



# Architectural Regulations for New Construction and/or Major Renovations in Circle Oaks

The Circle Oaks Homes Association

## Final Document – Adopted by the Board 09/25/2007

### Definitions:

- The Circle Oaks Homes Association to be known as "COHA" or the "Association" herein.
- The Architectural Committee of the Circle Oaks Homes Association to be known as the "Committee" herein.
- Any described work such as new construction or major renovation of a property may be known as the "project" herein.
- The Board of Directors of the Circle Oaks Homes Association may be know as "The Board" herein.
- The Circle Oaks County Water District may also be know as "COCWD" herein.

### Introduction:

As of early 2007, the Circle Oaks County Water District removed all restrictions on water and sewage connections. At the time of this writing, there are 158 undeveloped lots in Circle Oaks. The Board of Directors examined its responsibilities to the community, in the form of the original Articles of Incorporation, the By Laws, and the CC&Rs. These regulations have been developed to deal with the potential flood of applications in a responsible and consistent manner.

### Responsibility:

**Article VIII** of the Circle Oaks Homes Association CC&Rs reads: ***“Architectural and Environmental Control of Improvements to Real Property and Alterations.*** *The Association shall have the authority to regulate construction, modification and/or alterations to the exterior of all structures on any Lot as outlined in this Article VIII”*

It is from this Article of the CC&Rs that the Board accepts its responsibility to the community of regulating construction, and toward that end has developed the regulations that follow.

The Board has spent well over 100 hours, and consulted with the Association attorney to develop this set of Architectural Regulations. The objectives of the Board in this undertaking are:

#### ***To protect the community by way of the following :***

1. Define what should be done to plan a development
2. Be confident that complete plans have been developed by competent individuals.
3. Be confident that the planned lot development is located on the owner's property, and with no infringement onto the property of others, or the greenbelt
4. Be confident that the planned lot development is located in a geologically safe and sound position (building and driveway).
5. Assure others are not impacted with the costs of development and/or protecting the greenbelt
6. Emphasize the authority of the County Building Department concerning government requirements
7. Emphasize the authority of the Association on compliance with Association rules
8. Make certain that COHA rules and regulations are not interpreted as replacing, or superseding government regulations.
9. Assure Association due diligence with minimum impact on all members.
10. Make certain that owner/developers complete their work with minimum negative impact on existing community residents.
11. On major renovations to existing structures, be certain to protect the property of neighbors and the greenbelt.
12. Encourage projects to start and complete within stated schedules.

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13. Minimize any negative impact to the greenbelt during construction and/or utility connections.
14. Once begun, assure that what is being done is following the approved plan
15. To the greatest degree possible and reasonable, work to keep Circle Oaks "green" by preserving cherished plants and trees
16. Be certain that these regulations are legal, defensible, and enforceable.
17. Have a process that allows variances when deemed reasonable
18. Protect the Association and the community by limiting liability
19. Have a process for appeal and/or dispute resolution if and when needed.

The Board believes these objectives to be reasonable and well thought-out.

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**Members should take care to read and understand the stated requirements of the Circle Oaks Homes Association CC&Rs as well as these Architectural Regulations.**

**Regulation 1.0 - Procedures for Obtaining Architectural Committee Review of Plans and Specifications.**

**(a) Application for a conceptual or preliminary review.** To afford an Owner an opportunity to obtain review and comment from the Architectural Committee concerning compliance with the CC&Rs and these Architectural Regulations, prior to the expenditure of substantial sums on complete plans and specifications, any Owner may apply to the Committee for a conceptual or preliminary review of a proposed project. This review is not required, it is completely optional. Applications shall be considered and processed as follows:

(1) Any application for a conceptual or preliminary review shall be in writing and shall present sufficient detail to apprise the Architectural Committee of the general nature, and proposed location of the house and garage, their dimensions and the proposed location of the driveway.

(2) The Architectural Committee shall review and comment only on proposed new construction or major renovations (such as increasing the footprint or elevation of an existing building - also see Regulation 3). The Committee will endeavor to complete its review and make its recommendations to the board such that a response can be given to the applicant within 30 days after receipt of the application. Failure to do so however, shall NOT constitute an approval of any kind. In reviewing an application, the Architectural Committee may give the Applicant suggestions or recommendations and/or request additional information.

(3) In no event shall any conceptual or preliminary review be deemed to constitute approval of any kind. Any number of issues could arise as detailed, professional assessments are completed in the effort to develop "permit ready" plans.

**(b). Application for Final Approval.** Regardless of whether an Owner elects to seek conceptual or preliminary review in accordance with paragraph (a), above, all Owners who desire to undertake any work of construction or major renovation must apply to the Association and receive its final approval. The application shall be in writing and shall contain all information that is necessary to reasonably evaluate the nature, design, location and extent of the proposed project, including, at a minimum, two complete sets of plans and specifications for the project (satisfying the requirements set forth in paragraph [c] below and such additional information as the Association may reasonably request, either by Architectural Regulation or while the project is under review.

**(c). Content of Plans and Specifications for Final Approval.** The intent of this section is to provide

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a list of the items which constitute a complete package for review, referred to herein as “Plans and Specifications for Final Approval”. The Association does not place itself in judgment of the internal specifics of these items, but rather to be assured that complete plans have been developed. The Napa County Planning and/or Building Departments will assess the quality of the submission and the credentials of the submitter.

In order to be complete, the plans and specifications shall include, but may not be limited to:

1. A plot survey prepared by a licensed surveyor, or a registered civil engineer, with a stamped copy for the Association records.
2. A driveway plan prepared by a registered civil engineer, or a soils engineer in compliance with the Soils and Geological Report (below), which denotes the precise location of the driveway.
3. A professionally prepared Soils & Geological Report which includes:
  - a. Analysis of site geology & composition
  - b. Analysis of slope stability
  - c. Analysis of driveway construction & placement
  - d. Erosion control plan
  - e. Earthquake hazard evaluation
  - f. Recommendations on footings, foundations and/or retaining walls
  - g. Possible impact on the surrounding greenbelt, and/or other lots
4. A lot plan which includes:
  - a. The location of the Lot on the COHA parcel map.
  - b. Lot contour lines
  - c. The location of all existing and proposed construction or major renovations as well as the locations of the driveway and garage within the owners lot.
  - d. Setbacks from Lot lines and/or easements of all existing and proposed construction or major renovation
  - e. The proposed drainage plan for the Lot, as improved
  - f. The location of all trees and vegetation which are to be removed and which will remain as part of the construction plan. See Regulation 9.0
  - g. The location of all proposed utility installations: water, sewer, gas, cable, electrical, telephone, solar panels, and/or satellite equipment.
  - h. Any pools, spas and/or out buildings.

The terrain in Circle Oaks, and the unique format and size of the circular lots, may require special skills and/or treatment. The Association therefore, strongly recommends the use of a licensed architect or a registered engineer from the onset. The Napa County Planning & Building Department will decide the credentials and/or licensing required of experts working for developers in Circle Oaks.

5. A building plan which includes:
  - a. Elevations of the house(including foundation), driveway and garage.
  - b. Floor plans
  - c. Location of all heating and/or cooling equipment (if externally located).
  - d. Decking
  - e. Screening devices such as wall, fences, etc.
  - f. Retaining walls
  - g. Description of exterior materials and roofing materials, which could include color,

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material type, or style (if not included with above plans).

6. A landscape plan that includes the Owner's plans for replanting trees and vegetation and for stabilizing slopes during and after construction. If this is included in the Soil/erosion plan, a separate landscaping plan is not required.
7. The Owner's proposed construction schedule.
8. In the case of improvement to an existing structure, if the Architectural Committee determines that the contemplated work is of a nature that does not merit extensive plans and specifications, the Architectural Committee may (but shall not be obligated to) waive or modify any of the above plan and specification requirements upon receipt of a written request from the applicant to do so. Regardless of any such decision, the owner is still obliged to fulfill all Napa County permit requirements.
9. Delivery of Plans and Specifications. Plans and specifications shall be submitted to the Association either in person, by first-class mail, or parcel delivery such as UPS, FedEx, etc. addressed to the:  
Chairman of the Architectural Committee Circle Oaks  
Homes Association P.O. Box4151, Napa, CA 94558.

**(d). Fees and Other Conditions:**

1. Once approved, and prior to first ground breaking, each Owner shall deposit with the Association the sum of \$1500, or such larger sum as the Association shall establish, and without relieving Owner of Owner's obligation to undertake all of the necessary work and clean-up throughout the construction process, or without reference to Owner's legal obligation to indemnify the Association from any claims or damages to the Common Area, or lands of others during the course of any such project. This sum shall be used to pay for any clean up or repairs on Lots or streets within the Properties made necessary by the Owner's construction. Because such cleanup and repair will need to be done right away, no notice shall be required. Said deposit is also expressly authorized by section 8.04 of the CC&Rs as a greenbelt control deposit, if Owner fails to dispose of all debris and/or the greenbelt is damaged and not restored to its natural state to the satisfaction of the Board of Directors. If the actual cost of cleanup exceeds the \$1500 deposit, the member will be responsible for the full amount.
2. In the situation noted in the paragraph above, the Association shall deposit the funds in an interest-bearing account, and no later than sixty days from when the Association confirms completion of construction and all clean up is complete, shall refund the unused portion of the deposit, plus interest earned thereon, to the Owner. The Association shall have no responsibility or liability to the Owner for its selection of a particular type of interest-bearing account.
3. Should the Architectural Committee determine that all or a portion of the plan requires re-submittal, or if it notes that the plan package is incomplete, the applicant will be notified in writing. The Association will bear no responsibility for any costs associated with updating the plan or for necessary additions to same. In such cases, the trigger of sixty days after submittal of complete plans will not commence until all such requests have been fulfilled. This reference to section 8.03 of the CC&Rs provides:

*"In the event the Board or Committee fails to approve or disapprove such design and*

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*location within sixty (60) days after complete plans and specifications have been submitted to it, the request shall be deemed approved. Approval of the Board or Committee can contain conditions or requests for modification of particular aspects of the Owner's plan. This sixty (60) day period commences upon receipt of complete plans and specifications by the Association."*

**(e) Commencement of Work - pursuant to CC&Rs section 8.05 (1) and (2):**

1) Upon receipt of approval from the Board, the Owner shall, as soon as practical, satisfy all conditions hereof and diligently proceed with the commencement and completion of all construction, reconstruction, refinishing, alterations and excavation pursuant to said approval. Unless the Board grants a variance, noise producing construction activities shall not start before 7:00 a.m. and must cease at or before sunset on weekdays. No noise producing construction shall take place on Saturday and Sunday.

2) When a lot is being cleared for construction, no Madrone, Maple, Manzanita or Oak tree (excluding Scrub Oak) in excess of nine (9) inches in circumference at breast height (cbh), nor any other tree in excess of twenty four (24) inches in circumference at breast height (cbh) shall be removed from the Lot without first obtaining the written consent of the Board. All rubbish and debris must be promptly removed to prevent the occurrence of any safety or health hazard. Tree removal must be shown on building plans and on the plans and specifications submitted to the Association for approval.

**(f) Completion of Work**

The date of completion shall be set once the proposed project is approved, and upon the first ground breaking. Pursuant to section 8.11 of the CC&Rs, the construction or placement of every building, dwelling or other major renovation, which is begun on any Lot, shall be completed within eight months after the beginning of such construction or major renovation. Upon request from the member, the Board may extend the time limit. In the event of cessation of construction for 90 consecutive days not caused by act of God or otherwise beyond the reasonable control of the Lot Owner shall be deemed to be a nuisance and the Association shall have the right to remove the incomplete work or complete the work at the cost of the Owner. The cost of completion by the Association shall become a lien upon said Lot subject to foreclosure in the manner provided by law for foreclosure of mortgages and/or trust deeds. No partially completed residence shall be occupied until the County of Napa issues a certificate of occupancy.

**(g) Ultimate Authority**

The Association will have ultimate authority with respect to compliance with these regulations, and the Association CC&Rs, and any other governing instruments of the Association.

The Napa County Building Department will have the ultimate authority with respect to any and all structural, erosion control, code, or other areas of governmental regulations.

With respect to any approval, denial, or required submittals to provide or in response to additional conditions, request for information, and/or modifications, required by the Association and the Architectural committee, shall be binding on the Owner.

Also See Regulation 12 – Limits on Liability.

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### **Regulation 2.0 - Time Limits for Approval or Rejection.**

Within 60 days after submission of plans and specifications satisfying the requirements of Regulation 1.0, paragraph (c) above, the Association shall return one set of such plans to the Applicant, and keep one copy for Association records, with either written notice of approval or disapproval or with written suggestions of changes required for approval accompanying the returned set of plans. If the Association recommends that the plans and specifications be modified, the Applicant may implement such changes to the plans and resubmit plans to the association, incorporating such changes for approval to the Committee, which shall respond within 30 days of receipt of the complete, revised application so long as the Applicant has complied in all material respects with the requested changes.

### **Regulation 3.0 - Subsequent Major Renovations of Existing Structures.**

Owners shall submit plans for major renovations, such as altering the footprint or elevations of an existing structure. The owner must also check with the County Planning & Building Department to be certain that all such work applies for, and meets permit requirements.

If the Committee determines that the contemplated work is a considerable undertaking, it may encourage the owner to employ the services of an appropriately qualified professional.

### **Regulation 4.0 - Proceeding With Work.**

Upon receipt of final approval of a project from the Association, the Owner shall next apply to the Circle Oaks County Water District and the Napa County Planning & Building Department for necessary permits. Once accomplished, the Owner will furnish the Association with a proof of such filing. The Owner should endeavor to begin actual construction as soon as practical after receiving permits. Any approved plans which are not begun within one year of initial approval, must be re-submitted to the Association for review before commencing with the project.

### **Regulation 5.0 - Utilities.**

Since the land lying between the Napa County Roads right-of-way and an owner's property belongs to the Circle Oaks Homes Association (Greenbelt), anyone working on the construction of sewer or water laterals or electrical or telephone or any other utilities across said greenbelt, must be licensed, bonded, and insured contractors. The Circle Oaks Homes Association reserves the right to require a construction bond of such contractors. Such bond to be used if necessary, to return the Greenbelt land to its former state upon completion of the construction. The Circle Oaks Homes Association has the right, responsibility, and the authority to approve or disapprove the placement (location) and construction of both water and sewer lines which of necessity must cross Circle Oaks Homes Association property (Greenbelt). Approval must be given by the Association as a part of its review of complete plans - see Regulation 1.0, part c.

### **Regulation 6.0 - Owner. Do-it-yourself Builders.**

While the Association prefers that all work done in the community be done by licensed professionals, it is understood that some owners will wish to build themselves. In this situation, the Association requires that the owner/builder must carry a minimum of \$1,000,000 general liability insurance. Such policy must name the Circle Oaks Homes Association and its manager as co-insured, and proof of coverage must be submitted to the Association prior to the first ground breaking.

If the owner/builder will have any impact on Association greenbelt, that work must be done by a licensed, insured and bonded professional, as stated in Regulation 5.0.

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### **Regulation 7.0 - Failure to Complete Work.**

Unless an Owner has been granted an extension of time to complete the project by the Association, they are expected to complete the project within 8 months, once construction has begun, as stipulated in the CC&Rs, except and for so long as such completion is rendered impossible or would result in great hardship to the Owner because of strikes, fires, national emergencies, natural calamities or other supervening forces beyond the control of the Owner or his or her agents. In the case of building major renovations the requirements of this section shall be deemed to have been met if, within the construction period, the Owner has completed construction of the building's foundation and all exterior surfaces (including the roof, exterior walls, windows and doors).

If the Owner fails to comply with this section, the Committee shall notify the Association of such failure, and the Board shall proceed in accordance with the provisions of Section 8.11 of the Circle Oaks CC&Rs as though the failure to complete the project was a noncompliance with approved plans.

### **Regulation 8.0 - Inspection of Work**

During the course of construction, regular inspections of the work will be conducted by the County. The Architectural Committee may perform occasional, cursory inspections of the project to assure that what is being built is what was approved. If any questions or concerns arise, the Association will approach the owner for clarification. If questions or concerns still persist, the Association will refer the matter to the County Building Department for final judgment.

Upon the completion of any work of construction or major renovation for which Committee approval is required under this Article, the Owner shall give the Committee a written notice of completion, evidenced by presentation of a copy of the Napa County final inspection.

Within 30 days after the completion notice is received, the Committee, will certify that the project has been constructed, reconstructed, altered or refinished in substantial compliance with the approved plans. If the Committee determines that there has been a deviation from the approved plans, the Committee shall give the Owner a written notice of noncompliance detailing those aspects of the project that must be modified, completed or corrected, and the required schedule for corrections. If the nonconforming work is not corrected, the Association and the Committee shall have the enforcement rights and remedies set forth in Section 8.11 of the Circle Oaks CC&Rs.

If for any reason the Committee fails to notify the Owner of any noncompliance within 30 days after receipt of the Owner's notice of completion, the project shall be deemed to have been constructed in accordance with the approved plans for the project.

### **Regulation 9.0 - Landscaping.**

Owners are reminded that they must limit their landscaping efforts to their own property, and that disturbance of, or landscaping in the Greenbelt (the Common Area owned by the Association, and not part of any individual's lot) is not generally permitted.

If an owner wishes to extend landscaping into the Greenbelt adjacent to their property, they must make application to the Architectural Committee. The Association shall be under no obligation to allow such projects. Further, should such permission be given to any member, the provisions of the CC&Rs Article III, Section (1)i shall apply:

- i) Pursuant to the authority granted by this subparagraph (2), the Association, acting on a two-thirds affirmative vote of its directors, may also grant easements, licenses, or designate exclusive use*

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*common areas (as defined in Civil Code section 1351) in order to permit Owners to care for, maintain and landscape portions of Common Areas adjacent to the Owner's Lot consisting of slope areas, drainage areas or other areas that the Board determines to be unsuitable for general use and enjoyment by the members as a whole and which will be enhanced in appearance or stabilized to prevent damage from erosion or subsidence by such Owner maintenance. This grant of easement or license shall only be allowed if the Association and the Owner enter into an agreement, that must be recorded in the Office of the Napa County Recorder, specifically providing that the Owner shall assume all maintenance and repair obligations for the area and shall indemnify, defend, and hold harmless, the Association, its Board and its Members from any and all liability.*

### **Regulation 10.0 - Enforcement of Architectural Compliance**

(a) If the committee determines that there is or has been significant deviation from the approved plans (see Regulation 8.0), it may recommend to the Board that the project should be stopped until a meeting with the owner and possibly the County can be held in order to surface concerns and seek remedies.

(b) If the Owner fails to implement any such agreed remedies, within 30 days from the date of such notification, or if the Owner feels that the project has been questioned without justification, the Board shall set a date for a further meeting which shall be conducted in accordance with Section 8.14 of the Circle Oaks CC&Rs.

### **Regulation 11.0 -Variances**

The Architectural Committee may recommend to the Board reasonable variances in any procedures specified in these Regulations, in order to overcome practical difficulties, avoid unnecessary expense or prevent unnecessary hardship to Applicants, provided all of the following conditions are met:

(a) If the requested variance will necessitate deviation from, or modification of, a minimum construction standard or a property use restriction that would otherwise be applicable under these Regulations or the Circle Oaks CC&Rs, the Association must conduct a hearing on the proposed variance after giving prior written notice to the Owner and to all Owners residing within surrounding lots. The notice shall also be posted on the Association's Bulletin Boards and on its web site. The notice shall be posted and mailed to the interested Owners at least 15 days prior to the date when the Association is scheduled to act on the requested variance. No decision shall be made with respect to the proposed variance until the 15-day comment period has elapsed.

(b) The Association must make a good faith written determination that the variance is consistent with one or more of the following criteria: (i) the requested variance will not constitute a material deviation from any restriction contained herein or that the variance proposal allows the objectives of the violated requirement(s) to be substantially achieved despite noncompliance; or (ii) that the variance relates to a requirement land use restriction or minimum construction standard otherwise applicable hereunder that is unnecessary or burdensome under the circumstances; or (iii) that the variance, if granted, will not create an unreasonable impact to any other Lot or Common Area within the Properties.

### **Regulation 12.0 - Limitation on Liability.**

Pursuant to section 8.18 of the CC&Rs, neither the Board nor its members, or its Architectural Committee, or any members thereof, nor the Association manager shall be liable to the Association or to any Owner for any damage, loss or prejudice suffered or claimed due to:

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- a. the approval or disapproval of any plans, drawings and specifications, whether or not defective;
- b. the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications; or
- c. the development of any property within the Properties, provided, however, that such member has acted in good faith based on such information as may be possessed by him or her.
- d. the filing a request with the owner to rectify a plan deviation as in Regulation 10.

**Regulation 13.0 - Compliance With Governmental Regulations.**

Review and approval by the Association of any proposals, plans or other submittals pertaining to all construction and/or major renovations shall in no way be deemed to constitute satisfaction of, or compliance with, any building permit requirement.

Compliance with any and all governmental requirements, is the sole responsibility of the Owner.

**Regulation 14.0 - Appeals.**

Appeals from decisions of the Association may be made to the Board of Directors, which may elect, at its discretion, to hear the appeal or, in the alternative, to affirm the decision of the Architectural Committee. The Association Rules shall contain procedures to process appeals pursuant to this section. If no immediate agreement is reached, the Board may proceed as specified in Section 8.19 of the Circle Oaks CC&Rs.