

BK012031PG00815

WAKE COUNTY, NC 764  
LAURA M RIDDICK  
REGISTER OF DEEDS  
PRESENTED & RECORDED ON  
06/27/2006 AT 16:26:28  
06/27/2006 AT 16:26:28

BOOK:012031 PAGE:00815 - 00831

**Ashley Downs Homeowners Association  
Covenant Violations Schedule**

*Ashley Downs Subdivision*

Each homeowner shall maintain his or her property and all structures, parking areas and other improvements comprising the property in a manner consistent with the community-wide standards and all applicable covenants. Then Association shall afford the owner reasonable notice and an opportunity to cure the problem / issue. Should the owner require additional time to cure the problem / issue, the owner must contact the ARC and advise them of the status of the problem within the stated time limit. The Association has the right to accept or deny the proposal presented by the owner. In which case the owner still has the right of appeal.

**Violations of Convents and By-Laws to Unit appearance shall be divided into the following 3 categories:**

**Category A:** Violations of the Covenants or Association rules, which can typically be corrected for less than \$100 in labor and materials. Examples include, but are not limited to: unkempt lawns, garbage cans left in the front of the home, and sign violation. **If not corrected or appealed in writing to the ARC within the stated time limit, these violations will incur a fine of \$20.** If necessary, the Association is automatically authorized to correct the condition and bill the property owner for any applicable expenses. The 3<sup>rd</sup> offense or notice of any kind within a 1-year period will automatically be treated as a Category B Violation. A 4<sup>th</sup> or greater offense or notice of any kind within a 1-year period will automatically be treated as a Category C Violations.

**Category B:** Violations of the covenants or Association rules, which can typically be corrected at a cost between \$100 and \$500 in labor and materials. Examples include, but are not limited to: Unauthorized landscape additions, unauthorized installation of fence or play equipment on the property, re-painting of trim on the home, etc. **If not corrected or appealed in writing to the ARC within the stated time limit, these violations will incur a fine of \$50.** if necessary, the Association is automatically authorized to take legal action to force correction and bill the property owner for any applicable expenses. The 3<sup>rd</sup> or greater offense of any kind within a 1-year period will automatically be treated as a Category C Violation.

**Category C:** Violations of the Covenants or Association rules, which will typically require more than \$500 in labor and materials to correct. Examples include, but are not limited to: Home or landscape modifications not submitted to, or denied by the Architecture Review Committee, destruction of easements, etc. **If not corrected or appealed in writhing to the ARC within the stated time limit, these violations will incur a fine of \$100 plus \$25 per day until corrected.** If necessary, the Association is automatically authorized to take legal action to force correction and bill the property owner for any applicable expenses.

*Ashley Downs Homeowners Assoc.  
1001 Antler Court  
Apex, NC 27502*

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The undersigned officers of the Ashley Downs Homeowners Association certify that the Covenant Violations Schedule was duly adopted by motion duly made and seconded, which received an affirmative vote of a majority of the quorum of Members present and entitled to vote in person or by proxy at a duly noticed meeting of the Members held on April 9, 2005.

Brian M. Bennett  
President

Karin M. Groden  
Secretary

Wake County  
North Carolina

I certify that the following person(s) personally appeared before me this day, and I have seen satisfactory evidence of the principal's identity, by a current state or federal identification with the principal's photograph in the form of a NC DL; each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: name(s) of principal(s) Brian M. Bennett and Karin M. Groden.

Date: June 23, 2006

Donna M. Grossman

Donna M. Grossman, Notary Public  
My Commission expires: October 15, 2006



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Exhibit A

AMENDMENT TO BY-LAWS  
OF  
ASHLEY DOWNS HOMEOWNERS ASSOCIATION, INC.  
ASHLEY DOWNS HOMEOWNERS ASSOCIATION, INC.

The Bylaws of Ashley Downs Homeowners Association, Inc. are amended pursuant to Article XIV to add the following subsection 1.(g) to Article VIII:

"(g) levy and collect fines, including late charges of four percent (4%) and interest for fines remaining unpaid more than thirty (30) days after assessment, for violation of the rules of the Association and for violation of the Declaration."

The undersigned officers of the Association certify that this amendment was duly adopted by motion duly made and seconded which received an affirmative vote of a majority of the quorum of Members present and entitled to vote in person or by proxy at a duly noticed meeting of the Members held on April 9, 2005.

Bruce M. Bennett  
President

Karin M. Bradley  
Secretary

amendbyl.ash

**PURPOSE  
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The Architectural Review Committee (ARC) was established by the Board of Directors under the authority of the Ashley Downs protective covenants to help oversee such activities as external home improvements, additions, home maintenance, installation of recreational facilities, beautification efforts and more.

**The objective of this committee is to preserve property values and maintain the character of the neighborhood.**

The committee has generated the *Ashley Downs Architectural Standards & Landscape Guidelines* to assist homeowners in their home improvement and maintenance endeavors to the extent that it impacts their immediate neighbors and the neighborhood as a whole. The intention is not to regulate every action by homeowners, but rather to curtail or modify those improvements that can negatively impact the neighborhood. Furthermore, the standards and guidelines, as outlined, should benefit the neighborhood for many years to come by creating a pleasant and unifying environment for all to enjoy.

Homeowners should be aware that the Town of Apex also has guidelines governing some of the same subjects covered in this document. Any Town of Apex guidelines that are more stringent than Ashley Downs Guidelines take precedence over the Ashley Downs Guidelines. Also note that the approval from the Ashley Downs ARC does not eliminate the need for securing any necessary Town of Apex permits or inspections. If any portion of this document or any amendment thereto shall be deemed to be null and void or unenforceable by action of a court of law, such portion shall be severable and shall not affect the balance of this document, and or amendments thereto, which shall remain in full force and effect.

**SUBMITTAL AND APPROVAL PROCESS**

Homeowners have the responsibility to complete an Architectural Request Form prior to making any changes to the exterior of their home or property. The process will be the same for all submittals with the required details varying depending upon the type of change.

**Items to be submitted:**

1. Architectural request form completed in its entirety
2. Plot plan outlining the position or placement of the change
3. Drawings/plans showing the construction and effects of the change
4. Samples of paint, siding or any other items that may be helpful in making a decision

Submit your completed request form to the Architectural Review Committee to perform an initial review. The committee may review the request and inspect the site. The ARC will advise the homeowner of the final decision.

**Reminders:**

~~The Homeowners~~ shall begin without written approval from the Architectural Review

1. No change shall begin without written approval from the Architectural Review Committee.
2. Building permits may need to be obtained. It is the responsibility of each homeowner to obtain these permits.
3. Allow at least 21 days for processing and permits in planning for changes.
4. The architectural committee may require additional information from the homeowner concerning the item submitted for approval. This is at the committee's discretion.

**THE ARCHITECTURAL REVIEW PROCESS**

***The Architectural Review Committee (ARC)***

1. Meetings - The committee shall meet at 7:00 p.m. on the first Tuesday of each month at a predetermined location (contact any ARC member for location, or visit the neighborhood website at <http://www.ashleydowns.org> ).
2. Application Review - The committee will review and discuss each applicant's request and determine whether it adheres to the established standards and guidelines as described in this document and the *Declaration of Covenants and Restrictions of Ashley Downs Community Association*. Additionally, consideration will be given to the impact of the requested change on immediate neighbors as well as the neighborhood as a whole. The homeowner may also address the committee. If they wish to do so, they should contact the committee in advance in order to be put on the meeting agenda.

***The committee, after discussing the request, can:***

1. Approve the request as submitted.
2. Approve the request subject to conditions. This action is *typically* used only if an administrative item, such as a plot plan or elevation plan, is left off the request when everything else about the request appears to be in order. The homeowner should begin no work on the requested item until the requirements for approval are met.
3. Deny the request, with an explanation to the applicant. The homeowner should begin no work on the requested item. The ARC may, at its discretion, turn further handling of the request over to the board.
4. Return the request to the applicant in order to obtain further information or clarifications. If this action is taken, the request has neither been approved nor denied at that point. Within a week of the meeting, the ARC will inform the requesting homeowner in writing of the consensus. It may do so by returning a copy of the request, with the Architectural Review Committee section completed. The request and supporting documents become the property of the Ashley Downs Homeowners Association and are retained in the community files.

## **INSTRUCTIONS FOR COMPLETING THE APPLICATION**

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**The Request for Architectural Approval Form should contain a complete written description of the proposed improvement and should also include as applicable**

1. A copy of the lot surveyor plot plan showing the location of the improvement and distance to the nearest property lines
2. Pictures, drawings, or blueprints showing different views with dimensions
3. Sample and/or descriptions of paint and/or materials to be used in construction
4. A description of any screening that is to be provided

*It is very important to have all affected neighbors sign the form. This is not a request for their approval, and their signature is not an approval, but an acknowledgement that they have been informed of the proposed improvement. In most cases, the application will be denied by the ARC if neighbor signatures are missing from the application.*

## **APPEAL PROCESS**

To appeal a disapproved submittal, the homeowner should submit a written appeal to the Architectural Review Committee, within 30 days of the notification of disapproval, including specific detailed information stating why the submittal should be reconsidered. The homeowner may request a meeting with the Architectural Review Committee to discuss the submittal. Please contact the ARC to be placed on the agenda for the next meeting.

**Architectural Standards and Guidelines**

**Architectural Standards and Guidelines**

**CLOTHESLINES**

1. Exterior clotheslines are prohibited unless they are fully hidden from view from surrounding properties.
2. At no time should laundry be hung from front porch to dry.

**MAILBOXES**

1. The only approved mailboxes are those provided by the HOA. Please notify the HOA if you feel you are in need of a new one. Vandalism is not considered a need for replacement at the expense of the HOA.
2. Planting around the base of a mailbox is allowed, provided that the guidelines for landscaping are followed.

**PARKING**

1. No vehicles, trucks, tractors, or inoperable vehicles, may be parked on the lot or on common property or within any right-of-way of any street in or adjacent to the subdivision as stated in the Declaration of Covenants. City ordinance states that no vehicle may be parked within 15 feet of any driveway.
2. The association may regulate the parking of all recreational vehicles such as campers, boats, trailers, motorcycles, and ATV's.
3. No vehicle should be parked in the street at any time, except in the case of overnight guests. This is for safety reasons, as children can run out from behind parked cars.

**STORAGE**

1. No trade materials or inventories may be stored upon any lot.
2. Temporary storage of materials for modification projects should be discreetly placed and maintained in an orderly manner.

**AWNINGS**

All awnings require approval.

Guidelines:

1. Fabric to blend with color of house
2. The awning material shall be fabric only.

3. Can be retractable or stationary.
4. Upon deterioration, the awning will be repaired or replaced.
4. Upon deterioration, the awning will be repaired or replaced.
5. Must be attached to house, not free standing.

## BASKETBALL GOALS

Basketball goals mounted on poles, house, or portable goals require approval. No basketball goals may be placed in or on any right-of-way.

## SWINGSETS, PLAYHOUSES, AND JUNGLE GYMS

The Architectural Committee prior to placement must approve all permanent play equipment.

Please include:

1. Plot plan showing location of play equipment and distance from the property lines.
2. Drawings or pictures of the play equipment.

Guidelines:

1. Permanent play equipment must be installed to be as inconspicuous as possible, and should be placed out of view of any street when possible. It cannot be placed any closer to the property lines than 10 feet. The preferred location is in the rear, directly behind the house, but each request will be reviewed individually.
2. Screening may be required in order to block the view and/or noise from neighboring lots. Landscape plans should accompany the submittal.
3. Non-permanent play equipment must also be placed inconspicuously so that it does not detract from the neighborhood surroundings.
4. Wooden swingsets only.

## GARDENS

Gardens in a single family residential area will not require prior approval if they are wholly located in the rear portion of the lot and a minimum of ten feet from the side and rear lot lines. Any tree removal required to provide space for the garden must adhere to the tree removal guidelines.

Architectural Committee approval is required for any garden location other than described above.

Compost piles are allowed within your property lines, but must be approved concerning the location.



Guidelines:

~~Maintenance of the garden is required. Debris must be removed at the end of the~~

Maintenance of the garden is required. Debris must be removed at the end of the gardening season and the yard returned to a natural state. This would include removal of stakes and any other structural additions required for harvesting the garden.

## PETS, PET HOUSES, AND PENS

No exotic animals, livestock or poultry of any kind shall be raised, bred, or kept on any lot.

Household pets may be kept provided that they are not bred or maintained for commercial purposes.

All dogs must be on leashes unless contained by a fence, or invisible containment system.

Guidelines for the housing of animals:

1. Pet pens must be at least 10 feet from the property line.
2. They must be located in the back or side yards, (whichever is least conspicuous).
3. Screening should be provided as much as possible.
4. No chain link or metal fencing is allowed. The fencing must be one of the approved fence styles.

## EXTERIOR MAINTENANCE OF HOUSE

1. A change of color from the existing color must have approval. Submit color samples with your application.
2. Repainting and restaining with the existing color does not require approval.
3. Maintenance of exterior includes routine powerwashing of siding, porch, deck, windows, and trim in order to remove dirt, mold, and mildew.

## SWIMMING POOLS AND SPAS

All swimming pools and spas must have architectural approval. Please be aware of all Apex regulations concerning installation.

1. Plans and specifications showing the nature, kind, shape, height, materials, and location must be submitted.
2. Plot plan showing the location of the pool or spa.
3. Plan for screening (fencing or landscape screening).

Guidelines:

1. Any wood support structure must be the same color as the house or deck.
2. Pool or spa cannot be located within a buffer or easement.
3. All health department regulations must be met.
4. Pool or spa must be screened from view from any street or adjoining property.

## **LAWN ORNAMENTS, DECORATIONS, OUTSIDE LIGHTING, SIGNS, AND FLAGS**

Large lawn ornaments, free standing flagpoles, lantern poles, and fishponds require approval.

Items not requiring approval:

Small lawn ornaments, landscape or accent lighting, flood lights, and security lighting. Decorations including holiday decorations, for sale, for rent, yard sale, and political campaign signs as long as they are removed within a timely manner. No signs may be placed on common property. Limit 1 sign per yard.

Guidelines:

Every effort should be made not to disturb or adversely affect neighbors with the installation and operation of flood and security lights. On items not requiring approval, the committee reserves the right to request a homeowner to remove an item if surrounding homeowners complain. Under no circumstances should holiday lights and decorations remain up beyond that particular holiday season.

Commercial advertising signs are not permitted.

## **MAJOR LANDSCAPING**

Landscaping of a minor nature such as naturalizing an area of the yard or adding low growing shrubs and bedding flowers do not require approval provided that they do not encroach upon neighboring properties or common area.

After initial construction, no tree having a trunk diameter in excess of 3 inches at ground level shall be removed without approval of the HOA. Exception: A tree that is diseased

or dead or poses an imminent threat or danger to persons or property does not require approval to be removed.

Other types of landscaping that are structural, or change the contour of the land, or are adjacent to a property line, or obstruct a neighbor's view, will require approval. This includes retaining walls.

Guidelines:

1. Hedges and screened plantings
  - a. Hedges, screen plantings, or live fences erected from the front corner of the house shall not exceed 4 feet in height.
  - b. Hedges or screen plantings which form a barrier between properties should have the following: Agreement for maintenance access, setback to allow for plant growth
2. No changes or modifications are allowed to common property, without written approval.

## YARD MAINTENANCE

It is the primary responsibility of each homeowner to maintain his property in a way that does not detract from the overall aesthetics of the community.

Following is a list of areas that should be reviewed on a regular basis to insure that your yard is maintained properly.

1. Grass should be cut regularly.
2. Grass should be edged so that it does not grow onto sidewalks, driveways, and curbs.
3. Flower beds should be weed free and mulched routinely.

## RADIO/TV ANTENNAS AND SATELLITE DISHES

All exterior-mounted radio/TV antennas and satellite dishes require approval.

1. Plan showing locations of antenna or dish.
2. Description of plantings used to camouflage the equipment, if applicable.

Purpose:

To minimize safety hazards created by mounting satellite dishes on homes.

1. All exterior satellite dish installations must receive approval by the architectural committee prior to the installation of any hardware.
2. Each request will be examined on its own merit.
3. Satellite dishes will not exceed 1 meter in diameter

4. Satellite dishes will not be located within 10 feet of side or rear property lines or in any required buffer.
5. No dish will be located closer than 30 feet to a street right of way.
6. Satellite dishes installed at ground level must be screened so that the dish is not visible from any street or neighboring property as viewed from the ground level. The screen will consist of live evergreen screening. Any tree removal must have written approval and all wiring should be buried properly.
7. Satellite dishes may be mounted on the roof provided that the dish is not mounted on the part of the roof facing the street, and the highest point of the dish does not exceed the height of the peak of the roof.
8. Satellite dishes may be mounted on the back or sides of homes, but may NOT be mounted on the front. If on the side, the dish may not be within 10 feet of the front of the home.
9. All city/ town/county requirements for satellite dish installation if more stringent, shall take precedence over these guidelines.

## **ADDITIONS AND CHANGES TO HOMES**

Normal maintenance to preserve the home in its original state does not require approval.

All external changes to homes must have written approval before the project is to begin, including, but not limited to, new rooms, porches, garages, attached or detached structures of any kind. Any changes to windows, doors, or chimneys also require approval.

1. No change shall encroach upon the setbacks for the lot as listed in the covenants.
2. Changes must match the house color and style.
3. City/town/county building permits are the responsibility of each homeowner
4. No metal sheds allowed.

## **DRIVEWAYS AND PARKING PADS**

Any changes to driveways and parking pads require approval.

1. Driveways and parking pads shall be concrete only.
2. Close attention must be paid to placement, setbacks, and encroachment onto buffer areas as well as common property and neighboring lots.

## **DECKS, PATIOS, ARBORS, AND SCREENS**

All new decks, patios, arbors, screening and under deck enclosures require approval. Any appearance change to an existing deck, arbor, patio or screen also requires approval.

1. Deck materials

**Ashley Downs**

**ARCHITECTURAL STANDARDS AND GUIDELINES**

- a. Materials must be weather resistant
  - b. ~~Materials must be weather resistant~~ Types and treatment of wood shall be like that of fences
  - b. Types and treatment of wood shall be like that of fences
  - c. Posts may be brick, pressure treated wood, or other suitable material
2. Patio materials
    - a. Concrete slabs
    - b. Bricks with sand fill or grout
    - c. Stone with sand fill or grout
    - d. Stamped concrete
    - e. Include any landscape plan for the area around the patio
  3. Height - decks, arbors, and screens should be of a reasonable height for their purpose.
  4. Patios should be located behind the house and may not extend around corners, or be freestanding in other areas of the backyard.
  5. Obstruction of views of adjoining properties will be given consideration in all instances.
  6. Exterior materials must be comparable to those on existing structures, and be compatible with the architectural character of Ashley Downs in order to be approved.
  7. All permits and building codes must be in compliance with local regulations.
  8. All applications will be reviewed if special circumstances apply.

**GUIDELINES FOR THE CONSTRUCTION OF FENCES**

- A. No construction shall begin without approval from the Architectural Committee.
- B. Allow enough time for processing and approval in planning for the construction of the fence. Applications for changes must be received a minimum of 30 days prior to the projected date of construction.
- C. Approval of a fence does not constitute approval for any additional improvements (such as play equipment, playhouses, or basketball equipment). These items must either be detailed on the application, or, preferably, be on a separate application that is submitted to approval.
- D. Each installation will be examined on its own merit. Fences proposed for construction adjacent to existing fences are preferred to be of the same style, material, and finish as the existing fences. This may be an absolute requirement in some buffer areas that have been designated by the town.
- E. After construction, the association reserves the right to perform an inspection to ensure that the fence and any associated landscaping conform to the conditions stated in the approval.

**Ashley Downs**

**ARCHITECTURAL STANDARDS AND GUIDELINES**

**Styles:**

- A. French gothic
- B. Stockade
- C. Picket
- D. Shadow Box

**Color:**

- A. Natural wood
- B. White vinyl—picket only
- C. Stained -all colors must be approved. No painted fences allowed.

**Materials:**

- A. Fence must be wood or white vinyl only. No metal, wire, chain, stone, brick, or concrete fences are permitted.

**Height:**

6 foot maximum height from the ground to the top of the posts.

**Location:**

- A. All fences must be within the property line.
- B. Existing topography and landscaping within the buffer shall not be disturbed. Construction within a buffer area may require approval from the town. This is the homeowner's responsibility to research whether this approval is necessary.
- C. No fences may be built in the 100 year flood line.
- D. Screening is required for any fence bordering a street. Landscaping plans for this must be included in the submittal for approval.
- E. If an adjoining property has an existing fence, the homeowner submitting must attach to that fence, or place the fence 3 feet off the property line to allow for maintenance between the fences.
- F. On corner lots, fences must be set back a minimum of 15 feet from the street.
- G. No fence may be built up to the front of the house but rather they must be built starting at the middle or the back of the house.

**Construction details:**

- A. Hardware must be galvanized.
- B. All posts must be set in concrete.
- C. The finished side of all fence styles must face adjoining lots.

**Maintenance:**

Maintenance of the fence and landscape surrounding the fence is the responsibility of the property owner.

## **GARBAGE CANS/ RECYCLE BINS**

Garbage cans and recycling bins shall not be placed at the curb in excess of 1 day prior to normally scheduled trash pickup.

**Removal:**

Garbage cans and bins must be removed within 1 day of trash pickup.

**Placement:**

Garbage cans and recycling bins must be stowed so that they are not visible from the front of the property.

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The undersigned officers of the Ashley Downs Homeowners Association certify that these Architectural Standards and Guidelines were duly adopted by motion duly made and seconded, which received an affirmative vote of a majority of the quorum of Members present and entitled to vote in person or by proxy at a duly noticed meeting of the Members held on April 9, 2005.

Bruce M. Bennett  
President

Karin M. Hadden  
Secretary