

Four Hills Village Neighborhood Association (FHVNA) Policy & Procedures Regarding Covenants and Architectural Control

This statement describes:

- ◆ The policy of the FHVNA regarding Covenants and Architectural Control in Four Hills Village (FHV), and
- ◆ A brief summary of the FHV “Reservations, Covenants and Restrictions” (Covenants) and their relationship to City Ordinances.

The Covenants are attached to the property deed. They contain restrictions on how the property may be used and standards for building on the property.

A court ruled that the Covenant restrictions are unenforceable some years ago when a suit was filed to force removal of unsightly items stored on a porch and in a yard. In addition, three attorneys who have been contacted say that the Covenant restrictions are not enforceable. However, an owner(s) still has the right to sue any other owner to enforce compliance. Specific prohibitions may also correspond to City ordinances, and the City ordinances can be enforced by the City.

Building Standards and Restrictions

FHV residents cannot do anything they want with their property. Anyone building on a vacant lot, replacing a destroyed home or significantly remodeling an existing house must conform to building codes and zoning requirements. In addition, building standards contained in the Covenants must be observed to avoid the possibility of being sued for non-compliance with those standards.

Common issues that are important or irritating to most homeowners are the Covenant restrictions. Some of these in the Covenants are also covered by City Ordinances and Codes. An advantage of relying on City ordinances/codes is that they must be enforced according to democratic principles. A second advantage is that in contrast to Covenants, ordinances/codes can be enforced without filing a lawsuit by contacting the appropriate city authority.

Residences in FHV are essentially governed by R-1 Zoning rules. While a few FHV residential lots on the south and west sides are zoned R-D (Developing Urban), there are no Sector Development Plans overlying them, and local plans are complete as far as we know; hence they are governed by R-1 rules even though zoned R-D.

Architectural Control

An Architectural Control Committee (ACC) was originally established in each of the Covenant documents to allow the Developer to enforce certain standards and restrictions. With one exception, there is no evidence that any of these ACCs still exist or that their rights were delegated or otherwise passed on to a successor organization. The one exception is the Installment, “The Reserve at Four Hills” developed by Sivage-Thomas homes in the southwest corner of FHV. The

Developer reserved the ACC function to itself during the development phase. Thereafter, the ACC function and authority were explicitly delegated in the Covenants Document to the FHVHA to be effective after the Installment has been completely built-out and sold. This specific ACC may be available to assist homeowners in The Reserve at Four Hills that ask for assistance, but has no standing in other parts of FHV relative to Covenant enforcement. There is no authority to force a homeowner to obtain approval from either the surrounding property owners or from an ACC for modifications (except perhaps in the Reserve area), although it may be considerate to explain proposed changes to your immediate neighbors.

FHVNA Policy & Procedure

FHVNA believes that each homeowner is personally responsible for protecting their property rights and peace of mind, but that help to do this may sometimes be necessary. For these reasons, FHVNA will assist homeowners who ask for help to understand and resolve compliance issues. However, FHVNA will not act as a neighborhood vigilante or initiate enforcement actions on its own except for the most egregious violations.

The following procedure has been proposed for handling complaints.

1. Determine if the alleged violation is close enough to the complaining homeowner to cause a practical problem (within the micro-neighborhood -- say within one or two blocks). If yes, investigate the homeowner's complaint to determine whether it has merit, and advise the homeowner of the result.
2. If a violation appears substantiated by FHVNA, advise the homeowner of the remedies available. These would generally be:
 - (a) Live with the problem;
 - (b) Talk with the violator to see if an amicable solution to the problem can be agreed upon.
3. If 2(b) has been satisfied by the person complaining and there is no resolution, or if the complaining homeowner is unable to talk to the violator, then the NA will send a representative to talk to the violator.
4. If a problem resolution is still not achieved, the FHVNA will help the homeowner to file a complaint with the City Code Enforcement Office.

The FHVNA is not supporting an Architectural Control function for the reasons stated above; namely, no organization has that authority in FHV except perhaps for the Reserve area. Even for the Reserve area, the general unenforceability of covenants may not give Architectural Control authority in the Reserve area.