

ARTICLE 9
ARCHITECTURAL CONTROL

- 9.01 Architectural Review: Prior to construction, all building plans shall be submitted for approval to an Architectural Review Committee. Said committee shall review submitted plans and reply to the submitting party no later than sixty (60) days after submission. Until the sale of the last lot or residence by the Developer, the committee shall consist of three (3) persons, two (2) persons designated by the Village of Manhattan and one (1) person designated by Developer.
- 9.02 Architectural Controls: No building, fence, wall nor other structure shall be commenced, erected, or maintained, nor shall any addition to or change or alteration therein be made, except interior alterations until the construction plans and specifications, showing the nature, kind, shape, height and materials, color scheme, location on lot and approximate cost of such building or other structure, and the grading plan and landscape plan of the lot to be built upon shall have been submitted to and approved in writing by the Architectural Review Committee and approved for permit by the Village of Manhattan. The Architectural Review Committee shall have the right to refuse to approve any such construction plans or specifications, grading plan or landscape plan, which are not suitable or desirable in the opinion of the Committee, for aesthetic or other reasons; and in so passing upon such construction plans and specifications, grading plan, or landscape plan, the Committee shall have the right to take into consideration the suitability of the proposed building or other structure on the outlook from adjacent or neighboring properties. It is understood and agreed that the purpose of architectural controls is to secure an attractive harmonious residential development having continuing appeal. The quality of architectural design will be considered in relation to this principal. Such approval shall not be arbitrarily, capriciously or unreasonably withheld.
- 9.03 Variations and Departures: Declarant hereby reserves the absolute unqualified right to enter into agreements with the Owner or Owners of any lot or lots, without the consent of the Owner or Owners of any other lot or lots, to depart from or vary any and all of the covenants set forth above, provided there are practical difficulties or other good and sufficient reasons evidenced by the Owner making the request; and any such departure or variation, which shall be manifested by an agreement in writing, shall not constitute a waiver of any such covenant as to the other lots in the Subdivision, provided that any such departure or variation shall not result in harm or diminution in value of the Subdivision as a whole.

9.04 Architectural Review Committee: The Architectural Review Committee shall consist of the Developer and the appointees, successors, or nominees of same, as well as certain independent architects, if any, to be appointed by the Developer, and Village of Manhattan. Said Committee may, at its discretion, provide and formulate its own rules and provide for its own succession including the following.

a. The Design Style of the Residence

The basic concept of Hanover Estates Subdivision provides that each individual home design conserve and enhance the natural beauty of each individual site, and the aesthetic harmony of the community as a whole. Modernistic or futuristic designs shall not be permitted.

i. Appropriateness of Design Style: The Committee shall have the sole discretion to determine whether the proposed design will reflect the intended distinguished character of Hanover Estates Subdivision .

ii. Authenticity of Design. Each home will be reviewed for the purpose of determining if the design is reasonably faithful to the intended style. Items to be considered will include plan layout, exterior elevations, detailing and use of color and materials.

b. The Siting of the Residence Upon the Homesite

The siting of a house is a critical and important design decision. The site plan concept developed for each homeowner should reflect functional needs, but also be sensitive to the site's unique characteristics and inherent design opportunities. The location of a home on a homesite will be affected by and should take into consideration the following factors:

Building Front Setback Lines
Existing Topographic Features
Existing Vegetation and Landscape Features
Existing Drainage
Conservation and Utility Easements
Proposed Design Style of the Home
Location of Adjacent Homes
Views from Adjacent Homes, Common Areas and Streets within Hanover Estates Subdivision.

The Owner must use a surveyor or architect to plot the home and show other site conditions including but not limited to all trees of a diameter of three inches and larger.

c. Approved Landscaping Plan

All home site locations and construction shall be in accordance with the Village of Manhattan approved landscaping plan.

- i. The basements will be excavated with backhoe equipment and excess material hauled off site.
- ii. The only allowable ingress and egress to the site will be at the proposed driveway locations.
- iii. The installation of Parkway Trees is required. **The party undertaking construction of the residence, whether the Owner, the Developer or some third party Builder, is responsible to insure installation of the Parkway Trees.** Upon installation, maintenance of the Parkway trees is the responsibility of the Owner in accordance with the Village of Manhattan approved Landscaping Plan.

d. Grading and Drainage of the Homesite

Recommendations or requirements of the Committee regarding grading and drainage will be based upon individual homesite locations, terrain, soil condition, drainage, cuts and fills, and whatever other conditions the Committee feels impact upon the site grading design. Although the Committee will review drainage plans, the Owner is fully responsible for water runoff and drainage control of his homesite. In addition, the Owner recognizes and acknowledges his responsibility to grade the homesite in accordance with the Applicable governmental entities' final engineering grading plan.

e. Lot Easements

Landscaping and the building of driveways within easements may be permissible subject to the approval of the Committee and regulations of the Village of Manhattan, but any cost associated with the removal, repair and/or replacement of such features at any time in the future is the responsibility of the Owner. Erection of any permanent structure in any easement shall not be permitted.

f. Materials

All material selections should be detailed on the Application for Plan Approval. The Committee has set forth the following requirements for building materials:

- i. Exterior walls may incorporate any of the following: brick, glass, dryvit, stone, or cedar. Any and all materials used are subject to the review and approval of the Committee. Brick textures should not

have contrived surfaces. Mortar color should be complimentary to the brick or stone color, and weeping mortar is not permitted. The entire first level shall be brick or stone.

- ii. Windows and doors may be wood, vinyl clad or aluminum clad wood, and glazing shall be clear or gray tinted only. No reflective glass will be permitted.
- iii. Siding may be constructed from redwood or cedar. Sheet goods of cedar are unacceptable. 1" x 6" tongue and groove minimum size. Aluminum, Masonite or composition board will not be allowed.
- iv. Approved surfaces for driveways and parking areas are poured concrete, brick or stone pavers. Approved surfaces for sidewalks and patios are poured concrete, brick or stone pavers, and appropriate wood material.

g. The Exterior

Each home and garage shall be constructed of brick, stone or dryvit or a combination thereof, except in the case of two or more story homes, said two or more story homes may be constructed of brick, stone or a combination thereof for the first story and may be constructed of brick, stone, Dryvit or cedar wood and if applicable, may be stained for the subsequent stories.

h. The Roof

The main roof should be minimum 8 vertical to 12 horizontal pitched roof, either gabled, hipped or a combination of the two. The scale, proportions and detailing of all roof surfaces are to be consistent with the overall design style of the home. Particular attention will be paid to the height and width of gables. Brick detail should extend to the top of the gable. Roof designs that are not authentically with the home design shall not be permitted.

i. Chimneys and Flue Pipes

Chimneys should be brick or stone, properly located and substantial in mass. Chimneys should be designed with appropriate breaks for character. Flue pipes should be encased with a chimney enclosure of masonry and be supported by a foundation at grade when located at an exterior wall. Roof vents should be the same color as the roof.

j. Solar Energy Systems Intentionally Omitted.

k. The Main Entrance

The main entrance should have a sense of prominence that is reflected in the design. It should include either a pair of doors with or without sidelights or a single door with sidelights. Secondary entrances should contain less detail than the main entrance, but be consistent in styling.

l. Windows and Doors

- i. Windows and doors should reflect restraint in the number of types, styles and sizes. Consistency of detailing on all elevations should be maintained. All openings should be articulated through the use of shutters, flat or arched lintels, projecting sills or surrounds.
- ii. Windows should be located on all elevations and be properly spaced and proportioned. All windows should display the correct use of divided lights. Second floor windows preferably will include some brick and/or stone detailing. Shutters, and muttons when used, should be sized to the opening and be located on all elevations. Shutters should be traditional in design and in keeping with the architectural style.
- iii. Bay windows should be carried down to grade or express visual support of a cantilevered condition. When bay windows are stacked in a two-story condition, the blank panel between all facets should be articulated.
- iv. Dormers should be designed in keeping with the architectural style. Dormers must be correctly located on the roof and not be large or disproportionate.

m. Quoins

Quoins, when utilized in the design, must be expressed on all elevations.

n. Decks

Decks, balconies, terraces and gazebos shall be carefully integrated into the overall design of the dwelling and landscaping. Decks, balconies, and gazebos and their structural supports should incorporate materials which relate to the residence such as brick, dryvit, appropriate wood, or stone. If wood posts are used, they should be a minimum of six inches (6") by eight inches (8") with base and capital detailing. The style, details and materials of the deck, balcony, gazebo, posts, and railings should be consistent or compatible with the overall architectural style of the home. Decks must be stained or painted. Trellis-type roof coverings or shading devices will be reviewed by the Committee on a project-by-project basis. The overall size, design and material of any deck, balcony, terrace or gazebo shall be subject to review and approval by the Committee.

o. Garages

- i. Two and one-half (2 1/2) car garage with side loading wherever possible.
- ii. Garage door materials and finish must be compatible with the materials and architectural style of the residence, and should be indicated on the building elevations and on the Application for Plan Approval.

p. Driveways and Parking Areas

The location, size and configuration of driveways shall be subject to review and approval by the Committee. Driveways which have front yards (as defined by setbacks and home placement) fronting cul-de-sacs shall connect only to such cul-de-sac.

q. Mailboxes

Owners will be responsible for the purchase and installation of the mailbox as determined by the Architectural Review Committee, the Board and the Village of Manhattan ordinances, rules and regulations. Only one style mailbox shall be allowed within Hanover Estates Subdivision.

r. Sidewalks and Patios

Approved sidewalk materials are poured concrete and brick or stone pavers. Approved patio materials are poured concrete, brick or stone pavers and appropriate wood material. Owners are responsible for the installation of concrete public sidewalks in accordance with the requirements of the Village of Manhattan.

s. Signs No permanent signs of any kind shall be displayed on any residential lot.

t. Commencement of Construction and Completion of Landscaping

Once construction is commenced, such construction shall be completed within twelve (12) months from the date of commencement. Site landscaping (including, but not limited to, the parkway adjoining the street at the front or side of each Lot which shall be sodded and planted with the required parkway trees) must be completed within six (6) months of the completion of the residence built thereon. No residence shall be deemed completed until installation of approved landscaping, hard surface driveway, public sidewalks, and parkway trees.

- 9.05. Minimum Size of Residence: No residence shall be erected or allowed to exist on any of the Lots in the Subdivision which does not conform to the following requirements:
- a. A one-story residence shall contain at least twenty four hundred (2,400) square feet of living area, exclusive of garage, breezeway, porches and basement.
 - b. A two story residence shall contain at least twenty-seven hundred (2,700) square feet of living area and shall contain at least fourteen hundred (1,400) square feet of living area on the first floor, all exclusive of garage, breezeway, porches and basement.
 - c. Multi-level, split-level, tri-level, bi-level or staggered lever residences shall not be allowed.
 - d. The minimum residence size in this paragraph 9.05 shall not apply to Townhome units constructed on lots 316, 317, 318, 319, 320, 321 and 322. Townhome units shall be as regulated by the Pattern Book attached to and incorporated in the Annexation Agreement recorded as Document No. R2005-091581. Additionally, Section 9.04(o)(i) Garages shall not apply to the Townhome units.

9.06 Construction Regulations: It shall be the responsibility of the parcel Owner to assure his/her/their/its Builder's compliance with all construction regulations.

- a. Roadway and Parking Restrictions
 - i. Only rubber-tired vehicles are allowed on the roads; "tracked" equipment will not be permitted to run on the roads.
 - ii. The driveways of homes under construction and any area available for parking are to be kept stoned for access by suppliers and parking for contractor's vehicles. All vehicles shall be parked within the homesite boundaries whenever possible.
 - iii. If the homesite driveway is filled up, parking on one side of the road will be allowed.

b. Delivery and Storage of Materials

Supplies and equipment shall be unloaded in an orderly manner within the homesite boundaries, and whenever possible, located in the rear of the residence.

c. Homesite Maintenance

- i. The Owner shall be required to keep the entire homesite and adjacent streets clean at all times. The Owner is required to provide a dumpster at the homesite.
- ii. The burning of construction debris or of removed landscape material is prohibited.
- iii. Debris or materials which drift or are windblown onto the roadway or adjacent homesites shall be collected by the Builder and removed from the homesite.
- iv. All excess earth removed from excavations must be removed after backfilling has been completed.

d. Temporary Structures

Temporary structures, such as construction trailers are not permitted.

e. Owners' Obligations and Damage Escrow

In the event the Lot is not improved with a residence at the time of purchase, then the Owner shall be responsible to repair any damage to subdivision improvements, including but not limited to streets, street lights, mailboxes, structures, curbs, gutters, b-boxes etc. located on or off the Owners' Lot and caused by the Owner or any of his subcontractors. The Owner shall also be responsible to install parkway trees and to install public sidewalks, on the Lot, according to the terms of this Declaration and according to the terms of the applicable governmental entity. The Owner shall also be responsible for their proportionate share of the street cleaning expense, for the entire subdivision, that is incurred during construction of their residence. The Developer shall deduct the Owners proportionate share of the street cleaning expense, as incurred, from the damage escrow. At the initial closing of each Lot, the Owner shall be required to pay the sum of twenty five hundred (\$2,500.00) DOLLARS ("Damage Escrow"), per Lot, to the Developer to secure Owners' obligations hereunder. In the event the Owner fails to repair any damage, caused by Owner or Owners' subcontractors, to the subdivision improvements, fails to install any parkway trees or public sidewalks, then the Developer may, at its option, but is in no way obligated to, repair, replace and/or install same and the cost thereof shall be subtracted from the Damage Escrow. The Damage Escrow, less deductions herein set forth, shall be released upon the later to occur of the completion of the single family residence and installation of landscaping, parkway trees and public sidewalks or the acceptance by the Village of Manhattan of all subdivision improvements.

f. Insurance

All Owners shall provide and maintain, at all times, while performing any work in Hanover Estates Subdivision, Worker's Compensation Insurance; Comprehensive General Liability, Owner's and Builder's Protective Liability and Automobile Liability Insurance.