

SUNSET HILLS HOMEOWNERS ASSOCIATION

Architectural Control Standards 2011

Introduction and General Information

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Introduction and General Information

Introduction

Whether you are an original owner of a home in Sunset Hills or you're a second or third owner, **WELCOME** to the community. Sunset Hills is an exciting and vibrant place in which to live and the people here wish to make it an even better place to call home through their continuing efforts to protect, maintain and enhance their property values.

The original tract of land that now constitutes Sunset Hills was planned, designed and approved as a self-contained, deed-restricted community with its own set of covenants, conditions and order of rule under which all property owners would live and abide and which provide for the maintenance of all Common Properties and improvements thereon (see your Master Covenants, Conditions, and Restrictions and other related documents). Conditions and restrictions were set so that aesthetics, congruity, appearance, safety, etc., would be defined and written guidelines would be promulgated (e.g., this handbook) in order to create an environment where approximately 291 homeowners could live in harmony. Each homeowner has some degree of assurance that actions of all members of the community are directed so as not to adversely impact the quiet enjoyment of their property or their property values (e.g., painting one's home bright orange; abandoning cars in the street or driveway; the keeping/breeding of vicious pets; unkempt yards). In effect, Sunset Hills is a "mini city" where there is a mayor (Board President), a city council (Board of Directors), a city manager (Property Manager), functional departments (Committees), and citizens (Homeowners). The ultimate intent of the covenants is not to create a totalitarian environment where property rights are trampled, but rather a self-ruled community where its members (Homeowners) look after their home and hearth and, ultimately, their investment through active participation in the governance of the community and on committees advising its appointed or elected leaders.

A well-run Homeowners Association makes for a pleasant community in which to live. Under the covenants and related documents, all exterior changes must come before the Architectural Review Committee (ARC), including any that are not covered in this booklet. This document sets forth guidelines and procedures for making an application for approval for changes to the exterior of your home or yard. Please read on and familiarize yourself with the information contained herein.

Architectural Review Committee

ORGANIZATION

The Declaration of Master Covenants, Conditions and Restrictions for Sunset Hills requires that an Architectural Review Committee (ARC) be appointed by the Association's Board of Directors and shall be responsible to the Board.

The Architectural Review Committee shall be organized with a chairperson, vice-chairperson, recording secretary and committee members. The chairperson shall be appointed from the membership of the ARC by the President of the Board of Directors with the approval of a majority of the Board of Directors. Membership on the ARC requires approval of the Board of Directors.

PURPOSE

The ARC shall regulate the external design, appearance and location of the properties and improvements thereon in such a manner as:

- To promote those qualities in the environment which bring value to the community.
- To foster the attractiveness and functional utility of the community as a place to live, including a harmonious relationship among structures, vegetation and topography.

The ARC is responsible for:

- Reviewing applications for exterior architectural and landscaping changes from individual homeowners.
- Approving or denying submitted changes by a majority vote unless the authority to approve or deny is delegated to a part of the committee or an individual by a majority vote.
- Developing draft architectural Standards and related regulations for submission to the Board of Directors for approval.
- Enforcement of architectural Standards and related regulations as directed by the Board of Directors.

AUTHORITY

The authority of the ARC flows from the Declaration of Master Covenants, Conditions and Restrictions for Sunset Hills, the By-Laws of the Sunset Hills Homeowners Association, Inc., the Articles of Incorporation of the Sunset Hills Homeowner's Association, Inc., the Architectural Control Standards and such other relevant rules, regulations, or resolutions related to architectural control as may be adopted by the Board of Directors. The Declaration of Master Covenants, Conditions and Restrictions for Sunset Hills, the By-Laws of the Sunset Hills Homeowner's Association, Inc., and the Articles of Incorporation of the Sunset Hills Homeowner's Association, Inc., should have been provided to you at closing. The management company maintains copies of all legal documents, rules, regulations, resolutions and other relevant documents on file.

The ARC does not have authority over the initial construction and landscaping of dwelling units constructed by the Declarant (the developer) within Sunset Hills and has no authority over common areas or commonly owned property such as the pool, cabana, entrances and common areas.

The Declaration of Master Covenants, Conditions and Restrictions for Sunset Hills also provides that there is specifically reserved unto the ARC, the right of entry and inspection upon any Lot for the purpose of determination by the ARC whether there exists any construction of any improvement which violates the terms of any approval by the ARC or the terms of this Declaration or of any other covenants, conditions and restrictions to which its deed or other instrument of conveyance makes reference.

The ARC has the right, but not the obligation, to grant waivers for minor deviations and infractions. The granting of any waiver for any portion of the properties may be given or withheld in the ARC's sole discretion and a prior grant of a similar waiver shall not impose upon the ARC the duty to grant new or additional requests for such waivers.

STANDARDS

The ARC shall develop proposed policy standards for submission to the Board of Directors of the Association for approval setting forth policies and procedures governing the architectural control review and enforcement process for Sunset Hills. The policy standards shall include (a) the application process, (b) review procedures of the ARC, and (c) such other Standards and rules as may be necessary to implement effective architectural control in Sunset Hills. The Standards may also include specific recommended design practices that are generally accepted methods for achieving the objectives of the Association in particular design problems frequently encountered in the community. The policy standards are intended to assist the ARC and the Owners of lots in the ongoing process of community design.

Enforcement

ENFORCEMENT AUTHORITY AND RESPONSIBILITIES

1. Board of Directors

- a. The Sunset Hills Homeowner's Association Board of Directors is responsible for overall direction and approval of all enforcement actions.
- b. The Board of Directors is responsible for appeal of enforcement actions by the ARC.
- c. Committees and the Management Company shall only have the enforcement power delegated to them by the Board of Directors, except that the ARC shall have that power delegated to it by the Covenants and related documents within the procedures established by the Board. The Board of Directors shall retain all other enforcement powers.

2. Architectural Review Committee:

- a. The ARC shall maintain close liaison with the management company to identify violations and to process complaints in a timely manner.
- b. The ARC may investigate alleged violations or may request the management company to conduct such investigations.
- c. The ARC shall review the results of investigations and take immediate action to prevent violation or continued violation where possible and make a recommendation to the Board of Directors for appropriate enforcement action.

3. Management Company

- a. The management company, under contract to the Sunset Hills Homeowner's Association, shall be responsible for conducting field inspections of Sunset Hills to identify problem areas and violations. Inspection reports consisting of all sections shall be included in Board packets for all members of the Board of Directors. Inspections identifying areas requiring immediate action shall either be acted upon immediately by the inspector, reported to the Community Manager for appropriate action, or the appropriate chairperson notified as soon as possible.
- b. The management company shall receive complaints from any source regarding problem areas and violations requiring possible enforcement action in Sunset Hills.
- c. The management company shall perform those functions related to enforcement action as directed by the Board.

- d. The management company shall keep appropriate committee chairpersons informed and keep the Board informed through the President or other designated person(s), and by other appropriate means, of enforcement actions taken and of potential problem areas where enforcement may become necessary.

The Enforcement Process:

1. Identification and Investigation of Violations:
 - a. For architectural violations, the ARC and the Management Company are primarily responsible for identification of violations and investigation to determine if an architectural violation has occurred.
2. Enforcement Action:
 - a. Architectural Control Violations
 - 1) For enforcement action involving Architectural Control Violations, the Management Company is primarily responsible for initial enforcement action.

The ARC has authority to:

- a. Enter and inspect, during reasonable hours and after reasonable notice, any lot for the purpose of determination by the ARC whether there exists any construction of any improvement, which violates the term of any approval of the ARC or the terms of the Covenants. This power shall be exercised in a reasonable manner and nonconsensual entries shall not be made without express approval of the Board of Directors.
- b. Enforce architectural standards.
- c. In its discretion, release existing improvements from restrictions or encroachments they violate in appropriate circumstances.
- d. In its discretion, grant waivers for minor deviations and infractions if appropriate.

Disclaimer

The Association, Declarant, ARC, or any officer, employee, agent, director or member thereof shall not be liable for damages to any persons submitting plans and specifications for approval by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval, disapproval or failure to approve any plans and specifications. *Every person who submits plans and specifications for approval agrees, by submission of such plans and specifications, that it will not bring any action or suit against the Association, Declarant, or ARC to recover any such damages.*

The purpose of the Architectural Standards is to provide guidance in preparing requests for architectural approval and set forth some of the standards applied by the ARC. These Architectural Standards are not all-inclusive and no inference should be made that the failure to include a particular type of exterior or landscaping change somehow exempts that change from the approval process.

If any paragraph, section, sentence, clause or phrase of these Standards shall be or become illegal, null or void for any reason or shall be held by any court of competent jurisdiction to be illegal, null or void, the remaining paragraphs, sections, clauses, and phrases are severable and shall continue to be in full force and effect. In case of any conflict between the Declaration of Master Covenants, Conditions and Restrictions for Sunset Hills, the By-Laws of the Sunset Hills Homeowner's Association, Inc. and these Standards, and other resolutions or rules adopted by the Board of Directors, the Board shall determine which shall control and make corrections as needed by a majority vote.

These Standards supersede all previous guidelines or standards, and shall remain in effect until otherwise rescinded, amended, modified, or repealed by a majority of the Board of Directors.

Procedure
For Requesting
Architectural Approval

ARCHITECTURAL CONTROL APPLICATION PROCEDURES

- STEP 1. Prior to any alteration, addition or improvement the property owner (not contractors or other parties) requests an Architectural Control Application from Management Company.
- STEP 2. Management Company sends application to property owner.
- STEP 3. Application is completed and returned to Towne Properties Raleigh at P.O. Box 99149, Raleigh, NC 27624, via email, or by fax at 919-376-8800 along with any supporting documents necessary.
- STEP 4. The management company dates application upon receipt, thus starting the sixty (60) day approval/disapproval time frame, copies and distributes dated application to Architectural Review Committee or Board members, as appropriate.
- STEP 5. Committee or Board members receive copies of the dated application, review and approve/disapprove within two weeks from the date of receipt and return signed applications to the Management Company.
- STEP 6. The management company receives approved/disapproved applications from the Committee or Board and returns a copy of the original to the homeowner with a stamped "Approved" or "Disapproved" within the sixty (60) day time limit from the original day of receipt. (In the case of "Disapproval, the reasons and/or requirements will be typed on the application, stamped and returned. Should the property owner want to resubmit another application or forward additional information required, the sixty (60) day process starts again with each submittal.) The Architectural Review Committee or Board members names will not appear on the original application but will become part of the Association's permanent records by attachment to the original application.
- STEP 7. Property owner receives authorization and starts project, receives Disapproval and either, submits additional information or appeals for reconsideration (thus starting the sixty (60) day approval process once again), or abandons the project.
- STEP 8. In the case an application is not satisfactorily agreed upon by the Committee and the applicant, the applicant may appeal to the Board of Directors for reconsideration within sixty (60) days and final approval or disapproval.

Please Return to: Towne Properties Raleigh

The Appeal Process

The following process will be followed for appeals from decisions of the ARC:

1. **Notice of Denial:** Upon receipt from the ARC of a final decision denying their request, the management company shall forward the applicant a notice of denial of their request. The notice shall provide the applicant thirty days to file an appeal of a final ARC decision in writing to the management company. Administrative denials pending more information or for other reasons are not final decisions and are not appealable.
2. **Reconsideration:** Administrative denials will be reconsidered by the ARC and not the Board of Directors. Once a final decision has been reached, then the time for appeal begins to run.
3. **Notice of Appeal:** Notice of Appeal to the Board of Directors must be filed in writing by mailing it to the management company within thirty days of the notice of denial being mailed from the management company to the applicant. Include with the Notice of Appeal, a copy of the application, any supporting documentation, a copy of the Committee's decision, and an explanation of the reason for the appeal.
4. **Transmittal to Board:** Upon receipt by the management company, the original Notice of Appeal and all supporting paperwork shall be filed and copies sent to the President of the Board of Directors and the Chairperson of the ARC.
5. **Hearing:** The President shall schedule a hearing on the appeal, normally in conjunction with a normal Board Meeting, within sixty days of receipt of the Notice of Appeal. The management company shall notify the applicant and the chairperson of the ARC of the hearing date and time. The chairperson of the ARC or a designated representative shall attend the hearing. The hearing shall begin with the ARC chairperson explaining the position of the ARC and reasons for the denial. The applicant shall then have an opportunity to present their reasons for the appeal. Witnesses and evidence may be presented at the discretion of the President of the Board.
6. **Decision of Board:** No decision shall be rendered at the hearing. Within fifteen days of the hearing, the Board of Directors shall report their decision, based upon a majority vote, in writing. The management company shall forward copies of the decision to the applicant and the chairperson of the ARC.

Management Company Contact Information

The contact information for the current management company for Sunset Hills Homeowner's Association, Inc. is:

Towne Properties Raleigh
P.O. Box 99149
Raleigh, NC 27624
919-878-8787
Fax: 919-376-8800

Architectural Standards

Decks

Appearance:

Decks must remain natural in finish color. Natural colored, translucent stains may be used; however, no painting or solid-bodied staining of the wood will be permitted. Deck height is not restricted but is recommended to be no more than 15' in height from the ground. The size and styling of decks must complement the dwelling and be in proportion to the dwelling.

Location:

All decking must be confined to the rear of the dwelling and must not protrude past the sides of the building. Decks must be within the minimum setback requirements of the Town of Apex, however, final placement and approval will be determined by the ARC and may be more restrictive than the Town setback requirements.

Materials:

The deck shall be constructed of #2 or better pressure-treated southern yellow pine with galvanized hardware. A clear water seal is recommended but not a requirement for approval.

Requirements:

A building permit must be obtained from the Town of Apex and all required inspections successfully completed. All decks must meet the building requirements for the Town of Apex in addition to this guideline. Proper drainage must be maintained around the deck and away from the foundation.

(Examples of additions include screened porches, new living space or storage areas that are physically attached to the main structure of the existing house. Examples of exterior modifications include the addition of storm doors, gutters or similar modifications. Modifications or changes in exterior colors are covered in Section 3.10).

Building Addition or Exterior Modification

(Examples of additions include screened porches, new living space or storage areas that are physically attached to the main structure of the existing house. Examples of exterior modifications include the addition of storm doors, gutters or similar modifications. Modifications or changes in exterior colors are covered in Section 3.10)

Appearance:

All building additions and/or modifications will be reviewed on an individual basis. Generally, the ARC will review materials, colors, location, scale and other details of the proposed addition or modification to determine compliance with the architectural intent of the existing structure and the relationship of the proposed neighborhood with specific emphasis given to the maintenance of a cohesive neighborhood architectural style that maintain the scale, detailing, materials, massing, color(s) and design intent of the original structure.

Location:

In general, with the exception of building modifications, the location for building additions will be governed by the maximum building area that is defined by the Town of Apex in respect to the minimum setback requirements from the property line. However, the ARC reserves the right to reject applications, which may meet the Town of Apex setback requirements but fail to meet the objectives of the ARC. The ARC will review each application on an individual basis and approvals will be granted on this basis. Prior approval of an application does not guarantee subsequent approval on the same or another lot.

Materials:

Materials for use on any building addition or modification must meet or exceed the quality of and be consistent with the materials used in construction of the original structure. Compliance with the **current** edition of the Town of Apex building codes will be considered meeting the **minimum** standards of construction. The ARC reserves the right to require homeowners to **exceed** these standards if it is deemed necessary to maintain the architectural intent of the original structure. In general, the ARC seeks to maintain the quality of materials and workmanship present in the original structure. Requests to use different materials than in the original structure, such as brick or vinyl siding, shall be reviewed on a case-by-case basis.

Requirements:

All building additions and modifications shall maintain proper drainage on the site. If a building addition is planned or a modification, which will affect drainage, homeowners are required to provide a plan that details drainage patterns and runoff as a result of the addition/modification.

The changes specified below do not require approval if accomplished in accordance with the standards provided:

1. Properly installed storm doors that are full height glass without cross members, which match the color of the solid front door or the color of the trim on the dwelling with narrow stiles. Other colors or other style doors require submission of an architectural request for approval.
2. Properly installed white pre-finished, or color consistent with the house trim, aluminum gutters do not require approval. Other colors or materials require submission of an architectural request for approval. In addition, if the gutters will cause a change in normal runoff patterns and quantities sufficient to impact the drainage on adjacent properties, submission of an architectural request for approval is required.
3. No structure for the care, housing or confinement of any animal shall be constructed, placed or altered on any Unit unless plans and specifications for said lot have been approved by the ARC. No stable, poultry house, rabbit hut or other similar yard structure, with the exception of a doghouse, shall be constructed or allowed to remain on any Unit. The installation, construction or maintenance of other pet houses or pet runs shall be made only with the approval of the ARC.

Fences

Appearance:

Fences shall remain natural in color. Tinting, staining or painting is not allowed. A clear water repellent is recommended.

Whenever possible, alternatives to hard fencing are recommended (i.e., landscaping and plants or “invisible” electronic fencing). It is also recommended that fencing be softened through the use of landscaping on the exterior side of the fence, where possible.

Location:

Fences shall follow the natural topography of the land.

Existing trees shall not be removed to place the fence without prior approval from the ARC.

The set back from the homeowner’s property line shall be six inches. However, any corner lot will generally be required to have a set back of fifteen feet from the curb on the side of the lot facing the street; if the property line is greater than fifteen feet from the curb, then the one-inch setback will apply.

The fence shall not extend closer to the street than the rear 1/3 of the residence. The ARC will determine the final placement of the fence based on aesthetics and street appearance.

Fences enclosing garbage can areas should be located on the garage side of the house. However, they may not be located where the use, including, but not limited to the entry, of said area encroaches on neighboring property. Fence should be no further forward on the house than the power meter and utility hook-up boxes (telephone and cable). Houses with a rear garage service door may locate the garbage can area next to the door.

Materials:

In order to maintain a uniform style of fencing throughout Sunset Hills, only privacy fencing constructed of six (6) foot maximum height, pressure treated wood or cedar wood, or four (4) foot height rough sawn open board or split rail pressure treated wood or cedar wood fencing shall be approved by the Architectural Review Committee.

Garbage Can Area Fences may be no taller than four feet, no wider than three feet, and no longer than eight feet, and must be fully enclosed (three sides of fence plus the original garage wall). A gate no wider than three feet may be installed on either side or rear of the enclosure; if installed, the gate must be kept closed at all times. Garbage Can Area Fences may be constructed with the same material as stated.

Requirements:

There shall be a minimum of one walk through gate at least 3'-0" for access.

All fencing must be maintained in an aesthetic and safe condition.

Garbage Can Areas must be kept neat; no loose debris shall be allowed in the Garbage Can Areas.

Parking Pads

Appearance:

The layout or design should preserve and compliment the original driveway and walkway. The surface shall be the same color and finish as the existing concrete drive. Depending upon lot configuration, screening with landscaping may be required to visually block the area from adjoining property owners.

NOTE: *Not all lots can accommodate a parking pad*

Location:

Parking pads (driveway extensions) may be constructed adjacent to and contiguous with the original concrete driveway on the side opposite the front walkway. The parking pad shall terminate in line with the front of the house.

Dimensional limitations:	Maximum width of 9'-0". Each lot will be reviewed individually.
Set Back Requirements:	Minimum set back from side property line is 18" except that the set back may be less with specific approval of the ARC on cul-de-sac lots because of lot configuration and size.
Drainage/Slope:	Slope of the parking pad and that of the adjacent yard shall preserve the original run-off flow pattern and shall not cause excessive water to be directed to a neighboring property or to the house foundation.

Materials:

Concrete shall be the only allowable material. The preparation of the soil base shall be consistent with sound construction practices to minimize the risks of settling, excessive cracking and improper drainage.

Walkways and Patios

Appearance:

Patios and walkways shall be created in scale with the site and existing structures. Slope of the patios and walkways and that of the adjacent yard shall preserve the original run-off flow pattern and shall not cause excessive water to be directed to a neighboring property or to the house foundation.

Location:

Patios shall be confined to the rear yard while walkways will be confined to the side and rear yards. The patio and walkway size, design and set backs to adjacent property lines shall be kept in proportion to the existing structures and site. All walkways and patios shall be a minimum of 18" from property lines. Lot size and configuration may permit reduction of the 18" set back in particular instances, but specific approval of the ARC is required for a set back less than 18".

Materials:

Generally, brick, concrete, concrete pavers, flagstone and slate will be considered as acceptable materials. Materials and color chosen shall complement the existing structures. All patios and walkways shall be reviewed on an individual basis for material, color and location.

Requirements:

All patios and walkways must maintain proper drainage on the site. If a walkway or patio is planned, homeowners are required to provide a plan that details drainage patterns and runoff.

Playground and Recreational Equipment

Definitions:

Playground or Play Equipment: Swing sets, sliding boards, sandboxes, and similar items are classified as playground or play equipment for the purposes of this guideline. This guideline does not cover moveable and temporary items such as bikes, wagons and similar items.

Recreational Equipment: Basketball goals, trampolines, horseshoe pits, permanent volleyball courts and similar items are classified as recreational equipment for the purposes of this guideline. This guideline does not cover a temporary volleyball net, badminton net, or similar item.

Appearance:

Playground and recreational equipment should blend with the natural surroundings to the extent possible.

Location:

Dependent on the configuration of each lot, playground equipment should be placed in the rear yard. The location of play areas and of recreational equipment must take into account the impact on adjacent properties, noise concerns, safety concerns, and the minimization of any offensive visual impact on neighbors or public areas.

Recreational equipment should also be placed in the rear yard area where applicable (i.e., trampolines). Potentially dangerous items such as trampolines should be located within fenced areas to prevent access by unsupervised and unintended child users. For equipment such as portable basketball goals, they may be placed in the front yard if a hard surface (driveway) is desired for the playing surface. **Basketball goals *shall not* be placed near the street**, where the street is intended as the playing surface. Portable basketball goals located by driveways must be placed to avoid balls striking vehicles, landscaping or other items on the adjacent property. No permanent goals are allowed in the front of any property.

Materials:

Playground equipment constructed of treated natural wood is required. Playground equipment should be constructed of proper materials to ensure safe usage, be properly anchored and be aesthetically pleasing. It is recommended that recreational equipment be “portable”, however, fixed in place equipment will be considered on an individual basis. Recreation equipment should be constructed of proper materials to ensure safe usage, be properly anchored and be aesthetically pleasing.

Requirements:

Detailed drawings shall be presented to the ARC for approval *prior* to the installation of any equipment.

All equipment in a fixed location for an extended period of time must be submitted. All playground and recreational equipment must be maintained in a safe condition and kept visually pleasing to the community and surrounding environment.

Landscaping

Definitions:

Natural Area/ Landscaping Bed

Any area with ground cover other than grass.

Bushes and Shrubs

Any bush or shrub that will exceed 3'-0" in height or width at maturity.

Flower Bed

Any grouping of flowers not contained in a natural area or landscape bed.

Garden

Any area used to grow vegetables or herbs.

Water Garden

Natural or prefabricated body of water for decorative purposes.

Trees/Tree Removal

Any tree added to or removed from the property.

Appearance:

Natural areas and landscaping beds shall be made in proportion to the home and property. All landscaped areas shall be maintained to prevent overgrowth of individual plants or weeds. Landscaped areas shall be mulched to improve appearance and aid in maintenance. Edging around the bed or natural area may be used but is not a requirement, and if used, should be consistent with the existing style and aesthetics of the community.

Vegetable, herb and water gardens shall be maintained regularly to prevent excessive weed growth. All plants located in a garden shall not exceed 5'-0" in height. Screening of these areas should be considered through the use of fencing or shrubs to eliminate views from the street or common areas. These areas should not be visually offensive to neighbors.

Trees shall be maintained and pruned to remove debris and damaged limbs due to wind, decay, disease or ice damage.

Location:

Natural areas and landscaping beds may be utilized in the front, rear and side yards. Landscaping beds and natural areas located in the front yards shall not encompass more than 50% of the total area available for the front yard. (Areas are measured from the curb to the nearest point of the house, and from one side yard property line to the other side yard property line. Corner lots will be measured from the curb to far side yard property line. Areas will *exclude* the existing walkway and driveway.) The remaining 50% of the front yard area shall be grass.

Mature plant size shall be considered in determining locations of bushes and shrubs near property lines and the plantings set back sufficiently to account for mature growth. When bushes and shrubs are located immediately adjacent to property lines, mulch is required at the property line to provide easy maintenance for adjacent property owners.

Vegetable, herb and water gardens shall normally be confined to the rear yard out of view from public streets and common areas. The maximum height for plants in these gardens shall not exceed 5'-0". Water gardens shall be planned and located to limit potentials for accidents (i.e., electrocution, drowning). Requests for water gardens in front yards shall require specific written approval of the ARC.

New trees shall be located away from foundations, drives or walks to limit potential damage caused by root growth.

Landscaping and plantings in utility easements will be reviewed on a case by case basis and normally be permissible, but with the full understanding that any plantings may have to be removed for utility work in that easement without any liability on the part of the Association or the utility company.

Bird baths are not allowed in front yards.

Materials:

In the application, provide "common" variety names of plants that are to be used.

Approval is not required for mulching with pine straw, hardwood, or bark mulch. Decorative gravel mulch or other types of mulching require approval.

Edging may consist of unstained pressure treated yellow pine timbers, brick, stone, pre-cast concrete edging, black plastic edging or other commonly used materials. Railroad ties are prohibited. Selections should consider scale, color and proportion to harmonize with the existing structures and surrounding site. Normally, edgings are only one level high and multiple levels of landscape timbers or other materials would normally be considered as a retaining wall under Section 3.12.

Requirements:

All front yards shall have a minimum of 50% grassed area (see appearance above).

All landscaping will maintain proper drainage on the site. If landscaping is planned, homeowners are required to provide a plan that details drainage patterns and runoff. Plans, which cause excessive runoff to neighboring properties or common areas, will not be approved without modifications that solve the drainage situation.

All tree removal, except emergency removal where the tree(s) present a clear and present danger as a result of wind or ice damage or disease or decay (trees posing a danger to life, person, or property), must be approved by the Architectural Review Committee in advance. Photos of the trees to be removed and the reasons for removal must accompany the application prior to tree removal.

Architectural Review Committee approval is not required for the following items:

Flowers planted in existing beds.

Shrubs less than 3'-0" in height or diameter at maturity and located within an existing bed.

Shrubs less than 3'-0" in height or diameter at maturity and used as a cover for the foundation, fence, deck or HVAC equipment.

Ground cover in existing natural areas.

Ground cover in existing landscaping beds.

Mulching with pine straw, hardwood or bark mulch.

Replacement or existing shrubs, plants, or trees that die or are diseased with the same variety and size shrub, plants or tree in the same location.

One level of edging consisting of unstained pressure treated yellow pine timbers, brick, stone, pre-cast concrete edging, black plastic edging, or other commonly used material as long as the edging is natural in color or the commercially available white stone or cast concrete edging material, but painted stones or other materials painted or stained will require prior approval and normally not be approved.

Flower/plant containers provided they are standard size as can be purchased from any nursery/garden center, with the following conditions:

- Flower boxes may be no longer than the widest window on the side of the house the flower box is installed.
- Flower or plant pots may be no larger than five gallons.

Finish must be consistent with the exterior house colors or neutral earth tone colors. Custom or oversized or colored containers must have prior approval; each application will be reviewed on an individual basis.

Security signs, as provided by security service companies, less than 12 inches, which are located behind the sidewalk/walkway in the existing flower bed/natural area. All other sized signs or locations must have prior approval, and each application will be reviewed and on an individual basis.

Association approved community watch signs mounted under the mailbox.

I. Compost

One compost pile measuring not more than three feet in diameter and three feet in height may be permitted on the rear yard if such is adequately screened by planting and/or fencing so as to conceal them from view of neighboring residents and the street. Owners shall be responsible for ensuring that compost piles are maintained in a manner which does not emit odors or attract rodents or insects; if such compost pile does emit odors or attracts rodents or insects, the Association may levy appropriate sanctions.

Satellite Dishes and Antennas

I. Preamble

WHEREAS, the *Sunset Hills Homeowner's Association* ("the Association") is responsible for governance and maintenance of the *Sunset Hills Subdivision* ("the Community"); and

WHEREAS, the Association exists pursuant to *applicable state law and governing documents*; and

WHEREAS, the Association is authorized to adopt and enforce reasonable rules and regulations in the best interests of the Community, pursuant to *sections of state law and the governing documents permitting the Association to adopt and enforce rules*; and

WHEREAS, the Federal Communications Commission ("the FCC") adopted a rule effective October 14, 1996, preempting certain restrictions in the governing documents concerning the installation, maintenance and the use of direct broadcast satellite, television broadcast, and multipoint distribution service antennas ("antennas"); and

WHEREAS, the Association desires and intends to adopt reasonable restrictions governing installation, maintenance and the use of antennas in the best interests of the Community and consistent with the FCC rule.

NOW THEREFORE, the Association adopts the following restrictions and regulations for the Community, hereinafter referred to as the "Rules," which shall be binding upon all owners and their grantees, lessees, tenants, occupants, successors, heirs, and assigns who currently or in the future may possess an interest in the Community, and which shall supersede any previously adopted rules on the same subject matter.

II. Definitions

- A. **Antenna:** Any device used for the receipt of video programming services, including direct broadcast satellite (DBS), television broadcast, and multipoint distribution service (MDS). A reception antenna that has limited transmission capability designed for the viewer to select or use video programming is a reception antenna provided that it meets FCC standards for radio frequency emission. A mast, cabling, supports, guy wires, conduits, wiring, fasteners, or other accessories necessary for the proper installation, maintenance, and use of a reception antenna shall be considered part of the antenna.
- B. **Mast:** Structure to which an antenna is attached that raises the antenna height.

- C. **Transmission-only antenna:** Any antenna used solely to transmit radio, television, cellular, or other signals.
- D. **Owner:** Any homeowner in the Association. For the purpose of this rule only, “owner” includes a tenant who has the written permission of the homeowner/landlord to install antennas.
- E. **Telecommunications signal:** Signals received by DBS, television broadcast, and MDS antennas.

III. Installation Rules

A. Antenna Size and Type

- 1. DBS antennas that are one meter or less in diameter may be installed. Antennas larger than one meter are prohibited.
- 2. MDS antennas one meter or less in diameter may be installed. MDS antennas larger than one meter are prohibited.
- 3. Antennas designed to receive television broadcast signals, regardless of size, may be installed, but only after written authorization is obtained from the ARC, and only if installing in the attic is unfeasible. (Refer to Section IIIB below.)
- 4. Installation of transmission-only antennas is prohibited in the Community.
- 5. **All antennas not covered by the FCC rule are prohibited.**

B. Location

- 1. Antennas shall be installed solely on individually owned property as designated on the *recorded deed or other document defining the portions of common or individually owned property.*
- 2. **If acceptable quality signals may be received by placing antennas inside a dwelling, without unreasonable delay or unreasonable cost increase, then outdoor installation may be prohibited.**
- 3. Antennas shall not encroach upon common areas or any other owner’s property.
- 4. Antennas shall be located in a place shielded from view from the street or from other lots to the maximum extent possible; provided, however, that nothing in this rule would require installation in a location from which an acceptable quality signal may not be received. This section does not permit installation on common property, even if an acceptable quality signal may not be received from an individually owned lot.

C. Installation

- 1. Antennas shall be no larger nor installed higher than is absolutely necessary for reception of an acceptable-quality signal.
- 2. All installations shall be completed so that they do not damage the common areas of the Association or the lot of any other resident, or void any warranties of the Association or other owners, or in any way impair the integrity of the buildings on common areas or lots.
- 3. Owners are responsible for all costs associated with the antenna, including but not limited to costs to:
 - a. Place (or replace), repair, maintain, and move or remove antennas;

- b. Repair damages to the common property, other lots, and any other property damaged by antenna installation, maintenance, or use;
 - c. Pay medical expenses incurred by persons injured by antenna maintenance or use;
- 4. Reimburse residents or the Association for damages caused by antenna installation, maintenance or use.
- 5. Antennas must be secured so that they do not jeopardize the soundness or safety of any other owner's structure or the safeties of any person at or near antennas, including damage from wind velocity based upon a unique location.
- D. Maintenance**
 - 1. Owners shall not permit their antennas to fall into disrepair or to become safety hazards.
 - 2. Owners shall be responsible for antenna maintenance and repair.
 - 3. Owners shall be responsible for repainting or replacement in the exterior surface of antenna deteriorates.
- E. Safety**
 - 1. Antennas shall be installed and secured in a manner that complies with all applicable city and state laws and regulations, and manufacturer's instructions. The owner, prior to installation, shall provide the Association with a copy of any applicable governmental permit.
 - 2. Unless the above-cited laws and regulations require a greater separation, antennas shall not be placed within five (5) feet of underground power lines (as indicated by No-Cuts) and in no event shall antennas be placed where they may come into contact with electrical power lines. The purpose of this requirement is to prevent injury or damage resulting from contact with power lines.
 - 3. All installation must comply with all applicable codes.
 - 4. In order to prevent electrical and fire damage, antennas shall be permanently and effectively grounded.
 - 5. Antennas are required to withstand the pressure of snow and ice.

IV. Antenna Camouflaging

- A. Antennas or masts may not extend beyond a railing or fence unless no acceptable quality signal may be received from this location.
- B. Antennas situated on the ground and visible from the street or from other lots must be camouflaged by existing landscaping or fencing, if an acceptable quality signal may be received from such placement. If no such existing landscaping or screening exists, the Association may require antennas to be screened by new landscaping or screening of reasonable cost.
- C. Antennas, masts, and any visible wiring must be painted to match the color of the structure to which it is installed. *(Some manufacturers assert that painting may prevent the receipt of an acceptable quality signal. Association residents are advised to make sure that paint will not degrade the signal.)*
- D. Antennas may not obstruct a driver's view of an intersection or street.
- E. *Camouflaging antennas may not be unreasonably expensive. For example, it would not be unreasonable to require a \$40 hedge. A \$150 fence, on the other hand, would most likely be found*

to be unreasonable. The Association may require more expensive screening, if the Association chooses to fund part of the cost.

V. Number of Antennas

An owner may install no more than one antenna of each provider.

VI. Mast Installation

- A. Mast height may be no higher than absolutely necessary to receive acceptable quality signals.
- B. Masts that extend 12 feet or less beyond the roofline may be installed subject to the regular notification process. Masts that extend more than 12 feet above the roofline must be approved before installation due to safety concerns posed by wind loads and the risk of falling antennas and masts. Any application for a mast longer than 12 feet must include a detailed description of the structure and anchorage of the antenna and the mast, as well as an explanation of the necessity for a mast higher than 12 feet. If this installation will pose a safety hazard to association residents and personnel, then the association may prohibit such installation. The notice of rejection shall specify these safety risks. *(This 12-foot baseline may change, if the BOCA Code is amended.)*
- C. A licensed and insured contractor must install masts.
- D. Masts must be painted the appropriate color to match their surroundings.
- E. Masts installed on a roof shall not be installed nearer to the lot line than the total height of the mast and antenna structure above the roof. The purpose of this regulation is to protect persons and property that would be damaged if the mast were to fall during a storm or from other causes.
- F. Masts shall not be installed nearer to electric power lines than the total height of the mast and antenna structure above the roof. The purpose of this regulation is to avoid damage to electric power lines if the mast should fall in a storm.
- G. Masts shall not encroach upon another owner's lot or common property.
- H. Masts must be designated to withstand the weight of ice and snow.

VII. Notification Process

- I. Any owner desiring to install an antenna must complete an Architectural Review Committee Application Request Form (Section 2.02) and submit it to the Architectural Review Committee via the Management Company. If the installation is routine (conforms to all of the above rules and restrictions), the installation may begin immediately.
- B. If the installation is other than routine for any reason, and after an Architectural Review Committee Application Request Form has been submitted, owners and the ARC must establish a mutually convenient time to meet to discuss installation methods. The Management Company must be contacted to schedule this meeting.

VIII. Installation by Tenants

Tenants may install antennas in accordance with these rules with written permission of the homeowner/landlord. A copy of this permission must be furnished with the ARC Application Request Form.

IX. Enforcement

- A. If these rules are violated, the Association may bring action for declaratory relief with the FCC or any court of competent jurisdiction after notice and an opportunity to be heard. If the court or FCC determines that the Association rule is enforceable the Association for each violation shall impose a fine of \$50. If the violation is not corrected within a reasonable amount of time, additional fines of \$10 per day will be imposed for each day that the violation continues. To the extent permitted by law, the Association shall be entitled to reasonable attorney fees, costs, and expenses incurred in the enforcement of this policy.
- B. If antenna installation poses a serious, immediate safety hazard, the Association may seek injunctive relief to prohibit or seek removal of the installation.

X. Severability

If any provision is ruled invalid, the remainder of these rules shall remain in full force and effect.

Exterior Freestanding Detached Structure

Definition:

Examples of exterior freestanding detached structures include storage sheds, gazebos, doghouses, greenhouses, etc.

Appearance:

Generally, the ARC will review materials, colors, location, scale and massing of the proposed structure to determine compatibility of the proposed structure to surrounding structures and sites. The intent is to preserve the architectural character of the neighborhood with specific emphasis given to the maintenance of a cohesive neighborhood architectural style. This “style” incorporates the scale, materials, details, massing, color and design intent of the original structures. Every application will be reviewed on an individual, case-by-case basis.

Chain link outdoor dog runs or animal cages are prohibited.

Location:

All exterior freestanding detached structures will be confined to the rear yard. The location for these structures will typically be governed by the maximum building area that is defined by the Town of Apex in respect to the minimum setback requirements from the property line. However, the ARC reserves the right to reject applications, which may meet the Town of Apex setback requirements but fail to meet the objectives of the ARC. The ARC will review each application on an individual basis and approvals will be granted on this basis. A prior approval of an application does not guarantee subsequent approvals on the same or other lot.

The placement of doghouses must also take into consideration safety concerns, noise minimization, the possibility of offensive odors, and not be visually offensive to neighbors and public areas. “Visually offensive” shall be judged by the ARC applying a standard of objective reasonableness rather than just the subjective views of neighbors.

Materials:

Materials for use on any detached structure will meet or exceed the materials used in construction of the original structure. Compliance with the “current” edition of the Town of Apex building codes will be considered meeting the “minimum” standards of construction. The ARC reserves the right to require homeowners to exceed these standards if it is deemed necessary to maintain the architectural intent of the original structure. In general, the ARC seeks to maintain the quality of materials and workmanship that are present in the original structure.

Applications must include details of the foundation or anchors for such structures.

Requirements:

All exterior freestanding structures shall maintain proper drainage on the site. If a structure is planned, homeowners are required to provide a plan that details drainage patterns and runoff as a result of the new structure.

If electrical service will be provided to the detached structure, the application must include details of how that service will be run and must comply with all applicable electrical codes and regulations. Overhead electrical service is not permitted in Sunset Hills.

Metal storage structures will not be approved.

All external detached freestanding structures must comply with all applicable Town of Apex regulations, ordinances, permit requirements and inspection requirements. The Town of Apex standards are the minimum requirement and the Sunset Hills standards may be more stringent.

Exterior Painting

Appearance:

All exterior paint colors, including mailboxes, shall be consistent with the initial paint application to maintain a variety as well as continuity with the surrounding homes. Siding paint shall be only a flat latex type of paint (no semi-gloss or gloss type paints are permitted). Trim paint may be semi-gloss.

Paint colors on additions and exterior detached structures shall be consistent with the dwelling and surrounding area.

Location:

Not applicable.

Materials:

Siding paint shall be Deluxe Exterior Flat House Paint or better. Trim and shutter paint shall be Weather shield Exterior Acrylic or better.

Requirements:

Any changes to the original exterior paint colors must have ARC approval. No two houses within four houses of each other shall be painted the same base, shutter, or trim colors.

Exterior Lighting

Appearance:

Exterior lighting must be compatible with the architectural character of the neighborhood. Generally, low voltage accent lighting confined to planting beds or along walkways and on decks is acceptable. Other lighting devices, i.e., floodlights, spot lights, lampposts will be reviewed on an individual basis. “Temporary” holiday lighting generally does not require approval from the ARC; however, such “temporary” lighting and any associated wiring must be removed within a reasonable period after such holiday (not earlier than Thanksgiving and must be removed no later than January 15).

Location:

Generally, low voltage accent lighting confined to planting beds or along walkways is acceptable. Floodlights and spotlights will generally be limited to rear and side yards. Specific approval shall be required for spotlights or floodlights on driveways. All exterior lighting must have locations approved prior to installation. This guideline is not meant to be construed as discouraging security lighting systems, but only to control the source and spread of the light beam that may be intrusive to adjacent property owners. The application should include a diagram showing the proposed location of new lights and the lighted area.

Materials:

Include a materials list and if possible, a picture or drawing of the proposed fixtures, with the application.

Requirements:

Beam spread from all light sources should be confined to the homeowner’s lot. On corner lots and locations where the lighting may affect drivers, care must be taken to insure that spotlights and floodlights do not cause dangerous safety hazards by blinding oncoming traffic.

All electrical installations must be in accordance with all applicable electrical codes and regulations.

Approval is not necessary for the following:

- Approval is not necessary for replacement of current light fixtures of a similar type and style.
- Approval is also not necessary for properly installed low voltage accent lighting along walkways and on the inside of decks if the lights are at least five feet apart. If closer placement is desired, then an application must be submitted. Any low voltage spotlights or lights on the outside of decks require an application if the light may shine onto adjacent property.

Retaining Walls

Appearance:

Generally, the ARC will consider for approval “natural” materials for use in the construction of retaining walls. All retaining walls will be considered on an individual basis. The ARC will review materials, colors, location, scale and massing of the proposed wall to determine compatibility with the architectural intent of the existing structure and relationship to the surrounding site.

Location:

Locations for retaining walls must be clearly specified on the plot plan submitted with the application. Applications for retaining walls will be reviewed on an individual, case-by-case basis. Consideration will be given to changes in the natural topography and existing drainage patterns.

Materials:

“Natural” building materials such as stone, slate, brick and pressure treated timbers will be considered as acceptable materials. Railroad ties are prohibited. Materials and colors chosen should complement the existing structure on the site.

Requirements:

All retaining walls will maintain a proper drainage on the site. If a wall is planned, homeowners are required to provide a plan that details drainage patterns and runoff as a result of the new structure.

All retaining walls will be properly secured to prevent collapse and must meet all applicable Town of Apex requirements. There is no height limit, but the compatibility with the surrounding area and the dwelling will be considered. Any request for a retaining wall over three feet in height shall include in the application detailed specifications on anchoring the wall.

Hot Tubs/Saunas

Appearance:

All hot tubs and saunas will be reviewed on an individual case-by-case basis. The ARC realized that hot tub styles are limited and will place emphasis on screening systems to minimize the visual impact from a public way or adjoining property.

Location:

All hot tubs and saunas will be confined to the rear yard. On lots where a rear yard adjoins or is visible from a public way, appropriate screening shall be installed to minimize the visual impact.

Materials:

All hot tubs and saunas will be reviewed individually for materials and color.

Requirements:

Installation must meet or exceed all applicable codes, regulations, ordinances, permit requirements, and inspection requirements of the Town of Apex. The Town of Apex standards are the minimum standards and Sunset Hills requirements may exceed those standards.

All saunas and hot tubs will maintain proper drainage on the site. If a hot tub is planned, homeowners are required to provide a plan that details drainage patterns and runoff. Water from the hot tub may be drained into the storm sewer system at the end of the season. Care should be taken to contain water from spilling over onto adjacent properties.

Owners may be required to install safety features such as locks, fencing, structural enclosures or covers for these items when not in use.

Pumps and other machinery related to the pool or hot tub shall be concealed in a manner to avoid offensive visual appearance and minimize noise production or transmission of such noise to nearby lots. "Visually offensive" shall be judged by the ARC applying a standard of objective reasonableness rather than just the subjective view of neighbors.

Care should be taken to locate saunas and hot tubs away from potential hazards (i.e., electrocution, drowning). All electrical work related to the sauna and hot tub shall comply with all applicable electrical codes.

Homeowners should understand that hot tubs increase the intensity of noise and appropriate measures need to be taken to limit this potential conflict with adjacent homeowners. In addition, homeowners must also comply with the Town of Apex noise ordinance.

Mailboxes

Appearance:

All mailboxes located on Lots shall be of a similar style approved by the Architectural Review Committee. The color of the mailbox must remain black. Replacement mailboxes may be installed after the type has been approved in writing by the Architectural Review Committee.

Requirements:

All mailboxes must be painted or replaced if approximately 20% or more of the surface shows signs of rust or paint peeling.

Maintenance

Maintenance

Appearance:

It is the responsibility of each homeowner to maintain his/her property in such a way that it adds to the overall beauty and harmony of the subdivision. Each homeowner should take this responsibility seriously, as failure to do so can negatively impact the value of your own property, surrounding properties, and the subdivision as a whole.

There are many areas in and around the home, which should be inspected, regularly to insure the property is in good repair. These include, but are not limited to:

- Lawn care
- Trimming of trees and shrubbery
- Landscaping
- Decks
- Fences
- Driveways and sidewalks
- Playground equipment
- Paint
- Roofing
- Garbage can storage- inside of garage
- Debris and trash removal

Deterioration:

If at any time the Board of Directors is made aware of a property that has deteriorated to the point that it is affecting the aesthetics of the community, the ARC, a representative of the management company, or a combination of the two will be requested to make a site inspection. The committee will then make a recommendation for action to the Board of Directors. Appropriate action will be taken in accordance with the enforcement policies of the Sunset Hills Homeowners Association.

Based on the severity of the deterioration, the homeowner will be given a specified period of time in which to make the necessary repairs. If, after that time, the repairs have not been affected to the satisfaction of the Board, the Board has the obligation of enforcement as described in the Declaration of Master Covenants, Conditions and Restrictions for Sunset Hills Homeowner's Association, the Enforcement Procedures policy of the Association, and other applicable regulations and policies.