

**ARCHITECTURAL AND DESIGN REVIEW
GUIDELINES FOR
CHERRY CREEK VILLAGE NORTH**

July 14, 2003

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ARCHITECTURAL AND DESIGN REVIEW GUIDELINES FOR CHERRY CREEK VILLAGE NORTH

In furtherance of the provisions of the Amended, Restated and Consolidated Declaration of Protective Covenants for Cherry Creek Village, Original Filing, Cherry Creek Village 2nd Filing, and Cherry Creek Village 4th Filing, as it may be amended from time to time (“Declaration”), these Architectural and Design Review Guidelines (“Guidelines”) shall govern alterations by an Owner to the exterior portions of the Lot and to any improvements on the Lot. The purpose of these Guidelines is to assist the Cherry Creek Village North Civic Association, Inc. (“Association”) to actively foster, promote and advance the common ownership interest in the Cherry Creek Village North Community and to preserve the inherent architectural and aesthetic quality of the community. The Guidelines have been enacted pursuant to Article 6, Section 6.4 of the Declaration, and other rule making authority provided in the governing documents for the Association and by Colorado law.

The Declaration requires that the Association provide prior written approval for any exterior alteration and any alteration to the Lot and improvements on the Lot. The materials, plans and specifications are to be considered by the Association and the Association has the discretion to withhold its approval.

These Guidelines shall be used by the Association for the consideration of requests to make modifications to any improvements on the Lot, to add structures to a lot and to address major landscaping modifications. All terms used in these Guidelines shall have the same meaning and definition as those contained in the Declaration, unless otherwise specified.

ARTICLE I ARCHITECTURAL APPROVAL/DESIGN REVIEW

Section 1.1 Establishment of the Architectural Review Committee. The Board of Directors (“Board”) shall act as the Architectural Review Committee unless the Board delegates this duty to other members of the community, in which case, the Board shall appoint such members. If members other than Board members serve as the Architectural Review Committee, appointments shall be for staggered terms of years different in termination so as to provide reasonable continuity to the architectural control process. The Board may remove any appointee at any time for any reason upon written notice.

Section 1.2 Required Approvals and Design Criteria. The Architectural Review Committee shall consider and act upon any and all plans and specifications submitted for its approval under the Declaration and these Guidelines and perform such other duties as from time to time shall be assigned to it by the Board, including the

inspection of construction in progress to assure its conformance with plans approved by the Architectural Review Committee.

No construction, alteration, addition, modification, or reconstruction of any improvement in the property shall be commenced or maintained, nor shall any alteration or change to the exterior of the existing improvements, to the exterior of a residence, to a Lot or to any structure or any attachment to the exterior of a residence until the plans and specifications therefor showing the design, nature, kind, size, shape, height, width, color, materials and location of the same shall have been submitted in writing to the Architectural Review Committee and approved in writing by the Architectural Review Committee. The Architectural Review Committee may require such further detail in plans and specifications submitted for its review as it deems proper.

The Architectural Review Committee shall not refuse to permit an Owner to make reasonable modifications to a dwelling or other portion of a Lot if such modifications are necessary under the Federal Fair Housing Act (as heretofore and hereafter amended) to afford one or more Persons With a Disability (as defined by the Federal Fair Housing Act) residing at or intending to reside at such Lot the full enjoyment of such Lot.

The Board may promulgate and publish reasonable standards (hereinafter "Architectural Standards") against which to examine any request made pursuant to these Guidelines. Such standards and any additions and modifications made thereto from time to time as promulgated by the Board shall be available for inspection by any Member.

The Architectural Review Committee shall exercise its reasonable judgment to the end that all plans and specifications submitted for its approval shall comply with the requirements set forth herein and the Association's governing documents. Review shall be based upon, but not limited to:

- a) adequacy of site dimensions;
- b) conformity and harmony of exterior appearance of structures and improvements with neighboring structures;
- c) effect of location and use of improvements on nearby Lots, improvements, operations and uses;
- d) relation of finished ground elevation of the proposed alteration to that of other Lots;
- e) view from nearby streets;
- f) preservation of aesthetic beauty; and
- g) conformity with the plan, specification and purposes generally established within the Community.

Decisions shall be conclusive and binding on all interested parties. The Architectural Review Committee may also issue rules or procedures setting forth guidelines for the submission of plans for approval.

Section 1.3 Expense of Review. The Architectural Review Committee may obtain the services of an architect, engineer, attorney or other professional in its review

and require that the applicant(s) reimburse the Committee for actual expense incurred by it in its review and approval process. The Architectural Review Committee may require a fee payable to the Association to accompany each application for approval.

Section 1.4 Voting. The vote of a majority of the members of the Architectural Review Committee shall constitute action on any matter before it. The Architectural Review Committee from time to time may designate a single member to act on its behalf on such issues it defines as routine and not requiring a vote. Should a Lot Owner request a reconsideration of an action taken by a single appointed member, then an affirmative vote of a majority of the members of the Architectural Review Committee is required to sustain such action.

Section 1.5 Reply and Communication. Decisions of the Architectural Review Committee and the reasons therefor shall be transmitted by the Architectural Review Committee to the applicant at the address set forth in the Application for Approval within thirty (30) days after receipt of the complete application by the Architectural Review Committee.

Where prior written consent of approval of the Architectural Review Committee is required under the Declaration with respect to the making of an improvement, the Architectural Review Committee may issue and record a Notice of Noncompliance if the Owner fails to obtain such consent or fails to comply with the terms of the written approval. In the event a Notice of Noncompliance is issued, the Lot shall be restored to its condition prior to the noncompliance within thirty (30) days of issuance of the Notice of Noncompliance. The cost to restore the Lot to its condition prior to the noncompliance shall be the responsibility of the owner who made the improvement. The owner who made the improvement shall also be liable for any damages or injuries resulting from such improvement.

All communications and submittals shall be addressed to the Architectural Review Committee at such address as the chairman of the Architectural Review Committee shall hereafter designate in writing addressed and mailed to the Lot Owners or as identified in the Association's newsletter.

Section 1.6 Right to Appeal. If the Board delegates its authority to a separate Architectural Review Committee, an Owner may appeal any decision of the Architectural Review Committee to the Board of Directors. The Board of Directors shall review the decision of the Architectural Review Committee pursuant to the criteria set forth in Section 6.2 of the Declaration and these Architectural Guidelines. Any decision of the Architectural Review Committee may be overruled and reversed by a majority of the Directors by a written decision setting forth the reasons for the reversal when the Directors conclude that the Architectural Review Committee's decision was inconsistent with the criteria set forth in this Article and these guidelines.

Section 1.7 Variations. The Architectural Review Committee may grant reasonable variances or adjustments from any conditions and restrictions imposed by these Guidelines in order to overcome practical difficulties and unnecessary hardships arising by reason of the application of the conditions and restrictions contained in these

Guidelines. Such variances or adjustments shall be granted only when the granting thereof shall not be materially detrimental or injurious to the other Lots nor deviate substantially from the general intent and purpose of these Guidelines. If the Board does not serve as the Architectural Review Committee, and if the request for a variance is disapproved by the Architectural Review Committee, the applicant shall have the right of appeal to the Board. In the event the Board of Directors is serving as the Architectural Review Committee and disapproves a request for a variance, the Owner shall have the right to make one request for reconsideration.

Section 1.8 Waivers. The approval or consent of the Architectural Review Committee, or appointed representative thereof, to any application for design approval shall not be deemed to constitute a waiver of any right to hold or deny approval or consent by the committee as to any application or other matters subsequently or additionally submitted for approval or consent pursuant to these Guidelines or other Governing Documents for the Community.

Section 1.9 Liability. The Architectural Review Committee and the members thereof, as well as any representative of such Committee designated to act on its behalf, shall not be liable in damages to any person submitting requests for approval or for any approval or denial, or failure to approve or disapprove in regard to any matter within its jurisdiction under these covenants.

Section 1.10 Records. The Architectural Review Committee shall maintain written records of all applications submitted to it and of all actions taken by it with respect thereto. Such records shall be open and available for inspection upon reasonable notice by any interested party during reasonable hours of the business day.

Section 1.11 Effect of the Declaration. Copies of the Declaration should be given to home buyers when they purchase their homes. Nothing in these Guidelines shall supersede or alter the provisions or requirements of the Declaration.

Section 1.12 Effect of Governmental and Other Regulations. Owners are responsible to ensure that use of property and improvements to property comply with applicable building codes and zoning requirements. Approval by the Architectural Review Committee will not constitute assurance that the improvement will comply with the applicable city or county code or regulation, nor that permits will be given. For information about Arapahoe County or Greenwood Village requirements, homeowners should write or call the appropriate building department.

Section 1.13 Interference with Utilities. In making improvements to property, homeowners are responsible for locating all water, sewer, gas, electrical, telephone, cable television, or other utility lines or easements and are responsible for any damages to these utilities due to construction of any improvements.

Section 1.14 Amendment. These Guidelines may be altered, amended, or revoked by the Board by a majority vote of the Board.

Section 1.15 Enforcement. Enforcement of the Guidelines and other provisions, as amended, may be by any proceeding at law or in equity against any person or person violating or attempting to violate any such provision. The Architectural Review Committee and any interested Lot Owner shall have the right but not the obligation to institute, maintain and prosecute any such proceedings. The Association or the Architectural Review Committee shall be entitled to recover all costs incurred to enforce these Guidelines and other provisions, as amended, including, but limited to attorneys fees. Failure of the Association, the Architectural Review Committee or of any Owner to enforce any covenant or restriction herein contained, or any provision of the other governing documents for the Community, shall in no event be deemed a waiver of the right to do so thereafter.

Section 1.16 Definitions. Capitalized terms used herein but not defined shall have the meanings given them in the Declaration.

ENACTED AND EFFECTIVE this _____ day of _____, 20____, by the Board of Directors of the Association.

President

Vice-President

Treasurer

Secretary

**APPLICATION FOR APPROVAL
SUBMISSION TO ARCHITECTURAL REVIEW COMMITTEE**

Pursuant to the Declaration and the Architectural and Review Guidelines for Cherry Creek Village North Civic Association, Inc., I/we hereby submit the following application to make Improvements:

Date: _____

Address of Property: _____

Names of Owners: _____

Mailing Address: _____

Phone Number: (h): _____ (w): _____

Description of work (include design, nature, kind, size, shape, height, width, color, materials, and location of proposed improvement):

Are you requesting a variance and, if so, what is the variance and why is it requested?

Planned completion date: _____

Attachments:

- _____ Construction plans
- _____ Architectural drawings
- _____ Elevation drawings
- _____ Specifications (e.g. manufacturer's brochure)
- _____ Samples or description of colors
- _____ Sample of materials
- _____ Photographs
- _____ Other

I understand that I must receive approval of the Architectural Review Committee (“ARC”) in order to proceed. ARC approval does not constitute approval of the local building or zoning department, drainage design or structural soundness. I understand that I may be required to obtain building or other permits and approvals. Upon completion of my improvement, I hereby authorize the ARC or its delegate to enter onto my property for exterior inspection at a mutually agreed upon time, if requested. I further understand that the Association may request additional information prior to reviewing this request.

RECEIPT

I hereby acknowledge receipt of the above and its marked attachments this _____ day of _____, 20__, AT _____ o'clock _____.m.

This receipt is not an acknowledgment that such submission is complete.

By: _____

**RECEIPT OF APPLICATION
CHECKLIST**

SUBMITTAL NUMBER:

REQUIREMENTS (SUBSTANCE)

	<u>YES</u>	<u>NO</u>	<u>N/A</u>
1. NATURE OF IMPROVEMENT	-----	-----	-----
2. EXTERIOR DESIGN OF IMPROVEMENT	-----	-----	-----
3. HEIGHT OF IMPROVEMENT	-----	-----	-----
4. WIDTH OF IMPROVEMENT	-----	-----	-----
5. COLOR OF IMPROVEMENT	-----	-----	-----
6. MATERIALS OF IMPROVEMENT	-----	-----	-----
7. LOCATION OF IMPROVEMENT	-----	-----	-----

ARCHITECTURAL GUIDELINES (FORM)

1. REQUIRED COPIES	-----	-----	-----
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STATUS OF SUBMISSION

1. COMPLETE	-----	-----	-----
2. COMPLETE WITH REQUEST FOR SUPPLEMENTAL INFORMATION	-----	-----	-----
3. INCOMPLETE APPLICATION: RETURNED FOR RESUBMISSION	-----	-----	-----

DATE OF DETERMINATION: _____

WRITTEN NOTIFICATION OF DETERMINATION
GIVEN TO APPLICANT:

Date _____

[FOR USE IN RESPONSE TO INCOMPLETE APPLICATIONS]

Dear Homeowner:

Thank you for your interest in improving your property in Cherry Creek Village. The Architectural Review Committee is unable to consider your improvements at this time because your Application is incomplete and is not deemed formally submitted. Accordingly, your Application is being returned as insufficient.

The Architectural and Design Review Guidelines require that all Applications show the nature, kind, shape, height, materials and location of improvements. The plans should be sufficiently detailed so as to enable the Architectural Review Committee to determine the exact dimensions of the improvement and whether such improvement will be in harmony with the surrounding structures. All the above-listed information must be shown on the Application and plans in order for the Committee to commence its review process and consider an Application for approval or disapproval.

Kindly resubmit a complete Application as outlined above. We look forward to receiving a complete submission in order that the Architectural Review Committee may commence its review of your proposed improvement for approval or disapproval.

Sincerely,

CHERRY CREEK VILLAGE NORTH
CIVIC ASSOCIATION, INC.

Architectural Review Committee

[COMPLETE APPLICATION WITH REQUEST FOR ADDITIONAL MATTER]

Dear Homeowner:

Thank you for your interest in improving your property within the Cherry Creek Village Community. Your Application was deemed a formal submission on _____ [Date], however, you are missing the following items:

[PLEASE LIST THE ITEMS]

Although the formal review process conducted by the Architectural Review Committee will begin, absence of the above-listed item(s) may be a factor in the Committee's decision regarding whether or not to approve your proposed improvements. You are encouraged to submit the above-listed missing item(s) as soon as possible.

The Architectural Review Committee will notify you of its decision regarding your Application within thirty (30) days of the date it was deemed formally submitted.

Sincerely,

CHERRY CREEK VILLAGE NORTH
CIVIC ASSOCIATION, INC.

Architectural Review Committee

[COMPLETE APPLICATION]

Dear Homeowner:

Thank you for your interest in improving your property within the Cherry Creek Village Community.

Your Application has been deemed complete and formally submitted on _____ (INSERT DATE). The Committee will, therefore, commence its review process and notify you of its decision regarding approval or disapproval within thirty (30) days.

Sincerely,

CHERRY CREEK VILLAGE NORTH
CIVIC ASSOCIATION, INC.

Architectural Review Committee

REVIEW OF APPLICATION PLANS

	<u>YES</u>	<u>NO</u>	<u>N/A</u>
1. IMPROVEMENT COMPLIES WITH APPLICABLE PROVISIONS OF DECLARATION, GUIDELINES, RULES	_____	_____	_____
2. IMPROVEMENT NOT DETRIMENTAL TO APPEARANCE OF SURROUNDING AREAS OR COMMUNITY AS A WHOLE	_____	_____	_____
3. IMPROVEMENT IN CONFORMITY AND HARMONY WITH SURROUNDING STRUCTURES	_____	_____	_____
4. IMPROVEMENT WILL NOT DETRACT FROM THE BEAUTY, WHOLESOMENESS AND ATTRACTIVENESS OF THE COMMUNITY	_____	_____	_____
5. IMPROVEMENT WILL NOT DETRACT FROM ENJOYMENT OF LOTS BY OTHER OWNERS	_____	_____	_____
6. IMPROVEMENT WILL NOT DETRACT FROM VIEW FROM OTHER LOTS	_____	_____	_____
7. IMPROVEMENT HAS ADEQUATE SITE DIMENSIONS	_____	_____	_____
8. OTHER CONSIDERATIONS:	_____	_____	_____

**DECISION OF ARCHITECTURAL REVIEW COMMITTEE
FOR CHERRY CREEK VILLAGE NORTH CIVIC ASSOCIATION, INC.**

The Architectural Review Committee, having reviewed the Submission for Approval of:

_____, dated _____

- hereby finds that the request is:
- ? approved as submitted
 - ? approved subject to (see below)
 - ? denied for the reason(s) stated below

Comments/Conditions/Reasons:

- ? Adequacy of site dimensions

- ? Conformity and harmony of exterior appearance of structures with neighboring structures and Lots

- ? Effective location and use of improvements on nearby Lots, improvements, operations and uses

- ? Relations of finished ground elevation of the proposed alteration to that of other Lots

- ? View facing nearby streets

- ? Preservation of aesthetic beauty

- ? Conformity with the plan specification and purposes generally established within the Community

Other Comments:

Architectural Review Committee of
Cherry Creek Village North Civic Association, Inc.

By: _____
Date: _____

CERTIFICATE OF MAILING

I hereby certify that I mailed a true copy of the foregoing Decision of Architectural Review Committee, by placing same in the United States Mail, postage prepaid, on the ___ day of _____, 20__, addressed to the following:

By: _____

**REVIEW OF REQUEST FOR VARIANCE
CHECKLIST**

SUBMITTAL NUMBER:

REQUEST FOR VARIANCE RELATES TO:	<u>YES</u>	<u>NO</u>
1. HEIGHT OF STRUCTURE	_____	_____
2. SIZE OF STRUCTURE	_____	_____
3. SHAPE OF STRUCTURE	_____	_____
4. PLACEMENT OF STRUCTURE		
5. COLOR SCHEME	_____	_____
6. BUILDING MATERIALS	_____	_____
7. OTHER _____		

CONSIDERATIONS FOR GRANTING OF A VARIANCE:

1. WILL A HARDSHIP BE IMPOSED UPON OWNER WITHOUT A VARIANCE?	_____	_____
2. WILL A VARIANCE BE DETRIMENTAL TO THE APPEARANCE OF SURROUNDING AREAS?	_____	_____
3. WILL A VARIANCE MILITATE AGAINST THE GENERAL INTENT AND PURPOSE OF THE COVENANTS AND GUIDELINES?	_____	_____
4. CAN THE IMPROVEMENTS COMPLY WITH THE COVENANTS AND THE DESIGN GUIDELINES BY ALTERING THE PLANS, WITHOUT IMPOSING HARDSHIP?	_____	_____
5. ARE THERE OTHER CIRCUMSTANCES TO WARRANT A VARIANCE?	_____	_____

APPROVAL OF VARIANCE
CHERRY CREEK NORTH CIVIC ASSOCIATION, INC.

SUBMITTAL NUMBER:

The Architectural Review Committee (“ARC”), having reviewed the Application for Approval of: _____ (“Owner”), dated _____ hereby approves a variance of Cherry Creek North Declaration and Architectural Review Guidelines. Owner’s request is:

- ? approved as submitted

- ? approved with the following modifications:

Such variance is based upon the following consideration(s):

The variance from the Cherry Creek North Declaration and Architectural Review Guidelines is not a variance from any requirements of any federal, state or local laws or ordinances that may affect the Improvement. This variance is not a waiver of the terms and provisions of the Declaration and Architectural Review Guidelines except as to the Owner’s property in this particular instance.

ARC Approval:

By: _____ Date: _____