Proposed joint or shared driveways.
- (c) Subdivision of a Parcel into Parcels greater than 35 acres.
- (d) Minor excavation and landscaping activities.
- (e) Introductory meetings regarding future construction plans.

**4.02 Informal Introductory Meetings.** Prior to the submittal of an application for a proposed Improvement to the DRC, a Member may schedule an introductory meeting with the Member and/or the Member's representative and the DRC to informally discuss the proposal. This is a free service offered by the Association to assist Members in preparing to make Improvements on their Parcel. Members are strongly encouraged to take advantage of this opportunity.

The purpose of informal review is to afford the DRC an opportunity to review proposals and preliminary plans and specifications at an early stage regarding such things as the concept, compatibility, and layout of the proposed Improvement. This informal review will insure that the plans and design generally follow the DRC Review Procedures prior to the expenditure of significant time and expense in preparing final working drawings. Informal submittals shall be made pursuant to the "Design Review Committee Submittal Form and Application," attached as Schedule 1, which shall be completed in full.

**4.03 Informal Meeting Submittals.**

(a) *Purposes.* The purposes of informal meetings and submittals is to allow the DRC an opportunity to review proposed Improvements at an early stage regarding elements such as the concept, compatibility and layout of the proposal, and to make sure that the Member is aware of the applicable provisions of the Governing Documents.

(b) *Submittal Information.* There are no specific requirements for information to be submitted to the DRC for informal review meetings. The preliminary submittal should indicate the location of the proposed Improvement on the Parcel, the access road, elevations adequate to demonstrate the exterior character of the Improvement, the purpose of the informal review, and any other information requested by the DRC. The Member is encouraged to provide any information that may assist the DRC in understanding the nature and scope of the proposed Improvement either prior to or at the informal meeting.

**4.04 DRC Action.** No formal meeting of the DRC is required for informal review by the DRC. The DRC does not have the responsibility to approve designs in the informal review stage. Any statements made by the DRC or its representative at an informal meeting shall be advisory only, and shall not represent in any way the DRC's future actions on any Member's formally submitted proposal for an Improvement on a Parcel.

(a) *Result.* The Member shall be notified of the DRC suggestions and next steps for the Member within thirty (30) days from the date of the informal meeting. The DRC suggestions shall not be deemed to be approval for the construction of the Improvements(s), and shall be valid for a period of six (6) months, at which time it shall expire and be of no force and effect.

**ARTICLE 5  
FORMAL REVIEW SUBMITTALS**

**5.01 Final Submittals.** After informal review of a DRC application, the Member shall submit for final design review and approval the following:

(a) *Location Map.* At a scale of not less than 1" = 400' showing the location of the proposed Improvement within the Fall Creek Village Subdivision and the impact of the proposed Improvement on the principal view corridors of all neighboring dwellings or unimproved building envelopes located on any parcels adjacent to the exterior boundaries of the Parcel for which approval is sought.

(b) *Site Plan.* At a scale of not less than 1" = 100' showing the building Parcel and including the following information:

- (i) Property lines and dimensions.

- (ii) Building centroid and dimension to property corners.
- (iii) Building envelope or areas that will be disturbed.
- (iv) Proposed location of the Improvement for which approval is sought and its relationship to the building centroid and building envelope or property lines.
- (v) Grading or drainage plan at a scale not less than 1" = 100' for the Parcels at a contour interval of not greater than 40', and 1" = 50' for the building envelope at a contour interval of not greater than 2'. The Plan shall show all existing and proposed watercourses, drainage channels and patterns, swales, culverts, catch basins, and subsurface drainage systems. Clearly indicate any drainage or watercourses that may be altered or modified by the proposed project and how such water will be managed. Grading plans may be a separate document from the Site Plan)
- (vi) Location of the elevation benchmark used to set all finish elevations, if applicable. This benchmark shall be established by a licensed surveyor and tied to the topography plan.
- (vii) Prominent site features within the building envelope such as rock out-croppings and existing vegetation.
- (ix) Driveway location, width, grades and proposed surface material, proposed turnarounds and parking areas, and all areas intended for removal or storage of snow.
- (x) All existing and proposed maintenance, utility, and snow storage easements on or adjacent to the subject property including septic and drainfield and wells.
- (c) *Architectural drawings.* Architectural drawings shall be prepared, dated and stamped by an architect currently registered in the State of Colorado and shall include:
  - (i) Floor plans at a scale of not less than 1/8" = 1' and showing all floors, basements, lofts, and spaces intended to be used or occupied. Square footage of each floor shall be indicated. Interior walls and features may be eliminated.
  - (ii) Exterior materials called out on the plans specifying color, type of materials and finish or siding, trim, doors, windows, roof, exposed foundation, skylights, decking, handrails, and all attached or recessed lighting. Color chips may be required.
  - (iii) Exterior elevations at a scale of not less than 1/8" = 1' showing elevations of the proposed Improvement with texture and direction of surface materials clearly delineated. All proposed finish grades relative to each elevation as indicated on the grading plan shall be shown.
- (d) *Engineering Drawings.* Engineering drawings shall be prepared, dated and stamped by an engineer currently registered in the State of Colorado and shall include all elements for which site specific engineering is needed.
- (e) *Landscape Drawings.* The landscape drawings at a scale of 1" = 100' shall include, but not be limited to, the following:
  - (i) Landscape Plan. The landscape plans shall show the immediate area surrounding the proposed Improvement, specifically including any areas disturbed during construction, and the arrangement of principal trees, shrubs, lawn areas, natural areas, and areas to be revegetated after final grading and construction clean-up.
  - (ii) Landscape Features. Landscape features such as decks, retaining walls, privacy screens, awnings, canopies, gazebos, benches, steps, etc., shall be clearly delineated on the plans in sufficient detail to adequately demonstrate finished appearance.
  - (iii) Exterior Lighting. Exterior lighting shall be clearly delineated on the plans indicating location, type, height, material, and type of light source.
- (f) *Other Submittals.* The Member shall also submit any other information reasonably requested by the DRC.

**5.02 Form of Submittal.** Documents may be submitted in scalable electronic format or as printed copies. If printed copies are submitted, two (2) full sets shall be submitted for review.

**5.03 Fees.** A submittal fee of Five Hundred Dollars (\$500.00) will be charged for all DRC plan review for residences, guest houses and barns, and shall be submitted in full with the application. A submittal fee of \$100 will be charged for all other DRC plan reviews for regulated Improvements and shall be submitted in full with the application.

(a) *Rejection of Application.* If the DRC or its authorized representative determines that an application submittal is incomplete, it shall be returned to the Member with general information regarding the rejection. If an application submittal is rejected, a new submittal fee shall be required.

(b) *Compensation of DRC Members.* Out-of-pocket expenses as approved by the Board may be added to the applicable review fees for any application, and the DRC member submitting dated receipts to the Board for valid out-of-pocket expenses shall be reimbursed upon the Association's assessment and collection of such expenses from the Member.

**5.04 External Design Professional.** The DRC may delegate the review of applications to a qualified design professional. If such delegation is made, all costs and expenses invoiced by the qualified design professional shall be paid by the Applicant, in addition to the submittal fees.

**5.05 Damage Deposit by Primary Contractor.** The primary building contractor shall post with the Association, at the time of submittal of plans, a surety bond of \$5,000.00 to be used to Compensate the Association for any damage incurred to the Common Elements of the Fall Creek Village Subdivision. This does not absolve said contractor from damage over and above \$5,000.00. The \$5,000.00 bond shall be released to the Contractor upon building completion, review, and approval by the Design Review Committee. Alternatively, the building Contractor may deposit with the Association the amount of \$5000.00 to be held under the same terms and conditions.

**5.06 Review Procedure.**

(a) *Forward to Board.* Upon receipt of an application, the DRC shall forward one (1) set of all submitted materials and the review fees to the Board.

(b) *Posting on Website.* Upon receipt of an application, the DRC shall post on the Association's website a notice consisting of the general nature of the submitted proposal and the identification of the Member, and a notice regarding how to obtain additional information or arrange for a review of the submitted materials.

(c) *Determination of Complete Application.* The DRC chair or its representative shall review the submitted materials for completeness and inform the Member of any deficiencies and any additional materials necessary for the DRC review. Until receipt by the DRC of all plans and specifications required by the DRC rules, the DRC may postpone review of any plan submitted for approval.

(d) *Items Requiring Variances.* At any time during the DRC review procedure that an item or element of a proposal for an Improvement is identified as being outside of the scope of the Design Standards included in the Governing Documents, the Member may amend the application or continue to seek approval of the element as a variance.

(e) *Hearing.* When the DRC chair determines that the application is complete, a meeting of the DRC will be scheduled at a time convenient to the DRC and the Member for a hearing regarding the proposed Improvements. The hearing will be conducted in accordance with the Association's Policy #4, and a notice of the hearing will be posted on the website.

(f) *Administrative Functions.* Prior to taking any final action on an application for an Improvement, the DRC may address review functions administratively in accordance with the provisions of Section 6.04 of the Bylaws of the Association.

(g) *DRC Action.* The DRC may act on the proposal at the scheduled hearing, or, if necessary, continue the hearing to another date for further consideration and review.

(h) *Site Meeting.* The DRC may require a site meeting at which the DRC and the Member can review, on site, the general parameters of the proposed development. In advance of the meeting the Member may be asked to stake or mark corners, Building Areas, and the location of major features to facilitate the visualization of the proposed Improvement. A site meeting shall be deemed to be a work session of the DRC but any interested Member may attend upon request made to the DRC.

(i) *Decisions of the DRC.* All approvals, disapprovals or other final actions of the DRC shall be in writing to the Member and the Board. Any decision or action of the Design Review Committee may be appealed by the Member to the Board, and upon such appeal the Board shall control and resolve the

disputed matter. The Member may not initiate any legal action against the Association regarding the disputed matter unless it has appealed the matter to the Board.

(j) *Posting on Website.* A summary description of all final actions of the DRC shall be posted on the Association's website, and any interested party may inspect and copy any document associated with such final action in accordance with the Association rules and policies regarding inspection of documents.

**5.07 Conditions of Approval.** The DRC may place conditions on the approval of any proposal for an Improvement, regarding specific aspects of the application.

**5.08 Final Plan Approvals.** The Member shall be notified of the action of DRC within sixty (60) days from the date of submittal of the required application and drawings, and any other submittals required by the DRC. Approvals shall expire three hundred sixty-five (365) days from the date thereof for new construction and one hundred eighty (180) days from the date of approval for alterations or existing structures. Construction must begin within said 365 or 180 day period, as appropriate. If construction is not started in that time, plans must be resubmitted to the DRC for approval and an additional fee may be required.

**5.09 Final Disposition.** A summary of the final disposition of any proposed Improvement review procedure addressed by the DRC shall be posted on the Association's website.

## **ARTICLE 6 CONSTRUCTION INSPECTION SUBMITTALS**

### **6.01 Construction Inspection.**

(a) *Monitoring of Construction.* The DRC or its designated representative may monitor any approved project to the extent required to ensure that the construction or work on such project complies with the Declaration and Governing Documents. The DRC or its designated representatives may enter any Parcel at any reasonable time or times to inspect the progress, work status or completion of any approved project. In addition to available remedies regarding violations, the DRC may withdraw approval of any project and require all activity at such project to be stopped, if deviations from the approved plan are not corrected or reconciled within twenty-four (24) hours after written notification to the Member specifying such deviations, or other reasonable time as may be included in the notice.

(b) If, in conducting inspection duties, the DRC finds that required work was not done in substantial compliance with the approved plans, it shall notify the Member in writing of such noncompliance within seven (7) days of the date of the DRC inspection, specifying the particulars of noncompliance, and shall require the Member to remedy the same.

(ii) *Noncompliance.* If upon the expiration of fifteen (15) days from the date of a notification of noncompliance, and if the Member shall have failed to remedy such noncompliance, the DRC shall notify the Board in writing of such failure. Upon such notice to the Board, the Board shall schedule a hearing in accordance with the Governing Documents, at which the Board shall determine whether there is a noncompliance. If at the hearing a noncompliance is found to exist, the Member shall remedy the noncompliance as directed by the Board.

(b) *Document Submittals and Fee.* Prior to the commencement of construction, the Member shall submit to the DRC a copy of the County building permit; two (2) sets of final approved drawings; a Fifteen Hundred Dollars (\$1,500.00) refundable compliance deposit to be returned after final inspection and compliance with DRC Rules and in compliance with the Declaration of Covenants, Conditions and Restrictions.

**6.02 Inspections.** The DRC, or its representative, shall conduct on-site inspections during the course of construction as follows:

(a) *Initial Inspection.* Conducted as agreed by the Member and the DRC. The Member may be asked, prior to the inspection, to stake corners, centroid, envelope, proposed driveways and other features to facilitate the DRC in visualizing the proposed Improvement on the site.

(i) *Temporary Construction Facilities and Site Maintenance.* Temporary construction items required to be on-site within the approved building envelope prior to the beginning of construction shall include: water, electric, toilet, and dumpster. The general contractor shall maintain the construction site in an orderly condition and all construction materials must be placed in or near the buildings being constructed.

(b) *Interim Inspections.* Interim inspections may be required by the DRC and will be scheduled as needed. Interim inspections shall include:

(i) *Foundation and Grade Survey.* Within three (3) weeks after the foundations are completed an as-built survey of the foundation shall be prepared by a licensed surveyor to determine whether the foundation is in the correct place as approved on the plans. An elevation benchmark, or the Base Elevation where applicable, that has been established and installed by a licensed surveyor, shall be set for use in determining that approved heights are correct.

(ii) *Rough Opening and Roof Height Certification.* Within one (1) week after the roof structure is in place and all openings have been framed, a statement signed and dated by a registered architect that the exterior of the structure is in compliance with the approved plans and that the roof system does not exceed the height shown on the approved plans.

(c) *Landscape Inspection.* The Landscape Inspection is performed prior to the Member's planned start date for implementation of the landscape program, including but not limited to the driveways, paving and/or other hard-surfaced areas. Wildfire mitigation plans, will also be inspected. The landscape inspection is generally performed once the Improvement is substantially complete. Consideration for winter conditions will be given to the landscape installation schedule. The Member shall provide a reasonable plan for coverage, clearing, and clean-up for the landscaping plan.

(d) *Final Inspection.* The Final inspection is performed after final installation of all items on the approved architectural, engineering, site, and landscape plans to determine whether such work is in compliance with the approved plans. It is the sole responsibility of the Member to notify the DRC in writing, at least ten (10) days ahead of the required inspection, when the Parcel or Improvement is ready for final inspection.

NOTE: ANY CHANGE OR DEVIATION IN CONSTRUCTION OF ANY IMPROVEMENT, OR ANY PORTION THEREOF, OR DEVIATION FROM ANY APPROVED PLAN WITHOUT PRIOR WRITTEN APPROVAL OF THE DRC WILL RESULT IN THE MEMBER BEARING THE COST OF CORRECTIONS REQUIRED TO BRING THE WORK INTO COMPLIANCE WITH THE APPROVED PLANS.

## **ARTICLE 7 VARIANCES AND APPEALS**

**7.01 Variances.** Upon the request of the Member, the DRC may authorize variances from strict compliance with any of the DRC Review Procedures and other applicable conditions, covenants, and restrictions of the Governing Documents regarding the construction of Improvements on a Parcel, as long as such variances are in reasonable compliance with the Governing Documents and the Act.

(a) *Member Request.* Members may request variances to alter the review procedures based on timing considerations, or alter certain design standards, including restrictions upon height, size, floor area, set backs or placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental consideration may require.

(b) *Review.* Such requests for variances may be processed within the context of any Improvement proposal made by a Member.

(c) *Effect of Approval.* If any requested variance is granted, with or without conditions, the approval will not result in a violation of the Declaration or Governing Documents. The granting of any such variance shall not operate to waive any of the terms and provisions of the Declaration for any purpose except as to the particular Parcel and particular provisions covered by the approved variance, nor shall it affect in any way the Member's obligation to comply with all governmental laws and regulations affecting the

proposed use of the Parcel, including, but not limited to, the Act, zoning ordinances, set-back requirements, or requirements imposed by any governmental or municipal authority.

(d) *Significant Modifications.* The DRC may deny any request for a variance or require the approval of the Board prior to further consideration of a proposal for Improvements submitted by the Member.

**7.02 Variance Request Submittals.** Variance requests may be made within the context and review of a proposal for Improvements in accordance with these Standards and Procedures, or made as an independent request and submittal to the DRC. Variance requests shall include the following information:

- (a) a completed DRC application form;
  - (b) a description and citation of the specific provisions for which a variance is being requested;
  - (c) the nature and scope of the variance requested;
  - (d) the relevant facts that the Member believes would justify a waiver or variance, including conditions of hardship;
  - (e) the identification of any adverse impacts that might result from the approval of the variance;
- and
- (f) any other relevant information for consideration of the DRC.

**7.03 Extension Request Submittals.** Members may request an extension of the approval period of an approved Improvement, or the time to commence construction or the time to complete construction. Extension requests shall include the following information:

- (a) a completed DRC application form;
  - (b) a description and citation of the specific provisions for which an extension is being requested;
  - (c) the nature and scope of the extension requested;
  - (d) the relevant facts that the Member believes would justify the extension, including conditions of hardship;
  - (e) the identification of any adverse impacts that might result from the approval of the extension;
- and
- (f) any other relevant information for consideration of the DRC.

**7.04 Variance and Extension Review Procedure.** Unless declined or referred to the Board, requests for variances shall be reviewed by the DRC informally or formally, at the sole discretion of the DRC, as may be appropriate to the nature of the request.

**7.05 Variance or Extension Review Criteria.** In reviewing a request for a variance or extension, the DRC shall consider the following:

- (a) whether special conditions exist;
- (b) whether strict enforcement would result in a hardship to the Member;
- (c) whether the variance or extension would not be contrary or detrimental to the Association and the spirit and intent of the Governing Documents are respected;
- (d) whether adverse impacts would result to other Members, Parcels, or the Association; and
- (e) whether the request was made to procure a special privilege, profit or convenience solely benefitting the Member.

**7.06 Appeals.** Any action of the DRC may be appealed to the Board. Any such appeal shall be addressed by the Board in accordance with the Governing Documents.

## ARTICLE 8 GENERAL PROVISIONS

**8.01 Severability.** If any section, subsection, paragraph, sentence, clause, or phrase of these Design Review Procedures is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of these Design Review Procedures.

**8.02 Non-waiver.** Consent by the DRC to any matter to it or within its jurisdiction, or failure by the DRC or the Association to enforce any violation of these Design Review Procedures shall not be deemed to constitute a precedent or waiver impairing the DRC's right to withhold approval as to any similar matter thereafter proposed or submitted to it for consent or to enforce any subsequent or similar violation of these Design Review Procedures.

**8.03 Amendment.** Amendments to these Design Review Procedures may be proposed to the Board at any time by a majority vote of the DRC. Amendments shall be made by the Board in accordance with Policy #1 - Adoption and Amendment of Policies. Amendments to any Design Standards shall be made in accordance with the requirements for amendment of the Declaration.

**KNOW ALL MEN BY THESE PRESENTS,** that the undersigned Board of Directors of the Fall Creek Village Homeowners Association, action as the Board of Directors as well as the Design Review Committee, do hereby certify that the above and foregoing Amended and Restated Design Review Procedures were duly adopted at a meeting of the Board of Directors held on the \_\_\_\_\_ day of \_\_\_\_\_, 2023, at which a quorum was present, called for the purpose of amending the Association's Design Review Procedures, by the affirmative vote of the Board Members representing no less than a majority of the Directors of the Association, the results of which are on file in the Association records, as a complete replacement for the Association's previous Design Review Committee - Rules for Fall Creek Village Subdivision, and that the above and foregoing Amended and Restated Design Review Procedures now constitutes the Design Review Procedures of the Association.

**Fall Creek Village Homeowners Association, Inc.**  
a Colorado nonprofit Corporation

ATTEST:

\_\_\_\_\_  
\_\_\_\_\_, President

\_\_\_\_\_  
\_\_\_\_\_, Secretary

\_\_\_\_\_  
\_\_\_\_\_, Vice President

**SCHEDULE 1**

**FALL CREEK VILLAGE HOMEOWNERS ASSOCIATION  
DESIGN REVIEW COMMITTEE SUBMITTAL FORM AND APPLICATION**

Date Received: \_\_\_\_\_

By: \_\_\_\_\_

Fee: \_\_\_\_\_

Member(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Parcel No.: \_\_\_\_\_

Address: (for purposes of this application)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone:

\_\_\_\_\_  
\_\_\_\_\_

Email: \_\_\_\_\_

Architect: \_\_\_\_\_

Phone: \_\_\_\_\_

Engineer: \_\_\_\_\_

Phone: \_\_\_\_\_

Other Design Professional:

\_\_\_\_\_  
Phone: \_\_\_\_\_

Type of Submittal:

\_\_\_\_ Informal      \_\_\_\_ Formal      \_\_\_\_ Variance      \_\_\_\_ Extension  
\_\_\_\_ Resubmittal      \_\_\_\_ Other

Brief Description of Proposal and List of Documents Submitted: (Attach extra pages if needed)

The undersigned certifies that he/she has read the current Declaration of Covenants, Conditions and Restrictions for the Fall Creek Village Subdivision and the Design Review Procedures pertaining to construction and alteration of Improvements at Fall Creek Village Subdivision and understands and agrees to abide by the design review processes and restrictions set forth therein. (All Members spouses must sign this application).

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Signature: \_\_\_\_\_