

BIRKSHIRE WOODS

ARCHITECTURAL CONTROL COMMITTEE DESIGN STANDARDS & GUIDELINES

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I. Overview/Purpose

The Architectural Control Committee ("ACC") Design Standards are an official document developed according to the Declaration Of Covenants and Restrictions For Birkshire Woods Subdivision ("Covenants"), as detailed in Article VII. The Design Standards are intended to preserve the natural setting and beauty of the Community, to establish and preserve a harmonious and aesthetically pleasing design for the Community, and to protect and promote the value of the Property, the Lots and all improvements located thereon or therein shall be subject to the provisions set forth in this Article VII. To the extent necessary to carry out such purpose, the ACC shall have all of the powers and duties to do each and every thing necessary, suitable, convenient or proper for, or in connection with, or incidental to, the accomplishment of such purpose, including, without limitation, the power and duty to approve or disapprove plans and specifications for any installation, construction or alteration of any Structure on any Lot.

II. ACC charter Architectural Control Committee. (Refer to Article 7.2 the Declaration of Covenants and Restrictions for Birkshire Woods). The ACC shall be comprised of not less than three (3) nor more than five (5) persons, provided, however, that the ACC shall always have an uneven number of members. The Board shall appoint the ACC, all of whom shall be Owners and who may or may not be members of the Board. The regular term of office of each member of the ACC shall be one (1) year, coinciding with the fiscal year of the Association. Any member appointed by the Board may be removed with or without cause by the Board at any time by written notice to such appointee, and a successor or successors appointed to fill such vacancy shall serve the remainder of the term of the former member. The ACC shall elect a chairperson and in their absence the vice-chairperson, shall be the presiding officer at its meetings. The ACC shall elect a secretary to take and maintain minutes for all ACC meetings. The ACC shall meet as may be required, as well as upon call of the chairperson. A majority of the members of the ACC shall constitute a quorum for the transaction of business, and the affirmative vote of a majority of those present in person or by proxy at a meeting of the ACC shall constitute the action of the ACC on any matter before it. The ACC is authorized to retain the services of consulting architects, landscape architects, urban designers, engineers, inspectors, and/or attorneys in order to advise and assist the ACC in performing its functions set forth herein.

III. Permitted Improvements; ACC Standards (Refer to Article 7.3 the Declaration of Covenants and Restrictions for Birkshire Woods). No Structure of any nature shall be constructed, altered, added to and/or maintained upon any part of the Property, except:

- a. those Structures or improvements as are approved by the ACC in accordance with this Article;
- b. those Structures and other improvements which pursuant to the Declaration do not require the consent of the ACC.

The ACC is hereby authorized, but not obligated, to promulgate from time to time written architectural standards, policies and guidelines (the "ACC Standards") governing the construction, location, landscaping and design of Structures and

other improvements, the contents of submissions of plans and specifications, and other information required to evidence compliance with and obtain approval pursuant to this Article. Any ACC Standards published shall be binding and enforceable on all Owners with respect to all Structures and other improvements in the Community requiring the approval of the ACC.

IV. Guidelines

The Design Standards are intended to be inclusive and function as a guide for homeowners. They are intended to complement, clarify and may supersede the Covenants, and should not be considered a replacement. Homeowners should consult the Covenants, as well as the Design Standards, when contemplating a change to their lot and/or home exterior. Any change or modification not addressed specifically in these guidelines, will require approval of the ACC. Such changes are grouped in three categories:

A. Changes which REQUIRE the approval of the ACC

- ◆ Removing trees or established landscaping.
- ◆ Painting exterior of home (i.e. exterior walls/trim/doors/shutters, decks); colors need to be preapproved.
- ◆ Outlining flower beds and landscaping with trim that can be seen from the street.
- ◆ Grading – Covenants (Section 1.22 (ii)).
- ◆ Rain barrels.
- ◆ Replacing existing windows or exterior doors.
- ◆ Laying of landscape rocks.
- ◆ Painting of any non-painted surface (i.e. decks, fences, cement walkways, brick veneer).
- ◆ Replacing garage doors.
- ◆ Placement of play equipment, trampolines, tree houses, basketball goals, dog houses, swimming pools.
Basketball goals cannot be mounted to house as outlined by Covenants.
- ◆ Adding any structure, as outlined and defined in Covenants (Section 1.22) (other than trees/shrubs).
- ◆ Fences. Individual homeowners may opt to install fencing for their own yards as long as they adhere to the following:
 1. Must receive approval from the Architectural Control Committee (ACC).
 2. Must use a six foot cedar or pressure treated shadow box fence.

3. May not encroach on sewer or drainage easements (see section 2 for easement locations). If fencing encroaches upon such easements, it is at the risk of the homeowner.
 4. Fences may NOT extend into any wetlands areas, commonly owned easements, or any NO Access easements. Buffer areas include the 50' creek buffers that affect several lots within Birkshire.
 5. Fences generally must come off of the rear back corners of the house and may not extend into the front or side yards, but will be evaluated on a case by case basis by the Architectural Control Committee as approval is sought.
 6. Non-pigmented protective coating must be applied to prevent discoloration (graying) of fencing material.
 7. Maintenance shall include, but not be limited to, broken, misshaped, cracked, or weathered boards.
- ◆ Storage sheds/gardening sheds.
 - ◆ Modifications to shutters, doors, roofs, brickwork, driveways, walkways, foundations, steps, decks, garage doors or house siding.
 - ◆ Erosion control – i.e. retaining walls.
 - ◆ Installation of solar panels.
 - ◆ Roof modifications including but not limited to
 - ◆ Shingle replacement/ color.
 - ◆ Attic ventilation.
 - ◆ Any addition to main structure which alters the square footage or appearance of home/lot.
 - ◆ Installation of decks, gazebos, patios and/or porches.
 - ◆ Installation of trash can screening.
 - ◆ Installation of cable and satellite dishes (Exhibit “E” 2 (d)).
 - ◆ Placement of new A/C condensers.
 - ◆ Any siding replacement.
 - ◆ Removal of more than 20% of existing shrubbery.
 - ◆ Arbors, trellises or any man made structure that can be seen from the street or adjoining neighbors.
 - ◆ Adding of additional landscaped islands.
 - ◆ Changing of landscaping material (i.e. from pinestraw or bark to stone).
 - ◆ Installation of drainage systems.

- ◆ Changing grass types.
- ◆ Application of dark or solid color stain to front porch or deck.
- ◆ Resurfacing or construction of a new driveway.
- ◆ Large flag poles.
- ◆ Changing of exterior shutter style.
- ◆ Any other changes not listed in this document which would alter the appearance of the home's exterior.
- ◆ Replacement of outdoor fixtures (i.e. front porch lights)
- ◆ Installation of front storm door.

B. Changes which DO NOT REQUIRE the approval of the ACC

- ◆ Placing a "For Sale" sign or security sign less than 18" on your own property
- ◆ Outlining flower beds and pine islands with trim not visible from the street.
- ◆ Replacement of damaged trim (not siding) with same style and color.
- ◆ Replacement of windows with same style & grids.
- ◆ Installation of an underground sprinkler system.
- ◆ Landscaping.
- ◆ Replacement of roof with existing shingle color (Driftwood).
- ◆ Filling in of low ground areas or sink hole problems (if no larger than 10' x 10').
- ◆ Replacement of exterior shutters provided same style and color is installed.
- ◆ Replacement of gutters with same style and color.
- ◆ Replacement of exterior door if same style and color.
- ◆ Installation of solar side walk lights.
- ◆ Application of clear/sealant stain to the front porch or back deck.
- ◆ Replacement of rotten fence boards.

C. Changes PROHIBITED by the Covenants and the ACC. From Exhibit E of the Covenants; Rules and Regulations for Birkshire Woods.

- ◆ Garages. Conversion of any garage to finished space for use as an apartment or other integral part of the living area on any Lot.
- ◆ Window Air-Conditioners. No air-conditioner shall be installed in any window of any Residence, nor shall any air-conditioner be installed on any Residence so that the same protrudes through any exterior wall of such Residence.
- ◆ Basketball goals cannot be mounted to the house
- ◆ Clotheslines. No outside clotheslines shall be permitted
- ◆ Structures, equipment or other items on the exterior portions of a Lot which have become rusty, dilapidated or otherwise fallen into disrepair.
- ◆ Satellite dishes, antennas, and similar devices *for the transmission of* television, radio, satellite, or other signals of any kind, except (i) satellite dishes designed to receive direct broadcast satellite service which are less than twenty-one (21 ') inches in diameter; and (ii) satellite dishes designed to receive video programming services via multi-point distribution services which are less than twenty-one (21 ') inches in diameter or diagonal measurement ((i) and (ii), collectively, "Permitted Devices") shall be permitted, provided that any such Permitted Device is placed in the least conspicuous location on the Lot (generally being the rear yard) at which an acceptable quality signal can be received in a manner consistent with the Community-Wide Standard and the ACC Standards, unless such screening unreasonably interferes with the use of such Permitted
- ◆ Signs or billboards of any kind (including but not limited to commercial and similar signs), without the ACC's prior written approval of the plans and specifications therefore, on any Lot or on any portion of a Structure that is visible from the exterior thereof, except:
 - (i) such signs as may be required by legal proceedings;
 - (ii) customary name and address signs and one "for sale" sign advertising a Lot for sale in a size to be no more than two square feet;
 - (iii) directional signs for vehicular or pedestrian safety in accordance with the plans and specifications approved by the ACC; and
 - (iv) one sign indicating an "Open House" in a size to be no more than two square feet.
- ◆ Decorative light posts.
- ◆ Replacement of mailbox with anything other than the existing exact type and style.

D. Omission of specific changes

- ◆ Any change or modification not addressed specifically in these guidelines, will require approval of the ACC.

V. Submission Of Change Request Form

- A. For changes which require the approval of the ACC, a Change Request Form (attached) must be submitted to the ACC, accompanied by two (2) copies of:
- ◆ To-scale site plan (overhead and/or side drawings of lot) showing proposed/existing structures, topography of lot, and areas affected in relation to house/deck, driveway/street, property lines, and sewer/water easements [Covenants].
 - ◆ Color samples.
 - ◆ Drawing/photograph/brochure of proposed structures.
 - ◆ Written description of work to be performed, including materials to be used, specified distance of structures from property lines/easements, size/dimensions of structure, change of elevation (include plans for grading and water run off), type/finish of materials to be used, and name and phone number of contractor.
 - ◆ If applicable, along with blueprints, permits, and any other supporting documents.
 - ◆ Impact on neighboring properties (access, sunlight, privacy, view, drainage).
- B. The Change Request Form and supporting documentation must be submitted to the ACC in writing prior to commencement of work. Work must not begin until approval has been granted by the ACC.
- C. The ACC shall have the right, but not the obligation, to establish a fee sufficient to cover the expense of reviewing submissions and to compensate any consulting architects, landscape architects, urban designers, inspectors or attorneys retained in accordance with the terms hereof.

VI. Review and Response to a Change Request (per Section 7.4)

The ACC will review all Change Requests and provide a written response in the homeowner's mailbox within 30 days of receipt of a complete Change Request form, along with supporting documents. If a site visit is necessary to clarify proposed work, the ACC will set up an appointment with the homeowner at a mutually convenient time and date within the 30 day review period. In cases where neighboring properties might be affected by the proposed changes, those homeowners will be contacted.

If the Change Request **IS APPROVED**, work should commence within six (6) months and be completed within twelve (12) months [Covenants]. It is the

responsibility of the homeowner to comply with all applicable federal, state, and local laws, codes, regulations, and requirements in connection with such work; and obtain any necessary governmental permits and approvals for such work. The Board and Architectural Control Committee have no responsibility with respect to such compliance and any approval shall not be understood as making any representation or warranty that the plans, specifications, or work comply with any law, code, regulation, or governmental requirement.

When finished, the homeowner is **required** to notify the ACC in writing. At that time, a site visit will be scheduled and a Certificate Of Compliance will be issued.

If the Change Request **IS NOT APPROVED**, the ACC's written response will include a statement of the grounds upon which such action was based [Covenants] along with recommendations for resubmission of an acceptable Change Request Form. If a homeowner is not satisfied with the decision of the ACC, appeals may be submitted in writing within 10 days to the ACC. The ACC shall review the homeowner's appeal and respond in writing within 30 days [Covenants].

If the ACC **does not** respond to a Change Request in writing within 30 days, the change will be deemed to have been approved and the homeowner may proceed with the proposed changes [Covenants].

The ACC shall have the sole discretion to determine whether the plans and specifications and other data submitted for approval are acceptable to the Association. Representatives of the ACC shall have the right during reasonable hours to enter upon and inspect any Lot with respect to which construction is underway to determine whether or not the plans and specifications therefore have been approved and are being complied with. **In** the event that the ACC shall determine that such plans have not been approved or are not being complied with, the Association shall be entitled to enjoin further construction and to require the removal or correction of any work in place which does not comply with the approved plans and specifications.

VII. Inspection Rights (Section 7.6).

Any employee or agent of the Association or the ACC may, after reasonable notice, at any reasonable time or times, enter upon any Lot and Structure thereon for the purpose of ascertaining whether the installation, construction, alteration or maintenance of any Structure or the use of any Lot or Structure is in compliance with the provisions of the ACC Standards and this Declaration; and neither the Association, nor the ACC, nor any such agent shall be deemed to have committed a trespass or other wrongful act solely by reason of such entry or inspection, provided such inspection is carried out in accordance with the terms of this Section.

VIII. Enforcement Of Design Standards

Enforcement of the Covenants and Design Standards is authorized by the Covenants and supervised by the Board [Covenants].

Violations. (Refer to Section 7.7) If any Structure shall be erected, placed, maintained or altered upon any Lot other than in accordance with the plans and specifications approved by the ACC pursuant to the provisions of this Article, such erection, placement, maintenance or alteration shall be deemed to have been undertaken in violation of this Article and without the approval required herein. If in the opinion of the ACC such violation shall have occurred, the ACC shall notify the Association, and the Board shall take appropriate measures to correct the violation; the Board shall provide written notice to the Owner by certified mail, setting forth in reasonable detail the nature of the violation and the specific action or actions required to remedy the violation. If the Owner shall not have taken reasonable steps toward the required remedial action within thirty (30) days after the mailing of the aforesaid notice of violation, then the Association shall have the Right of Abatement as provided in Article XII hereof.

IX. Conclusion

The ACC is always open to suggestions regarding the improvement/modification to the Design Standards. All suggestions should be submitted in writing to the ACC Chairman. Periodically, the ACC will revise the Design Standards, as necessary [Covenants].

Steps for Submitting a Change Request to the Architectural Control Committee (12-03-08)

