

**From:** [William Souder](#)  
**To:** [Frank Bertone](#); [Daniel Swartwout](#); [Jon Bennehoof](#); [Tom Counts](#); [Heather Karr](#); [Brian Lorenz](#); [Melissa Riggins](#); [Karen Mitchell](#)  
**Cc:** [Mary Anne Souder](#)  
**Subject:** IMPORTANT - Please add to the record - The Retreat Zoning Text - 2020-01-21 Meeting  
**Date:** Monday, January 20, 2020 1:03:22 PM  
**Attachments:** [retreat\\_text\\_concerns.pdf](#)

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Good day all, we are unable to attend the meeting on 2020-01-21 and ask that this email as well as the attachment be added to the record for the coming City Council meeting on 2020-01-21.

**Reference:**

**Title:** The Retreat Zoning Text

**Type of Review:** Major Amendment to a Final Development Plan Text

**Location:** The Retreat & Cardinal Hill

Dear Powell City Council Members,

My name is William Souder. My wife and I, Mary Anne Souder, live at 559 Cardinal Hill Lane, Powell Ohio 43065. According to our deed, the property is lot number 462 of Cardinal Hill Subdivision.

We would like to thank you for taking the time to review our concerns. First please know that **we are for rules and also concerned about property values. However, we remain concerned that the document before you does not sufficiently balance property rights and the public interest.**

We do not approve of this development text (reasons below) but we believe there can be a solution: (Also attached is a mark-up of issues within the document)

1.  
**Not for the General Welfare:** The document was written to address a block of properties and does not apply to the entire Residential District(s)
  - a.  
If it is important enough to justify the use of police power for the general welfare, shouldn't these be reviewed for the entire welfare of Residential Districts in Powell?
2.  
**Appears to Delegate Authority to The Retreat Association and May not Comply with Ohio Revised Code 5312:** The Retreat Association constitution requires dues for membership. Through this text they are provided the power to

create the ARC. For lot owners to vote or decide on the make-up of the ARC they must become a paying member of The Retreat Association.

- a. Can the policing authority of the City be used to force homeowners into a private association?
- b. Given the lot owners are being forced into membership of this community why isn't the Retreat Association and/or ARC required to comply with ORC 5312?

3.

**Text states The Retreat continues to have mechanisms for relief (i.e. bring lawsuit) for expired Deed Restriction violations:**

- a. Is the policing authority of Powell allowing The Retreat to decide what is conforming or in violation of previous deed restrictions?
- b. Is the policing authority of Powell being used to continue the mechanisms of relief after the deed restrictions and private property agreements have expired?

4.

**Appears to Give Power / Delegates Authority to The ARC:** The document allows the ARC to set its own standards or to operate under the standards provided by The Retreat Association. The following are throughout the text below and appears to show the ARC is more than just a recommending body.

- a. "Any exception must be approved by the ARC"
- b. "In the garage of an ARC-approved accessory building"
- c. "Any new or replacement fencing must be reviewed and approved by the ARC"
- d. "Any exception to the location of the fence must be approved by the ARC"
- e.

“Any exception to an accessory building's location, size, structure, materials, and design, or utilities must be approved by the ARC”

- f. “Must be reviewed for approval by the ARC prior to submittal by the applicant to the City of Powell”
- g. “Any proposed generator must be reviewed and approved by the ARC”
- h. “Any exception to the location of play sets must be approved by the ARC”

5.

**May be in conflict with Powell City Code: Ultimately, how do we ensure due process and equal protection to the lot owner?**

- a. Existing City code (1327.05) restricts the staff from knowingly performing any design, redesign, or decisions in the use of materials. There are no standards or processes in place to define how the Division of Building Regulations should conduct themselves.
  - i. If existing city code were to remain unchanged. What will staff do with the ARC's recommendation?
  - ii. During an appeal process with BZA, what processes and standards will be used given the existing prohibited acts defined in Powell Code?
  - iii. The Development text states all replacements must match and conform to original design or be replaced completely. Is this asking staff to define original design?
- b. Existing City code (1135.04): City code and this text require a “good faith effort to accommodate” which is decided by the Commissioner and not based on a set of standards legislated by the City.
  - i. If it is only a recommending body why is there an expectation of accommodation? Are the ARC's concerns to be accommodated?

6.

**Is this Retroactive?** The proposed development text enacts these items on January 01, 2020 which should be updated to the correct date.

**What could be done differently to balance property rights and public interest?**

We believe there is a way for the city to include all PR's and to staff a city wide ARC if it is believed to be in the general welfare of Powell. This would include planning, policy formation, implementation and a review of existing regulations but it would ultimately be a better way forward for aging Powell communities. There may be other options available to better balance rights and interests and engage in discussions with the community ensuring those goals would be a better solution.

We thank you again for your time and appreciate the opportunity to participate in the process. Again we ask that we find a better balance between private property rights and the public interest.

Thank You

Will & Mary Anne Souder

**THE RETREAT DEVELOPMENT TEXT**  
**NOVEMBER 18, 2019**

This is the development text for The Retreat's zoned Planned Residential District (PRD) in the City of Powell. This development text applies to the subdivisions "The Retreat" and "The Retreat at Cardinal Hill" (also known as "Cardinal Hill"), hereafter together in this document known as The Retreat. This development text is written to capture the intent of the Deed Restrictions and Covenants contained in the original platting and recording of The Retreat subdivision that expire on January 1, 2020.

**ARTICLE 1**

**1. General Definitions:**

- 1.1 "The Retreat" includes all properties currently located in The Retreat subdivision, Powell, Ohio. Refer to the map on Exhibit B. Specific areas include:
- a. Robinson Subdivision (Lots 2240, 2241, 2242);
  - b. Section 1 (Lots 237E-W, 238E-W, 239, 239A-D, 240, 240A-C, 241A-D, 997-9, 1043-4), later subdivided into Deer Creek East/West and Fox Run;
  - c. Section 2 (Lots 241-260);
  - d. Section 3 (Lots 261-304);
  - e. Section 4 (Lots 317-336);
  - f. Section 5 (Lots 305-316);
  - g. The Retreat at Cardinal Hill (also known as "Cardinal Hill") (Lots 436-479); and
  - h. On the River (three parcels).
- 1.2 The Retreat Architectural Review Committee (hereafter known as the ARC)
- a. The Retreat Architectural Review Committee (ARC) is hereby created to review and offer recommendations to any proposed modifications and/or improvements to property within The Retreat, excluding interior modifications, prior to the City of Powell issuing a zoning certificate. The ARC review is designed to:
    - 1. assist the homeowner in finalizing their planned modifications,
    - 2. make recommendations to ensure the modifications are consistent with the standards of the subdivision - promoting the maintenance of beauty, environmental harmony, and integrity of the neighborhood and
    - 3. serve as a liaison between the homeowner and the City of Powell to facilitate the project.
  - b. Prior to the City of Powell issuing a zoning certificate, a homeowner within The Retreat proposing any modifications and/or improvements to their property, excluding interior modifications, must submit plans to the ARC for review and formal recommendation to be forwarded to the City of Powell. It is recommended that the homeowner consult the ARC even in the preliminary planning stages of the project in order to make the project go as smoothly as possible.

**CONCERN: This document has not been reviewed by a lawyer.**

QUESTION: If it is to serve as a template for other older communities shouldn't it have a thorough legal review?

**CONCERN: Along with the city, two entities are named and given Powers, Authority and Responsibility in this text.**

QUESTION: Retreat Association and The Retreat Architectural review committee. Who gave them power? How do they get their power? Is that legal? What laws are they governed by?

**CONCERN: What is recorded at the County and what is listed here are in conflict.**

QUESTION: With this document Cardinal Hill will become a Subdivision of a Subdivision how does this get re-recorded to keep the information updated?

QUESTION: How is it made clear for future buyers? Do they look to the county or the city?

QUESTION: Don't all planned communities need to follow Ohio Planned Community Law? ORC: 5312 :  
<http://codes.ohio.gov/orc/5312>

- c. The plans submitted to the ARC by the homeowner shall consist of site plans, building plans, and elevations (with dimensions, noted materials, colors, and finishes) that adequately convey the intent and appearance of the proposed modification.
  - d. Out of courtesy, it is recommended the homeowner inform their immediate neighbors of the proposed improvements.
  - e. The ARC shall respond to a homeowner's request for review within thirty (30) days with a statement of "support", "nonsupport", or "support with conditions". In the latter case, the ARC shall include those conditions of support in its recommendation statement. The ARC's recommendation shall be by formal vote following Robert's Rules of Order. The ARC's statement will be provided to the applicant and to the City of Powell prior to the issuance of the zoning certificate/building permit. If no response from the ARC is made within thirty days, the modification review is automatically supported by the ARC. Recommendation by the ARC shall be based on this Development Text.
  - f. In the event of an emergency requiring remedial activity, the property owner or contractor should notify the ARC of what action is being undertaken. In instances where there is danger to property or persons, immediate steps should be undertaken to prevent further damage or loss. An after the fact submittal appropriate to the circumstances is required to be filed as soon as possible, but the terms of article 1.2(h) still apply to the issuance of the zoning certificate/building permit.
  - g. The ARC may grant an exception to any item in this Development Text for which the ARC has responsibility if the homeowner's residence or lot layout makes compliance excessively difficult, impossible, or is unreasonably restrictive given the specific nature of the residence or lot.
  - h. Powell Building Code Policy requires the applicant has submitted proof in form and substance to the Chief Building Official that:
    - 1. The proposal has been submitted in writing to the ARC, if architectural review is required by this Development Text.
    - 2. That such submittal was received by the ARC.
    - 3. That one of the following has occurred:
      - i. That the applications have been approved by the ARC.
      - ii. That more than thirty days have elapsed since such submittal and such submittal has not been denied by the ARC or the ARC has failed to take any action in writing denying such application.
      - iii. The ARC has acted in denying such application and listed the reasons behind such denial, but the Commissioner finds the homeowner has made a good faith effort to accommodate the concerns of the ARC.
  - i. The ARC shall be composed of three to seven (3-7) members appointed by The Retreat Association's Board of Trustees on staggered two-year appointments. Members of the ARC must be homeowners and residents of The Retreat. The chair of the ARC will be appointed by The Retreat Association's Board of Trustees. At least one Retreat Association Board of Trustees' member shall be represented on the ARC to serve as a liaison between the ARC and the Board.
- 1.3 Any existing legal structures permitted by previous The Retreat Deed Restrictions for the lots described in article 1.1 or City of Powell zoning certificate/building permit prior to adoption of this Development Text

**CONCERN: Extra Time and Money**

QUESTION: Through this text is the city requiring extra time and expense to the homeowner for a recommendation that has no bearing on the outcome?

**CONCERN: Good Faith Effort**

QUESTION: What does "good faith effort to accommodate the concerns" translate to so the homeowner knows what is directly expected of them?

QUESTION: If it is only a recommending body why is there an expectation of accommodation

QUESTION: Are the ARC's concerns to be accommodated or does the ARC simply make recommendations?

**CONCERN: The Retreat ARC's powers are given by Powell zoning through this text but members of the ARC are chosen by The Retreat Association's Board of Trustees.**

QUESTION: Can the City of Powell give powers/authority/responsibilities...

#1 To a Private company "The Retreat Association" which includes creating the ARC?

#2 To the ARC which includes creating standards, making recommendations, acting as a liaison between the homeowner and the city?

QUESTION: Can the City of Powell require a homeowner to follow the recommendations of the ARC?

and no longer permitted by adoption of this Development Text shall be considered existing, nonconforming and permitted to remain, provided it is maintained in good condition and not expanded.

1.4 Any activity, structure, or condition in violation of the Deed Restrictions of The Retreat prior to adoption of this Development Text for The Retreat shall not be considered a permitted non-conformance or approved pre-existing condition. Mechanisms for relief to address any such condition available to The Retreat prior to the adoption of this text shall remain available and are not precluded.

1.5 The words "shall" and "will" are mandatory and "may" is permissive.

## ARTICLE 2

### 2. General Restrictions:

2.1 All lots shall be used exclusively for single-family residential purposes.

2.2 No lot may be subdivided by sale, resale, gift, transfer, or otherwise to create a new lot.

2.3 Any new residence constructed after January 1, 2020 must be at least 3,500 square feet in living space size, have a maximum lot coverage of 10% and have the following setbacks: front, as per original subdivision plats, sides of 25 feet and back of 50 feet. The ARC shall approve all details, including a landscape plan, of the new residence. Any exceptions must be approved by the ARC.

2.4 Homes or driveways built or replaced after January 1, 2020 shall have driveways finished with clay brick pavers, concrete pavers, concrete, or asphalt.

2.5 No animals, other than household pets, are permitted outside the residential structure on the property. No farm animals or livestock are permitted on a property. No pets which disturb the occupancy of nearby lots (noise, smell, exhibiting aggressive behavior) are permitted at any time.

2.6 No outside dwellings for pet(s) are permitted. Pet(s) shall not be left out a majority of the day or night. (See relevant section of Codified Ordinances of Powell.)

2.7 Lawn mowers, tractors, and lawn and garden equipment shall be stored in the garage or in an ARC-approved accessory building. No items shall be stored on a street side of any property, except for neatly placed hose/hose storage apparatus.

## ARTICLE 3

### 3. Vehicle Restrictions:

3.1 No parking of homeowner's commercial vehicles in excess of 10,000 pounds GVWR (Gross Vehicle Weight Rating), campers, boats, trailers, or recreational vehicles is permitted on a property for more than 48 hours in any ten (10) day period unless parked in a completely enclosed garage. No vehicle covered for storage is permitted outside at any time.

3.2 Occupancy by Guest of Resident Owner: A motor home, recreational vehicle, or camper of any type may be occupied by a guest or a resident owner, but such occupancy shall not exceed 14 days in any one calendar year.

3.3 Only one commercial vehicle less than 10,000 pounds GVWR is permitted overnight at any time on a property. The vehicle must be operational and properly licensed.

**CONCERN: Development Text no longer permits in an inconsistent or in a block ordinance type way while the same is allowed in other locations in the PR**

**Concern that The Retreat (ambiguous) continues to claim mechanisms for relief to address any such condition available to The Retreat prior to the adoption of this text.**

**QUESTION: If the deed restrictions expired, what mechanisms are being referenced?**

**CONCERN: This restriction of 3,500 square feet has no stated relevance to necessity and does not indicate the purpose of the limitation on the private property rights of the lot owner. Additionally it states that "any exceptions must be approved by the ARC".**

**QUESTION: If the ARC can only provide a "support", "nonsupport", or "support with conditions", how can this document state that exceptions "must be approved by the ARC"?**

**Concern that the lot owner is not allowed to have a building for a pet while the City permits it.**

**QUESTION: If the City permits the use of the property, what necessity is being fulfilled by denying it just for this area?**

- 3.4 All vehicles parked in a driveway must be legally registered and licensed, and in satisfactory highway operating condition.
- 3.5 Vehicle repair in a driveway is permitted as long as the disabled vehicle is repaired within 48 hours and again legally operational or removed from the property after 48 hours.
- 3.6 Parking vehicles on a lawn for longer than 24 hours is prohibited unless driveway is under repair or otherwise inaccessible.

## **ARTICLE 4**

### **4. Property Improvements & Maintenance**

#### ***Exterior Appearance of Premises and Structures***

- 4.1 The exterior of the premises, the exterior of dwelling structures, and the condition of accessory structures shall be maintained so that the appearance of the premises and all buildings thereon shall reflect a level of maintenance in keeping with the standard set forth here and so that the appearance of the premises and structures shall not constitute a blighting factor for adjoining property owners nor an element leading to the progressive deterioration and downgrading of the immediate neighborhood with the accompanying diminution of property values, including the following.
  - a. Storage of commercial and industrial material. There shall not be stored or used at a location visible from the sidewalk, street, or other public area, equipment and materials relating to commercial or industrial uses, unless permitted under the Zoning Ordinance from the premises.
  - b. Storage of inoperable, unlicensed or junk vehicles. Outdoor storage of inoperable, unlicensed or unused motor vehicles or trailers or parts thereof on a lot, for a period in excess of seven days is prohibited. Said vehicles stored on the premises must be stored within a building so as not to be visible from any adjoining property or public road. Such vehicles shall not be used for storage or other purposes unless enclosed within a building on the premises.
  - c. Landscaping. Premises shall be maintained. Lawns, hedges, and bushes shall be kept from becoming overgrown and unsightly where exposed to public view, and where same constitute a blighting factor depreciating adjoining property and impairing the good residential character of the immediate neighborhood.
  - d. Signs. All signs permitted by reason of other regulations or as a lawful nonconforming use shall be maintained in good repair, and printed matter, pictures, or illustrations contained thereon shall be completely maintained or, when no longer in use, completely removed.
  - e. Maintenance of exteriors of dwelling structures and secondary or appurtenant structure.
    1. All exterior parts of every dwelling structure, including exterior walls, parapet walls, decorative additions, chimneys, fences, and all other exterior structures, either above or below the roof line, shall be maintained in a safe condition, weathertight, and so as to resist decay or deterioration from any cause.
    2. Any dwelling structure or secondary or appurtenant structure whose exterior surface is bare, deteriorated, ramshackle, tumbledown, decaying, disintegrating, or in poor repair must be repaired or razed.



- i. All buckled, rotted, or decayed walls, doors, windows, porches, floors, steps, trim, railings and their missing members, must be replaced and put in good condition.
- ii. All replacements must match and conform to original design or be replaced completely.
- iii. The structure shall be maintained free of broken windows, crumbling stone, stucco or brick, or other conditions reflective of deterioration or inadequate maintenance to the end that the property itself may be preserved, safety and fire hazards eliminated, and the adjoining properties and the immediate neighborhood protected from blighting influences.

4.2 Colors and building materials shall be harmonious and compatible with colors of the natural surroundings and adjacent buildings and improvements.

4.3 All sides of structures, including roofs, shall reflect consistent architectural and material character.

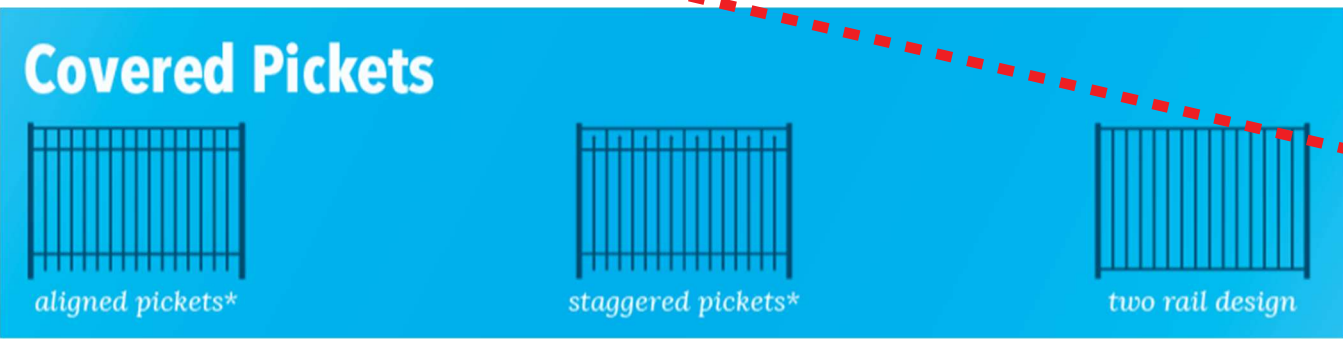
4.4 Except in naturalized areas, dead limbs, dead trees, and dead plants and shrubs shall be removed in a timely manner leaving no debris. A naturalized area is one where the ground level is not lawn, ground cover or mulch.

4.5 Natural growth means dead trees and limbs or other natural growth which, by reason of rotting or deteriorating conditions or storm damage, constitute a hazard to persons in the vicinity thereof.

The exterior of the premises and all structures thereon shall be kept free of all nuisance and any hazards to the safety of the occupants, pedestrians, and other persons utilizing the premises; and free of unsanitary conditions; and any of the foregoing shall be promptly removed and abated by the owner. It shall be the duty of the owner to keep the premises free of hazards which include but are not limited to refuse, natural growth, and/or overhangings.

**IMPROVEMENTS TO PROPERTY:**

4.6 Perimeter fencing is not permitted. Fencing is permitted only behind the footprint of the dwelling, contiguous to the back of the home, surrounding any back deck, patio, or porch, and shall be at least 30 feet from the back lot line. Fencing shall be similar to a covered pickets style shown below, be dark in color, made of at least 16-gauge aluminum with 2" posts minimum, be at least 80% open, and be no more than 54 inches above grade at the highest point. No chain link fencing is permitted. Fencing for in-ground swimming pools must comply with city standards regarding height and safety. Any new or replacement fencing must be reviewed and approved by the ARC. Fencing must be maintained in good mechanical and visual condition and grass trimmed regularly on both sides of the fence. Any exception to the location of the fence must be approved by the ARC.



**CONCERN: The City of Powell in section 1327.05 prohibits the Chief Building Official from knowingly performing any of the following activities: “Designing or redesigning any portion, component or part of a structure, system, equipment or use of material for a structure or building.”**

**“All replacements must match and conform to original design or be replaced completely”**

QUESTION: How is this able to be enforced?

QUESTION: Who decides what “original design” means? Is the ARC being given power to decide?

**CONCERN: Decision of Colors and Building Materials**

QUESTION: Who decides what colors and building materials shall be harmonious and compatible with colors of the natural surroundings and adjacent buildings and improvements?

If Powell City Code 1327.05 limits their ability to do these acts, who has this authority and how was it given to them if the City chose not to do it?

**CONCERN: Giving Power to the ARC**

This states that any new or replacement fencing must be reviewed and approved by the ARC. It further states that any exception to the location of the fence must be approved by the ARC.

QUESTION: How can this document provide the ARC powers/authority/responsibilities?

- 4.7 No structures or buildings, including barns, free-standing greenhouses, coops, cages, animal runs, house trailers, or any other temporary or permanent improvements to the property shall be erected or permitted other than:
- a. one single-family dwelling (attached garage permitted).
  - b. one detached private garage serving the dwelling, but located within thirty feet of the primary residence and accessed by a finished paved (clay brick pavers, concrete pavers, concrete, or asphalt) driveway at least 10 feet wide. Detached garages must be at least 12' x 20' and have an architectural design and materials matching the existing primary dwelling. Living space above the garage is permitted. Access to the living space must be from inside the structure.
  - c. one gazebo. A gazebo is a freestanding structure, roofed, open (or screened) on all sides, and not larger than 16' in any dimension. A gazebo must have an attractive architectural design, be composed of high-quality materials, and be appropriate in scale.
  - d. one pool house. A pool house is considered an accessory building (serving an in-ground pool) and will be of sufficient size to house pool equipment and other pool related items. Related items are defined as chemicals, tables, chairs, water toys, cushions, life jackets etc. The pool house must be located adjacent to the pool such that the door(s) of the pool house open only internal to the pool fence enclosure. A pool house must have an architectural design and materials matching the existing primary dwelling.
  - e. one accessory building with the following specifications:
    1. Use: Accessory buildings shall not, under any circumstances, be used as a living space or for storage of a motor vehicle.
    2. Location: Accessory buildings
      - i. shall be located only behind the primary residence and must be in the backyard near the residence, preferably incorporated into the existing hardscape (e. g. patios, decks, etc.),
      - ii. be no more than 75 feet from the primary residence or 100 feet from the back lot line, whichever is closer to the residence and
      - iii. shall have a landscape plan that minimizes the visual impact to neighbors.
    3. Size: The maximum footprint shall be 200 square feet (e.g., 14' x 14'); maximum allowable height shall be 10 feet.
    4. Structure: Accessory buildings must have a foundation of a 4-inch-thick concrete slab.
    5. Materials and Design: The building should match the primary residence in style and color. The materials of the building should match the majority used in the primary residence. No plastic, rubber, fiberglass, or all metal buildings will be approved. Roofing should match as closely as possible that on the primary residence in both style, color, pitch and material. Windows, if present, should match as closely as possible those on the primary structure in both style and color.
    6. Utilities: Any utilities servicing the accessory building must be underground. No aboveground utilities of any type will be permitted. **No exterior lighting is permitted.**
    7. Any exception to an accessory building's location, size, structure, materials and design, or utilities must be approved by the ARC.

**CONCERN: Several sections state that the structures or buildings must have an architectural design and materials matching the existing primary dwelling.**

**QUESTION: Who decides the architectural design and materials given that 1327.05 prohibits these actions of design/redesign/use of material/etc?**

**CONCERN: Limits lighting on buildings which could be a safety and security issue.**

**CONCERN: Giving Power to the ARC**  
Any exception to an accessory buildings location, size, structure, materials and design, or utilities must be approved by the ARC.

**QUESTION: Is this document giving power to the ARC? Or are they just recommending an exception can be made?**

f. All permitted structures, buildings or accessory buildings must have a complimentary architectural design to the primary structure utilizing materials matching the existing primary dwelling. All permitted structures, buildings or accessory buildings must be attractively landscaped, be well maintained and must be reviewed for approval by the ARC prior to submittal by the applicant to the City of Powell.

g. Any proposals for improvements in this Article 4.7 may not be approved if the property does not comply with Articles 4.1 through 4.5 of this Text.

h. A pergola or arbor is not considered an accessory building and is permitted.

4.8 Standby electrical generators installed after January 1, 2020 must be natural gas-powered and must be placed within 10 feet of the residence and screened by natural landscape so as not to be visible from any street or adjacent property. Any proposed generator must be reviewed and approved by the ARC. Any exception must be approved by the ARC.

4.9 Solar panels are permitted, but must meet the following requirements:

a. Solar panels must be located on the roof of the dwelling; no ground-mounted solar panels are permitted.

b. Solar panels must be installed flush with the roof line. They are not to project in any substantial manner away from the roof.

c. Solar panel installation must be reviewed by the ARC.

d. Solar panels must be installed by a certified, licensed contractor who specializes in solar panel installation.

4.10 Play sets installed after January 1, 2020 must be constructed of wood or composite material and be maintained at all times (painted or stained). Play sets or trampolines installed after January 1, 2020 cannot be located in the front yard and must be 30' from any lot line. Other play equipment (sports equipment and accessories) larger than 100 square feet in footprint cannot be located in the front yard and must be 30 feet from any lot line. Any exception to the location of play sets must be approved by the ARC.

4.11 Play set or trampoline accessories (tarps, swings, slides, and awnings) shall be in good condition at all times.

4.12 All utility service (telephone, electric, cable, etc.) must be via underground lines on the lot, except for utility-required maintenance cabinets.

4.13 All TV dishes installed after January 1, 2020 must be:

a. Less than one (1) meter in diameter,

b. located at the rear 50 percent of the residence,

c. obscured from view from the public right-of-way.

d. If attached to a structure, the dish shall match the color of the structure at which it is attached. Dish-type antennas shall be secured so that they can withstand wind or other weather-related factors.

4.14 No above-ground pools are permitted.

**CONCERN: Giving Power to the ARC**  
States we must get the ARC review for approval prior to submitting to the City of Powell.

**CONCERN: Giving Power to the ARC**  
States proposals for improvements in section 4.7 may not be approved if the property does not comply with Articles 4.1 through 4.5 of the text.

**QUESTION: How can we be required to get the review for approval by the ARC prior to submitting an application to the City?**

**CONCERN: Giving Power to the ARC**  
States a generator must be reviewed and approved by the ARC. Concern that any exception must be approved by the ARC.

**CONCERN: Giving Power to the ARC**  
States any exception to the location of play sets must be approved by the ARC.

4.15 No outside tank larger than 20 pounds empty for the storage of a combustible material shall be located on the property.

4.16 After January 1, 2020, any new exterior siding on dwellings must be wood, brick, stone, stone veneer, stucco, or fiber cement (HardiePlank/Shingle/Panel/Trim or the equivalent). No aluminum or vinyl siding is permitted.

4.17 New mailboxes installed after January 1, 2020 must conform to USPS standards, except no plastic or PVC material is allowed. If the mailbox is enclosed, the structure must be made of natural materials (brick, stone, or cedar). If not enclosed, the mailbox and post must be metal or wood in a complementary color to the main residence. Mailboxes must be maintained to preserve the character and integrity of the neighborhood.

4.18 Roof conditions requiring an auxiliary covering (tarp or plastic sheet) to provide temporary relief from said roof condition shall be repaired and the temporary cover removed within eight (8) weeks. The time limit may be modified for extenuating circumstances.

4.19 No Owner or contractor or subcontractor of Owner shall permit dumping, burying, spreading, or disposal of any earth or debris of any nature on the property of any other Owner.

4.20 No changes to any stream, pond, or drainageway are permitted without the appropriate governing body permission. Please consult with the City of Powell.

**HOUSEHOLD ITEMS:**

4.21 Household articles, lawn tools, furniture, or other items not designed to be permanently outdoors shall not be permitted to accumulate outside garages, or on driveways, porches, patios, decks, or lawns.

## ARTICLE 5

### 5. General Restrictions:

#### 5.1 Trash and Garbage:

a. Accumulations: No individual or entity including an owner, tenant or occupant of any residence shall allow garbage or refuse to accumulate in or on his residence for a period in excess of seven days. Fermenting, odiferous garbage and refuse in containers uncollected or dumped in the open shall be deemed a nuisance and the person responsible therefore shall be liable to prosecution.

b. Containers: All garbage and refuse containers shall not be placed outside the front of the residential property for pick up more than 24 hours before scheduled pick up of such refuse. All garbage and refuse containers shall be removed to behind the building line of residential property within 24 hours of pick-up and shall be kept within the garage or house or appropriately screened, except on trash pickup days. Appropriate screening of containers means they must be completely concealed by sufficient landscaping to provide a permanent screen at all times of the year so as not to be visible from the street or by neighbors.

5.2 No signs are permitted on any property except for temporary signs and security monitoring signs. Temporary signs that portray a message which is not commercial in nature (that do not advertise a business, commodity, product or service) are allowed. Temporary signs include, but are not limited to, real

**CONCERN: This may duplicate existing code and then goes further regarding materials that can or cannot be used.**

**Question: Date 1/1/2020 Is this retroactive?**

**CONCERN: Powell has no architectural requirements for mailboxes but now places zoning in place to require it only for these group of homes.**

**CONCERN: Regarding how the City will handle auxiliary coverings to a roof**

**QUESTION: Will the City require all residents of the entire PR to register when they begin to use an auxiliary covering and what process must be followed to request a modification to the time?**

estate, graduation, garage sale, political and community events signs. Temporary signs shall conform to the following standards as well as the other applicable standards of the City of Powell Codified Ordinances:

- a. Number. No more than one sign per statement is permissible per lot per frontage.
- b. Maximum area and height. Signs may not exceed six square feet in area or be more than four feet in height.
- c. Display period. Each temporary sign may not be displayed for more than 45 consecutive days.
- d. Off-premises signs. An off-premise sign is a sign which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the lot or premises on which the sign is located. Off-premises temporary signs are prohibited.
- e. Illumination. Signs shall not be separately illuminated. This standard is not intended to prohibit the installation of such a sign near a porch light or yard light, which may incidentally illuminate the sign.
- f. Zoning Certificate requirements. Temporary signs in residential districts do not require a Zoning Certificate.

5.3 Holiday decorations shall be removed no later than ninety days after the holiday.

5.4 Home occupation means an accessory use which is an activity, profession, occupation, service, craft, or revenue-enhancing hobby which is clearly incidental and subordinate to the use of the premises as a dwelling, and is conducted entirely within the dwelling unit without any significant adverse effect upon the surrounding neighborhood. Activities such as teaching, tutoring, tax consulting and the like shall involve not more than three receivers of such services at any one time, with the exception of certified or uncertified Type B Family Day-Care Homes, which constitute a residential use and not an accessory use. A Zoning Certificate from the City of Powell shall be required to be approved by the City Zoning Administrator prior to establishment of a Home Occupation. Home Occupation additional requirements include:

- a. Activities, materials and equipment associated with the occupation shall be totally maintained within a home. The external appearance of the structure in which the use is conducted shall not be altered.
- b. There shall be no outside storage of any kind related to the use, and only commodities produced on the premises may be sold on the premises; no display of products may be visible from the street.
- c. Not more than 20 percent of the gross floor area of the dwelling shall be devoted to the use, or 50 percent of the combined floor space in any garage.
- d. No equipment, process, materials, chemicals, or storage shall create offensive noise, vibration, smoke, dust, odor, heat, glare, x-rays, radiation, electrical disturbances, electrical interference, fluctuation in voltage, or other nuisance detectable to normal senses off the lot or by off-site customary residential equipment.
- e. No additional parking demand, beyond that created by the residence itself, shall be created.
- f. Not more than one person who is not a resident of the premises may participate in the home occupation as an employee or as a volunteer.

- g. No activity shall be conducted or permitted which creates a nuisance to neighboring properties or otherwise be illegal.
- 5.5 No obnoxious or offensive activity shall be permitted on any property nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

## **ARTICLE 6**

### **6. Enforcement:**

- 6.1 The invalidity of any one of these elements of the Development Text in whole or in part, by judgment or court order of any manner, shall not impair or affect in any way the validity, enforceability, or effect of the rest of the Development Text.
- 6.2 No restrictions imposed by this Development Text shall be abrogated or waived by any failure to enforce any of these provisions, regardless of how many violations or breaches may occur.
- 6.3 This Development Text has no sunset limits and remains applicable to all properties defined as The Retreat after January 1, 2020.

**CONCERN: Does this belong in development text? Also the date of 1/1/2020 is retroactive.**